



Research On

“Protection of the Rights of Refugees in Bangladesh”

Submitted To

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TITLE PAGE

“Protection of the Rights of Refugees in Bangladesh”

LETTER OF APPROVAL

Date: 26 December, 2019

To

Ferdousi Begum

Senior lecturer

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Subject: Letter of Transmittal

Sir,

It is a gratification for me to submit the research on **‘Protection of the Rights of Refugees in Bangladesh’** has been successful. While doing this monograph, I tried my level best to prepare this project accordance with the required standard. I hope that this paper will fulfill your expectation and make you contented.

I, therefore, hope that you will be kind enough to go through this paper for evaluation.

I am always available for any clarification of any part of this paper at your convenience.



Ferdousi Begum

Senior lecturer

Department of Law

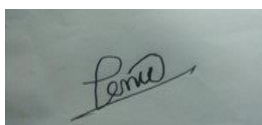
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ACKNOWLEDGMENT

The concept of research monograph is a new concept for me, but I got the nerve to complete it with the help of my supervisor, Ferdousi Begum, Senior lecturer, Department of Law, Daffodil International University. His encouragement and aid helped to complete this research monograph. He supervised and guided this monograph thoroughly. The main hurdle he faced, in my belief, is to make me understand how to prepare it, as this subject is quite a new thing for me. He advised me to search many materials and books to prepare this monograph. The library of Daffodil International University, Dhaka, also came into lots of help for this research, by providing many books and journals and researches.

Researching the matter on protection of the rights of refugees in Bangladesh, I found it very interesting and challenging and I am sure this research knowledge will help me in my legal profession. As the refugee matters are now a going concern not only for a third world country like Bangladesh, but also for the whole world, especially after the armed conflict between East and West Countries. If I will ever get any opportunity to work for the rights of refugee, I will be pleased to do it, as this research helped me to think more deeply about these people.

During the completion of this monograph.



Md. Masudur Rahian

CERTIFICATE OF SUPERVISOR

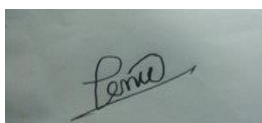
Research paper '**Protection of the Rights of Refugees in Bangladesh**' is prepared by Md.Masudur Rahian, ID: 191-38-328, Masters of law (LL.M), Department of law, Daffodil International University, is accepted in terms of Quality.

Ferdousi

Ferdousi Begum
Senior lecturer
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DEDICATION

This is **Md. Masudur Rahian**, ID NO: 191-38-328, a regular student of Masters of Laws Program under the Department of Law, Daffodil International University, hereby declaring that this Research Monograph on “**Protection of the Rights of Refugees in Bangladesh**” is prepared only for the requirements of the Department and for the partial fulfillment of Masters of law (LL.M).



.....
Md. Masudur Rahian

ABSTRACT

A man who inferable from an all-around established dread of being aggrieved for reasons of race, religion, nationality, enrollment of a specific social gathering, or political conclusion, is outside the nation of their nationality, and can't or, attributable to such dread, is reluctant to benefit him/herself of the assurance of that nation, he is called a Refugee. This definition was adopted by the Refugee Convention 1951. It is the soul law in determining the status of a refugee. Now, if any person is forced to leave their home place due to war, internal conflict, civil commotion, flood or any other reason, are also regarded as refugees. The idea of a displaced person was extended by the Convention's 1967 Protocol.

There are many international instruments that help to protect the rights of a refugee irrespectively of their religion, sex, nationality etc. The legal 'Bible' in regard of refugees is the 1951 Convention relating to the status of refugees and its 1967 Protocol, removed both the temporal and geographic restrictions, where the core elements are to give protection to the refugee and not to force refugees to return to their home place when it's still a threat for them.

Those people leave their home place for the sake of to protect their lives, do not have money or valuable assets. Their chance to survive depends on how they are going to be treated in their refuge state. The position of women and children is immensely low, as they are in the most vulnerable position, and many surveys show that they suffer many violence and discrimination. The 1951 convention and its protocol didn't mention the gender of the refugee, so in the *Guideline on Gender Related Persecution 2002*, UNHRC stated that "Though gender is not specifically referred in the refugee definition, it is widely accepted that it can influence the type of harm suffered and the reason for this treatment... as such there is no need to add an additional ground to the 1951 convention's definition

Articles 12 – 30 of the Refugee Convention enumerate the rights of refugees and these are: (i) same treatment to the refugee as the nationals of the state, (ii) give most favorable treatment to the refugee. For the protection of refugees, there are many organizations, but UNHCR played a very important role in assisting and protecting refugees worldwide:

- (i) International Organization of Migration (IOM)
- (ii) Organization of American States
- (iii) Council of Europe
- (iv) International Committee of Red Cross (ICRC)

ABBREVIATIONS

CEDAW - Convention on the Elimination of all Forms of
Discrimination against Women

ECOSOC - United Nations Economic and Social Council

EU – European Union

ECHR – European Court of Human Rights

FGM - Female genital mutilation

IRO - International Refugee Organization

MDG - Millennium Development Goals

NGO – None Governmental Organization

UDHR - NGO – Universal Declaration of Human Rights

UNGA - United Nations General Assembly

UNHCR – United Nations High Commissioner for Refugees

UN – United Nations

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¹ New Issues In Refugees Research, Research Paper No. 169, Witchcraft allegations, Refugee Protection and Human Rights: A Review of the Evidence by Jill Schnoebelen, January 2009, UNHCR, Policy Development and Evaluation Service, also at [http://www.reliefweb.int/rw/lib.nsf/db900sid/RWST-7RAL7E/\\$file/unhcr-jan2009.pdf?openelement](http://www.reliefweb.int/rw/lib.nsf/db900sid/RWST-7RAL7E/$file/unhcr-jan2009.pdf?openelement) AND Human Rights and Refugee Protection (RLD 5), web collection
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Chapter One

1.1 Introduction:

Every state has a commitment to give security to its nationals. Be that as it may, when its individual leaves for need of security he is a displaced person and is qualified for get assurance under global law. An evacuee is a stateless individual who is in a circumstance where he cannot guarantee the nationality of the state where he has taken exile. The 1954 tradition connection to stateless individual depicts in Article.1 that the term 'stateless individual' implies a man who isn't considered as a national of any state.

The nationality of an individual is a lawful status by which the individual advantages and get assurance by the state. A Bangladeshi native has the privilege and commitment under the constitution.

Stateless issue is an unfortunate issue for any person. Craftsmanship 1 of the Convention of Reduction of Statelessness, 1961, expressed that a State will give nationality to the individual who took birth in its region. It is seen that, when the state vanishes the issue of exile increments on the grounds that the previous state can never again give the security to its nationals. That is the reason the issue of statelessness emerged after the fall of Soviet Union in 1991.

As per United Nations Convention Relating to the Status of Refugees, a displaced person is a man who due to a very much established dread of being aggrieved for reasons of race, religion, nationality, enrollment of a specific social gathering, or political feeling, is outside the nation of their nationality, and can't or, inferable from such dread, is reluctant to profit him/herself of the security of that nation.

The idea of an exile was extended by the Convention's 1967 Protocol and by local traditions in Africa and Latin America to incorporate people who had fled war or other viciousness in their nation of origin. A man who is trying to be perceived as an outcast is a shelter searcher. The global organization planning evacuee security is the Office of the United Nations High Commissioner for Refugees (UNHCR), which checks exiles worldwide and they have tallied the most astounding sum is the 4,300,000 of Palestinian evacuees.

The U.S. Advisory group for Refugees and Immigrants gives the world aggregate as 62,000,000 evacuees and gauges there are more than 34,000,000 dislodged by war, including inside uprooted people, who stay inside a similar national fringes. The lion's share of evacuees who leave their nation look for refuge in nations neighboring their nation of nationality. The "sturdy arrangements" to exile populaces, as characterized by UNHCR and governments, are: willful repatriation to the nation of root; neighborhood incorporation into the nation of refuge; and resettlement to a third nation.²

1.2 Reasons for Choosing the Topic:

Refugees are, by definition, in need of international protection, being outside their country of origin because of serious threats against which the authorities of their home country cannot or will not protect them. Left unprotected, they seek protection from a country of refuge, and from the international community. My topic is about protection of the rights of refugees in Bangladesh. I think this study will be a matter of concern to protect the refugee law. That is why I choose this topic.

1.3 Review of Literature:

This research required collection and analyze the matter in regard of 'Protection of the Rights of Refugee in International Law.' This entire report is focusing on the initiatives taken from different books, articles, law journals and website.

In *David Hellmen V Immigration Tribunal* case the Australian federal court observed that where a citizen is able to be protected by the state of origin, the fear of persecution is groundless. The court's ground of rejection of the appeal filed by the appellant who filed to provide any proof of his contention. The observation of the Canada's federal court of Appeal in *Sri Lankan Tamil* , were the court set aside the decision of the Immigration Board by observing that the petitioner, a Sri Lankan Tamil Muslim, being a Muslim by faith was a minority and was being persecuted by the Buddhists, who were majority.

Article 12 – 30 of the Refugee Convention enumerate the right of refugee and these are:

- *Article 12* deals with personal status of the refugee, where it says that the status of the refugee will be governed by the domestic law of the country of residence.

² <http://www.llrx.com/features/refugee.htm>

- *Article 13* deals with moveable and immovable property, where the refugee will be able to acquire moveable and immovable property from the constructing country.
- *Article 14* deals with, artistic and industrial property, where the refugee shall get the same protection as the state provide to its own nationals.
- *Article 15* deals with, rights of association, which includes political, profitable or non-profitable association and trade union law should be in accordance with refugee law.
- *Article 16* deals with, gives the right to access to the court of the contracting state.

In the past history there are many failures of state case of protecting the basic human rights of refugee. That is why many international treaties were made to reduce the violation of basic human rights and a demonstration of state's protection. So, it is clear that refugee law is a remedial or palliative brunch of human rights law. Its basic purpose is to ensure the rights of those persons who took asylum in other state.

1.4 Scope and Object of the Research:

The purpose of this paper is to consider the concept of '*Protection of the Rights of Refugee in International Law.*' While considering the refugee rights various international instruments, especially the 1951 convention and the 1967 Protocol has been focused. These are the sole legal basis under which a person claims the status of a refuge and can claim his rights. The main focus of this study is to examine the rights that are fortified in International law, and under which they can get there protection. 1951 Convention and 1967 Protocol relation to determination of the rights of refugee has been central fuscous because all other international and regional instruments are derived from this convention. All these instruments, however, define the concept of 'refugee' by referring different situations and prescribe the measures for the rights to be protected. The study will also by way of example, refer to cases in which there has been mass exodus of refugees. The protection of refugee rights poses problems in the receiving countries as; it puts an extra pressure on the available resources of that country. There objective of the study, therefore, is three fold:

- (i) To enumerate the refugee rights recognized in various international legal instrument

- (ii) To identify the challenges confronting the enforcement of refugee rights
- (iii) To find the shortcomings of the Refugee Convention and to recommend measures to face the challenges.

There are more than 21 million refugees all over the world besides the Palestinian floating in the Middle East and treated humanly in the countries where they have taken refuge.

The international legal instruments dealing with the protection of refugees are mainly concerned with the rights of refugees and obligations of the States where the refugees have taken refuge but they have very little obligation of the state from where the 'exodus' taken place. Here comes the loophole in law and facts.

This study became the core concerning element of UN Charter, as the number of refugee is increasing day by day. In Article 14 of UDHR it is said that 'everyone has the right to seek and enjoy in other countries asylum from persecution.' But scope of this study is limited to the discussions and commentaries on the international instruments relating to refugee rights.

1.5 Limitations of the Research:

Research on this topic is very big thing to do. Four month is not sufficient for research for this topic. I will try to invent new thing in this short time. But there have no many available books on this topic. There have no many journals to make this research and also very hard to make public opinion on that topic. We haven't much law on the basis of this topic. Overall there are so many limitations for this research topic which I can face.

1.6 Research Question:

- 1) What are the present mechanisms to protect the rights of refugees in Bangladesh?
- 2) What is the international standard for protecting the rights of refugees?
- 3) How the rights of refugees can be ensured in Bangladesh?

1.7 Methodology of the Study:

The study has been designed to identify the principle issues and concerns the rights of the refugees and pinpoint the main challenge towards the protection of the rights of refugee.

There are three types of methodology to be adopted in the study, which are:

- (i) Historical
- (ii) Analytical
- (iii) Empirical

Chapter Two

2.1 The historical events that are production refugees:

The number of refugees is increasing day by day and it is a crisis of the state in concern.

For an example, Africa, where the armed conflict has gives the rise of many refugees since 1991. In Sudan, the civil war between the Muslim and the Christians, gave rise to the tendency of refugee. Zimbabwe, Namibia, Angola Ethiopia and Eritrea are also having various disputes; as a result the inclination of refugee is growing day by day.

The conflict of Ethiopia lasted more than 30 years and over 1 million people had to leave there living place due to armed conflict. Ethiopia – Somalia conflict on territorial dispute made around 400,000 people as refugee n they were forced to take shelter in the neighboring countries.³

In Somalia, the war lords following the departure of former president Said Barre in 1991 led 1 million refugees to escape from the internal armed conflict. It is reported that Sudan’s armed conflict made over 500,000 people as refugee.

In Europe the former Balkan countries were drowned into the armed conflict. Bosnia Croatia, Serbia was at each others troughs in every step. Massive Human right perpetrated on the basis of ethnic.

The position in Asia is also in a shaky position. Sri Lanka, Afghanistan, Iraq, Palestine, n Pakistan and India are the most concern areas in case of refugees. Hundreds and thousands of people were made bound to became refugee, and in a research, there amount have shown that only Asia has given rise to 47, 44,730 refugee and 27,610 asylum seekers.

America is also not free from this curse, Latin America El Salvador Guatemala, Nicaragua and Haiti are also been cursed by Civil and Ethnic conflict. In 1994 it was reported by UNHRC that Guatemala is producing the highest number of refugee in the region followed by Nicaragua and El Salvador.

From the above information one can easily ask that what was causing this Civil and Ethnic conflict were arising? The causes are many. Firstly, all the country was under colonial rule, so when they became independent the conflict arose between ethnic groups. One group tried to take power from others and tried to spread there influence. Some country also gave rise to dictators during the conflict. Some dictators were leaders in the so called freedom fighting.

³ <http://en.wikipedia.org/wiki/Ethiopia>
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And as soon as they have conquered the power, the dictatorship started to take the rights of the people too.

Second reason was that, people were becoming more conscious about their civil and political rights, as a result the diversity were not tolerated by the people at all.

Third reason is the boundary of all the colonial countries were drowned by the masters without any respect to ethnicity or religion. So when they tried to unite on independence, 2 or 3 countries involved in armed conflict from the disintegration of the countries.

Fourth reason is, the newly independent countries had dictator ruler, and the minority felt threat on their independence, security and in existence. So they started adopting policies, even if it could make them dismissed from the citizenship.

And lastly, the arms and ammunitions were quite to get from the foreign countries, the leaders of these countries, tried to stop these conflicts, and even allowed their private companies to sell arms to both the sides of the conflict.

It is quite interesting that, those people who fled from their original place did not fall within the definition of refugee mentioned in 1951 convention. The reason is, the individual determination of refugee status was impossible because mass exodus of refugees. And the second reason is, the explicit use of the notion of 'persecution' was not found appropriate and thirdly the approach was geared to program for local integration.

2.2 Statelessness and Refugees:

The state is under an obligation to give protection of its citizens. But when its individual leaves for want of protection he is a refugee and is entitled to get protection under international law. A refugee is a stateless person who is in a situation where he can not claim the nationality of the state where he has taken refuge. The 1954 convention relation to stateless person describes in Article.1 that the term 'stateless person' means a person who is not considered as a national of any state.

The nationality of an individual is a legal status by which the individual benefits and get protection by the state. A Bangladeshi citizen has the right and obligation under the constitution.

Stateless problem is an undesirable problem for any individual. Art 1 of the Convention of Reduction of Statelessness, 1961, stated that a State shall grant nationality to the person who took birth in its territory. It is seen that, when the state disappears the problem of refugee

increases because the former state can no longer provide the protection to its nationals. That is why the problem of statelessness arose after the fall of Soviet Union in 1991.

As per United Nations Convention Relating to the Status of Refugees, a displaced person is a man who as a result of an all-around established dread of being oppressed for reasons of race, religion, nationality, enrollment of a specific social gathering, or political conclusion, is outside the nation of their nationality, and can't or, inferable from such dread, is reluctant to profit him/herself of the security of that nation.⁴

The idea of a displaced person was extended by the Convention's 1967 Protocol and by local traditions in Africa and Latin America to incorporate people who had fled war or other savagery in their nation of origin. A man who is trying to be perceived as an exile is a refugee searcher. The universal office organizing displaced person security is the Office of the United Nations High Commissioner for Refugees (UNHCR), which tallies exiles worldwide and they have checked the most astounding sum is the 4,300,000 of Palestinian evacuees.⁵

The U.S. Advisory group for Refugees and Immigrants gives the world aggregate as 62,000,000 evacuees and gauges there are more than 34,000,000 uprooted by war, including inside dislodged people, who stay inside a similar national fringes. The greater part of displaced people who leave their nation look for shelter in nations neighboring their nation of nationality. The "tough arrangements" to outcast populaces, as characterized by UNHCR and governments, are: intentional repatriation to the nation of starting point; nearby reconciliation into the nation of shelter; and resettlement to a third nation.⁶

2.3 Problems with refugees:

Various international institutions, especially at the 1951 convention relation to the Status of Refugee, have recognized the right of refugee.

The main focus of the study will be to examine the rights of refugees to the reference with the convention and other international instruments will come into the ambit. The 1951

⁴ <http://en.wikipedia.org/wiki/Refugee>

⁵Opt. see No 1

⁶.<http://en.wikipedia.org/wiki/Refugee>

convention gives us the guideline to determine the rights of refugee, and all other instruments define what refugee is.

There are more than 21 million refugees, except the Palestine, around the world, and the number is increasing day by day. Which has become one of the concerning matters for all international organizations.

States which have marked the 1951 Convention are lawfully dedicated to ensure the privileges of evacuees who touch base in their nation and to authorize the rule of non-refoulement which precludes the expulsion of displaced people to places where their lives or opportunities could be in risk. Displaced people likewise have common and monetary rights. Practically speaking, this assurance has regularly appeared as exile camps. Considered as momentary crisis arrangements, numerous exile camps have existed for quite a long time. They frequently give minimal potential to displaced people to work and constrained training for their kids, prompting wrongdoing, sick wellbeing and sexual maltreatment. Host governments have additionally been unfavorably influenced by camps. 'The UNHCR traces three "tough arrangements" for exiles. The first is nearby joining. This includes allowing outcasts a lasting ideal to remain in the host nation. The second significant alternative is resettlement in third nations. The UNHCR keeps on resettling universally under a portion plot, in which taking part nations consent to take a specific number of exiles every year. Be that as it may, the numbers are little as just 9 nations offer important standards. The third choice is repatriation to the nation of birthplace. Lawfully, repatriation must happen just when the returnees' wellbeing can be ensured. By and by, this has not generally been the situation, for instance in the arrival of Rohingya exiles to Myanmar.'⁷

'Host nations have looked to diminish the quantity of exiles in their region since the 1980s. This point has additionally been sought after by diminishing the monetary advantages, social administrations to which haven searchers and evacuees are entitled and, puts an additional weight on the accessible asset of the nation. What's more, a few nations, for example, the UK, have presented detainment places for shelter searchers.'⁸

'There are numerous political clarifications for this falling away from the faith. While the US and Europe invited evacuees from Communist nations amid the Cold War as observers of a malicious philosophy, the present African and Asian displaced people are less politically valuable. To be sure, a long way from being a political advantage, displaced people are viewed as a weight on Western nations' as of now squeaking welfare states. Another

⁷ <http://uk.oneworld.net/guides/refugees>

⁸ Opt se, no 1

clarification is that evacuees are seen - by political elites and by the overall public - as undermining the social and racial parity inside nations. Ongoing mobs in the UK and France have featured racial pressures: governments expect that floods of exiles would additionally destabilize the circumstance. Governments have likewise connected evacuees with wrongdoing and, since 9/11, psychological oppression. On these affections, a few governments have acquainted enactment permitting them with bar haven searchers who they regard to be security dangers.’⁹

The international instruments are dealing with the protection of the refugees are mostly concern with the rights of refugees and the obligations of the states where the refugee has taken refuge. They are little concern about the obligations or liability of the state from where the ‘exodus’ taken place. Here comes the gap and the problems between law and the enforcement. The Bible of the ‘Protection of The Rights of Refugee’ needs to be read accordance with the above mentioned loopholes.

2.4 Refugees as security threats:

Very rarely, refugees have been used and recruited as refugee warriors, and the humanitarian aid directed at refugee relief has very rarely been utilized to fund the acquisition of arms. Support from a refugee-receiving state has rarely been used to enable refugees to mobilize militarily, enabling conflict to spread across borders.

2.5 Duty of the State who is a party to the convention:

States which have marked the 1951 Convention are legitimately dedicated to secure the privileges of outcasts who touch base in their nation and to implement the guideline of non-refoulement which disallows the expelling of exiles to places where their lives or opportunities could be in threat. States gatherings to the 1951 Convention and 1967 Protocol execute the bargains' arrangements in their national laws. Normally, these writings are enhanced by more point by point regulatory systems that spell out the procedure for looking for refuge, i.e., meeting, giving proof, engaging a negative choice, and so on. The primary asset for important national enactment and controls on shelter and displaced people is UNHCR's enactment database. Then again, scientists can go straightforwardly to government movement sites, which frequently incorporate connects to enactment and a portrayal of shelter methods. Different assets that connect to or give reviews of the haven and displaced person strategy practices of various nations incorporate:

⁹ Opt se, No 1

Chapter Three

3.1 International Instruments:

In the past history there are many failure of state case of protecting the basic human rights of refugee. That is why many international treaties were made to reduce the violation of basic human rights and a demonstration of state's protection. So it is clear that refugee law is a remedial or palliative brunch of human rights law. Its basic purpose is to ensure the rights of those persons who took asylum in other state.¹⁰

The principal global coordination on evacuee issues was by the League of Nations' High Commission for Refugees. The Commission was set up in 1921 to help the roughly 1,500,000 people who fled the Russian Revolution of 1917 and the consequent common war (1917–1921), the vast majority of them privileged people escaping the Communist government. In 1923, the command of the Commission was extended to incorporate the in excess of one million Armenians who left Turkish Asia Minor in 1915 and 1923 because of a progression of occasions currently known as the Armenian Genocide. Throughout the following quite a while, the order was extended to incorporate Assyrians and Turkish displaced people. In these cases, an evacuee was characterized as a man in a gathering for which the League of Nations had endorsed an order, instead of a man to whom a general definition connected.

3.1.1 1951 Convention:

The key traditions overseeing the worldwide exile law matters is 1951 Convention identifying with the Status of Refugees, and its 1967 Protocol. The tradition was affirmed at an extraordinary United Nations gathering on 28 July 1951. It was at first constrained to ensuring European displaced people after World War II yet 1967 Protocol evacuated the geological and time limits, growing the Convention's degree. The tradition oversees the privileges of outcasts and the benchmarks for their treatment in the nations that get them.

The United Nations Convention Relating to the Status of Refugees is a universal tradition that characterizes who is an exile, and sets out the privileges of people who are conceded haven and the obligations of countries that give shelter. The tradition additionally sets out which individuals don't qualify as exiles, for example, war hoodlums. The Convention additionally

¹⁰ <http://books.google.com.bd/books>
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accommodates some sans visa travel for holders of movement reports issued under the tradition.

*“The 1951 Convention relating to the Status of Refugees is the key legal document in defining who is a refugee, their rights and the legal obligations of states. It was originally adopted to deal with the aftermath of World War II in Europe and growing East-West political tensions. A key provision stipulates that refugees should not be returned to a country where they fear persecution.”*¹¹

In Article 1A (2) the defines of "refugee" are provided as, "...[A]ny person who...owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his [or her] nationality and is unable or, owing to such fear, is unwilling to avail himself [or herself] of the protection of that country..."¹² People who are internally displaced because of environmental problems, such as drought, are not included in the definition of "refugee" under international law.

While the definition in the refugee convention has been used by the internal national organizations, such as UN, the tern is sometimes misunderstood and is often used inconsistently in every day language. Media stories, for an example, often confuse refugees with people migrating for economic reason and persecuted groups who remain with there country and do not cross international border.

The explanation behind this abuse must be a result of one of the accompanying four grounds recorded in Art.1A (2) of the Refugee Convention: (a) race, (b) religion, (c) nationality, (d) participation of a specific social gathering or supposition.

Race, is utilized in the broadest sense and incorporates ethnic gatherings and social gatherings of normal plummet. Religion is additionally an expansive term, incorporating recognizable proof with a gathering that will in general offer normal conventions or convictions, and in addition the dynamic routine with regards to religion. Nationality incorporates a person's citizenship. Oppression of ethnic, etymological and social gatherings inside a populace likewise might be named abuse dependent on nationality. A specific social gathering alludes to individuals who share comparable foundation, propensities or economic wellbeing. This classification frequently covers with other tree grounds.

¹¹ . <http://www.multiverse.ac.uk/ViewArticle2>.

¹² <http://www.llrx.com/features/refugee.htm>

In *David Hellmen V Immigration Tribunal* case the Australian federal court observed that where a citizen is able to be protected by the state of origin, the fear of persecution is groundless. The court's ground of rejection of the appeal filed by the appellant who filed to provide any proof of his contention. The observation of the Canada's federal court of Appeal in *Sri Lankan Tamil*¹³, were the court set aside the decision of the Immigration Board by observing that the petitioner, a Sri Lankan Tamil Muslim, being a Muslim by faith was a minority and was being persecuted by the Buddhists, who were majority.

Article 12 – 30 of the Refugee Convention enumerate the right of refugee and these are:

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- *Article 14* deals with, artistic and industrial property, where the refugee shall get the same protection as the state provide to its own nationals.
- *Article 15* deals with, rights of association, which includes political, profitable or non profitable association and trade union law should be in accordance with refugee law.
- *Article 16* deals with, gives the right to access to the court of the contracting state.
- *Article 17* deals with, employment, the contracting state shall accord the refugee lawfully staying in the territory the most favorable treatment, and must give the scope to have employment in the country, and shall give sympathetic consideration to the assimilating the right of the refugees.
- *Article 18* deals with, self employment,
- *Article 19* deals with, the contracting state shall help the refugee to start liberal profession with there laws.
- *Article 20* deals with, the right of refugee to have Ration from the contracting state.
- *Article 21* deals with, the state shall provide them house with due process of law.
- *Article 22*, says that the contracting state shall supply required facilities to provide education to the refugee.

¹³ *Sri Lankan Tamil V Immigration Appeal Board* (federal Court of Appeal, Vancouver, Canada) 1984

- *Article 23* deals with, public relief,
- *Article 24* deals with, labour legislation and social security. The domestic law should concentrate on the matter of over time, justified payment of the worker, woman work and child work. Social security, such as, maternity, sickness, disability, unemployment etc should be accordance with the international law.
- *Article 25* deals with, administrative assistance, as it is quite difficult for a refugee to do all administrative work by himself.
- *Article 26* deals with, freedom of movement, as the refuge has the right to choose the place of his residence.
- *Article 27* deals with, identity of the refugee, so he has the right to get an identity paper.
- According to *Article 28*, the contracting state shall issue the refugee a permanent traveling document, and it shall be done in accordance with international agreements.
- According to *Article 29* the contracting state shall not impose duty charges to the refugee.
- *Article 30* deals with, transfer of assets, i.e. with conformity of the state law the refugee can transfer assets which they have brought into the territory.

3.1.2 1967 protocol:

“The Protocol Relating to the Status of Refugees went into power on October 4, 1967. Where the United Nations 1951 Convention identifying with the Status of Refugees had confined displaced person status to those whose conditions had come to fruition "because of occasions happening before 1 January 1951", and additionally giving States gathering to the Convention the choice of translating this as "occasions happening in Europe" or "occasions happening in Europe or somewhere else", the 1967 Protocol evacuated both the fleeting and geographic limitations. Nonetheless, it likewise gave those States which had recently approved the 1951 Convention and utilized the geologically confined definition the alternative to hold that limitation.”¹⁴

¹⁴ <http://en.wikipedia.org/wiki/Ethiopia>

3.2 International Refugee Organization¹⁵ (IRO):

The International Refugee Organization (IRO) was established on August 20, 1946 to manage the monstrous displaced person issue made by World War II. Eighteen nations consented to participation of the IRO: Australia, Belgium, Canada, China, Denmark, the Dominican Republic, France, Guatemala, Iceland, Italy, Luxembourg, the Netherlands, New Zealand, Norway, Switzerland, the United Kingdom, the United States, and Venezuela. The U.S. given about 40% of the IRO's \$155 million yearly spending plan. Be that as it may, in 1952 its tasks was stopped, and it was supplanted by the Office of the United Nations High Commissioner for Refugees (UNHCR). It is the main specific office to have left presence.

The Constitution of the International Refugee Organization, embraced by the United Nations General Assembly on December 15, 1946, indicated the office's field of tasks. Dubiously, this characterized "people of German ethnic root" who had been removed, or were to be ousted from their nations of birth into the after war Germany, as people who might "not be the worry of the Organization." This prohibited from its domain a gathering that surpassed in number the various European uprooted people set up together. Likewise, in view of differences between the Western partners and the Soviet Union, the IRO just worked in territories controlled by Western multitudes of occupation.

3.3 General Propositions¹⁶:

Each State has the obligation to secure the human privileges of everybody inside its region and subject to its purview. At the settlement level, this essential commitment is pleasantly represented by Article 2(1) of the International Covenant on Civil and Political Rights. As the International Court of Justice likewise called attention to more than thirty years back, the tenets concerning the essential privileges of the human individual are ergo omens commitments, as an issue of standard global law. That each State is obliged to guarantee that its laws and arrangements, embraced in a territory inside its sovereign capability, are in any case perfect with its general commitments under universal law.

¹⁵ .Opt see. No 1

¹⁶ <http://www.rsc.ox.ac.uk/PDFs/workingpaper17.pdf>

It is a minor departure from the first, however advises us that, even on issues generally considered to fall inside residential purview, and even in the midst of national crisis, the State must keep its global commitments.

Each State will undoubtedly satisfy its global legitimate commitments in accordance with some basic honesty. The standard pact sent Servando requires the State to satisfy in accordance with some basic honesty the commitments which it has acknowledged under settlement, or by which it is bound under standard worldwide law, and to forgo direct proposed to baffle their protest and reason.

These recommendations have solid ramifications. As the European Court of Human Rights commented in the Soaring case, 'the question and reason for the Convention as an instrument for the insurance of individual people necessitate that its arrangements be deciphered and connected in order to make its protections viable and effective....'. The test for governments, global legal advisors, and displaced person advocates is unequivocally that: to make the protections down to earth and compelling.

3.4 Human Rights, 1951 Convention, Refugees and Asylum Seekers¹⁷:

The advanced section of the tale of the evacuee's human rights starts in the late 1940s, as the United Nations directed its concentration toward what ought to supplant the International Refugee Organization, set up soon after the Second World War. The United Nations High Commissioner for Refugees, in the possibility of another universal arrangement routine, in what turned into the 1951 Convention identifying with the Status of Refugees. Drafting this arrangement stretch out the security because of displaced people; favourable moreover. Not the slightest of these rights was set out in Article 14(1) – the privilege of everybody to look for and to appreciate refuge from abuse, while the Declaration likewise put together itself with respect to acknowledgment of the inalienable nobility and worth of each individual, and the privilege of everybody to acknowledgment as a man under the watchful eye of the law.

There is a distinction between an evacuee and a refuge searcher. A haven searcher is a man who has made an application for shelter and is holding up to hear the choice on their application.

¹⁷ *Guy S. Goodwin-Gill, RSC Working Paper No. 17 / <http://www.rsc.ox.ac.uk/PDFs/workingpaper17.pdf>*

Then again an exile is somebody who has gotten a positive choice on their shelter application and who is perceived as a displaced person under the UN 1951 Convention on Refugees and has been offered leave to stay in the nation where they connected for haven. In the event that have nation trusts that on the off chance that they come back to their nation of starting point their human rights will be encroached in an inadmissible way, at that point it can give a leave to outstanding the host nation. But he will be considered as an asylum seeker until his request for refuge has not been accepted. Only after the acceptance he can get the protection n enjoy the rights of a refugee.¹⁸

The determination of whether that person is an asylum seeker or a refugee is mostly done by certain government agencies within the host country. It can either give him the status of a refugee or an asylum seeker or a certain government agencies within the host country.

¹⁸. <http://books.google.com.bd/books>
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Chapter Four

4.1 Sources of human rights and refugee law:

A few people trust that the global "law" of human rights isn't generally law at everything except just an arrangement of respectable goals portraying a perfect world which has little connection to the real world. The individuals who work with displaced people might be especially enticed to hold such a view, since the developing number of exiles on the planet is obvious evidence of the disappointment of the arrangement of global human rights security. The facts demonstrate that even the most essential human rights are routinely abused, and those endeavors by worldwide bodies to guarantee regard for human rights are frequently unproductive. In any case, this does not imply that global human rights law is of no utilization to UNHCR however just that it has impediments. The troubles of upholding worldwide human rights law are like the challenges of authorizing most parts of global law. In the same way as other human rights bargains, the 1951 Convention isn't constantly regarded by states parties – yet it keeps on being of genuine help to incalculable quantities of people who depend on its arrangements and UNHCR keeps on demanding appreciation for the standards it builds up. As an UN organization, UNHCR has an obligation to advance the reasons for the UN, including the security of human rights, UN Charter Art 1.3. More prominent dependence by UNHCR on universal human rights law will add to more noteworthy regard for and more viable usage of this law.¹⁹

4.2 Conflict of human rights and refugee laws:

What occurs if a state is involved with two distinct bargains which have contrast, or notwithstanding clashing arrangements managing a specific human right? (1) If both the 1951 Convention and a universal human rights bargain manage a specific right influencing displaced people (for instance, the privilege to shape affiliations) and the human rights settlement offers more liberal security; and (2) If human rights principles at the local dimension have diverse arrangements (either pretty much liberal, all things considered) than the UN instruments. - What will occur?

¹⁹ . A Review of the Evidence by Jill Schnoebelen, January 2009, Paper No. 169 / [http://www.reliefweb.int/rw/lib.nsf/db900sid/RWST-7RAL7E/\\$file/unhcr-jan2009.pdf?openelement](http://www.reliefweb.int/rw/lib.nsf/db900sid/RWST-7RAL7E/$file/unhcr-jan2009.pdf?openelement)
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The general guideline to apply in the second circumstance, where a provincial human rights arrangement gives an alternate sort or dimension of assurance of a specific human ideal than an UN settlement, is that the arrangement which is most liberal ought to win. This standard emerges out of the way that if a state has embraced two separate sorts of commitments concerning a specific human right, it can just meet the two commitments (and accordingly completely satisfy its responsibilities) by following the arrangement that gives more noteworthy assurance to the person..²⁰ *For example:* One territorial human rights bargain extends the rundown of non-derogable human rights set out in the International Covenant on Civil and Political Rights. States gathering to that provincial bargain and to the International Covenant on Civil and Political Rights can conform to the two instruments just by regarding the more prominent dimension of insurance offered by the local arrangement. In the circumstance where a human rights settlement offers more noteworthy security to displaced people than the 1951 Convention, this equivalent guideline ought to apply. The main distinction is that states may contend that an arrangement of general application in a human rights bargain can't outweigh a quite certain arrangement in the 1951 Convention. For instance: The general non-segregation provision in the International Covenant on Civil and Political Rights implies that evacuees appreciate the vast majority of the rights it perceives including the privilege to affiliation that is to some degree confined for outcasts in the 1951 Convention. A state may contend that the prohibitive arrangements of the 1951 Convention ought to apply since they bargain expressly with the issue of whether evacuees need to right of affiliation, while the non-segregation arrangement in the International Covenant on Civil and Political Rights is a general condition. In any case, there are two explanations behind keeping up that the more liberal arrangements should in any case apply: the International Covenant on Civil and Political Rights, and most other human rights bargains, were drafted after the 1951 Convention, and thusly it tends to be contended that they outweigh it (if a state needed to restrict its commitments while confirming the later settlement, it could reserve a spot); and Article 5 of the 1951 Convention perceives that none of its arrangements ought to be utilized to weaken rights allowed to outcasts by different settlements.²¹

²⁰ .. Opt se no 1

²¹ . A Review of the Evidence by Jill Schnoebelen, January 2009, Paper No. 169 / [http://www.reliefweb.int/rw/lib.nsf/db900sid/RWST-7RAL7E/\\$file/unhcr-jan2009.pdf?openelement](http://www.reliefweb.int/rw/lib.nsf/db900sid/RWST-7RAL7E/$file/unhcr-jan2009.pdf?openelement)

4.3 Implementation of the Human Rights act to protect the Refugee:

Worldwide human rights law is more perplexing than global outcast law, in view of the assortment of sources and guidelines contrasted with the few evacuee law instruments whose arrangements are generally clear. Furthermore, there are many human rights issues that are somehow subject of UN consideration. For non-pros, this can be stupefying or disappointing.

4.4 How can international human rights law assist UNHCR in protecting refugee?²²

Notwithstanding, regardless of these challenges there do exist some specific center norms which have been generally acknowledged. Huge numbers of them have been explained in restricting legitimate instruments to which a lion's share of states are party. All the more imperatively, it doesn't require a specific learning of the entire assemblage of global human rights law with the end goal to depend on some of it to ensure the privileges of evacuees.

There are 4 principle perspectives to ensuring outcast:

4.4.1 Human rights law can fortify existing displaced person law:

The most fundamental appropriate for outcasts is which is set out in Article 33 of the 1951 Convention. Yet, the 1951 Convention isn't the main global arrangement which gives security against refoulement. Thus, different rights accommodated by outcast law, for example, non-segregation, are found in worldwide human rights instruments. Additionally, numerous displaced person assurance benchmarks are set out in non-restricting finishes of UNHCR's Executive Committee. However, a large number of the models set out in Executive Committee ends are additionally found in between national human rights arrangements which do make lawful commitments for states which are involved with them. Beneath, passages from Executive Committee Conclusion No. 22 have been "coordinated" with some applicable arrangements of worldwide human rights law.

²² .Ibid

(1) "Not be exposed to confinements on their movements...."

Contract on Civil and Political Rights, Art. 9 and 12 Convention on Elimination of Racial Discrimination, Art. 5. D (I)

(2) "Not be exposed to coldblooded, cruel or debasing treatment Universal Declaration of Human Rights, Art. 5 Convention against Torture, Art. 2 and 16 Covenant on Civil and Political Rights, Art. 7

(3) "No segregation on the grounds of race, religion...."

Widespread Declaration of Human Rights, Art. 2 and 7 Covenant on Civil and Political Rights, Art. 2.1 Covenant on Economic, Social and Cultural Rights, Art. 2.2 Convention on Elimination of Racial Discrimination, Art. 2 and 5

(4) "To be viewed as people under the watchful eye of the law...."

Agreement on Civil and Political Rights, Art. 2, 9, 14 and 16 Convention on Elimination of Racial Discrimination, Art. 5 and 6 Convention against Torture, Art. 13

(5) "Family solidarity ought to be regarded"

Agreement on Civil and Political Rights, Art. 17 and 23 Covenant on Economic, Social and Cultural Rights, Art. 10 Convention on the Rights of the Child, Art. 9 and 10

4.4.2 Human rights law can supplement existing refugee law²³:

Drawn out or subjective detainment; absence of fair treatment; unfeeling, barbaric or debasing treatment; xenophobia – the 1951 Convention and 1967 Protocol are quiet on such issues, though universal human rights law incorporates arrangements that may be relevant. There is no arrangement in the 1951 Convention with respect to the privileges of kept outcasts. In any case, the International Covenant on Civil and Political Rights which is confirmed by in excess of 125 states, stipends basic rights to all kept people, including exiles, for example, the privilege to an autonomous survey of the lawfulness of the detainment.

²³ New Issues In Refugees Research, Research Paper No. 169, Witchcraft allegations, Refugee Protection and Human Rights: A Review of the Evidence by Jill Schnoebelen, January 2009, UNHCR, Policy Development and Evaluation Service, also at [http://www.reliefweb.int/rw/lib.nsf/db900sid/RWST-7RAL7E/\\$file/unhcr-jan2009.pdf?openelement](http://www.reliefweb.int/rw/lib.nsf/db900sid/RWST-7RAL7E/$file/unhcr-jan2009.pdf?openelement) AND Human Rights and Refugee Protection (RLD 5), web collection

Restricting human rights law gives kept outcasts a bigger number of rights than those set out in the non-restricting Executive Committee Conclusion 44 on displaced person detainment.

4.4.3 Many human rights arrangements are all around relevant:

Albeit more than 125 states are involved with the 1951 Convention as well as 1967 Protocol, there are as yet numerous states which have expansive quantities of outcasts and which have not agreed to either instrument. Be that as it may, various worldwide human rights norms are all around appropriate, as they have accomplished the status of standard universal law.

UNHCR and numerous researchers hold the view that the guideline of non-refoulement shapes some portion of standard global law. Further, a few expresses that are not involved with displaced person law bargains are involved with human rights arrangements which incorporate arrangements of advantage to exiles.

4.4.4 Human rights law has semi legal actualizing bodies:

Execution of evacuee law is essentially up to states, despite the fact that UNHCR has a command under its Statute, and in spite of the fact that states must co-work with UNHCR and encourage its undertaking of regulating the use of the arrangements of the 1951 Convention.

A considerable lot of the universal arrangements which ensure human rights, including rights which may profit outcasts, set up supervisory instruments which can issue definitive feelings on the substance and extent of specific rights ensured in the settlement.

Chapter Five

5.1 Conclusion:

A dismissal for the base privileges of evacuees and inside dislodged people is another element of the connection between the two issues. Amid the way toward looking for refuge, a developing number of individuals looked with prohibitive estimates which deny them access to safe regions. In a few occasions shelter searchers and evacuees are confined or coercively came back to territories where their lives, freedom and security are undermined. Some are assaulted by equipped gatherings or enlisted in to the military and compelled to battle for one side or the other is polite clashes. Haven searchers and exiles are likewise casualties of racists' animosity.

The fundamental protest of this examination is to decide the privileges of evacuee under universal instruments. In this viewpoint the Convention Relating to the Status of displaced person 1951 obliged the worldwide network to regard give and ensure the rights. The center component in evacuee definition is, in this way, oppression against the affectation of damage in distinction face to face and status.

This also includes another five matters:

- (i) Race
- (ii) Religion
- (iii) Nationality
- (iv) Social groups; and
- (v) Political belief

These grounds are primarily matters for status as opposed to individual action. Refugee law says that harm can not legitimately done to an individual's personal characteristics or status. This law only contemplates the imposition of punishment on the basis of individual's wrongful acts. So the main purpose of the definition of refugee is to get protection.

The convention is a legally binding international instrument which provides specific protection of refugees. The states which have ratified the convention are required to respect the convention and adopt national law accordance with it. It is remarkable to note that the regional instruments ranging from the binding 1969-OAU to the non-binding Joint Position of European Union on the harmonized application of the definition of the term, albeit in the former to extend its content, and in the letter to restrict its interpretation.

There is a wrong conception is that the definition of refugee only covers a small number of specific cases and it does not cover contemporary situation. If we consider the Convention we can see that the intention if the convention was to cover the mass flows as while drafting the conventions it already had mass flows in mind due to World war II and other armed conflicts. At the same time the convention intended to merge all the previously made agreements in the same Convention relating to the status of the refugee and wanted to extend the scope of such instruments.

There are still a conception is that the definition provided in the Convention is regional rather than universal, because the Convention was made during the Cold War in European countries. It is too restricted in the contemporary context and does not meet the present day's needs. The definition does not cover those people who have voluntarily accepted refugee status. Later on the definition of refugee in the 1951 Convention was amended in 1957 Protocol. But still loopholes remain.

The Convention and the 1967 Protocols have played quite a good role in influencing other states to adopt national legislation accordance with it. The instrument has also cove the gender discrimination on refugee woman too. During 1950's the stronger discrimination was widely seen, which is not notice anymore. It happened due to persecution by reason of membership of social gap i.e. woman. The adoption in different countries including Canada, America which has adopted the 'Guideline for Woman Asylum Claims" is one example of this.

A negligence for the base privileges of evacuees and inside dislodged people is another component of the connection between the two issues. Amid the way toward looking for haven, a developing number of individuals looked with prohibitive estimates which deny them access to safe regions. In a few examples haven searchers and displaced people are confined or coercively came back to zones where their lives, freedom and security are compromised. Some are assaulted by outfitted gatherings or selected in to the military and compelled to battle for one side or the other is considerate clashes. Shelter searchers and evacuees are additionally casualties of racists' hostility.

Evacuees have rights which ought to be regarded before amid and after the way toward looking for refuge. Regard for human rights is essential condition for both anticipating and settling the present outcast streams. In the expressions of the United Nations High

Commissioner for Refugee, Sadako Ogata says that the exile issue must be put to all administrations and people groups as a trial of their pledge to individual.

Besides, the loopholes that the definition has must be modified, as the status of refugee should not to only on fear and other five elements, mentioned in the Convention. For the time being the definition needs to be more flexible, and broadened. Secondly the states liability should be more strengthen, and there domestic legislation should be easier to fulfill. For an example, in Russia an asylum seeker's application can be summarily denied if the applicant fails to apply within 24 hours of entering the country. The 24 hour deadline is arguably too difficult to meet in practice, given that many asylum seekers are being detained at the borders for three days upon arrival – with no knowledge of the requirement and no access to legal representation. So this kind of unfair conditions should be removed, and UN needs to play more vital role in this matter.

Some situations, it can be seen that people are forced to leave there place to protect there life, without getting any protection. In this case they do need some protection and financial support, so they should be compensated by the state, as it was done due to the fault of the state. Though UN is playing a very vital role, but there activities need to be more advanced. Torture to refugees, needs to be covered by penalty and a monitoring body is needed to observe this.

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