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Forced migration, mental health and vulnerability. Obligations of states to prevent ill-treatment and ensure identification and follow up of vulnerable migrants.



**Nora Sveaass,
UiO, 08.12.2017**

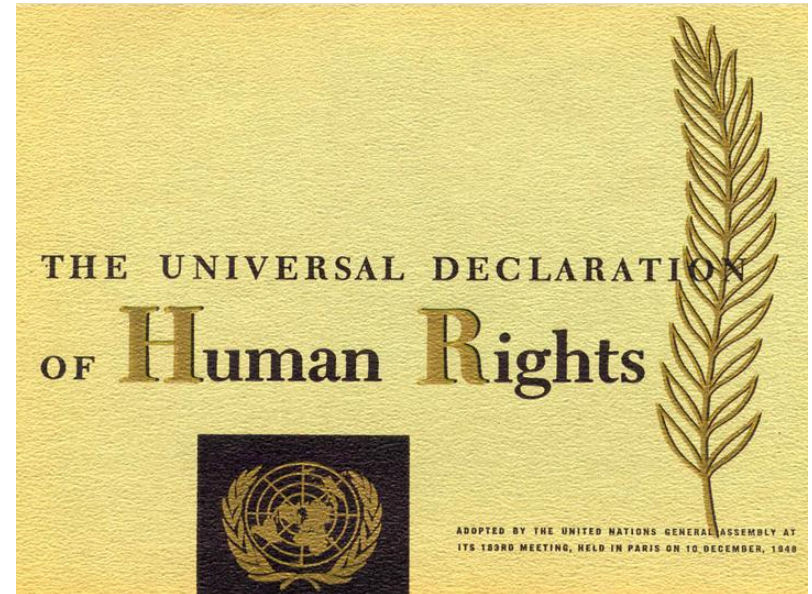
Today we see that

Rights and obligations are
questioned.....by states who
themselves have adopted these

Universal declaration of Human Rights

Article 14.

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution



Human rights are under threat – just when we need them most [Charles Falconer](#)

- There is one almighty fight coming, and it'll be about human rights in the UK. Those who want to protect our national and international commitment to human rights need to mobilise in defence of those rights now.
- <https://www.theguardian.com/commentisfree/2017/jan/03/european-convention-human-rights-threat>

Policy of deterrence developed

- Conditions in reception countries worsened
- Temporary stays and no working permissions
- Active use of early rejection
- Brutality at borders – border police and violence
- Open shelters closed

Deterrence....

- **Detention of asylum seekers**
- Closing borders with fences and barbed wire
- People are held in places without exit (islands)
- Negligence of rescue missions at sea
- Plans about building walls

Young asylum seekers

- Use of temporary protection
- Applying age assessments that are highly questionable to substantiate the policy
- Questionable criteria for assessing safe returns
- Unwillingness by states to listen both to international experts on migration and on experts at home

UNHCR 'Global Strategy - Beyond Detention 2014-2019',

- **The detention of asylum-seekers and refugees has become commonplace in a number of countries and has serious lasting effects on individuals and families. UNHCR is concerned about the growing use of immigration detention, particularly of children.**

RECEPTION DIRECTIVE Article 8

Detention

- 1. Member States shall not hold a person in detention for the sole reason that he or she is an applicant in accordance with Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (1).

Those fleeing war are not criminals.

- “However, they are repeatedly being held in conditions resembling penitentiary institutions in asylum detention. Our colleagues visit weekly the immigration and the asylum detention facilities in the country. All of our applications to the European Court of Human Rights regarding the unlawful detention of asylum-seekers have been upheld in Strasbourg”. Helsinki Committee Hungary

Trandum, Norway – no place for children



Violence during flight and at borders

- 205 asylumseekers travelling through Serbia
- 29,8 % tortured in own country prior to leaving
- 42% exposed to some form of torture or ill-treatment in countries of transition
- Many reported serious ill-treatment by Bulgarian police /border-police
- (a study by Professor Vladimir Jovic et al. 2015)

Sexual Violence and Migration

- What happens on the way
- The hidden reality of Sub-Saharan women trapped in Morocco en route to Europe (Med sans Frontier)
- Trafficking – forced prostitution and forced labor – even sold on auctions
- A dehumanization of migrants/refugees

- http://www.huffingtonpost.com.au/2017/11/23/video-of-migrants-sold-in-apparent-slave-auction-provokes-outrage_a_23286101/?utm_hp_ref=au-homepage

“Reporting form on abuses committed at the Hungarian border”

- Since the beginning of this spring, the Hungarian Helsinki Committee (HHC) has been receiving a growing number of alarming reports from asylum-seekers and various NGOs and individuals working at the Hungarian-Serbian border about serious abuses and ill-treatments committed against asylum-seekers. While these reports show a clear trend of increasing violence, more specific information is needed to trigger the authorities' action to investigate abuses.

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“Australia Is Ignoring Refugee Abuse To Deter Others From Coming”, Rights Groups Say

Refugee camps on the South Pacific island of Nauru have drawn criticism for their harsh conditions

[WORLDPOST](#), August 2016.

“Australia mistreats refugees as deterrent”, Amnesty, Human Rights Watch

Lecture by Professor N. Procter, 2016

Strong body of evidence to suggest a poor health status of people in immigration detention deteriorates over time

A clear association between time in detention and rates of mental deterioration and mental illness.

Increase in self-harm and suicide in immigration detention centres

(Sansom Institute for Health Research)



Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection

PROVISIONS FOR VULNERABLE PERSONS, *Article 21*

General principle

Member States shall take into account the specific situation of **vulnerable persons** such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation, in the national law implementing this Directive.

Member states shall take into consideration

- gender and age-specific concerns and the **situation of vulnerable persons (art 18)**
- **ensure access to rehabilitation services for minors who have been victims of any form of abuse, neglect, exploitation, torture or cruel, inhuman and degrading treatment, or who have suffered from armed conflicts (art. 23)**

Vulnerability in recast directive:

- Restricts the detention of vulnerable persons in particular minors;
- Clarifies the obligation of member States to ensure that persons who have been subjected to torture, rape or other serious acts of violence receive the necessary treatment for the damage caused by such acts, in particular access to appropriate medical and psychological treatment or care (art 25).

Special reception needs

But.....the new text does not include the requirement to identify whether a person is vulnerable or not, and requires instead only an assessment of whether a vulnerable person had special needs.

*Only **vulnerable persons** in accordance with Article 21 may be considered to **have special reception needs and thus benefit from the specific support provided in accordance with this Directive**".*

A study

- conducted through Odysseus Academic Network (2010), «Identification of Vulnerable Asylum Seekers with Special Needs: Comparative Study and recommendations for Law and Practice».
- *Financed also by the European Refugee Fund (ERF)*

A wide range of practices

- Identification procedures not defined by the law in most of the countries
- Big differences with respect to screening and assessment procedures
- Differences with regard to what persons could obtain of services and follow up

The knowlegde base

- Refugees/asylum seekers at particular high risk for mental health problems
- PTSD and depression the most frequent problems
- Studies argue for the need of some form of mental health screening/early assessment / identification

- The guideline for mental health screening from the US department of Health and Human Services says
- «The goal of mental health screening during the domestic medical examination is to identify and triage refugees in need of mental health treatment»

Needed: Early health assessment/interview

- Clarify urgent needs for care
- Indicate needs for more comprehensive treatment
- Clarify if an identification procedure regarding torture is necessary (Istanbul protocol)
- May substantiate protection claim
- Provide necessary information for later compensation claims

Mental Health and Psychosocial Support for Refugees, Asylum Seekers and Migrants on the Move in Europe

A MULTI-AGENCY GUIDANCE NOTE



7. Identify and protect persons with specific needs

Even during short stays, people who are much more at risk than others should be identified and offered referral to protection and social services. This can, in certain cases, be lifesaving.

The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1987

- *“Each state party shall ensure in its legal system that the victims of an act of torture obtains redress and has an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible”*



Health and Human Rights Info



**Health and
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Database**

www.hhri.org