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Protecting asylum seekers' rights in the case of extraterritorial processing

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Introduction

In recent years, several countries have adopted **extraterritorial or offshore asylum processing policies** to manage irregular migration and discourage asylum seekers from arriving at their borders. These policies include **processing asylum claims** in other countries/states or in dedicated facilities located outside the state's borders, opposed to the traditional model of assessing asylum claims within the state's own territory.

Overall, asylum is governed by international, EU and national laws. Member states of the EU are required to follow the international legal framework for their domestic asylum laws. Even though the processing of asylum claims outside the EU is not a set law, proposals for "transit" or "processing" centers in third countries have surfaced repeatedly over the years. The real-world experiences of non-EU nations such as the US and Australia have served as inspiration for the extra-territorial processing of asylum claims. These policies can be seen as a method to reduce the pressure on a state's border control systems and to manage irregular migration flows. However, it raises serious concerns regarding the protection of asylum seekers' rights under international law. By relocating asylum procedures beyond a country's borders, states risk distancing themselves from their legal and moral responsibilities. The increasing reliance on extraterritorial processing has led to violations of key human rights principles, including the right to seek asylum, the prohibition of arbitrary detention, the principle of non-refoulement, and the right to an effective remedy. Poor living conditions, indefinite imprisonment, limited access to legal aid, and psychological anguish are commonplace for asylum seekers processed abroad. Furthermore, when several jurisdictions are involved, it becomes difficult to determine who is legally responsible for these people.

According to the **Universal declaration of Human rights (UDHR)** Article 14(1): Everyone has the right to seek and to enjoy in other countries asylum from persecution. Since its proclamation in Paris in 1948, by the United Nations General Assembly, the UDHR has formed the international legal framework for all our fundamental human rights. Together with the two international covenants it forms the International Bill of Human Rights. The two covenants: the **International Covenant on Economic Social and Cultural Rights**, and the **International Covenant on Civil and Political Rights**, are monitored by consecutively the Committee on Economic Social and Cultural Right**s** and the **Human Rights Committee[1].** Other binding instruments provide further protection: **the 1951 Refugee Convention (Article 33)** prohibits the refoulement of refugees to places where they face danger; Article 31 states that refugees should not be penalized for irregular entry when fleeing persecution. T**he International Covenant on Civil and Political Rights (Article 9)** guarantees the right to liberty and protection against arbitrary detention, and Article 13 ensures due process in expulsion cases. **The Convention Against Torture (Article 3)** forbids returning any individual to a country where they risk torture. **Finally, the Convention on the Rights of the Child (Article 22)** grants special protection to children seeking refugee status.

This problem has gained significance in the global migration discourse, as seen by recent examples such as Australia's policies regarding Manus Island and Nauru, the UK's arrangement with Rwanda, and the European Union's agreements with Libya and Turkey. Regardless of where claims are processed, the international community must guarantee that human rights commitments are respected and that asylum seekers are treated with dignity.

[1] United Nations Human Rights Office of the High Commissioner, (2025)

Definition of key terms

Asylum seeker

According to Article 14 of the Universal Declaration of Human Rights (UDHR), an asylum seeker is a person who leaves their country and seeks protection in another due to fear of persecution. Their refugee status has not yet been determined, and they are entitled to fair asylum procedures under international law.

Extraterritorial (or offshore) processing

The practice of examining asylum claims outside the territory of the state where protection is sought. This may occur in third countries through bilateral agreements or in offshore facilities. While states often use this to control migration flows, it raises significant human rights concerns related to legal safeguards and accountability.

Irregular migration

Movement of people outside regular, legal entry channels. Under Article 31 of the 1951 Refugee Convention, asylum seekers should not be penalized for irregular entry if they are fleeing persecution and present themselves without delay to authorities.

International Bill of Human Rights

The collective name for the UDHR, the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Together, these documents provide the legal foundation for the protection of asylum seekers' rights.

Non-refoulment

A cornerstone of international refugee law, enshrined in Article 33 of the 1951 Refugee Convention. It prohibits returning asylum seekers or refugees to a country where their life or freedom would be at risk of persecution, torture, or serious harm. This principle is non-derogable, meaning it cannot be suspended.

General Overview

Extraterritorial processing as migration management

International migration has become the major reason for the populist surge in most of the migration-receiving countries. The rise of nationalism in these countries has been fueled by an anti-immigration political mobilization based on the perceived or projected negative influences migrants may have on their native 'culture'. Though, the nationalist parties tend to avoid the word 'race' and use the 'native culture' instead these days, in all practical purposes there is no such difference except the semantics. These exclusionary forms of nationalism create major challenges for the protection and integration of migrants in host countries.

Migration pressure has increased globally, and specifically largely in the EU. Due to intensifying push factors like conflict, worsening economic conditions in origin countries, climate change, combined with pull factors such as greater economic opportunity and higher living standards in destination countries, accelerated by globalization, increased information flow, and improved transport. As in the preceding years, asylum applications disproportionately affected those Member States that were either first countries of entry, in this case Greece located along the Eastern Mediterranean Route, and/or intended final destinations of asylum seekers in the EU.

States often justify the use of offshore or extraterritorial processing as a means of deterrence and border control. In aims of discouraging people from arriving directly at their borders, disrupting smuggling networks, and easing pressure on national asylum systems, they relocate asylum procedures to another country.
Critiques often argue that this does not solve the issue of displacement and the real reason why migrants flee their homes. Instead, it pushes responsibility onto third-world poorer countries who are not equipped with the resources to protect asylum seekers properly. This practice can undermine international solidarity and create situations where asylum seekers are exposed to human rights violations, including unsafe living conditions and lack of access to fair legal procedures.

Fig 1: Pie chart of asylum seeker destinations: *Ten Migration Issues to Look out for in 2025: Origins, Key Events and Priorities for Europe ICMPD Migration Outlook 2025*. www.icmpd.org/file/download/63373/file/ICMPD%2520Migration%2520Outlook%25202025.pdf .

Human rights concerns and legal challenges (risks of refoulement, arbitrary detention, lack of legal aid).

Both EU and national asylum legislation must align with the international refugee law framework set by the **1951 Geneva Convention** and its Protocol, which have been incorporated into EU law under **Article 78(1) of the Treaty on the Functioning of the European Union (TFEU)**. The core element of the Geneva Convention is the principle of **nonrefoulement** enshrined in Article 33, which stipulates that *'No Contracting State shall expel or return (refouler) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion'.*

The EU has been criticised for prioritising border controls over migrants' human rights and for externalising border controls without assessing human rights standards in third countries. Ensuring respect for EU human rights law outside its borders is challenging, and migration management aid may lead to human rights abuses being ignored. UNHCR has also published guidelines on extraterritorial processing, emphasising the importance of non-refoulement and the need for states to comply with international human rights and refugee law. Key stakeholders, including the **EU Fundamental Rights Agency (FRA) and UNHCR,** have underlined the importance of creating legal pathways to asylum and identifying those in need of protection before they reach Europe's borders.

Offshore centers also often involve long or indefinite detention, which may go against the right to liberty in the International Covenant on Civil and Political Rights. In addition, asylum seekers in these facilities often have little or no access to legal advice, which makes it hard for them to properly argue their cases or appeal decisions. These problems show how difficult it is for states to control migration while still respecting the human rights protections they have promised to uphold.

Global examples:

Australia: Nauru and Manus Island
Australia was one of the first countries to use offshore processing, since the early 2000s. Asylum seekers that are to arrive by boat are being sent to facilities on Nauru and Manus Island in Papua New Guinea. The Australian government argued this policy discouraged dangerous sea journeys and reduced smuggling. However, reports from international organizations and NGOs highlighted poor living conditions, limited medical care, and severe mental health impacts, sparking global criticism.

United Kingdom: Rwanda Arrangement

In 2022, the United Kingdom signed an agreement with Rwanda to transfer certain asylum seekers to the East African country. Once relocated, individuals would have their claims processed in Rwanda, and those recognized as refugees would stay there rather than in the UK. The government presented this as a way to deter irregular Channel crossings and reduce pressure on the asylum system. Critics, including the United Nations, raised concerns about Rwanda's capacity to provide fair asylum procedures and the risk of human rights violations.
European Union: Cooperation with Third Countries
The European Union has also pursued externalization measures through agreements with neighboring

countries. The 2016 EU–Turkey Statement allowed the return of irregular migrants from Greece to Turkey in exchange for financial support and resettlement promises. Similar arrangements with Libya and Tunisia involve funding border control and facilities in those countries. While these policies aim to manage irregular migration flows, they have faced criticism due to documented abuses in detention centers and questions about accountability under international law.

FIg 2: EU-Turkey deal: Wessing, Greta. "6. Anniversary of the EU-Turkey Deal | I Have Rights." I Have Rights., 18 Mar. 2022, ihaverights.eu/6-anniversary-of-the-eu-turkey-deal/.

Impact on asylum seekers

Extraterritorial processing and related detention systems can have serious harmful effects on asylum seekers. Research shows that people held offshore are much more likely to suffer from mental health problems. Cambridge conducted a large study of 990 adult refugees in Australia found that those detained offshore were **16.5-20.2 times** more likely to have symptoms of *post-traumatic stress disorder (PTSD)* compared to people detained onshore for less than six months. They were also about **5 times** more likely to report *depression*, and **4.6-5.5 times** more likely to have *suicidal thoughts*.

In addition to mental health harms, many asylum seekers are left in limbo, which means waiting for years for a decision on their claims, or appeals, often with no certainty about their future. According to A News, in the UK by June 2022 the number of people waiting for an initial decision on their asylum claim had increased to **122,206** (up from about 30,000 in 2017). Among them, hundreds (including children) were waiting more than five years.

Vulnerable groups suffer particularly badly in these situations. Children travelling alone face long waiting periods, which can disrupt education and emotional well-being. Those with prior trauma (from war, persecution, torture) are more exposed to worsening conditions, especially without sufficient legal or psychological support. The data above also shows that mental illness risks are especially high for people who experienced offshore detention.

The international community faces the challenge of balancing state sovereignty and migration control with the obligation to protect fundamental human rights.

Major parties involved

Australia

A state that pioneered offshore asylum processing with the “Pacific Solution” in 2001, transferring asylum seekers to Nauru and Manus Island. The government frames the policy as a deterrent against irregular boat arrivals, though it has drawn widespread criticism for human rights violations in detention centers.

European Union

A supranational union of 27 European states. The union acts both as an economic and legislative collaboration. Freedom of assembly is also a right in chapter 2 of the EU Charter of Fundamental Rights.

Human Rights Committee

An independent committee established by and for the ICCPR, its purpose is to hold member states accountable for their dedication to the covenant’s clauses. The 18 experts that are members of the committee do not represent any state or organisation.

United Kingdom (UK)

A European state that in 2022 signed an agreement with Rwanda to relocate certain asylum seekers. The government presented the deal as a way to deter irregular Channel crossings. However, the plan has faced legal challenges and international criticism regarding Rwanda’s asylum protections.

United Nations High Commissioner for Refugees (UNHCR)

A UN agency mandated to protect and support refugees and asylum seekers worldwide. UNHCR opposes offshore processing schemes, arguing they undermine the right to seek asylum and shift responsibility onto less-resourced states. It advocates for responsibility-sharing and strengthening national asylum systems.

Timeline of events

2001 August 26	Australia launches the “Pacific Solution,” transferring asylum seekers arriving by boat to offshore centers on Nauru and Manus Island.
2013 July 9	Australia declares that no asylum seeker arriving by boat will ever be resettled in Australia, reinforcing offshore processing under Operation Sovereign Borders.
2016 March 18	The European Union and Turkey sign the EU–Turkey Statement, establishing externalized migration management in exchange for financial support.
2022 April 14	The United Kingdom signs an agreement with Rwanda to transfer certain asylum seekers for processing and resettlement.
2023 November 13	The UK Supreme Court rules the Rwanda plan unlawful, citing risks of refoulement and inadequate asylum protections.
2024 February 6	The European Parliament publishes a briefing raising legal concerns about externalization and the protection of asylum rights.
2025 May 14	NGOs such as the National Immigrant Justice Center (NIJC) release reports highlighting widespread rights violations in extraterritorial processing facilities.

Possible solutions

We have seen that when addressing the rights of asylum seekers in the context of extraterritorial processing, it is important to recognize the tension between *state sovereignty* and *human rights obligations*. States argue that offshore or external processing can reduce irregular migration, protect borders, and weaken human smuggling networks. However, critics stress that these policies often put asylum seekers at risk of refoulement, indefinite detention, and inadequate access to justice. The task of the international community, therefore, is to find ways to ensure migration management does not undermine international law or the dignity of those seeking protection.

The committee can ensure this by for instance:

Establishing international monitoring mechanisms for offshore processing centers, possibly under the supervision of UNHCR or OHCHR. This would provide independent oversight to ensure conditions meet basic human rights standards, and prevent abuse or neglect.

Inserting binding human rights clauses into third-country agreements. Any state outsourcing asylum claims should be required to guarantee access to fair asylum procedures, legal aid, and proper living conditions. This would balance migration control with international responsibilities.

Prohibiting the transfer of vulnerable groups such as children, survivors of torture, and persons with special health needs. By creating strict exemptions, states can still manage asylum flows while protecting those most at risk.

Encouraging regional responsibility-sharing rather than offshoring. The EU, UK, Australia, and others could invest in building stronger asylum systems in countries of first arrival, instead of shifting responsibility onto less-resourced states.

Creating clear legal pathways for asylum seekers through resettlement quotas or humanitarian visas. This would reduce the need for irregular migration while ensuring that those in need of protection are processed safely and fairly.

Bibliography

A News. “Welcome to Zscaler Directory Authentication.” *Anews.com.tr*, 2025, www.anews.com.tr/world/2022/11/14/thousands-of-asylum-seekers-in-uk-waiting-for-years-in-limbo. Accessed 24 Sept. 2025.

Amorim, Vassalo. “Is Offshoring the Solution? The EU and the Extraterritorial Processing of Asylum Claims.” *Gchumanrights.org*, 2018, repository.gchumanrights.org/items/225138bb-825f-4cb9-988d-a03b2a675107. Accessed 24 Sept. 2025.

Cambridge University Press. *Investigating Whether Offshore Immigration Detention and Processing Are Associated with an Increased Likelihood of Psychological Disorders*. 24 Nov. 2024, www.cambridge.org/core/journals/the-british-journal-of-psychiatry/article/investigating-whether-offshore-immigration-detention-and-processing-are-associated-with-an-increased-likelihood-of-psychological-disorders/B8F3D6DA18956959A4BAA06650.

EU. “Extraterritorial Processing of Asylum Claims | Think Tank | European Parliament.” *Www.europarl.europa.eu*, www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2024)757609. IOM. “International Migration Law.” *International Organization for Migration*, 29 Jan. 2015, www.iom.int/international-migration-law.

“International Organization for Migration.” *International Organization for Migration*, 2018, www.iom.int/.

OHCHR. “OHCHR | Call for Inputs: Externalization of Migration and the Impact on the Human Rights of Migrants.” *OHCHR*, 2025, www.ohchr.org/en/calls-for-input/2025/call-inputs-externalization-migration-and-impact-human-rights-migrants.

Pijnenburg, Annick, and Kris van der Pas. “Litigating Externalisation Policies: The Added Value of a Multi-Level Legal Order?” *Refugee Survey Quarterly*, May 2025, https://doi.org/10.1093/rsq/hdaf004. Accessed 13 May 2025.

Pushing Back Protection: How Offshoring and Externalization Imperil the Right to Asylum. immigrantjustice.org/wp-content/uploads/2025/05/Offshoring-Asylum-Report_final.pdf.

Raso, Rosanne, et al. "Bold Inquiry into Relational Leadership." *Nursing Management*, vol. 55, no. 1, Jan. 2024, p. 7, https://doi.org/10.1097/nmg.0000000000000085. "The Extra-Territorial Processing of Asylum Claims - Forced Migration Review." *Forced Migration Review*, Apr. 2025, www.fmreview.org/destination-europe/leonard-kaunert/. Accessed 24 Sept. 2025. *Ten Migration Issues to Look out for in 2025: Origins, Key Events and Priorities for Europe ICMPD Migration Outlook 2025*. www.icmpd.org/file/download/63373/file/ICMPD%2520Migration%2520Outlook%25202025.pdf.

United Nations. "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families." *OHCHR*, 18 Dec. 1990, www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers.

"International Migration." *United Nations*, 2024, www.un.org/en/global-issues/migration.

"Universal Declaration of Human Rights." *United Nations*, 10 Dec. 1948, www.un.org/en/about-us/universal-declaration-of-human-rights.

Wessing, Greta. "6. Anniversary of the EU-Turkey Deal | I Have Rights." *I Have Rights.*, 18 Mar. 2022, ihaverights.eu/6-anniversary-of-the-eu-turkey-deal/.