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**United Nations Human Rights Council
(UNHRC)**



Study Guide

Agenda Item: *Refugee Crisis: Forcibly displaced and stateless people*

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Letter from the Secretary-General

Highly esteemed participants of Junior Nesibe Aydın Model United Nations 2022 Online Conference, JNAMUN'22,

I am more than honored to welcome you all to the second session of JNAMUN. This year, unlike usual conferences, JNAMUN'22 will be held online due to the ongoing pandemic. Our conference has been attempting to encourage delegates both socially and academically through an inclusive simulation of the United Nations with unmatched committees and agendas to increase our delegates' eagerness and enthusiasm to speak up.

Both our academic and organization teams have been working very hard to give you the best JNAMUN experience. We did our best to make that online conference similar to face-to-face conferences as much as possible. Therefore; we could not discard some characteristics of JMUN such as fun activities in breaks.

This year in JNAMUN'22, we have four committees which are UNEP (United Nations Environment Programme), WHO (World Health Organization), UNHRC (United Nations Human Rights Council), and last but not least UNESCO (United Nations Educational, Scientific and Cultural Organization). All of our committees' agenda items had been decided according to the original organization committees' policies. Additionally; all of our committees', are focusing on debating upon Sustainable Development Goals (SDGs) of the United Nations.

It is my biggest wish to see all those who attend will reach their aims with remarkable knowledge and memories. Additionally, I would like to thank every participant for supporting JMUN conferences with their contribution and determination during the pandemic and staying safe.

We as the JNAMUN'22 team are looking forward to meeting all of you!

Secretary-General of JNAMUN'22

Duru Avşar

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1. Introduction to UNHRC

1.1. What is UNHRC?

The United Nations Human Rights Council (UNHRC) is an inter-governmental body within the United Nations system responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and making recommendations on them. It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year. It meets at the UN Office in Geneva.

The Council is made up of 47 United Nations Member States which are elected by the UN General Assembly. The Human Rights Council replaced the former **United Nations Commission on Human Rights**.

1.2. History of UNHRC

The Council was formed by the United Nations General Assembly on 15 March 2006 by a resolution. Its first session took place from 19th to 30th June 2006. One year later, the Council adopted its "Institution-building package" to guide its work and set up its procedures and mechanisms.

When creating the Human Rights Council in March 2006, the United Nations General Assembly decided that the Council's work and functioning should be reviewed five years after it had come into existence at the level of the General Assembly.

1.3. Functions of UNHRC

The UN Human Rights Council (Council or HRC) is the principle intergovernmental body within the United Nations (UN) system responsible for strengthening the promotion and protection of human rights around the globe, and for addressing and taking action on human rights violations around the globe.

The Council holds meetings throughout the year providing a multilateral forum to address human rights violations wherever and whenever they occur. It responds to human rights emergencies and makes recommendations on how to better implement human rights on the ground. The Council has the ability to discuss all thematic human rights issues and country-specific situations that require its attention.

1.4. Sources of UNHRC

Almost two-thirds of UN Human Rights' income comes from voluntary contributions from the Member States and other donors. The remainder is covered by the UN's regular budget.

The regular budget allocates to human rights only a tiny percentage of the resources that are extended to the other two pillars. While approximately half of all regular budget resources are directed to these three pillars, human rights receives only 3.7 percent of the total UN regular budget. More specifically, excluding funds it apportions to the human rights components of peacekeeping operations, out of 51.7 percent of the total regular budget resources directed to the three UN system pillars, the UN regular budget allocates 7.7 percent to the human rights pillar. The initial regular budget appropriation for the Office for 2020 was US\$116.4 million, compared to allocation final appropriation of US\$105.6 million in 2019.

2. Refugee Crisis

2.1. Definition

Crisis of refugees can refer to large groups of displaced people, who could be either internally displaced persons, refugees, or other migrants, the incidents in their country of origin, or to problems while on the move, or it can refer to problems in the hosting countries after arrival involving large groups of displaced peoples, asylum seekers or refugees.

2.2. Migration and Human Rights

An estimated 281 million people, approximately 3.6% of the world's population, currently live outside their country of origin, many of whose migration is characterized by varying degrees of compulsion. Notwithstanding that many migrants choose to leave their countries of origin each year, an increasing number of migrants are forced to leave their homes for a complex combination of reasons, including poverty, lack of access to healthcare, education, water, food, housing, and the consequences of environmental degradation and climate change, as well as the more 'traditional' drivers of forced displacement such as persecution and conflict.

While migration is a positive and empowering experience for many, it is increasingly clear that a lack of human rights-based migration governance at the global and national levels is leading to the routine violation of migrants' rights in transit, at international borders, and in the countries, they migrate to.

While migrants are not inherently vulnerable, they can be vulnerable to human rights violations. Migrants in an irregular situation tend to be disproportionately vulnerable to discrimination, exploitation and marginalization, often living and working in the shadows, afraid to complain, and denied their human rights and fundamental freedoms.

Human rights violations against migrants can include a denial of civil and political rights such as arbitrary detention, torture, or a lack of due process, as well as economic, social, and cultural rights such as the rights to health, housing, or education. The denial of migrants' rights is often closely linked to discriminatory laws and to deep-seated attitudes of prejudice or xenophobia.

In this context, UNHRC works to promote, protect and fulfill the human rights of all migrants, regardless of their status, with a particular focus on those migrants in vulnerable situations who are most marginalized and at risk of human rights violations. UNHRC promotes a human rights-based approach to migration, which places the migrant at the center of migration policies and governance, and seeks to ensure that migrants are included in all relevant national action plans and strategies, such as plans on the provision of public housing or national strategies to combat racism and xenophobia.

2.2.1. International Human Rights Law

International human rights law (IHRL) lays down obligations that States are bound to respect. Unlike other bodies of law, which may only apply to specific groups or situations, international human rights law applies to all people at all times. This includes not only a State's own citizens but everyone within the State's jurisdiction or effective control. This means that all migrants, regardless of their status, are entitled to the same international human rights as everyone else.

As with all rights-holders, States have an obligation to migrants to respect, protect, and fulfill their human rights.

Respecting human rights means refraining from human rights violations, and in the migration context includes refraining from arbitrary detention, torture, or collective expulsion of migrants.

The obligation to protect human rights requires States to prevent human rights violations by other actors. With regard to migrants, this means that States should, for example, regulate recruitment agencies, sanction abusive employers, protect migrants from violence and abuse by smugglers, and take action against xenophobia and hatred.

Fulfilling human rights requires taking positive measures to ensure the realization of those rights, such as, for migrants, introducing alternatives to detention, and guaranteeing access to healthcare, education, and other social services.

Realizing human rights in migration policy also means incorporating certain cross-cutting human rights principles, including:

- **Equality and non-discrimination:** The principle of non-discrimination prohibits distinction, exclusion, restriction, or preference on the basis of a list of non-exhaustive grounds such as race, color, descent, ethnic origin, sex, age, gender, sexual orientation, gender identity, disability, religion or belief, nationality, migration or residence status or other status. States should address direct and indirect discrimination against and unequal treatment of people in laws, policies, and practices, including by paying particular attention to the needs of migrants in vulnerable situations.
- **Participation and inclusion:** Everyone is entitled to active, free, and meaningful participation in decisions that affect the enjoyment of their rights. All people have the right to access information, in a language and format accessible to them, regarding the decision-making processes that affect their lives and well-being. This means that migrants should be consulted and included in the development of relevant public policy.
- **Accountability and rule of law:** Everyone is entitled to claim and exercise their rights. States should ensure transparency in the design and implementation of their policies and must ensure that rights-holders have access to mechanisms of redress and to enjoy effective remedies when human rights breaches occur. The system governing migration should allow migrants full access to justice, including redress and remedies if they experience human rights violations.

Through its support to States and to the various human rights mechanisms, OHCHR (Office of the United Nations High Commissioner for Human Rights) helps to identify good practices and policies that ensure human rights-based governance of international migration.

2.3. Forced Displacement

Forced displacement (also forced migration) is an involuntary or coerced movement of a person or people away from their home or home region. The UNHCR defines 'forced displacement' as follows: displaced "as a result of persecution, conflict, generalized violence or human rights violations".

A forcibly displaced person may also be referred to as a "forced migrant", a "displaced person" (DP), or, if displaced within the home country, an "internally displaced person" (IDP). While some displaced persons may be considered as refugees, the latter term specifically refers to such displaced persons who are receiving legally-defined protection and are recognized as such by their country of residence and/or international organizations.

- A migrant who fled their home because of economic hardship is an **economic migrant** and strictly speaking not a displaced person.
- If the displaced person was forced out of their home because of economically driven projects, such as the Three Gorges Dam in China, the situation is referred to as **development-induced displacement**.
- A displaced person who left their home region because of political persecution or violence, but did not cross an international border, commonly falls into the looser category of an internally displaced person (IDP), subject to more tenuous international protection. In 1998, the UN Commission on Human Rights published the Guiding Principles on Internal Displacement, defining **internally displaced people** as: "persons or groups of persons who have been forced or obliged to flee or leave their homes or places of habitual residence in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights, or natural or human-made disasters and who have not crossed an internationally recognized State border."
- If the displaced person has crossed an international border and falls under one of the relevant international legal instruments, they may be able to apply for asylum and can become a refugee if the application is successful. Although often incorrectly used as a synonym for a displaced person, the term "**refugee**" refers specifically to a legally-recognized status that has access to specific legal protections. Loose application of the term "refugee" may cause confusion between the general descriptive class of displaced persons and those who can legally be defined as refugees.
- Some forced migrants may, due to the country of residence's legal system, be unable to apply for asylum in that country. Thus, they cannot become either asylum seekers or refugees. As these terms require legal recognition, they cannot be granted if the required frameworks are not present.
- A displaced person crossing an international border without permission from the country they are entering or without subsequently applying for asylum may be considered an **illegal immigrant**.
- Forced migrants are always either IDPs or displaced people, as both of these terms do not require a legal framework, and the fact that they left their homes is sufficient. The distinction between the terms displaced person and forced migrant is minor, however, the term displaced person has an important historic context (e.g. World War II).

2.3.1 Causes and Examples of Forced Displacement

- **Examples of forced displacement caused by natural disasters:**

2005 Hurricane Katrina: Striking New Orleans, Louisiana in late August 2005, Hurricane Katrina inflicted approximately US\$125 billion in damages, standing as one of the costliest storms in United States history. As a result of the damage inflicted by Katrina, over one million people were internally displaced. One month after the disaster, over 600,000 remained displaced. Immediately following the disaster, New Orleans lost approximately half of its population, with many residents displaced to cities such as Houston, Dallas, Baton Rouge, and Atlanta. According to numerous studies, displacement disproportionately impacted Louisiana's poorer populations, specifically African Americans.

- **Examples of forced displacement caused by criminal activity:**

Displacement in Colombia due to conflict and drug-related violence: According to researchers Mojica and Eugenia, Medellín, Colombia around 2013 exemplified crime and violence-induced forced displacement, standing as one of the most popular destinations for IDPs while also producing IDPs of its own. Rural citizens fled from organized criminal violence, with the majority pointing to direct threats as the main driving force, settling in Medellín in pursuit of safety and greater opportunity. Within Medellín, various armed groups battled for territorial control, forcing perceived opponents from their homes and pressuring residents to abandon their livelihoods, among other methods. All in all, criminal violence forced Colombians to abandon their possessions, way of life, and social ties in pursuit of safety.

- **Examples of forced displacement caused by political conflict:**

Vietnam War: Throughout the Vietnam War and in the years proceeding it, many populations were forced out of Vietnam and the surrounding countries as a result of armed conflict and/or persecution by their governments, such as the Socialist Republic of Vietnam. This event is referred to as the Indochina Refugee Crisis, with millions displaced across Asia, Australia, Europe, and North America.

- **Examples of forced displacement caused by man-made environmental disasters:**

Chernobyl Nuclear Disaster: A nuclear meltdown on April 26, 1986 near Pripyat, Ukraine contaminated the city and surrounding areas with harmful levels of radiation, forcing the displacement of over 100,000 people.

- **Other man-made displacement:**

Slavery: Historically, slavery has led to the displacement of individuals for forced labor, with the Middle Passage of the 15th through 19th century Atlantic slave trade standing as a notable example. Of the 20 million Africans captured for the trade, half died in their forced march to the African coast, and another ten to twenty percent died on slave ships carrying them from Africa to the Americas.

2.3.2. Conditions faced by Displaced People

In most instances of forced migration across borders, migrants do not possess the required documentation for legal travel. The states where migrants seek protection may consider them a threat to national security. As a result, displaced persons may face detainment and criminal punishment, as well as physical and psychological trauma. Various studies focusing on migrant health have specifically linked migration to an increased likelihood of depression, anxiety, and other psychological troubles. For example, the United States has faced criticism for its recent policies regarding migrant detention, specifically the detention of children. Critics point to poor detention conditions, unstable contact with parents, and a high potential for long-term trauma as reasons for seeking policy changes.

Displaced persons risk greater poverty than before displacement, financial vulnerability, and potential social disintegration, in addition to other risks related to human rights, culture, and quality of life. Forced displacement has varying impacts, dependent on the means through which one was forcibly displaced, their geographic location, their protected status, and their ability to personally recover. Under the most common form of displacement, armed conflict, individuals often lose possession of their assets upon fleeing and possibly upon arrival to a new country, where they can also face cultural, social, and economic discontinuity.

2.3.3. Exploits of Displaced People

Displaced persons face adverse conditions when taking the decision to leave, traveling to a destination, and sometimes upon reaching their destination. Displaced persons are often forced to place their lives at risk, travel in inhumane conditions, and may be exposed to exploitation and abuse. These risk factors may increase through the involvement of smugglers and human traffickers, who may exploit them for illegal activities such as drug/weapons trafficking, forced labor, or sex work. The states where migrants seek protection may consider them a threat to national security. Displaced persons may also seek the assistance of human smugglers (such as coyotes in Latin America) throughout their journey. Given the illegal nature of smuggling, smugglers may take use dangerous methods to reach their destination without capture, exposing displaced persons to harm and sometimes resulting in deaths. Examples include abandonment, exposure to exploitation, dangerous transportation conditions, and death from exposure to harsh environments.

Large groups of displaced persons could be abused as 'weapons' to threaten political enemies or neighboring countries. Refugees as Weapons is a mass exodus of refugees from a state to a hostile state as a "weapon" against an enemy. Weaponized migration occurs when a challenging state or non-state actor exploits human migration—whether voluntary or forced—in order to achieve political, military, and/or economic objectives.

2.4. Statelessness

2.4.1. Definition

In international law, a stateless person is someone who is "not considered as a national by any state under the operation of its law". Some stateless people are also refugees. However, not all refugees are stateless, and many people who are stateless have never crossed an international border. On November 12, 2018, the United Nations High Commissioner for Refugees stated there are about 12 million stateless people in the world.

2.4.2. Notable Cases

One famous case is that of Mehran Karimi Nasseri, who lived in Charles de Gaulle Airport in France for approximately 18 years after he was denied entry to the country. He appears to have no nationality, as his Iranian citizenship was taken away from him. He has a British parent, but he still does not have British citizenship. The 1994 French film *Tombés du ciel* and the 2004 American film *The Terminal* are fictional stories inspired by his experiences.

Ahmed Al-Kateb, a Palestinian man born in Kuwait who was denied a visa on arrival in Australia in 2000 and did not meet the requirements of a refugee. Al-Kateb wished to return to Kuwait or Gaza, however, Kuwait would not accept him (as he was not a Kuwait citizen or resident) and there was no state of Palestine at that time. To return him to Gaza required the approval of Israel. The High Court of Australia held in *Al-Kateb v Godwin* that his detention was lawful, even though it would continue indefinitely. Al-Kateb and eight other stateless people were granted bridging visas in 2005 and, while this meant they were released from detention, they were unable to work, study or obtain various government benefits. Al-Kateb was granted a permanent visa in October 2007.

Many stateless permanent residents live in Brunei. Most have lived on Bruneian soil for generations, but Bruneian nationality is governed by the policy of *jus sanguinis*; the right to hold it comes from blood ties. The government of Brunei has made obtaining citizenship possible, albeit difficult, for stateless persons who have inhabited Brunei for many generations. Requirements include rigorous tests in Malay culture, customs, and language. Stateless permanent residents of Brunei are given an International Certificate of Identity, which allows them to travel overseas. The majority of Brunei's Chinese and Indians are permanent residents who are stateless.

Rachel Chandler was born in China, to a Libyan-born father who is a Canadian citizen and a mother who is a Chinese citizen. Because of the nationality laws of Canada and China, she was not eligible for citizenship in either country and was apparently born stateless. However, because Chandler's paternal grandfather was born in Ireland, she was entitled to Irish citizenship and now holds an Irish passport.

From the mid-1950s until 1998, the Greek government used Article 19 to discriminate not only against the Turkish ethnic minority in Western Thrace but also against emigrants to Turkey itself. The dispute over Cyprus between Greece and Turkey further exacerbated the problem, and tens of thousands of Greek citizens lost their nationality arbitrarily, sometimes while they were simply visiting Turkey on holiday.

The law was repealed in 1998, but not retroactively (i.e., those who had been affected did not have their citizenship automatically restored). Human rights groups and the United Nations have since helped many to regain their citizenship, but not without long struggles. Many stateless residents of Greece have had their nationality restored, but others have been waiting for decades, unable to re-enter the country of their birth and sometimes separated from their families in Greece.

2.5. Migratory routes and methods of fleeing

The term “boat people” came into common use in the 1970s with the mass exodus of Vietnamese refugees following the Vietnam War. It is a widely used form of migration for people migrating from Cuba, Haiti, Morocco, Vietnam, or Albania. They often risk their lives on dangerously crude and overcrowded boats to escape oppression or poverty in their home nations. Events resulting from the Vietnam War led many people in Cambodia, Laos, and especially Vietnam to become refugees in the late 1970s and 1980s. In 2001, 353 asylum seekers sailing from Indonesia to Australia drowned when their vessel sank.

Boat people are frequently a source of controversy in the nation they seek to immigrate to, such as the United States, New Zealand, Germany, France, Russia, Canada, Italy, Japan, South Korea, Spain, and Australia. Boat people are often forcibly prevented from landing at their destination, such as under Australia's Pacific Solution (which operated from 2001 until 2008), or they are subjected to mandatory detention after their arrival.

There are three Mediterranean refugee routes: Eastern, Central, and Western route. Since 2015 more than 700.000 refugees and other migrants used these routes (i.e. the Eastern Balkan route and the Western Balkan route) from Greece through the Balkan to enter central European countries. Since March 2016 the Eastern route is almost closed, but the Western route is still busy.

2.6. Refugee crisis during COVID-19 pandemic

It is estimated that around 167 countries across the world have fully or partially closed their borders during COVID-19 pandemic. 57 states made no exception for people seeking asylum. Many countries are using the excuse of pandemic to reject refugees from entering the land and water borders. Countries such as Italy and Malta closed their ports for refugees. Most of the refugees reaching the European seashores (up to 90%) depart from Libya where they escape a civil war in Libya. Refugees that are forced to come back often face threats to their lives and freedom in their countries torn by wars. Most countries in which refugees are displaced are countries of low or middle income, which puts more health and food challenges that refugees are facing in these countries with under-financed health care systems and under-developed economies. The ongoing conflicts in the countries of the Middle East and North Africa (MENA) Yemen, Syria, and Libya make it very difficult to conduct large-scale regular testing for COVID-19 among the populations of these countries. Lack of sanitation, no access to health-care services, information, and lack of social distancing and the conditions in war-torn countries and refugee centers put a threat to the lives of millions of people living in the war zones.

3. Questions to be Covered

- What can be done to ensure migrants' rights to information and to a legal identity?
- How can we protect the right to decent work and other labor rights for migrants?
- What can we do to protect the right to live in the context of migration?
- How can we combat smuggling and trafficking while protecting the human rights of those who have been smuggled or trafficked?
- What can be the alternatives to immigration detention?
- How can we ensure migrants' rights to access basic services, including health, education, and social support, without discrimination?
- What can be done to eliminate discrimination and combat hate speech and xenophobia?

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