



# Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820  
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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## The Stature of Refugees and Asylum in the world

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*Received* 21 February 2022; *Accepted* 11 March 2022; *Published* 14 March 2022

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*All humans are born with basic rights and with dignity irrespective of who he is and from where he belongs to. The refugees or asylum seekers are also humans who have equal rights to everything like the right of education, right to live with dignity and equality, to endeavour this idea of humanity, UN agencies are performing incredible work by fulfilling all the guidelines mentioned in international law conventions and protocols. With this, this thing should be taken into account that this global problem of refugees is not simple but complex for the reason that people are leaving their countries majorly due to persecution in their own home country or for other reasons such as war, political turmoil, or religious oppression that shows the need of strict and equal law across the world to protect each and every human who can live in its own country without any fear of exploitation or persecution.*

**Keywords:** *international law, rights, assistance, legal regulations.*

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### INTRODUCTION

There are seven continents with 195 countries and around 8.4 million people currently in 2022 are from displaced communities which involve refugees, asylum-seekers, stateless and internally displaced people. Due to the large population on Earth, there are certain international laws and treaties, basically, an international legal framework protecting refugees.

Therefore in order to understand the international law on this topic, the paper endeavors to explain the terms related to this. Before understanding the meaning of refugees, it's vital to understand or recognize the meaning or who are asylum seekers, they are those who leave their country because of war or conflict, persecution, human rights violation and natural disaster which led them to enter another country for asylum and then after acquiring asylum they become a refugee. That means the idea of asylum and refugee are interdependent, one cannot exist without the other. Furthermore, The concept of asylum is accepted in all regions of the world due to the fact that the Universal Declaration of Human Rights of Article 14(1) states that "Everyone has the proper to hunt and luxuriate in an asylum from persecution."<sup>1</sup>

According to UNHCR, the huge number of refugees is in Turkey which is around 3.7 million followed by Colombia, Uganda, Pakistan, and Germany respectively while Syria has been top of the country of emergence or origin of refugees since 2014. The worst thing which needs to be focused on is 1 in every 95 people on earth has fled their home due to bad conditions of economy, conflict, or persecution and from here the need for UN agency emerged, that is UNHCR. The article will focus on international laws related to refugees by critically analysing the refugee crisis in the world with all the different aspects.

## **REFUGEE - INTERNATIONAL LAW**

The international refugee protection system was developed after the notorious Second World War, there were destabilising effects of population movements as a result of that refugee protection law was developed which includes the 1951 Convention (to the Status of Refugees) and the 1967 Protocol because the refugee crisis emerged around the globe during the 1950s and early 1960s. 1951 convention is a UN treaty is also known as the Convention Relating to the Status of Refugees or the Geneva Convention of 28 July 1951 that defines refugee with its rights, the convention says "a refugee who is unwilling to return to their country of origin due to the fear of being persecuted for reasons of race, religion, nationality, membership of a

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<sup>1</sup> Universal Declaration of Human Rights, art. 14(1)

particular social group or political opinion”.<sup>2</sup> Additionally, this Convention is a status and rights-based instrument. The 1967 protocol states the stature of refugee rights further enlarge the definition of a refugee and removes the Euro-centricity of the Convention. Therefore, the 1951 Convention, as well as the 1967 Protocol, are central to the international refugee protection system.

The operation of international refugee law does not achieve isolation. It is complemented by additional bodies of law, notably international human rights law, international humanitarian law, and international criminal law. There is no echelon relationship between these bodies but they are interconnected due to the fact that human rights in international law state that as per Universal Declaration of Human Rights 1948 asserts “All human beings are born free and equal in dignity and rights.” additionally all the other conventions such as International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) as well as the Convention on the dismissal of all kinds of Race-Discrimination and Convention is also on the rights of a disabled person. Now, the paper further covers all aspects related to the status of refugees and asylum.

### **WHO IS RESPONSIBLE FOR PROTECTING REFUGEES?**

Both States and UNHCR have a part to play in protecting refugees as The New York Declaration for Refugees and Migrants, adopted by the UN General Assembly in 2016, declares that the state has a collective responsibility towards the refugees. UNHCR is a UN agency which is an international organization established in 1950 and headquartered in Geneva, Switzerland. This organization is operating to save the lives of displaced communities from numerous parts of the world by providing them shelter, food, and rights. UNHCR’s Executive Committee has emphasised that “respect for human rights and humanitarian principles is a responsibility for all members of the international community”. For States, refugee protection is both an individual and a collective responsibility which means that all

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<sup>2</sup> ‘The 1951 convention- definition of refugees’ (UNHCR) <<https://www.unhcr.org/1951-refugee-convention.html>> accessed 17 February 2022

states, even those that are not a party to the Convention or Protocol are bound by the principle of non-refoulment, which is considered a norm of customary international law. Therefore, it is binding on all States where every state has to strengthen its rule of law that includes providing citizens with security, justice, and equal rights as well as opportunities and resisting the cycles of exploitation, violence, and discrimination that leads to displacement. With respect to the protection of refugees from smuggling and trafficking The UN Convention against Transnational Organised Crime has Protocols on the smuggling of migrants and on trafficking that states that the Protocol against the Smuggling of Migrants by Land, Sea, and Air acknowledges that the “smuggling of migrants can endanger the lives or security of the migrants involved”. It requires States to “ensure the safety and humane treatment” of those who have been smuggled and to provide them with “full protection of their rights ”.<sup>3</sup>

### **WHAT IS THE STATE ASYLUM SYSTEM WITH ITS LEGAL REGULATION?**

A national asylum system ameliorates a State by directing them to assist the displaced people or refugees for international protection and enables asylum-seekers and refugees to enjoy the rights to which they are entitled under international law, additionally, a State asylum system also incorporates legislative bodywork and related strategies, policies and action plans that enable the state government to perform its international responsibility or duties in respect of asylum-seekers and refugees. This bodywork establishes a structure to permit access to the land or territory of the State without discrimination and provide protection to them as well as fair and efficient assessment of their asylum claims. Furthermore, Asylum seekers can legally claim their rights including the specific needs like food, education, shelter, and clothing due to the fact that both the Convention and Protocol direct to make sure that recognized refugees with equal treatment with all other lawfully-staying foreigners such as the property acquisition, employment, and all other needs are concerned and with the respect of education all refugees or asylum seekers are to be treated equivalence with nationals. This paper further

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<sup>3</sup> ‘Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime’ (*UN General Assembly*, 15 November 2000) <<https://www.refworld.org/docid/479dee062.html>> accessed on 17 February 2022

endeavors to highlight and analyze the refugee crisis in the world with international law and treaties.

## **CRITICAL ANALYSIS OF REFUGEES CRISIS IN THE WORLD**

**African continent:** 1969 OAU ( Organisation of African Union) which substantiate that the 1951 Convention is “the basic and universal instrument relating to the status of refugees” and eventually adopts the 1951 convention refugee definition with that it also expands the definition by including any person compelled to leave his or her country in the view of external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his [or her] country of origin or nationality.

**Somalia:** Due to political instability, famine, flood more than 75 lakh refugees are living in neighboring countries, and around 2.6 million approx people are displaced in the country.

**Central African Republic:** In 2013 violence took place by armed rebel groups that forced thousands of people of the central republic to flee from their homes where around 6-7 lakhs of people are living as refugees in a neighboring country In February and December of 2021, due to invasion of rebel and turbulent election respectively refugee crisis were seen in Africa.

**Burundi:** In 2015 economic hardship, food insecurity, disease, and political instability thousands of people have fled to nearby countries such as Tanzania, Rwanda, Uganda, and the Democratic Republic of Congo. The Burundi refugee crisis is the least funded in the world.

**Tigray, Ethiopia:** The North region of Ethiopia is called Tigray and in 2020 November due to armed conflict and instability in the region people are internally displaced and flee to Sudan.

**Middle East Asia:** There are no permanent or compulsory regional instruments that address refugee law in the Middle East or Asia.

**Yemen:** Due to conflict, war, and instability because of insurgency and politics, the people of Yemen are facing the worst humanitarian crisis in the world today. According to the UNHCR, almost two-thirds of the people are on the brink of famine.<sup>4</sup>

**Syria:** The circumstances in Syria are the world's single largest displacement crisis, with around 6 million refugees globally and over 6 million people displaced within Syria. The neighbouring countries of Syria such as Turkey, Lebanon, Jordan, Iraq, and Egypt have held the greatest load by giving shelter to crores of Syrians.

**Palestine:** Palestinian refugees are due to the 1948 and 1967 Arab-Israeli conflicts. They all are receiving assistance from the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) which operates in Jordan, Lebanon, Syria, the West Bank, and Gaza. Therefore, in this region, UNHCR does not operate full-fledged due to the assistance provided by the UNRWA in Palestine.

**Asia:** There are 48 countries in Asia. However, many countries are facing the problem of refugees but this paper in this part has mentioned the two famous as well as recent refugee crises.

**Afghanistan:** Afghani refugee crisis involves one of the world's largest fleeing refugee populations due to insurgency, the invasion of Taliban, and persecution According to the OCHA, United Nations office of coordination of Humanitarian Affairs. The data recorded 11,000 casualties, including 3,804 deaths and 7,189 injuries, and 360,000 internally displaced persons due to the conflict.

**Myanmar:** around 1.4 million Rohingyas living in Myanmar and over 7 lakh fled to Bangladesh in 2017 as a consequence of the genocide of Rohingyas in Myanmar. The remaining Rohingyas in Myanmar were subject to government persecution and violence that resulted in cut-off from basic assistance like healthcare, food, shelter, and education, especially after the coup in Myanmar in February 2020 and the neighboring countries especially India

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<sup>4</sup> 'Yemen Crisis' (UNHRC, 2 March 2021) <<https://www.unrefugees.org/news/yemen-crisis-explained/>> accessed 17 February 2022

and Bangladesh have given the shelter to Rohingya refugees. Bangladesh government relocating Rohingya refugees on the Bhashan Char island under its Ashrayan Project and India has given shelter to Rohingyas refugees in the North-eastern states of India.

**Europe:** In 1999 the countries of Europe decided to develop a common European asylum system root in the “full and inclusive application of the Geneva Convention” where there are four legislative instruments including, temporary protection; the reception of asylum-seekers; qualification for refugee status or “subsidiary protection” and the rights and status to which beneficiaries are entitled; and standards for asylum procedures. Charter of Fundamental Rights the right to asylum and protection from removal, expulsion, or extradition to a serious risk of being subject to the death penalty, torture, or other inhuman or degrading treatment or punishment. The Court of Justice of the European Union (CJEU) has the authority to elucidate or interpret these EU asylum instruments. Between January and August 2021, an estimated 97,000 refugees and migrants arrived in Europe, a 95 percent increase compared to the same period in 2020. This trend is likely to continue in 2022. The current number includes some 25,000 children, among whom 9,300 are unaccompanied or separated.

**America:** In 2022 around 470,000 refugees and asylum-seekers from El Salvador, Guatemala and Honduras registered a 33% increase as compared to the 2018 survey. UNHRC confirmed that the displaced people are mainly comprised of prostitutes who have faced, sexual and gender-based violence, LGBTI community people who have fled due to persecution in their country. Host countries and communities in Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, and Panama, have been doing their best to welcome those forced to flee.<sup>5</sup> UNHCR is working in Central America to assist the countries and refugees by strengthening humanitarian assistance and working with other agencies that seek to empower internally displaced people and refugees with protection needs, in addition, they are conducting sessions to enhance their skills. Also, the collaboration of UNHRC with other agencies is also investing their efforts in order to hold or curb xenophobia.

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<sup>5</sup> ‘Displacement in Central America’ (UNHRC) <<https://www.unhcr.org/displacement-in-central-america.html#>> accessed 18 February 2022

## CONCLUSION

*“No one leaves home unless home is the mouth of a shark”*

– Warsan Shire

The UN bodies notably UNHCR are doing wonderful work by providing assistance of all kinds from food to shelter to all the refugees around the world which shows humanity still prevails on Earth. Both convention and protocol have been designed by covering all the aspects but now there is a high need for Domestic laws and policies on asylum that require to be created or framed fairly by taking into account the diversity of asylum-seeking populations.