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# Refugees in the European Union: The Harsh Reality of the Dublin Regulation

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## **Cover Page Footnote**

Candidate for Juris Doctor, Notre Dame Law School, 2018; B.A in Finance, Portland State University, 2015. I am grateful to Professor Paolo G. Carozza for his valuable support, guidance, and feedback throughout the writing and editing processes. I would also like to thank members of Notre Dame's Journal of International and Comparative Law for their assistance and input, and my family and friends for their continued love and encouragement.

**REFUGEES IN THE EUROPEAN UNION: THE HARSH REALITY OF  
THE DUBLIN REGULATION**

LANA MAANI\*

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*“The choice is not between the current crisis and blissful isolation. The choice is between the current crisis and an orderly, managed system of mass migration. You can have one or the other. There is no easy middle ground.”*

– Patrick Kingsley, *The New Odyssey: The Story of Europe’s Refugee Crisis*<sup>1</sup>

INTRODUCTION

The image of Aylan Kurdi<sup>2</sup> lying face down on a beach in Turkey shocked the world in 2015. It brought to light the excruciatingly difficult journey refugees must make to reach a point of safety and highlighted how these refugees and the organizations aiding them have few resources. Most of all, it stressed the pressing need for European nations to cooperate and properly plan a method for addressing the refugee crisis in a way that ensures the safety of as many of these refugees as possible, while simultaneously distributing the burden on the receiving countries. Aylan’s story is the harsh reality many Syrians and refugees face on a daily basis. The photo of five-year-old Omran Daqneesh<sup>3</sup> sitting in an ambulance after being rescued from the rubble of an airstrike in Aleppo is another instance of the conditions that drive refugees to seek asylum. Refugees

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<sup>1</sup> PATRICK KINGSLEY, *THE NEW ODYSSEY: THE STORY OF EUROPE’S REFUGEE CRISIS* 296 (2016).

<sup>2</sup> Fergal Keane, *Migrant Crisis: Photo of Drowned Boy Sparks Outcry*, BBC NEWS (Sept. 3, 2015), <http://www.bbc.co.uk/news/world-europe-34133210>.

<sup>3</sup> Elle Hunt, *Boy in the Ambulance: Shocking Image Emerges of Syrian Child Pulled from Aleppo Rubble*, GUARDIAN (Aug. 18, 2016), <https://www.theguardian.com/world/2016/aug/18/boy-in-the-ambulance-image-emerges-syrian-child-aleppo-rubble>.

are very commonly separated from their families during their journeys to a nearby country they are unfamiliar with. In many circumstances, these countries refuse to assist them due mainly to a lack of resources or strategies in place for such crises. There is no certainty that those arriving onto European shores will be welcomed with open arms. Since 2015, Europe has received well-over one million refugees, the “highest migration flow since World War II.”<sup>4</sup>

The United Nations High Commissioner for Refugees (UNHCR) uses the Guidelines on International Protection No. 11<sup>5</sup> to deal appropriately with refugee influxes in conjunction with the 1951 Convention Relating to the Status of Refugees (1951 Convention).<sup>6</sup> Article 35 of the 1951 Convention highlights the importance of co-operation of the national authorities with the United Nations.<sup>7</sup> The UNHCR lays out the foundation using the 1951 Convention, but each Member Country<sup>8</sup> may have its own approach and its own treaties that it applies to refugees. The European Union’s (EU) Member Countries are divided on how to deal with the overwhelming increase in the number of refugees, and the crisis is testing some of the most important values that are arguably the building blocks of the EU: open borders and an ever-closer union.<sup>9</sup>

Some Member Countries have been more responsive to the refugee crisis than others. For example, “Germany was one of the main countries of destination for asylum seekers in 2015.”<sup>10</sup> Asylum seekers can work in Germany after three months and can receive up to 330 euros per month while they await their work permits.<sup>11</sup> Hungary lies at the other end of the spectrum. Though it receives thousands of asylum applications, in 2015, Hungary rejected all asylum requests made at the border, meaning refugees have to seek asylum elsewhere.<sup>12</sup> However, other Member Countries are not as equipped to handle the recent and ongoing influx of refugees, either because of a lack of funding, or because they have an existing overflow of refugees and lack space.<sup>13</sup> Though the EU has attempted to ensure that countries overburdened with refugees either receive

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<sup>4</sup> Press Release, Int’l Org. for Migration, Irregular Migrant, Refugee Arrivals in Europe Top One Million in 2015: IOM (Dec. 22, 2015), <https://www.iom.int/news/irregular-migrant-refugee-arrivals-europe-top-one-million-2015-iom>.

<sup>5</sup> U.N. High Commissioner for Refugees, Guidelines on International Protection No. 11: Prima Facie Recognition of Refugee Status, U.N. Doc. HCR/GIP/15/11 (June 24, 2015).

<sup>6</sup> Convention Relating to the Statute of Refugees art. 35, July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 137 [hereinafter 1951 Convention].

<sup>7</sup> *Id.*

<sup>8</sup> Member Country refers to members of the EU and shall be collectively referred to as Member Countries, and is synonymous with Member States.

<sup>9</sup> Henry Chu, *Refugee Crisis Exposes a Deep Divide in European Union*, L.A. TIMES (Sept. 21, 2015), <http://www.latimes.com/world/europe/la-fg-europe-migrants-eu-20150921-story.html>.

<sup>10</sup> Elsa Buchanan, *Migrant Crisis: Which European Country Offers the Most Help to Refugees?*, INT’L BUS. TIMES (Oct. 15, 2015), <https://ibt.uk/A006OQG>.

<sup>11</sup> *Id.*

<sup>12</sup> Matthew Weaver & Haroon Siddique, *Refugee Crisis: Hungary Rejects All Asylum Requests Made at Border—As It Happened*, GUARDIAN (Sept. 15, 2015), <https://www.theguardian.com/world/live/2015/sep/15/refugee-crisis-hungary-launches-border-crackdown-live-updates>.

<sup>13</sup> *Greece Refugee Crisis: Border Area at Breaking Point*, AL JAZEERA (Mar. 6, 2016), <http://www.aljazeera.com/news/2016/03/refugee-crisis-greek-governor-urges-state-emergency-160305130622083.html> (“A regional governor has called on the Greek government to declare a state of emergency for the area surrounding the Idomeni border crossing where thousands of refugees are stranded due to border restrictions along the route towards Western Europe.”).

more financial support or encourage burden sharing through the relocation of refugees (such as the plan to relocate 30,000 refugees from Greece by the end of 2017),<sup>14</sup> the EU still lacks a comprehensive framework to deal with the crisis.<sup>15</sup> In fact, some argue that the EU has been “brushing it far enough away from your gaze that you can pretend it’s no longer there[.]”<sup>16</sup>

Part One of this Note lays out the major reasons why the EU came to be and highlights the noteworthy values that are at stake as a result of the refugee and overall migrant crisis. Part Two then follows with a discussion of the major causes of the refugee crisis, focusing on Syria as the highest refugee-producing country. After presenting an overview of the crises in the Middle East, Part Three then delves into the EU’s framework on refugee law. International asylum laws recognize asylum as a fundamental right to be granted to those who qualify as refugees under the 1951 Convention and its Protocol. The discussion then incorporates European human rights law, and, in particular, the European Convention on Human Rights (ECHR). The next subsection focuses solely on the EU’s asylum laws. It presents an overview of the Dublin Regulation, which essentially states that the country which the refugee first enters is the country responsible for processing said refugee’s application. Part Three then discusses both the Asylum Procedures Directive and the Qualification Directive. This discussion leads to the central proposition this paper argues for: repealing the Dublin Regulation and instead adopting a system that distributes refugees among the Member Countries by accounting for each country’s economic, political, and social circumstances. This approach encourages Member Countries to adopt a collective approach with quotas in place to ensure the burden is equally distributed on all Member Countries. This argument is further strengthened through an examination of the threat the Dublin Regulation imposes on the relationships between Member Countries and refugees, as well as the Schengen Agreement.

## I. FORMATION OF THE EU

To understand why the migration of refugees is causing a major crisis in the EU, it is imperative to understand how and why the EU was formed initially. “The six founding countries of the union are Belgium, France, Germany, Italy, Luxembourg, and the Netherlands.”<sup>17</sup> The formation of the EU (formerly known as the European Economic Community) came about as a result of the devastation caused by the Second World War. There was a need to create a sense of unity within the region to prevent another war, specifically one between Germany and

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<sup>14</sup> Danny Kemp, *EU Hopes to Move 30,000 Refugees from Greece by End of 2017*, YAHOO NEWS (Sept. 28, 2016), <https://www.yahoo.com/news/eu-expects-move-30-000-refugees-greece-end-103119079.html>.

<sup>15</sup> Kenan Malik, *The Dark Side of the EU-Turkey Refugee Deal*, AL JAZEERA (Mar. 9, 2016), <http://www.aljazeera.com/indepth/opinion/2016/03/dark-side-eu-turkey-refugee-deal-160309080433064.html>.

<sup>16</sup> *Id.*

<sup>17</sup> *A Peaceful Europe—the Beginnings of Cooperation*, EUROPEAN UNION, [https://europa.eu/european-union/about-eu/history/1945-1959\\_en](https://europa.eu/european-union/about-eu/history/1945-1959_en) (last visited Feb. 5, 2017).

France.<sup>18</sup> The Schuman Declaration played a major role in creating the European Community. Robert Schuman, the French foreign minister, presented the Schuman Declaration on May 9, 1950.<sup>19</sup> The main purpose was to run the coal and steel industries under “common management”<sup>20</sup> so as to avoid any possibility of using arms against one another. In other words, this would “make war between historic rivals France and Germany ‘not merely unthinkable, but materially impossible.’”<sup>21</sup> The prevention of a rivalry between the Germans and the French was the starting point of any hope for peace within Europe. The aim was that “[b]y pooling basic production and by instituting a new High Authority, whose decisions will bind France, Germany and other Member Countries, this proposal will lead to the realization of the first concrete foundation of a European federation indispensable to the preservation of peace.”<sup>22</sup>

There are several major treaties signed over the years that detailed the values that underpinned the formation of the EU. Such treaties include the 1951 Treaty Establishing the European Coal and Steel Community which intended to ease the tensions after the Second World War. It eventually expired in 2002.<sup>23</sup> Next, the Treaties of Rome were signed in 1957 and entered into force in 1958. The purpose of the Treaties of Rome was to set up the European Economic Community and European Atomic Energy Community, which resulted in the “extension of European integration to include general economic cooperation.”<sup>24</sup> In 1986, the first major amendment to the Treaties of Rome was passed through the Single European Act. This amendment was crucial in completing the integration of an internal market.<sup>25</sup> Another major treaty was the Merger Treaty, which was later repealed by the Treaty of Amsterdam, and which created the European Commission and Council (“the Commission”) to serve the European Economic Community.<sup>26</sup> Also included is the Treaty on European Union (TEU), also known as the Maastricht Treaty, which entered into force in 1993 and formally established the EU.<sup>27</sup> This treaty was particularly important in establishing a common currency, and paved the way for the open and common market.<sup>28</sup> Moreover, the TEU created European citizenship (in addition to national citizenship) which provided numerous benefits.<sup>29</sup> The most important

<sup>18</sup> Michael Wilkinson, *What is the EU, Why Was it Created and When Was it Formed?*, TELEGRAPH (Feb. 24, 2017), <https://www.telegraph.co.uk/politics/0/what-is-the-eu-why-was-it-formed-and-when-was-it-created/>.

<sup>19</sup> *The Schuman Declaration—9 May 1950*, EUROPEAN UNION, [https://europa.eu/european-union/about-eu/symbols/europe-day/schuman-declaration\\_en](https://europa.eu/european-union/about-eu/symbols/europe-day/schuman-declaration_en) (last visited Jan. 25, 2017) [hereinafter *The Schuman Declaration*].

<sup>20</sup> *A Peaceful Europe*, *supra* note 17.

<sup>21</sup> *The Schuman Declaration*, *supra* note 19.

<sup>22</sup> *Id.*

<sup>23</sup> *EU Treaties*, EUROPEAN UNION, [https://europa.eu/european-union/law/treaties\\_en](https://europa.eu/european-union/law/treaties_en) (select “Treaty Establishing the European Coal and Steel Community”) (last visited Apr. 24, 2018).

<sup>24</sup> *Id.* (select “Treaties of Rome: EEC and EURATOM treaties”).

<sup>25</sup> *Id.* (select “Single European Act”); see also Petr Novak, *Developments up to the Single European Act*, EUROPEAN UNION (Jan. 2008), [http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU\\_1.1.2.html](http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU_1.1.2.html).

<sup>26</sup> *Id.* (select “Merger Treaty – Brussels Treaty”).

<sup>27</sup> Consolidated Version of the Treaty of the European Union, art. 54, Oct. 26, 2012, 2012 O.J. (C. 326) 15 [hereinafter TEU]; see also *EU Treaties*, *supra* note 23 (select “Treaty on European Union – Maastricht Treaty”).

<sup>28</sup> TEU, *supra* note 27, art. 3, ¶¶ 2, 4.

<sup>29</sup> *Id.* art. 9.

and noteworthy benefit is that any citizen of a Member Country (for example: Germany) is also a citizen of the Union and, therefore, can move freely around other Member Countries (for example: Germans moving into France).<sup>30</sup>

The Commission, nowadays, is regarded as the EU's "politically independent executive arm."<sup>31</sup> It is responsible for proposing new legislation, and implementing the decisions of the European Parliament and the Council ("the Council"). The Council is comprised of representatives from each Member Country with the purpose of meeting to discuss laws and policies. "Together with the European Parliament, the Council is the main decision-making body of the EU."<sup>32</sup> In 1997, the Treaty of Amsterdam was signed, which resulted in the "amendment, renumbering and consolidation of EU and EEC treaties [as well as] more transparent decision-making."<sup>33</sup> When the EU membership reached twenty-five member countries, it signed the Treaty of Nice so that the EU could function effectively.<sup>34</sup>

In 2007, the EU signed a final amendment to the TEU, the Treaty of Lisbon, which entered into force in 2009.<sup>35</sup> The Treaty of Lisbon abolished the EEC and improved the functions of the institution to encompass the union of twenty-seven Member Countries (currently twenty-eight members).<sup>36</sup> The general objectives of the EU include: 1) "the promotion of peace and the well-being of the Union's citizens;" 2) "an area of freedom, security and justice without internal frontiers;" 3) "sustainable development based on balanced economic growth and social justice;" 4) "a social market economy – highly competitive and aiming at full employment and social progress;" and 5) "a free single market."<sup>37</sup>

The EU is recognized for its four freedoms first established in the Treaty of Rome,<sup>38</sup> and later extended under the Single European Act, the Lisbon Treaty, and the Treaty on the Functioning of the EU (TFEU).<sup>39</sup> First, it guarantees free movement of goods. This guarantee means the EU is now a single territory without any internal frontiers or tariffs, thereby promoting free trade between Member Countries. Second, workers have the liberty to move between countries, meaning French workers can move to Belgium and work there without any work permit or visa. Workers must be treated in a non-discriminatory way regardless of their nationality. Third, Articles 49 and 56 of the TFEU recognize that it is "the obligation of Member States to ensure unhampered right of establishment of EU nationals and legal persons in any Member State and the freedom to

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<sup>30</sup> *Id.* art. 3, ¶ 2.

<sup>31</sup> *European Commission*, EUROPEAN UNION, [https://europa.eu/european-union/about-eu/institutions-bodies/european-commission\\_en](https://europa.eu/european-union/about-eu/institutions-bodies/european-commission_en) (last visited Dec. 16, 2016).

<sup>32</sup> *Council of the European Union*, EUROPEAN UNION, [https://europa.eu/european-union/about-eu/institutions-bodies/council-eu\\_en](https://europa.eu/european-union/about-eu/institutions-bodies/council-eu_en) (last visited Dec. 18, 2016).

<sup>33</sup> *EU Treaties*, *supra* note 23 (select "Treaty of Amsterdam").

<sup>34</sup> *Id.* (select "Treaty of Nice").

<sup>35</sup> *Id.* (select "Treaty of Lisbon").

<sup>36</sup> Treaty of Lisbon, art 1, ¶ 2(b), Dec. 17, 2007, 2007 O.J. (C.306) 10; *EU Treaties*, *supra* note 23 (select "Treaty of Lisbon").

<sup>37</sup> *Objectives of the EU*, EUABC.COM, <http://en.euabc.com/word/743> (last visited Feb. 21, 2017).

<sup>38</sup> *Four Freedoms*, EUABC.COM, <http://en.euabc.com/word/506> (last visited Jan. 18, 2017).

<sup>39</sup> Consolidated Version of the Treaty on the Functioning of the European Union, Oct. 26, 2012, 2012 O.J. (C 326) 47 [hereinafter TFEU].

provide cross-border services.”<sup>40</sup> Finally, any restriction on the movement of capital freely within an EU Member Country is prohibited.<sup>41</sup>

The treaties and the four freedoms aimed at uniting Europeans after a tragic war. The expression “ever closer union” became synonymous with the EU over the years.<sup>42</sup> However, the main aim was not merely the creation of political or economic unity, but more so unity among the people of Europe to ensure “trust and understanding among peoples living in open and democratic societies...”<sup>43</sup> The phrase does not actually have any legal connotation, and is “therefore symbolic. But this doesn’t mean that it’s unimportant politically.”<sup>44</sup>

This background information is crucial to understanding why the lack of a plan of action threatens the four freedoms that underlie and govern the EU, especially its notion of an ever-closer union.

## II. CAUSES OF THE REFUGEE CRISIS

According to the UNHCR, among the total number of individuals who were forced from their homes (65.3 million people), about 21.3 million are refugees with “over half of whom are under the age of 18.”<sup>45</sup> The six countries hosting the most refugees are Turkey with 2.5 million, Pakistan with 1.6 million, Lebanon with 1.5 million, Iran with 979,400, Ethiopia with 736,100, and Jordan with 655,000.<sup>46</sup> In 2015, the top ten origins of people applying for asylum in the EU were as follows: Syria, Afghanistan, Iraq, Kosovo, Albania, Pakistan, Eritrea, Nigeria, Iran, and Ukraine.<sup>47</sup> That same year, Germany received the highest number of asylum applications in Europe with more than 476,000 applications. Hungary followed suit with about 177,130 applications by the end of December 2015 (however Hungary rejected those applications).<sup>48</sup>

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<sup>40</sup> Angelos G. Paphitis, *EU: Fundamental Freedom of Service*, AGP (Sept. 26, 2014), <https://www.agplaw.com/eu-fundamental-freedom-of-services/>.

<sup>41</sup> *Id.*

<sup>42</sup> *Explaining the EU Deal: an “Ever Closer Union,”* FULL FACT (Feb. 22, 2016), <https://fullfact.org/europe/explaining-eu-deal-ever-closer-union/>.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> Sulaiman Momodu, *Africa Most Affected by Refugee Crisis*, AFRICARENEWAL, Dec. 2016 – Mar. 2017, at 28–29.

<sup>46</sup> *Rich Nations ‘Shirking’ Responsibility to Refugees—Amnesty*, BBC NEWS (Oct. 4, 2016), <http://www.bbc.com/news/world-37549464>.

<sup>47</sup> *Migrant Crisis: Migration to Europe Explained in Seven Charts*, BBC NEWS (Mar. 4, 2016), <http://www.bbc.co.uk/news/world-europe-34131911> [hereinafter *Migrant Crisis*]. In 2015, the number of first time asylum applicants from Syria rose to 363,000 in the EU-28, which was twenty-nine percent of the total. Afghan citizens accounted for fourteen percent of the total and Iraqis for ten percent which Kosovans and Albanians accounted for five percent and Pakistanis for four percent. See also *Asylum Statistics*, EUROSTAT, [http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics) (last visited Jan. 1, 2017) [hereinafter *Asylum Statistics*]; *Asylum Quarterly Report*, EUROSTAT, [http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum\\_quarterly\\_report](http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_quarterly_report) (last visited Jan. 1, 2017) [hereinafter *Asylum Quarterly Report*] (noting that Syrians, Afghans, and Iraqis were the top 3 citizenships of asylum seekers in 2016).

<sup>48</sup> *Migrant Crisis*, *supra* note 47.

Statistical findings show that the highest number of refugees seeking asylum in the EU are from Syria, Afghanistan, and Iraq.<sup>49</sup> This section uses the complex and long-running Syrian civil war as an example of a country of origin. Syria is a politically and economically unstable country. It has been war-torn for years and there is little hope that the war will cease at any time in the near future. This is a fact that the hosting countries and the world as a whole must come to terms with when adopting policies regarding refugees, regardless of the country of origin.

The news stories and reports, which describe these countries as politically unstable, rife with internal conflict, and abusers of human rights, depict the harsh reality of individuals living in those countries. Faced with few alternatives, refugees are often times forced to escape these grim realities by fleeing their home country to seek international protection from elsewhere, like the EU.<sup>50</sup>

## A. COUNTRY OF ORIGIN INFORMATION

### 1. The Arab Spring

This section will briefly outline how the Arab Spring started, which country marked the first civil war as a result of the Arab Spring, and then details the events that happened in Syria. The countries mainly affected by the Arab Spring include: Tunisia, Egypt, Libya, Yemen, Bahrain, Syria, Morocco, and Jordan.<sup>51</sup>

Towards the end of 2010, a series of demonstrations began in Tunisia. The Tunisian revolution was a result of an oppressed society mistreated by a corrupt government and police force.<sup>52</sup> Tunisia marked the beginning of the Arab Spring and the Tunisian people were able to overthrow the former president Zine El Abidine Ben Ali.<sup>53</sup> However, Tunisia was quite possibly the only success story, if it can even be classified as such.<sup>54</sup> In Egypt, despite the forced resignation of its leader Hosni Mubarak in 2011, the country is still recovering from the Arab Spring. Though the situation is nowhere as extreme as Syria, the country is deeply divided as a new political system emerges.

Islamists from the Freedom and Justice Party (FJP) won the parliamentary and presidential election in 2011/12, and their relations with secular parties soured. Protests for deeper political change continue. Meanwhile, [the] Egyptian military

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<sup>49</sup> *Asylum Quarterly Report*, *supra* note 47 (indicating that with 87,900 Syrian applications, 62,100 Afghan applications, and 62,100 Iraqi applications in the third quarter of 2016).

<sup>50</sup> Kelsey Leigh Binder, *Cutting the Wire: A Comprehensive EU-Wide Approach to Refugee Crises*, 41 *BROOK. J. INT'L L.* 1339, 1365 (2016).

<sup>51</sup> Primoz Manfreda, *8 Countries That Had Arab Spring Uprising*, THOUGHTCO. (June 18, 2017), <https://www.thoughtco.com/arab-spring-uprisings-2353039>.

<sup>52</sup> Hamze Abbas Jamoul, Opinion, *The Arab Spring: The Root Causes?*, ALMANAR (Dec. 12, 2012), <http://archive.almanar.com.lb/english/article.php?id=45439>.

<sup>53</sup> Primoz Manfreda, *What is Arab Spring?*, THOUGHTCO., <https://www.thoughtco.com/definition-of-the-arab-spring-2353029> (last updated Feb. 7, 2018).

<sup>54</sup> See Shelly Culbertson, *Tunisia is an Arab Spring Success Story*, OBSERVER (Apr. 20, 2016), <http://observer.com/2016/04/tunisia-is-an-arab-spring-success-story/>.

remains the single most powerful political player, and much of the old regime remains in place.<sup>55</sup>

Libya marked the first civil war as a result of the Arab Spring. The 2011 civil war ended with the leader Muammar al-Qaddafi's death.<sup>56</sup> As in Egypt, different groups began their rise to power with a civil war starting in the country. The Islamist Party was defeated in the election, and rebelled against the elected parliament. This resulted in the Islamic State's (ISIS) claiming control of large swathes of Libya.<sup>57</sup> ISIS eventually became a substantial factor contributing to the current crises in the Middle East.

## 2. *The Syrian Conflict*

In his article, William Polk describes Syria before the war as follows:

Syria also has historically been a sanctuary for little groups of peoples whose differences from one another were defined in religious and/or ethnic terms. Several of these communities were "leftovers" from previous invasions or migrations. During most of the last five centuries, when what is today Syria was part of the Ottoman Empire, groups of Orthodox, Catholic, and other Christians; Alawis, Ismailis, and other sorts of Shia Muslims; and Yazidis, Kurds, Jews, and Druze lived in enclaves and in neighborhoods in the various cities and towns alongside Sunni Muslim Arabs.<sup>58</sup>

To fully understand the complexity of the Syrian crisis, a deeper understanding of the different crises in the Middle East is imperative; including the Israeli-Palestinian conflict, Russia's foreign policy, Iran's nuclear program, and Turkey's ambitions.<sup>59</sup> This section explores international involvement in the Syrian conflict, but the focus is on the various rebel factions and their disputes, which account for Syrian president Bashar al-Assad's ability to stay in power.

Prior to the Arab Spring and Assad's rise to power in 2000, Syria underwent major economic reforms with countries around the Middle East. Examples of reforms include unification measures for exchange rates, which were meant to improve business with other countries, a reduction of custom duties for certain

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<sup>55</sup> Manfreda, *supra* note 51.

<sup>56</sup> *Id.*

<sup>57</sup> Chris Stephen, *Libya's Arab Spring: The Revolution that Ate its Children*, GUARDIAN (Feb. 16, 2017), <https://www.theguardian.com/world/2015/feb/16/libyas-arab-spring-the-revolution-that-ate-its-children>; see also Patrick Wintour & Chris Stephen, *Libyan Forces Claim to Have Ousted ISIS from Final Stronghold*, GUARDIAN (June 9, 2016), <https://www.theguardian.com/world/2016/jun/09/libyan-forces-claim-ousted-isis-sirte-final-stronghold> (reporting that ISIS loses control of most of Libya after a three-week offensive).

<sup>58</sup> William R. Polk, *Understanding Syria: From Pre-Civil War to Post-Assad*, ATLANTIC (Dec. 10, 2013), <http://www.theatlantic.com/international/archive/2013/12/understanding-syria-from-pre-civil-war-to-post-assad/281989/>.

<sup>59</sup> YANA BALLOD, BACKGROUND TO THE CRISIS IN SYRIA AND PERSPECTIVES ON HUMAN RIGHTS & HUMANITARIAN LAW VIOLATIONS 128 (2015).

goods and import prohibitions depending on the products, and signing a bilateral trade agreement with Turkey.<sup>60</sup> Assad's attempt to modernize Syria backfired, and the new developments actually "resulted in unemployment, inflation, corruption, social inequalities, price rises and, consequently, crisis."<sup>61</sup> This attempt, coupled with the Arab Spring, caused the Syrian civil war and ultimately led to thousands of refugees fleeing from Syria to Europe. The Syrian uprising was mainly a result of Syrians' anger "over unemployment, decades of dictatorship, corruption and state violence under one of the Middle East's most repressive regimes."<sup>62</sup>

Peaceful protestors gathered in March 2011 in Deraa, Syria, to demand the release of political prisoners and request the freedom of press and media. Assad refused to grant the citizens what they were asking for, and the Syrian security forces opened fire on the protestors, killing four people.<sup>63</sup> Assad denied responsibility for the armed forces attacking the protestors. More lives were lost in the ensuing days. Assad's government attempted to gain control of the city, but instead, these actions resulted in even more protests and deaths across the country.<sup>64</sup> Millions all over Syria demonstrated in those protests for months on end.<sup>65</sup> After a few months of unrest, the number of victims rose to about 5,000.<sup>66</sup> This led to the rise of several rebel factions, some of which were terrorist groups with extreme Islamist agendas that pretended to have noble agendas of denouncing criminal behavior in Syria. As a result, said terrorist groups gained momentum. Other rebel factions included different religious sectors, mainly Sunni Arabs and the Alawite regime. This tension between those who opposed Assad ensured his ability to stay in power despite the Syrian civil war.<sup>67</sup> In February 2012, "President Assad called for a referendum to be held on 26 February that would end single party rule in Syria."<sup>68</sup> Many opposed the referendum, fearing that it was not the proper course of action to end the violence in Syria. Instead, the Syrian National Coalition for Syrian Revolutionary and Opposition Forces ("the Coalition") was set up.<sup>69</sup> The purpose of the Coalition was to represent the interests of those who opposed President Assad's regime, including, but not limited to: internal, external, religious, and secular parties, freedom fighters, and the Free Syrian Army (composed of those who defected from the Syrian military with the aim of opposing President Assad's regime).<sup>70</sup>

At first glance, it would appear that forming the Coalition under the supervision of the Syrian National Council<sup>71</sup> ("SNC") meant that President

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<sup>60</sup> *Id.* at 13.

<sup>61</sup> *Id.*

<sup>62</sup> Primoz Manfreda, *Syrian Civil War Explained: The Fight for the Middle East*, THOUGHTCO. (June 12, 2017), <https://www.thoughtco.com/syrian-civil-war-explained-2353569>.

<sup>63</sup> *Guide: Syria Crisis*, BBC NEWS (Apr. 9, 2012), <http://www.bbc.co.uk/news/world-middle-east-13855203> (explaining that the "crackdown" on the unrest "triggering anti-government protests in other towns and cities across the country, including Baniyas, Homs, Hama and the suburbs of Damascus").

<sup>64</sup> *Id.*

<sup>65</sup> BALLOD, *supra* note 59, at 15.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* at 15.

<sup>68</sup> *Id.* at 16.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> The SNC is based in Istanbul, Turkey, and formed in 2011 during the Arab Spring. It opposed the government of President Assad. *Id.*

Assad would face strong opposition to his regime. However, though the vision was agreed upon, the method of achieving that vision varied within each faction. “The points of disagreement were mainly the recognition of the Free Syrian Army, acceptability of negotiations with the regime and the role of international intervention.”<sup>72</sup> This lack of unity between the various groups opposing President Assad’s regime and the rise of terrorist groups with agendas of their own meant that if President Assad’s regime was defeated, no other entity would be positioned to govern Syria. Moreover, President Assad has eliminated any threats and resistance to him and his government.<sup>73</sup>

These circumstances provided an opportunity for foreign powers to intervene. As expected, the powers fell on different sides of the spectrum. Iran has been sending supplies to assist Assad and his army to fight off the rebels. Iran views Syria’s position as strategic: providing “access to Lebanon and therefore Hezbollah, a group Tehran uses for regional influence and as a counterweight to Israel, whose nuclear weapons it fears.”<sup>74</sup> Russia is President Assad’s closest ally, and has been “selling him arms and providing diplomatic cover at the United Nations.”<sup>75</sup> Not only is Russia Syria’s biggest weapons supplier, but Syria is also Russia’s last naval base in the Middle East.<sup>76</sup> On the other side of the spectrum, Saudi Arabia, Turkey,<sup>77</sup> and other Middle Eastern countries (including Jordan, Qatar, and the United Arab Emirates) support the rebels and are hoping for Assad to step aside.<sup>78</sup>

Domestic tension and foreign intervention resulted in millions being displaced within the country and thousands fighting for their way out of it. The journey is dangerous and often-times life threatening. This explains why a majority of those who flee do so to neighboring countries (such as Turkey, Lebanon, and Jordan). As of October 2016, there were approximately 884,461 asylum applications by Syrians since the start of the war in 2011.<sup>79</sup>

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<sup>72</sup> *Id.* at 17.

<sup>73</sup> USA TODAY Editors, *Why Syria’s Assad Stays in Power—Even after Chemical Attacks*, USA TODAY (Apr. 5, 2017), <http://usat.ly/2oIv3C7>.

<sup>74</sup> Max Fisher, *Straightforward Answers to Basic Questions About Syria’s War*, N.Y. TIMES (Sept. 18, 2016), <https://nyti.ms/2jXUbB2>.

<sup>75</sup> *Id.*

<sup>76</sup> N.S., *Why Russia is an Ally of Assad*, ECONOMIST (Sept. 30, 2015), <http://www.economist.com/blogs/economist-explains/2015/09/economist-explains-22>.

<sup>77</sup> *See Which Countries are Taking in Syrian Refugees?*, CAN. CITIZENSHIP & IMMIGRATION RES. CTR., <http://www.immigration.ca/countries-for-syrian-refugees/> (last visited Feb. 13, 2017) (indicating that Turkey is hosting the most refugees of any country and is home to more than 1.9 million Syrian refugees).

<sup>78</sup> Fisher, *supra* note 74; *see also Syria Crisis: Where Key Countries Stand*, BBC NEWS (Oct. 30, 2015), <http://www.bbc.co.uk/news/world-middle-east-23849587>.

<sup>79</sup> *Europe: Syrian Asylum Applications*, U.N. HIGH COMM’R FOR REFUGEES, <http://data.unhcr.org/syrianrefugees/asylum.php> (last visited Feb. 10, 2017). This is data collected between April 2011 and October 2016. *Id.* A number of these Syrians are now refugees in neighboring countries like Turkey and Lebanon. *See* Al Jazeera and News Agencies, *UN: Number of Syrian Refugees Passes Five Million*, AL-JAZEERA (Mar. 30, 2017), <https://www.aljazeera.com/news/2017/03/number-syrian-refugees-passes-million-170330132040023.html>.

### III. FRAMEWORK FOR THE EU'S ASYLUM LAWS

#### A. INTERNATIONAL ASYLUM LAWS

As the UNHCR's Executive Committee has observed, the modern duty of protection goes beyond simply respecting the norms of refugee law; it includes also the obligation "to take all necessary measures to ensure that refugees are effectively protected, including through national legislation, and in compliance with their obligations under international human rights and humanitarian law instruments bearing directly on refugee protection."<sup>80</sup> Granting asylum to refugees is a fundamental right and an international obligation recognized in the 1951 Convention (and in its 1967 protocol),<sup>81</sup> which was ratified by 145 states.<sup>82</sup> At the very basic level, "[s]tates are expected to cooperate with [the] UNHCR in ensuring that the rights of refugees are respected and protected."<sup>83</sup>

In the aftermath of the First World War, the international community began to negotiate a set of guidelines and laws to deal with the millions of people fleeing their homes. The League of Nations initiated discussions of such guidelines in 1921<sup>84</sup> led by the League's first Commissioner for Refugees, Dr. Fridtjof Nansen. After World War II, the UNHCR was established<sup>85</sup> and tasked with "ensur[ing] effective implementation of the [1951] Convention."<sup>86</sup> The UNHCR was originally put in place to mitigate the refugee crisis caused by the Second World War, but it continues to be responsible for monitoring and implementing the provisions of the 1951 Convention and its Protocol today.<sup>87</sup>

The 1951 Convention was limited to European refugees as a result of the Second World War and was monitored and implemented by the UNHCR.<sup>88</sup> However, the 1967 Protocol amended and extended its application to refugees worldwide.<sup>89</sup> Thus, as provided by the 1951 Convention, individuals cease to be refugee, if and when they voluntarily choose to return to their home countries or when they become permanent members of their host countries.<sup>90</sup> The 1951 Convention recognizes a variety of rights to which refugees are entitled. Examples include the right, under Article 31, to not be punished for

<sup>80</sup> JAMES C. HATHAWAY, *THE RIGHTS OF REFUGEES UNDER INTERNATIONAL LAW* 119–20 (2005).

<sup>81</sup> U.N. HIGH COMM'R FOR REFUGEES, *THE 1951 CONVENTION RELATING TO THE STATUS OF REFUGEES AND ITS 1967 PROTOCOL*, at 1 (2011), <http://www.unhcr.org/en-us/about-us/background/4ec262df9/1951-convention-relating-status-refugees-its-1967-protocol.html>.

<sup>82</sup> *The 1951 Refugee Convention*, U.N. HUMAN RIGHTS COMM'N FOR REFUGEES, <http://www.unhcr.org/en-us/1951-refugee-convention.html> (last visited Apr. 30, 2018).

<sup>83</sup> U.N. HIGH COMM'R FOR REFUGEES, *supra* note 81, at 6; *see also* Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted, art. 2(d), 2011 O.J. (L 337) 13 [hereinafter Directive 2011/95/EU].

<sup>84</sup> U.N. HIGH COMM'R FOR REFUGEES, *supra* note 81, at 1.

<sup>85</sup> *History of UNHCR*, U.N. HIGH COMM'R FOR REFUGEES, <http://www.unhcr.org/en-us/history-of-unhcr.html> (last visited May 1, 2018).

<sup>86</sup> U.N. High Commissioner for Refugees, *Implementation of the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, ¶ 5, EC/SCP/54 (July 7, 1989).

<sup>87</sup> *See History of UNHCR*, *supra* note 85.

<sup>88</sup> U.N. HIGH COMM'R FOR REFUGEES, *supra* note 81, at 1.

<sup>89</sup> *Id.*

<sup>90</sup> 1951 Convention, *supra* note 6, art. 1(d).

entering a Member Country illegally,<sup>91</sup> and the right to work as recognized under Articles 17 through 19.<sup>92</sup> Arguably one of the most important principles is non-refoulement as enshrined in Article 33 of the 1951 Convention. Non-refoulement is considered customary international law, meaning that it also applies to countries that have not ratified the Convention. A majority of countries have adopted the principle in their own regional asylum legislation (including the EU).<sup>93</sup> It can be defined as “a concept which prohibits States from returning a refugee or asylum seeker to territories where there is a risk that his or her life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group, or political opinion.”<sup>94</sup> In turn, refugees are expected to abide by the laws of the host country and to make efforts to integrate themselves into the culture of the community around them and the country they settle in. Learning the country’s language is one effective way of doing so. Other than language, the UNHCR leaves it to the states to implement their own regional asylum laws. However, if states are unwilling or for any reason unable to protect refugees, the UNHCR is the body responsible for adopting and enforcing the laws.<sup>95</sup>

#### B. EUROPEAN HUMAN RIGHTS LAW

Human rights laws, along with international refugee laws, provide the framework for the EU’s asylum laws. The European Convention of Human Rights (ECHR) was drafted with the intention of “the protection of human rights and fundamental freedoms aimed to achieve greater international unity in recognising the equal rights of men and women, and to incorporate the traditions of civil liberty.”<sup>96</sup> The ECHR contains seventeen articles that relate to rights and freedoms of individuals, and specifically how they are to be treated in court and by the Member Countries. For example, Article 3 of the ECHR regarding the prohibition of torture states that “[n]o one shall be subjected to torture or inhuman or degrading treatment or punishment.”<sup>97</sup> This speaks to the kind of treatment that refugees should be guaranteed when forced to leave their countries. It also mirrors the principle of non-refoulement in that if the Member Country rejects refugees and sends them back to their country of origin, then

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<sup>91</sup> *Id.* art. 31.

<sup>92</sup> *Id.* arts 17–19. Other examples include the right to freedom of religion, *id.* art. 4, the right to access the courts, *id.* art 16, the right to housing, *id.* art. 21, the right to education, *id.* art 22, the right to public relief and assistance, *id.* art 23, and the right to freedom of movement within the territory, *id.* art. 26.

<sup>93</sup> See U.N. HIGH COMM’R FOR REFUGEES, *supra* note 81, at 5 (“A refugee seeking protection must not be prevented from entering a country as this would amount to refoulement.”).

<sup>94</sup> Sir Elihu Lauterpacht & Daniel Bethlehem, *The Scope and Content of the Principle of Non-Refoulement: Opinion*, in REFUGEE PROTECTION IN INTERNATIONAL LAW 87, 87 (Erika Feller et al. eds., 2003).

<sup>95</sup> David Kennedy, *International Refugee Protection*, 8 HUM. RTS. Q. 1, 3 (1986).

<sup>96</sup> Aisha Gani, *What is the European Convention on Human Rights?*, GUARDIAN (Oct. 3, 2014), <https://www.theguardian.com/law/2014/oct/03/what-is-european-convention-on-human-rights-echr>; see also Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 1950 E.T.S. 5, 213 U.N.T.S. 221 [hereinafter Convention of Human Rights].

<sup>97</sup> Convention of Human Rights, *supra* note 96.

these refugees will be subject to torture and degrading treatment and punishment.<sup>98</sup>

### C. EU ASYLUM LAWS

Relying on the 1951 Convention, its Protocol, international human rights law, and its major treaties (the TEU and TFEU), the EU developed and is continuously reforming its regional system to deal with the influx of refugees over the years. Starting in 1999, the EU initiated and is continuously updating the Common European Asylum System (CEAS) to mitigate the refugee crisis.<sup>99</sup> Moreover, there are a few directives that set out the standards and procedures taken by Member Countries when refugees enter and apply for asylum. The three main ones are the Asylum Procedures Directive, the revised Qualification Directive, and the Dublin Regulation.

### D. THE ASYLUM PROCEDURES DIRECTIVE

The Asylum Procedures Directive “aims at fairer, quicker and better quality asylum decisions. Asylum seekers with special needs will receive the necessary support to explain their claim and in particular there will be greater protection of unaccompanied minors and victims of torture.”<sup>100</sup> One of the Asylum Procedures Directive’s main aims is to streamline the process refugees have to go through by ensuring that applications will be processed within six months.

### E. THE QUALIFICATION DIRECTIVE

Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted defines a refugee as:

A third-country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear,

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<sup>98</sup> See DAVID A. MARTIN ET AL., *FORCED MIGRATION LAW AND POLICY* 49 (2d ed. 2013).

<sup>99</sup> See *Improving the Common European Asylum System*, EUROPEAN PARLIAMENT, <http://www.europarl.europa.eu/news/en/headlines/society/20170627STO78418/improving-the-common-european-asylum-system> (last visited May 8, 2018).

<sup>100</sup> *Common European Asylum System*, EUROPEAN COMM’N, [https://ec.europa.eu/home-affairs/what-we-do/policies/asylum\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/asylum_en) (last visited Feb. 10, 2017).

unwilling to return to it, and to whom Article 12 does not apply.<sup>101</sup>

This Directive expands on the protections refugees are entitled to along with the obligations they owe to their host countries.<sup>102</sup> It expands on the 1951 Convention's definition of a refugee by providing a guideline and criteria for who is recognized as a refugee and is, therefore, entitled to asylum.<sup>103</sup> For example, Chapter II and III of the Qualification Directive include definitions for acts of persecution, reasons for persecution, cessation, and granting refugee status.<sup>104</sup>

An important criterion Member Countries take into consideration when assessing asylum applications is the country of origin information, as outlined in Article 8 of the Qualification Directive.<sup>105</sup> The country of origin information is crucial because it assists Member Countries in establishing an objective criterion whether an asylum claim is well founded.<sup>106</sup> This information is compiled by organizations like the UNHCR and other human rights organizations. However, little guidance is provided as to when and how this information should be used.<sup>107</sup>

Using the country of origin information is extremely crucial for both the refugee and the official processing the application. The information details political, social, economic, and even religious conditions in these countries.<sup>108</sup> Those representing refugees must be fully informed of the circumstances in that refugee's country of origin so as to effectively present their application and case to the official processing it. The difference between a well-informed lawyer and an ill-informed one could very well be the difference between life and death for the refugee seeking asylum. This is because the refugee, if rejected, faces the consequence of being forced to return to his or her country of origin. Studies show that the information is mainly used after asylum is rejected and an appeal process has begun.<sup>109</sup> However, it could prove more effective for the asylum seeker and less time consuming for the official if it were used prior to processing the application and the initial interview with the asylum seeker.<sup>110</sup>

While the Qualification Directive and the Asylum Procedures Directive aim at either defining specifically what constitutes a refugee or at streamlining the application process, the part that follows discusses the major issues that threaten the Union. The main argument is that the Dublin Regulation is one of the major threats to the Union and should be repealed. The argument is based on the premise that there has to be equitable distribution of the burden of hosting refugees on the Member Countries where action is collectively taken by all Member Countries (even if not all are affected by the crisis). Part Four then

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<sup>101</sup> Directive 2011/95/EU, *supra* note 83, art. 2(d).

<sup>102</sup> *See id.*

<sup>103</sup> Directive 2011/95/EU, *supra* note 83.

<sup>104</sup> *Id.* arts. 9–12.

<sup>105</sup> *Id.* art. 8.

<sup>106</sup> *See* NATASHA TSANGARIDES, IMMIGRATION ADVISORY SERV., THE REFUGEE ROULETTE: THE ROLE OF COUNTRY INFORMATION IN REFUGEE STATUS DETERMINATION 7 (2010), <http://www.refworld.org/docid/4b62a6182.html>.

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.* at 104.

<sup>110</sup> *Id.*

presents two alternatives. The first is complete isolation and the second proposes a more EU wide approach. This paper argues for the adoption of the latter approach.

#### IV. EQUITABLE DISTRIBUTION OF BURDEN

##### A. ISSUES THAT THREATEN THE UNION

###### 1. *The Dublin Regulation*

The Dublin Regulation (also known as Dublin Regulation III) sets out the basic rule for countries' assessment of asylum applications.<sup>111</sup> At the outset, the goal of the Dublin Regulation was to adopt a system that harmonized asylum seeking in the EU. The first version of the Dublin Regulation (Dublin Regulation I) was signed in 1990 and entered into force in 1997.<sup>112</sup> In 2003, it was replaced by the second version of the Dublin Regulation (Dublin II Regulation)<sup>113</sup> and then again in 2013 by the third version of the Dublin Regulation III.<sup>114</sup> The Dublin Regulation was amended with the aim of enhancing the efficiency of the system. The overarching goal was to ensure that the needs of refugees are met using an efficient system and determination process.<sup>115</sup> This paper argues that the initial Dublin Regulation, as well as the two amendments, did not work as intended. If they had, there would arguably be no refugee crisis or a better mitigation of it. As a result, this paper calls for a repeal of the Dublin Regulation, and proposes that it be replaced with a system of quotas using factors outlined later in the discussion that determine each country's ability to handle refugees.

The purpose of the Dublin Regulation is to determine which Member Country is responsible for processing the asylum seeker's application. The Member Country which the asylum seeker first enters is responsible for registering the application. For example, if a Syrian refugee first enters Greece, then Greece is responsible for registering that refugee's application. This rule is subject to a hierarchy of three exceptions as outlined in Articles 7-12 of the regulation, most of which derive from the notion that familial ties are important and a serious attempt must be made to re-unite family members.<sup>116</sup> The first consideration is that if there are family members in any of the Member Countries, then that must be taken into account and evidence produced before a Member Country begins to process an application. The second consideration is that if a Member Country issues a valid visa to an applicant, then that Member

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<sup>111</sup> Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 Establishing the Criteria and Mechanisms for Determining the Member State Responsible for Examining an Application for International Protection Lodged in One of the Member States by a Third-Country National or a Stateless Person, 2013 O.J. (L 180) 31 [hereinafter Dublin Regulation III].

<sup>112</sup> Convention Determining the State Responsible for Examining Applications for Asylum Lodged in one of the Member States of European Communities – Dublin Convention, 1997 O.J. (C 254) 1.

<sup>113</sup> Council Regulation (EC) No. 343/2003 Establish the Criteria and Mechanisms for Determining the Member State Responsible for Examining an Asylum Application Lodged in one of the Member States by a Third-Country National, 2003 O.J. (L 50) 1.

<sup>114</sup> Dublin Regulation III, *supra* note 111.

<sup>115</sup> *Id.*

<sup>116</sup> *Id.* arts. 7–12.

Country is responsible for processing that application. And finally, if an applicant enters a Member Country from a third country irregularly, that same Member Country is responsible for processing the application within a year of the crossing.<sup>117</sup> The situation is often times chaotic, and determining which Member Country is responsible for processing an asylum seeker's application is potentially time consuming (even with the Asylum Procedures Directive's goal of streamlining the process). As a result, the regulation also allows for an individual to remain in the Member Country he or she first enters until the determination is made.

The Dublin Regulation initially aimed to ease tensions about refugees coming into the Member Countries and offered what appeared to be an efficient solution to the issue. The principle objectives of the Dublin Regulation are:

- 1) to ensure access to effective, time-efficient procedures for determining refugee status; 2) to prevent exploitation of the asylum system by parties attempting to make multiple claims in different EU member states; and 3) to identify in the shortest possible time a single member state responsible for examining a claim.<sup>118</sup>

However, instead of increasing efficiency and mitigating the refugee crisis, the Dublin Regulation appears to be unfairly burdening smaller countries, specifically those with fewer resources. As a result of the regulation, some Member Countries now fear for their national interests and state sovereignty. Member Countries are cooperating less as a result of the regulation. Countries with more resources to handle the influx of refugees are not, in most cases, the ones actually admitting or processing their applications. This ignites a sense of unfairness and the notion that countries with fewer resources are now burdened to deal with refugees. At a minimal level, refugees must be granted basic necessities such as shelter, food, and water. This lack of balance between Member Countries as a consequence of the Dublin Regulation results in a few countries benefiting at the expense of other smaller and less resourceful ones. This is what is currently happening in Greece and Italy. These two countries offer minimal welfare provisions for refugees but receive the highest numbers of refugees sent back to them by other Member Countries as a result of the Regulation.<sup>119</sup>

When refugees enter Greece and Italy, officials are under an obligation to fingerprint them and begin processing their applications. However, these countries offer no hope for refugees to live a dignified life or even a life with the prospect of making a simple future for themselves and their family members. Greece's economy and infrastructure, for example, are not equipped to deal with

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<sup>117</sup> *Id.*

<sup>118</sup> Lillian M. Langford, Note, *The Other Euro Crisis: Rights Violations Under the Common European Asylum System and the Unraveling of the EU Solidarity*, 26 HARV. HUM. RTS. J. 217, 223 (2013).

<sup>119</sup> Harriet Grant & John Domokos, *Dublin Regulation Leaves Asylum Seekers with Their Fingers Burnt*, GUARDIAN (Oct. 7, 2011), <https://www.theguardian.com/world/2011/oct/07/dublin-regulation-european-asylum-seekers>.

the high number of applicants.<sup>120</sup> The EU has made efforts to attempt to relocate refugees into other Member Countries, but the relocation schemes have had mixed results.<sup>121</sup> Specifically, the 2015 Emergency Relocation scheme proposed that 120,000 people in need of protection be relocated from mainly Greece and Italy. The relocation would be based on a “mandatory distribution key using objective and quantifiable criteria (40% of the size of the population, 40% of the GDP, 10% of the average number of past asylum applications, 10% of the unemployment rate).”<sup>122</sup> As of early February 2017, it does not appear that the proposed Emergency Relocation scheme was enacted or that it will be implemented in its entirety any time soon.<sup>123</sup>

There are still thousands of refugees that need to be relocated from Greece and Italy.<sup>124</sup> For example, no refugees have been relocated to Austria, the United Kingdom, or Iceland.<sup>125</sup> Also, fewer refugees were relocated from Italy than Greece. It is apparent that this scheme has not been successfully implemented and both Italy and Greece still have an overflow of refugees that they are not equipped to handle.<sup>126</sup> This also has a negative effect on refugees. “In Athens for example, illegal immigrants are wandering without a purpose, often being forced to work illegally or engage in criminal activities to make a living. Because of that, the locals are not very welcoming towards them.”<sup>127</sup> In places like Greece where the country is economically weak, gang killings and prostitution are on the rise. Human trafficking, exploitation, and corruption are only a few of the issues that result because of a lack of a steady economy and system to care for the refugees. That in turn also affects the level of care the country has for its nationals.<sup>128</sup>

Other examples include refugees who resort to burning their fingers so that any record of their fingerprints in the first country they enter no longer exists.<sup>129</sup> Countries, on the other hand, are not effectively implementing the Dublin Regulation: “Greece and Italy no longer fulfilled their obligations and allowed refugees to move on to wherever they wanted. This imposed an equally unsustainable burden on other member states, where most of the refugees ended up, primarily Germany, but also Sweden, Austria, the Benelux countries, and

<sup>120</sup> *Id.*

<sup>121</sup> James Kanter, *European Union Asks Member Countries to Accept Quotas of Migrants*, N.Y. TIMES (May 27, 2015), <https://nyti.ms/2FUePNu>.

<sup>122</sup> *Refugee Crisis – Q&A on Emergency Relocation*, EUROPEAN COMM’N, [http://europa.eu/rapid/press-release\\_MEMO-15-5698\\_en.htm](http://europa.eu/rapid/press-release_MEMO-15-5698_en.htm) (last visited Jan. 10, 2017).

<sup>123</sup> *Member States’ Support to Emergency Relocation Mechanism*, EUROPEAN COMM’N, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-material/docs/state\\_of\\_play\\_-\\_relocation\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_relocation_en.pdf) (last visited Jan. 18, 2017).

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> Patrick Kingsley, *EU Relocates Just 208 Refugees from Greece After Deal with Turkey*, GUARDIAN (Apr. 15, 2016), <https://www.theguardian.com/world/2016/apr/15/eu-relocates-just-208-refugees-from-greece-after-deal-with-turkey>.

<sup>127</sup> Christos Mouzeviris, *The Impact of the Dublin II Regulation on Greece*, ONE EUROPE (June 18, 2013), <http://one-europe.net/dublin-ii-regulation-and-its-impact-on-greece>.

<sup>128</sup> *Id.*

<sup>129</sup> Grant & Domokos, *supra* note 119 (examples include Amet, who could not find work in Italy and was deported back once his fingerprints were matched with his records in Italy, and David, who lived and worked in the UK for some time but soon after was deported back to Italy).

Finland.”<sup>130</sup> Many countries also imposed border controls once again, as the next section discusses.

## 2. *The Schengen Agreement*

Another crucial argument that calls for the repeal of the Dublin Regulation is the threat of imposing border controls once again between Member Countries, which the Schengen Agreement was designed to eliminate. The Schengen Zone was first introduced in the Amsterdam Treaty in 1999.<sup>131</sup> Not all EU Member Countries are signatories to the Schengen Agreement and, likewise, not all Schengen signatories are members of the EU. There are currently 26 European countries, 22 of which are part of the EU and four that are not.<sup>132</sup> When the Schengen Agreement was ratified, its purpose was the complete elimination of any and all border checks between countries.<sup>133</sup> The focus is on the four freedoms: goods, people, capital, and services. The issue of refugees attempting to move between Member Countries is much easier within the Schengen Zone. As a result, some countries are unable to deal with refugees (who are usually not registered in the first country to which they arrive), and, therefore, imposing borders once again is one way that these countries believe will mitigate the crisis or even “shut down the flow of refugees.”<sup>134</sup>

“Six countries in Europe’s document-free travel area now have wide-ranging border checks in place following Denmark’s decision to tighten controls on its southern border with Germany.”<sup>135</sup> Sweden was the first country to impose those border controls. Specifically, it did so for those arriving from Denmark.<sup>136</sup> In turn, Denmark imposed border controls on people coming from Germany. A domino effect was set in motion in which countries feared their nationals would be unable to freely move between Member Countries. The tension between openness and border control threatens to jeopardize asylum-granting to refugees and the foundational values that unify Member Countries. Last year, European

<sup>130</sup> Stefan Lehne, *How the Refugee Crisis Will Reshape the EU*, CARNEGIE EUROPE (Feb. 4, 2016), <http://carnegieeurope.eu/2016/02/04/how-refugee-crisis-will-reshape-eu-pub-62650>; see also Preethi Nallu, *Greece Shoulders an Unfair Share of Refugee Burden*, NATIONAL (July 20, 2015), <https://www.thenational.ae/opinion/greece-shoulders-an-unfair-share-of-refugee-burden-1.29661> (noting that “free healthcare clinics that were primarily set up to serve those people without documents are now receiving more and more local patients. Greeks now constitute at least 50 per cent of charity recipients.”).

<sup>131</sup> Ben Antenore, *Can the Schengen Agreement Survive the EU Refugee Crisis?*, EUROPEAN INST. (Feb. 18, 2016), <http://www.europeaninstitute.org/index.php/ei-blog/276-february-2016/2129-can-the-schengen-agreement-survive-the-eu-refugee-crisis-2-18>.

<sup>132</sup> The countries are: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, and Liechtenstein. *Schengen: Controversial EU Free Movement Deal Explained*, BBC NEWS (Apr. 25, 2016), <http://www.bbc.co.uk/news/world-europe-13194723>.

<sup>133</sup> *Schengen Area Countries List*, SCHENGEN VISA INFO, <http://www.schengenvisainfo.com/schengen-visa-countries-list/> (last visited May 1, 2018).

<sup>134</sup> Antenore, *supra* note 131.

<sup>135</sup> Lorne Cook, *Refugee Crisis: Six Countries in Schengen Now Have Border Checks in Place*, INDEPENDENT (Jan. 4, 2016), <http://www.independent.co.uk/news/world/europe/refugee-crisis-six-countries-in-schengen-now-have-border-checks-in-place-a6796296.html>.

<sup>136</sup> Dan Bilefsky, *Sweden and Denmark Add Border Checks to Stem Flow of Migrants*, N.Y. TIMES (Jan. 4, 2016), <https://nyti.ms/2CY7TNK>.

Council president Donald Tusk warned the EU that it had a few months before it faced the dissolution of the Schengen Agreement.<sup>137</sup>

This need to control who enters Member Countries is not merely a product of the refugee crisis, but also of migrants disguised as refugees. “Not every asylum seeker will ultimately be recognized as a refugee, but every refugee is initially an asylum seeker.”<sup>138</sup> The difference between (economic) migrants and refugees is that migrants voluntarily choose to leave their homes in search of better jobs and more opportunities to make money and build a better future for themselves.<sup>139</sup> Refugees, on the other hand, do not leave out of choice but of circumstance. Because of the urgent need for refugees to find shelter and an inability to return to their country of origin, most migrants are under the impression that applying as a refugee is much easier than applying as an economic migrant. They do so by entering the EU using fake Syrian, Afghan, and Iraqi passports and forms of identification. Economic migrants may pay money and easily obtain fake passports. Fabrice Leggeri, the head of Europe’s border agency Frontex, said, “[f]aced with the influx, registration systems are overwhelmed. We have an idea of nationalities, but not a clear picture of who is entering and the real profile of these migrants.”<sup>140</sup>

This has proved detrimental for both refugees running away from danger and the country accepting those refugees. On the one hand, because these migrants are using fake Syrian passports, there is even less space for refugees and a limited number of actual Syrian refugees will be granted asylum. On the other hand, this issue puts the host country at risk of threat from terrorist groups like ISIS. Research shows that members of ISIS are now using fake passports to enter the EU, many of whom are responsible for terrorist attacks. In fact, “Bernard Cazeneuve, the French interior minister, said the terrorist group had ‘set up a true industry of fake passports.’”<sup>141</sup> The November 2015 Paris attack was one major example of this issue. People criticized the open-door policy of allowing refugees into the country and called for greater security measures. The response of some countries was to re-instate border controls.

The recent changes in the relationships between Member Countries are not merely a technical problem with the law. It highlights the changes in the political, social, and economic environments internal to the Member Country, and down to the individuals and nationals of that state. The issue is much larger than just the law itself, or the inability to apply the Dublin Regulation and the various Directives. The burden the Dublin Regulation imposes on some countries, coupled with the lack of a framework to deal with the crisis, is arguably a major cause of the rise of populous parties with strong nationalist and

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<sup>137</sup> Antenore, *supra* note 131.

<sup>138</sup> *Understanding Migrations and Asylum in the European Union*, OPEN SOC’Y FOUNDS., <https://www.opensocietyfoundations.org/explainers/understanding-migration-and-asylum-european-union> (last updated Dec. 2016).

<sup>139</sup> *Id.*

<sup>140</sup> Rebecca Perring, *Economic Migrants Fake Being Syrian to Claim EU Asylum and Head for Britain*, EXPRESS (Sept. 10, 2015), <http://www.express.co.uk/news/world/603797/Migrant-crisis-FAKE-Syrian-claim-asylum-Europe>.

<sup>141</sup> Lizzie Dearden, *ISIS Fighters ‘Virtually Impossible’ to Detect as Group Continues to Use Fake Passports to Exploit Refugee Crisis*, INDEPENDENT (Jan. 27, 2016), <http://www.independent.co.uk/news/world/europe/isis-fighters-virtually-impossible-to-detect-as-group-continues-to-use-fake-passports-to-exploit-a6836376.html>.

anti-immigrant agendas. A consequence of such is Brexit. “[O]ne third of Leave voters chose to back Brexit as they saw it ‘offered the best chance for the UK to regain control over immigration and its own borders.’”<sup>142</sup> Even prior to the vote, Donald Tusk suggested that the sole reason Britain could vote to leave the Union was the migration crisis.<sup>143</sup>

Brexit is another issue that the EU must take into account when dealing with refugees. It is unclear how Brexit will ultimately affect refugees. However, if Britain chooses to follow the Norway model,<sup>144</sup> then free movement should not be affected.<sup>145</sup> There are some who argue that this means the UK will close its borders to both migrants and refugees (non-nationals), but it is crucial to remember that while the UK can attempt to do that, “the Channel would remain 350 miles long, and still practically impossible to police.”<sup>146</sup> Though the response to Brexit is uncertain, it could prove to be an example of why isolationism is hurtful to the country demanding it. On the one hand, it is important to protect said country’s borders, but it is equally imperative to work with other countries to ensure the issue is not left for a small number of countries to resolve. The Dublin Regulation, in a way, encourages isolation. It puts the responsibility of registering the asylum seeker’s application in the hands of the Member Country which that refugee first enters. This means it releases other Member Countries from the responsibility of processing the refugee’s paperwork or even hosting the refugee while the paperwork is processed. This is an ineffective solution, and it must be replaced with one that encourages collective action and collaboration amongst all Member Countries and not merely a select few. The EU is the perfect institution for enforcing such a mechanism because it operates on the principle of reciprocity, which should lead to a system that equally and equitably distributes the burden. Moreover, the EU, with the assistance of the European Court of Justice, is able to impose sanctions on a Member Country that does not assist with the crisis. However, what Brexit makes clear is the UK may no longer be one of those countries expected to collaborate. Therefore, ensuring unity among members is arguably now more crucial than ever before.

### 3. Possible Alternatives

The refugee crisis is not only harsh on refugees, but is burdensome on Member Countries as well. This is especially true and heightened as a result of a lack of effective measures, regulations, or a plan which refugees can rely on for a safe place to settle. There is no plan that protects Member Countries, allows

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<sup>142</sup> Asa Bennett, *Did Britain Really Vote Brexit to Cut Immigration?*, TELEGRAPH (June 29, 2016), <http://www.telegraph.co.uk/news/2016/06/29/did-britain-really-vote-brexit-to-cut-immigration/>.

<sup>143</sup> Matthew Holehouse, *Migrant Crisis Could Trigger Brexit, Fears EU’s Tusk*, TELEGRAPH (Feb. 10, 2016), <http://www.telegraph.co.uk/news/worldnews/europe/eu/12151092/Migrant-crisis-could-trigger-Brexit-fears-EUs-Tusk.html>.

<sup>144</sup> Ben Chu, *Could the ‘Norway Model’ Work for Britain? Yes, But We Wouldn’t Be Taking Back Control*, INDEPENDENT (July 10, 2016), <http://www.independent.co.uk/voices/brexit-eu-referendum-norway-single-market-could-the-norway-model-work-for-britain-yes-but-we-wouldnt-a7129246.html> (noting that Norway has access to the EU’s single market but is not part of the political structure of the EU).

<sup>145</sup> Tim Wigmore, *How Will Brexit Affect the Refugee Crisis?*, NEW STATESMAN (June 16, 2016), <http://www.newstatesman.com/politics/uk/2016/06/how-will-brexit-affect-refugee-crisis>.

<sup>146</sup> *Id.*

them to maintain their autonomy, and ensures an equitable distribution of the burden on said countries. Plenty of rich literature exists that outlines different solutions to the refugee problem in the EU. This section examines two of those alternatives and argues for the implementation of the second one.

The first alternative, which this paper argues against, is complete and total isolationism. This entails completely closing the borders, annulling the Schengen Agreement, and making each Member Country independent. This would mean that the guiding notions and institutions undergirding the EU could be jeopardized. This could happen as more Member Countries resort to re-imposing border controls. Such actions likely violate international law, international asylum law, and the ECHR. They are will also likely be ineffective in keeping refugees and migrants out of these countries. “And it is naïve in the extreme to assume that reimposing border controls would stop all movement of asylum-seekers between Member States.”<sup>147</sup>

This mirrors the Brexit argument in Part 2. There is a low probability that Brexit will actually affect refugees coming into the UK (especially with the presence of the Channel).<sup>148</sup> Not only is it naïve, but it will probably not solve the issue at hand. It is crucial to understand that members have more than two extreme alternatives: blissful isolation or the current crisis. Isolation, like sharing in the burden, is reciprocal. This means that countries choosing to isolate themselves will face the repercussions of doing so when they are in need of assistance for any other crisis—including the current refugee crisis. Isolationism encourages the growth and popularity of those strong nationalist groups with anti-immigrant motives. The United States is another example of the rise of such groups. Since President Donald Trump’s election, reports show an unprecedented rise in the number of hate crimes. “According to the Southern Poverty Law Centre (SPLC), reports of hateful intimidation erupted in the wake of the property tycoon’s win, with the most complaints about anti-black, anti-immigrant and anti-Muslim behavior.”<sup>149</sup>

The second alternative, which should be carried out after repealing the Dublin Regulation, is the establishment of an emergency framework.<sup>150</sup> The current standards within the quota system appear to be ineffective and are arguably too narrow. The framework outlines criteria that trigger the emergency quotas, expand the definition of a refugee to account for future migrant crises, decrease the recognition rate so as to expand the pool of applicants that are able to receive international protection, and increase the threshold for the number of applicants to be relocated so that more transfers can happen.<sup>151</sup>

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<sup>147</sup> Steve Peers, *The Refugee Crisis: What Should the EU Do Next?*, EU LAW ANALYSIS (Sept. 8, 2015), <http://eulawanalysis.blogspot.co.uk/2015/09/the-refugee-crisis-what-should-eu-do.html>.

<sup>148</sup> Wigmore, *supra* note 145.

<sup>149</sup> Harriet Agerholm, *Donald Trump Addresses Alarming Spike in Hate Crime Reports Since His Election Win: ‘Stop it’*, INDEPENDENT (Nov. 14, 2016), <http://www.independent.co.uk/news/world/americas/us-elections/donald-trump-addresses-alarming-spike-hate-crime-reports-since-his-election-win-stop-it-a7416356.html>; *see also* Lizzie Dearden, *Donald Trump’s Victory Followed by Wave of Hate Crime Attacks Against Minorities Across US – Led By His Supporters*, INDEPENDENT (Nov. 10, 2016), <http://www.independent.co.uk/news/world/americas/us-elections/donald-trump-president-supporters-attack-muslims-hijab-hispanics-lgbt-hate-crime-wave-us-election-a7410166.html>.

<sup>150</sup> Binder, *supra* note 50, at 1385–91.

<sup>151</sup> *Id.* at 1385.

It accomplishes said goals by providing a bright-line number that triggers the emergency plan. This number signifies the “amount of irregular arrivals and asylum applications in the EU that will trigger the emergency relocation mechanism.”<sup>152</sup> The number cannot be so low as to continuously trigger the emergency relocation mechanism or too high so as to prevent its invocation.<sup>153</sup> A study suggests that the number should be set at 150,000.<sup>154</sup> This alternative suggests the need to ensure that when the migration crisis falls on one country, the EU as a whole is responsible and is expected to collectively respond. This speaks to the notion of reciprocity once again; countries will enjoy the benefits and share the burden as one. Second, the study calls for the expansion of the definition of a refugee to include the Organization of African Unity’s (OAU) definition, which goes beyond the five protected grounds.<sup>155</sup> Refugee status should be granted to individuals who:

[O]wing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.<sup>156</sup>

The current definition of a refugee appears to be broad enough (with its five protected grounds) as presented in the 1951 Convention and Protocol. Expanding the definition, which in theory may appear to conform with international law and humanity principles, in reality may prove troublesome. The current situation is that countries are unable to accommodate those who are refugees. Countries in the EU are also not only accounting solely for refugees but migrants wishing to relocate to the EU for mainly economic purposes as well. It seems difficult to accept that Member Countries would be willing to agree to an expansion of the definition of a refugee, even with an emergency mechanism in place. This is because of their current unwillingness to aid refugees and respond to the crisis at hand collectively. Prior to expanding the definition, it is more important to address the current issue.

The third step is decreasing the seventy-five percent recognition rate, where “an applicant would have to be recognized as a refugee by three-fourths of Member States to qualify for the relocation scheme.”<sup>157</sup> This number usually only applies to countries that are known to be economically and politically uneasy and as a result produce the highest number of refugees (Syria, for example). Decreasing the seventy-five percent recognition rate would likely mean that more refugees from different countries would be accounted for in the relocation scheme. This step goes hand in hand with international asylum laws

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<sup>152</sup> *Id.* 1385–86.

<sup>153</sup> *Id.*

<sup>154</sup> *Id.* at 1386 (this is based on the number of “irregular arrivals and asylum application that triggered the current quota system to be implemented in Italy and Greece”).

<sup>155</sup> *Id.* at 1387.

<sup>156</sup> *Id.*

<sup>157</sup> *Id.* at 1388.

and the ECHR in that it incorporates the notion that asylum is a fundamental human right and must be granted to those who are seeking it.

Increasing the recognition rate calls for an increase in the relocation rate. Without the Dublin Regulation, the burden will no longer fall on a few named countries. Currently, “the EU set the number of people to be considered for relocation at forty percent of the number of asylum applications lodged with the Member State in the six months preceding the adoption of the relocation mechanism.”<sup>158</sup> The number should be higher than forty percent to ensure that more than three percent of actual arrivals into Europe are relocated.<sup>159</sup> The study sets the number at seventy-five percent,<sup>160</sup> which is reasonable given that the current circumstances prove that the EU has not been as successful as planned in relocating refugees. The important notion is that the number proposed must account for the number of asylum applications received by the EU as a whole.

The current relocation scheme utilizes each member country’s “population, GDP, unemployment rate, and average number of asylum applications for the preceding five years per one million inhabitants”<sup>161</sup> to calculate the number of refugees each country should take in. Other than possibly factoring in land area, which with the help of the EU and the UN allows for more room for refugees, this methodology is logical and accounts for the most important and relevant factors. One of the major issues with the current relocation scheme is the lack of an enforcement mechanism. The European Commission should be responsible for ensuring that each Member Country is sharing in the burden and is relocating refugees. If states are non-compliant, they should fear consequences. The European Commission can pursue economic sanctions against non-compliant states as a first step. A referral of the matter to the Court of Justice is another option if the Member Country is completely unwilling to cooperate.<sup>162</sup>

## CONCLUSION

It is apparent that the EU can and must do more for refugees. The argument is not that it must do everything, but that it must do everything it can. Its role should incorporate the basic rights of refugees as outlined in international asylum laws, be forward-looking, sustainable, and proportionate to its ability to accept refugees. Setting legal duties aside, the EU’s moral duty to help those refugees comes into play. Refugees are in constant danger. They first attempt to escape their war-torn country. If successful, they are met with the difficult journey to cross the sea. Refugees bear witness to the most horrific tragedies: the loss of their family members and destruction of their homes and countries. Are other countries to stand by and watch while these refugees suffer?

With anti-immigrant groups on the rise, humanity is being tested now more than ever. Some Member Countries think it is not their duty to care for refugees. However, a state isolating itself can be equated with telling refugees that their

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<sup>158</sup> *Id.* at 1388–89.

<sup>159</sup> *Id.* at 1389.

<sup>160</sup> *Id.*

<sup>161</sup> *Id.* at 1390.

<sup>162</sup> *Id.*

lives do not matter as much and that contrary to international laws, not every person is entitled to equal rights, to a sense of security, and to a dignified life, especially if that person is a refugee.

Though the refugee crisis has weakened the economies of many Member Countries, refugees cannot be blamed. Blaming refugees, however, seems to be the consensus. The EU, with its values, is the appropriate institution to take charge in fighting against this notion and specifically opposing isolationism—the solution most Member Countries are leaning towards. The EU must strictly apply an approach that repeals the Dublin Regulation, imposes quotas depending on each country's economic and political state, and demands collective action by all Member Countries rather than a select few. At the end of the day, the world must not forget that refugees are humans and that this could be any country's fate. How can one assign value and worth to a human's life? If the EU is not prepared to fight for the rights of refugees, then society must take a step back and ask: what remains that is worth fighting for?