
A GLANCE INTO THE PEDESTAL OF REFUGEE LAW FROM HUMAN RIGHTS PERSPECTIVE

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ABSTRACT

The problems encountered by the displaced sect of individuals are raising great concerns in the International scenario. This paper encapsulates the collaborative efforts of International organisations in suggesting alternatives to these kinds of problems. The United Nations Organisation strenuously makes efforts for the well being of refugees during the outbreak of any political agitations or war or communal riot or armed conflicts. From the very outset, the United Nations was instrumental in protecting refugees. Even though refugee rights are not codified substantially, certain safeguards are expounded by International treaties. The predicament of the refugees which existed prior to the second world war led to agreements with regard to Russian and American refugees on the legal status of these refugees. In 1933, a convention was adopted relating to the international status of refugees under which refugees were given certain concessions and privileges. Following this, The Refugee Convention 1951 yet another turning point paved way for the redressal of refugee challenges by persuading the contracting states to work hand in hand with the UNHCR (United Nations High Commissioner for Refugees) by furnishing data on the condition of refugees, implementation of conventions and laws in relation to the refugees. As per the latest report of UNHCR, it has published statistical data which highlighted the unprecedented augmentation in the number of displaced persons including refugees, asylum seekers, internally displaced people, returnees and stateless people crossing 117.3 million. This situation became a curse to humanity which requires immense heed. This article depicts the constraints of the refugees by precisely examining their status and ventures of international bodies in strengthening them and bringing about reforms for their betterment.

Key Words: - *Refugees, Asylum Seekers, Displaced Individuals, Human Rights, Stateless Person.*

LEGAL FRAMEWORK FOR REFUGEE LAW

➤ **United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Person**

The United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, held in Geneva from 2nd July to 25th July, 1952 was a milestone which transformed the perceptions of international members as regards the refugees rights. During the meeting at the Palais des Nations , delegates of 26 countries including Australia, Belgium, Canada, France , Germany ,Sweden and observers from Cuba and Iran were brought together with the common motive to build a just and fair legal system for people who are compelled to flee their domestic country because of war, persecution, or political outbreak .¹

The UN General Assembly had called for such a framework in 1950, and the conference was tasked with completing it. Their work led to two inevitable reformations. Firstly, the delegates adopted the 1951 Convention relating to the Status of Refugees. This landmark treaty clearly outlined who is considered as a refugee and underscored the basic rights they are entitled to - most significantly , the principle of non- refoulement, which protects people from being sent back to places where their lives or freedom would be under the manacles of danger. The Convention also lays out the duties of countries with respect to refugees.

Secondly, the conference produced the Final Act, which contains the Convention itself, a protocol on the treatment of stateless persons, and the official record of the intense discussions and negotiations that shaped these documents.

Together, these outcomes established the skeleton of modern international refugee law. Even today, they form the gist of global efforts to protect displaced and stateless individuals. The UNHCR continues to work within this framework to uphold the rights, safety, and dignity of millions of vulnerable people around the world.

The Refugee Convention, 1951 imposes certain obligations upon the contracting states so as to accentuate the equal treatment of refugees on humanitarian grounds and safeguard their fundamental rights as accorded by International Conventions and alleviate any kind of oppressive acts and discrimination against them. The United Nations High Commissioner for

¹ Office of the High Commissioner for Human Rights, “Convention Relating to the Status of Refugees”, adopted on 28 July 1951, entered into force on 22 April 1954, 189 UNTS 150, available at <https://www.ohchr.org>, (last visited on January 10,2026)

Refugees is authorised to monitor the protection of refugees by expeditiously addressing their miserabilities through collective efforts with nations. The Convention defines the term refugee. Some of the pertinent provisions of this Convention can be laid down as follows:

- Article 3 - Prohibition of discrimination against the refugees on the ground of race, religion or country of origin
- Article 4 - Freedom to practice religion
- Article 7 - Exemption from legislative reciprocity in the territory of Contracting states
- Article 11 - Freedom to receive travel documents from contracting states by the refugee seaman or to get temporary admission
- Article 12 - Freedom to enjoy the personal status and interest conferred by the domicile state
- Article 13 - Right to acquire both movable and immovable property.
- Article 15 - Freedom to form non - political, non - profit making associations and trade unions
- Article 16 - Exemption from *cautio judicatum solvi*
- Article 17 - 19 - Freedom to pursue wage earning employment, self employment and liberal profession.
- Article 22 - Right to elementary education
- Article 33 - Prohibition of refoulment

The Protocol Relating to the Status of Refugees was entered into by 146 states and it came into force on 4th October 1967. It was an advancement over the definition of the term 'refugee' as enumerated in the Refugee Convention, 1951. Article 1 of the Protocol has omitted the terms " as a result of events occurring before 1 January 1951 " and " as a result of such events" from the definition of the term 'refugee' given by the Convention so as to expand the applicability of the basic human rights and freedom granted by the provisions of the said Convention.

- **Human Rights applicable to refugees under International Law**

Universal Declaration of Human Rights

Article 2 of UDHR states that human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 14 sets out that everyone has the right to seek and to enjoy in other countries asylum from persecution. This right may not be invoked in the case of prosecutions

genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

International Covenant on Civil and Political rights

Part III (Articles 6–27):

Individual liberty– Everyone has the inherent right to life and must be protected from torture, cruel and degrading treatment or slavery.

Freedom and security – No one can be subjected to arbitrary arrest without a good reason, and everyone has the right to challenge their detention in court.

Fair treatment under the law – Every person must receive a fair trial and must be presumed to be innocent until proved guilty in accordance with law. Each individual shall have the right to recognition everywhere as a person before the law.

Personal freedoms – People are free to move around, think and believe what they want, practise any religion, speak freely, join groups, participate in peaceful meetings, have a family, belong to a nationality, and enjoy privacy in their personal lives.

Equality and protection of minorities – All people are equal before the law and are protected from being discriminated against and ethnic, religious or linguistic minority groups have rights to enjoy their culture, language,² and religion.²

International Covenant on Economic, Social and Cultural Rights.

The following provisions can be invoked by taking into account the status of refugees

- Article 9 - Right to social security including social insurance
- Article 11 - Right to an adequate standard of living
- Article 12 - Right to health
- Article 13- Right to education
- Article 15 - Right to cultural development and scientific research

The ICESCR has universal applicability and it should be read in consonance with the provisions of The Refugee Convention, 1951 .

² United Nations High Commissioner for Human Rights, “ International Covenant on Civil and Political Rights” available at <https://www.unhcr.org>, (last visited on January 10, 2026)

➤ International Organisations

International Refugee Organisation

The Organisation was a temporary body set up for protecting the refugees in connection with the aftermath of the Second World War . In 1948 , it became a specialised agency of the UN . It can be considered to be the predecessor of UNHCR . At the end of the Second World War , the International Refugee Organization (IRO) became a lifeline for millions who had lost everything. Of the nearly 15 million people left stranded by war and persecution, the IRO helped around 10 million to rebuild their lives by finding shelter, arranging transport and restoring a sense of dignity and hope in a time of profound uncertainty. Guided first by its Director-General, William Hallam Tuck, and later by J. Donald Kingsley from July 1949, the IRO worked against immense odds, navigating political tensions and human suffering on an unpredictable scale. Its goals remained unchanged as a consequence of which families reunited, displaced people resettled, and futures slowly pieced together from the ruins of war. The IRO formally terminated its operations on 31 January 1952 and, after completing liquidation procedures, ceased to exist on 30 September 1953. But its mission did not disappear. The responsibility of protecting and assisting refugees passed on to new institutions, most notably the Office of the United Nations High Commissioner for Refugees, established in January 1951, and the Intergovernmental Committee for European Migration, established in December 1951. Through these successors, the spirit of the IRO lived on.

International Rescue Committee

The Committee is tasked with the act of ensuring economic and social well-being, health, education and security to those individuals who are affected by humanitarian crises. This committee tends to express solidarity by expanding its helping hand to refugees in the case of unanticipated events. David Miliband , former foreign secretary of the United Kingdom is the President and CEO of the International Rescue Committee . The Committee has been actively working for more than 30 years.

International Red Cross Committee

The ICRC was one of the organisations that supported the formation of the International Refugee Organization and later the UNHCR, when it became evident that the refugee situation following 1945 was not merely temporary but a persistent global concern. The ICRC is regarded as an epitome of philanthropy as it is an emergency organisation serving the public authorities in

unforeseen events. It did not perceive its emphasis as being chiefly focused on refugees fleeing because of any ethnic conflict or political upheaval. But it facilitated selfless service on diverse occasions. Overall, relations between the ICRC and the UNHCR have been cooperative. In situations where both organisations have operated within the same state or context, they have generally reached mutually agreeable arrangements regarding the allocation of responsibilities.

The ICRC also played a significant role in addressing the humanitarian crisis faced by Palestinian refugees displaced during the 1947–1949 conflict over western Palestine. In addition to its humanitarian functions, the ICRC acted as an intermediary throughout the conflict between Zionist forces and the Arab armies.³ The Federation of Red Cross and Red Crescent Societies established in 1920 has devoted its efforts for the settlement of more than a million returnees from African colonies to Portugal and migrants from Ethiopia to Somalia.

Refugee law in India

Even though India is not a signatory to the Refugee Convention, 1951, since ancient times the country has acted according to the principles of human rights when it comes to the refugees. India lacks a uniform nation wide legislation explicitly stating the rights of Refugees . Currently, municipal laws directly applicable to them are the Foreigners Act, 1946, the Registration of Foreigners Act, 1939, the Passport (Entry into India) Act, 1920, the Passport Act of 1967, the Extradition Act of 1962, the Citizenship Act, 1955- amended recently in 2019, and the Illegal Migrant (Determination by Tribunals) Act, 1983. Under these laws, there is no distinction made between the broader term ‘foreigner’ and a refugee who fled from their home state.

In 2011, the Government of India implemented a Standard Operating Procedure (SOP) to be enforced with regard to the citizenship applications while dealing with “foreign nationals who claim to be refugees”, which was amended in 2019 by Lok Sabha. Thus, the Citizenship Amendment Act, 2019 provides that any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan, who entered into India on or before the 31st day of December, 2014 and who has been exempted by the Central Government by or under clause (c) of sub-section (2) of section 3 of the Passport (Entry into India) Act, 1920 or from the application of the provisions of the Foreigners Act, 1946 or any rule

³ David P. Forsythe, “Refugees and the Red Cross: An Underdeveloped Dimension of Protection”, University of Nebraska–Lincoln, available at <https://ccis.ucsd.edu> (last visited on 10 January 2026).

or order made thereunder, shall not be treated as illegal migrant⁴. The exclusionary nature of the Citizenship Amendment Act, 2019 has been strongly criticised as it granted protection to only non-Muslim refugees from the states of Bangladesh, Pakistan and Afghanistan.

But when we delve deep into Indian history, the nation has granted asylum to millions of refugees who faced the menace of persecution. Amidst the partition of India and Pakistan in 1947, India has granted relief to refugees by accommodating them in the cities including Faridabad when the country witnessed enormous influx of refugees. The East Punjab Refugees Rehabilitation Act (1958-49) which is the consolidated form of series of laws and rules including the East Punjab Refugees Rehabilitation (Buildings & Building Sites) Act 1948, East Punjab Refugees Rehabilitation (Loans and Grants) Act 1948, East Punjab Refugees Rehabilitation (Registration of Claims) Rules 1948 and East Punjab Displaced Persons (Land Resettlement Act) 1949 suggested the course of actions in the subjects pertaining to the acquisition of property, financial grants, building sites facilities with regard to refugees.

The Constitution of India which is the law of the land envisages fundamental rights which are negative rights the infringement of which may empower the aggrieved party to invoke section 32 and section 226 of the Constitution for seeking remedy by way of writ or other such orders which the Supreme Court and High Court may grant. The fundamental rights of equality before law (Article 14), personal liberty (Article 21), protection against arbitrary arrest and detention (Article 22), practice and propagation of religion (Article 25) and payment of taxes for the promotion of particular religion (Article 27) are available to refugees as in the case of citizens in India. India recognises the rights of the refugees who are facing the threat of expulsion. In the case of *Dongh Lian Kham & Anr. v. Union of India*⁵, the Delhi High Court observed that the principle of non-refoulement is a vital element of personal liberty under Article 21 of the Constitution of India irrespective of nationality. Thus the fundamental rights can be deemed to have wider applicability which is enough to include non-nationals. India recognises the principle of prohibition of forced repatriation through a multitude of verdicts. In *N.D. Pancholi v. State of Punjab*⁶, the Supreme Court suspended the deportation order which was issued against a Burmese refugee and permitted him to seek refugee status in the United Nations High Commissioner for Refugees office in New Delhi.

⁴ The Citizenship (Amendment) Act, 2019

⁵ *Dongh Lian Kham & Anr. v. Union of India & Anr.*, (1984) 2 SCC 121.

⁶ *N.D. Pancholi v. State of Punjab*, AIR 1990 P&H 112

On March 31 , 1959 India granted political asylum to the Dalai Lama who was the spiritual leader of Tibet . During the reign of Prime Minister, Jawaharlal Nehru, the Indian Government accelerated certain methodologies for the settlement and upliftment of Tibetan refugees who are in exile. The Tibetan Rehabilitation Policy , 2014 has been adopted by the Union Government which provided the benefits of schemes such as Mahatma Gandhi National Rural Employment Guarantee Scheme (MNREGS) , Public Distribution Scheme, Indira Awas Yojana (IAY) , National Rural Livelihood Mission (NRLM) , Rajiv Awas Yojna (RAY), National Rural Health Mission (NRHM). Apart from that, India directed its states to devise and implement educational subsidies for Tibetan students including allocation of seats in universities rendering professional courses .The Government of India provides a Registration Certificate authorising the Tibetans to stay in India which requires the registration of all Tibetan refugees above the age of 16 and such document is subjected to annual renewal. The State governments are also entrusted with the goal of issuing certificates which are aiding the Tibetan refugees to undertake commercial activities and employment which may inter alia include issuance of Domicile certificates , shop license, driving license, business permits on the basis of the Registration Certificate.

But India made a contradictory approach towards the Rohingya population who was compelled to flee from the nation because of the Myanmar Nationality Law in 1982. There was an influx of around 40,000 refugees in India who were taken shelter in Assam and West Bengal as a result of forced relocations and displacement. However , in *Mohammad Salimullah & Anr. v. Union of India & Ors.*⁷, the Supreme Court issued an interim order for the deportation of Rohingya Refugees from Malaysia. The petitioner contended that the deportation of Rohingya Refugees was violative of Article 21 and Article 19 of Indian constitution and the principle of non - refoulement. However, the Supreme Court while rejecting the interlocutory application enunciated that Article 19(1)(d) is not applicable to non - citizens . Above all the Court observed that since India has open or porous land borders with many countries there is a possibility of well - orchestrated influx of illegal migrants and it will cause serious national security ramifications.

CONCLUSION

Refugee law represents a critical nexus with humanitarian concern and sovereignty of the state.

⁷ Mohammad Salimullah & Anr. V. Union of India & Ors., AIR 2021 SC 1789

While the international legal instruments have established strong principles for refugee protection their efficiency ultimately depends upon domestic implementation and political will. As displacement continues to increase globally, boosting refugee protection mechanisms remains an immediate moral imperative. Despite the national security dilemmas, many nations are seeking reliefs to refugees by granting shelter within their territorial provinces. In 2016, UN Member States adopted the New York Declaration for Refugees and Migrants reiterating that the 1951 Refugee Convention has not become outdated, but continues to be highly relevant to recent geopolitical realities and serves as a cornerstone of the international refugee protection spectrum. Subsequently, in 2018, the Global Compact on Refugees emerged whereby a majority of states in the General Assembly put up a framework aimed at ensuring more respect for the Convention's provisions. Furthermore, the Global Refugee Forum held in Geneva in 2023 provided a venue for states and other stakeholders to make concrete commitments to strengthen refugee protection universally including timely support for countries having large scale inflow of refugees. As we know, today about 7 million Palestinian refugees are trying to seek relief in the world and about 1.9 million persons in Gaza are internally displaced and are suffering food scarcity and shortage of even basic amenities which is disrupting human conscience. The Refugee International has taken initiatives to bring a peaceful atmosphere in Gaza by directing the United States and Israel to cease firing, prevent any obstruction, attack on workers who render aid and unreasonable denial of assistance to Palestinians. The refugees should be protected in such circumstances. Human Rights Organisations like Amnesty International, Human Rights Watch and the United Nations Human Rights Council should act in concert to mitigate this crisis by deterring inhuman treatment against refugees. Otherwise it will become a great backlash to refugee rights while strangling the concept of human life and dignity.