

CONCEPTUALISING REFUGEE RIGHTS THROUGH HUMAN RIGHT PERSPECTIVE

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INTRODUCTION

For too long, the 1951 Geneva Convention relating to the Status of Refugees¹ has been treated as a piece of international legislation that could only be interpreted according to its own internal logic and objectives in isolation from international human rights law.² This article will show how it is no longer possible to interpret or apply the Refugee Convention without drawing on the text and jurisprudence of other human rights treaties. Conversely, it is not possible to monitor the implementation of other human rights treaties, where refugees are concerned, without drawing on the text of the Refugee Convention and related interpretive conclusions of the UNHCR Executive Committee (EXCOM Conclusions), agreed to by States and introduced below.

The 1969 Vienna Convention on the Law of Treaties makes clear that interpretation is to be based on the ordinary meaning of the text in the context of the whole treaty including its purpose and in the juridical context of subsequent agreements by States Parties. Subsequent agreement includes texts of human rights treaties and related jurisprudence. Consequently, the International Court of Justice, which can interpret the Refugee Convention,³ and the Inter-American Court of Human Rights which can interpret human rights treaties in the Americas,⁴

¹ UNHCR, *Collection of International Instruments Concerning Refugees*, UNHCR Doc. HCR/JP/1/Eng., UNHCR, Geneva, 1988, p. 10

² Netherlands Quarterly of Human Rights, Vol. 17/4, 389-410, 1999. Netherlands Institute of Human Rights (SIM). Printed in the Netherlands. 38NQHR 4 / 1999

³ Refugee Convention, Article 38:

⁴ *Other Treaties' subject to the Advisory Jurisdiction of the Court (Article 64 ACHR)*, Secretariat of the Court, San Jos6, Costa Rica, 1982

have pointed out in case-laws⁵ that a treaty is to be interpreted in its current juridical context. Other human rights treaties are part of that juridical context. In exploring the Refugee Convention, this article will draw both on its text and own context and on the relevant provisions of subsequent human rights treaties and related international jurisprudence.

A relationship has been established between the *non-refoulement* clause of the Refugee Convention (Article 33) and human rights treaty provisions protecting everyone from torture. The relationship with the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) has been formally acknowledged in a Conclusion adopted by all Member States of the UN High Commissioner for Refugees (UNHCR) Program.⁶ Some human rights treaties have extended *non-refoulement* to everyone and not only those qualifying as 'refugees'. Human rights treaty bodies have applied rights to protection from torture and to protection of family life to protect noncitizens other than those formally recognised as refugees from expulsion.

The relationship between the right to seek and obtain asylum and the application of the Refugee Convention has been confirmed in two cases decided by the Inter-American Commission on Human Rights which applies Charter rights of the Organization of American States (OAS) from the American Declaration on Rights and Duties of Man (hereafter: American Declaration) and applies the American Convention on Human Rights (ACHR), namely in *Joseph v. Canada*⁷ and *Haitian Interdiction v. US*.⁸ Taken as a whole, the provisions of the Refugee Convention cover the content of 'asylum' as expressed recently in UN documents including an EXCOM Conclusion. The content of asylum includes rights relating to entry into a State, a limited right to remain there, protection from expulsion or *refoulement* and certain rights while remaining. The article explores this relationship.

⁵ American Declaration of the Rights and Duties of Man within the Framework of Article 64 of the American Convention on Human Rights.

⁶ EXCOM Conclusion No. 79 (XLVII), 1996, General Conclusion on International Protection.

⁷ *Joseph v. Canada*, Report No. 27/93, Case 11.092, Decision (...) as to the admissibility, Inter-American Commission on Human Rights, Annual Report 1993, OEA/Ser. L/VII.85 Doc.9 rev., General Secretariat of the OAS, Washington, 11 February 1994, at p. 32.

⁸ *Haitian Interdiction v. US*, Report No. 51/96, Case No. 10.675, Decision as to the Merits, 13 March 1997, Inter-American Commission on Human Rights, Annual Report 1996, at pp. 598-602.

REVIEW OF PROTECTION OF REFUGEES UNDER INTERNATIONAL HUMANITARIAN LAW

The word 'refugee', 'asylum' and 'migrant' originated from the same concept and often it used to mean the same thing but as time passed the concept changed from its origin. These 3 concepts have different and separate obligations and have separate consequences in international humanitarian law.

Today the migrants are those who “*Something's or someone's movement from one place to another, as in data from one format, platform, or system, to another, or from one country to another, or of a substance from one medium.*”⁹

The meaning of asylum and refugee had the common basis of migrant. The concept of a migrant narrowed down to asylum and refugee. The refugee can be defined as “*Individuals who leave their native country for social, political or religious reasons, or who are forced to leave as a result of any type of disaster, including war, political upheaval, and famine*”¹⁰

⁹ Michael Taggart, 'Australian "Exceptionalism" in Judicial Review' (2008) 36 *Federal Law Review* 1

¹⁰ refugees. (n.d.) *West's Encyclopaedia of American Law, edition 2.* (2008). Retrieved February 26 2017

International protection of refugees involves not only one country but many. It can be only successful if countries work together for the protection of refugees in the international sense. It is to be pointed out that the word 'protection' has never be defined as such but it is assumed to mean it as protection of legal nature. Refugees are those who seek protection from their own country wherein they have no formal legal relations with the state and that is one of the reason to state that they are termed as 'stateless'. There is political refuge which is dealt on political basis.¹¹

UNHCR is one of the oldest establishments that started recognizing the individual rights particularly that of refugees. The main purpose that UNHCR was established was to provide refuge to the displaced persons. The concept of displaced persons has changed. The word 'refugee', 'immigrant' and 'asylum' has evolved. The word 'refugee', 'asylum' and 'migrant' originated from the same concept and often it used to mean the same thing but as time passed the concept changed from its origin. These 3 concepts have different and separate obligations and have separate consequences in international humanitarian law.

The protection of refugees is the ultimate goal of the UNHCR. The protection of Refugees includes checkups on the people who have fled their countries and has sought refuge in another country. The refugees flee their home due to some conflict, violence and various other reasons and there needs to be body that will ensure that they are protected and their dignity is kept intact.¹²

The most important thing that we need to look into detail is the public perception of refugees. The principle of neighborhood is the utmost principle that depicts the mindset of a set of people. Public perception is the most vicious thing. Public Perception makes us conscious of who we are. Public perception and refugees goes contrary in this world of education. Public perception is something which not one person cannot avoid. This is correct. Relation with refugees has

¹¹ The International Migration Review, Vol. 35, No. 1, Special Issue: UNHCR at 50: Past, Present and Future of Refugee Assistance (Spring, 2001), pp. 130-142

¹² Office Of The United Nations High Commissioner For Refugees, Protecting Refugees & Role Of Office Of The United Nations High Commissioner For Refugees (2014).

never been worse. Refugees are considered as one of the groups which the citizen of a particular nation loves to hate.

Public perception is the most dangerous thing if we need to maintain peace between the mankind. This period of violence has led to hardening public perception for refugees due to highly prevalent terrorism. The hardening public perception is politicized by political leaders and plays with the feelings of the people. This is another human right violation but through public perception. The worst and vicious thing that a mankind can do is to leave the other rotting to burn as they think that it does not directly affect them.

The world has progressed a long way from what it used to be. The world has progressed from stone age to the advanced world. Today, the world represents belief, respect for brotherhood, peace, dignity and a symbol of peace for fellow human being to live with each other in peace and that same goes for the countries where they co-exist with each other. The world has perceived the need to set up human rights to ensure the privileges of each individual on the planet. It would be noticeably important to build up human rights keeping in mind the end goal to control the brutality and to set up the world peace.

Taking a glance at the present world, the world is not what it appears. There is no peace as depicted. The human rights charter for the protection of mankind has failed completely looking at the current plight of the refugees. There is savagery of the refugees which is covered by the mist. The created nations cover and disregard the cloak of viciousness. It is to be noted that after the vicious war between the nations, the general people looked for shelter and refuge from the countries that developed leaving their countries to fend. Refugees looked up to those nations that changed and looked for asylum but the circumstance is distinctive. The basic fundamental rights as human.



CURRENT CASE ANALYSIS

The meaning of asylum seeker is in connection with international law. The asylum in another country is more or less depended on the international obligations where the claim has to be taken into consideration.¹³

The recent incidents taking into the factor the refugees especially Middle Eastern where President Donald Trump made such a decision that it violated the basic human rights of

¹³ Chen Zhen Zi & Ors v Minister for Immigration and Ethnic Affairs (1994) 121 ALR 83.

millions at the same time. If we analyse the recent decision made by him, we first need to understand the conflict between the citizens and the refugees. Before the elections, president trump was widely criticized for his derogatory remarks on women yet he was elected as the president. The main thing that we have to understand here is that he appealed to the citizens of the United States (whites per say) on the basis of jobs as he said in his presidential speech. The white supremacy has come into the light during the recent 2016 presidential elections in United States.

What exactly is white supremacy and how we can relate with the human rights violation of refugees. White supremacy is an ideology where the white people believe that they are superior to other race and that they deserve everything and not the others. Citizens of United States, Canada and many other countries especially white people think that their jobs are being taken away by the refugees. They think that they get every benefit on fake social security number but there needs to be a fact check here that those refugees are the victims of rape, violence, racism. Those refugees don't come to the countries to claim the benefits but to seek protection from the country that they have left and the truth is that they are unaware about the benefits and this is the first thing that the citizens are not aware of. Another thing that needs to be clarified is that those people live in poverty.

Increasing number of refugees has created an outcry in the United States for various reasons particularly terrorist attacks. Terrorist attacks have become a great concern for countries and slowly the countries are trying to close their country's boundaries. There are politically motivated refugee bans where the country does not understand its impact. If the countries think that if we close the boundaries, there will be no terror and that is where the ideology of the country is making a grave mistake. You will stop the terror from outside but what about the terrorism that you are creating within the countries.

To explain in detail, the executive order by President Donald Trump to ban immigrants from 7 muslim countries. This decision is highly politically motivated. The countries that were banned are Iran, Iraq, Syria, Yemen, Somalia, Sudan, and Libya¹⁴. The question here stands is that why these 7 countries are banned since there are no terrorist activities since 9/11 from these 7 banned

¹⁴ The Newyork Times, RON NIXONFEB. 25, 2017

countries? The trump administration states and implies former president Obama signed law which states people from this countries can't travel without valid US visa.¹⁵

This was political move in the sense that it did not ban countries like Pakistan and Saudi Arabia. These are the countries where terrorists have established their base. This it suggests that United States has political interest and not the interest of protection from "terrorism" as clearly mentioned defending his executive order and in his presidential election speech.

4.9 million Refugees are in dire need of assistance which they are not getting because of the above executive order of the president trump. Half of those are children.¹⁶ The doors for them are shut right now from countries citing front reason as terrorism for shutting the boundaries. From human rights perspective, aren't those countries shutting down boundaries and pretending that everything is normal are less than those who they want to ban "terrorists".

The world as we see is not the world we know. In the 20th century with the pacing and ever changing world, the mankind fears its own brotherhood which is a particularly low for a highly developed world of machines and technology.

Today, the world is facing one of the most debated topics '*refugee crises*'. The world is debating on labelling every "refugee", "immigrant" and "asylum seekers" as a terrorist. The world has become an illusion where for a moment has forgotten that we are the same person but of different colour, caste, race and religion.

The United States has come into the light for its selfish view on 'refugee & immigrant'. But it is to be pointed as to clear the minds that United States always had a narrow view on refugee and asylum seekers. It is just that the real picture of United States has come into light. One can say that the '*the superpower nation of immigrants is once again a nation of white supremacy*'

One cannot always put all of the blame on the United States, European nations also comes into the picture with similar narrow view of the principle of neighbourhood. The thing that we have to understand here is that one cannot always put blame on a state but its own people. The values

¹⁵ PolitiFact Wisconsin , Tom Kertscher ; February 7th, 2017

¹⁶ World Vision, March 13 2017

and the thinking has carved path to such a narrow thinking that it is actually harmful for the mankind to be a world again.

The Convention defines a refugee as a person outside their country 'owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion'.¹⁷

What exactly is white supremacy and how we can relate with the human rights violation of refugees. White supremacy is an ideology where a race of white people believes that they are superior to other race and that they are better and has superiority complex over other gender, race and caste. The article explains the view of various jurists/authors in the article cited.¹⁸

Taking United states into account, it also being a superpower country is setting an example for other nations in terms of international law. United states as a humane nation is just set on paper and not otherwise. International Human Rights law is an important framework but that framework is not applicable in United States without any principle and law established like many other countries. The countries are not bound by the international human rights framework but it is up to the country to establish those principles. it is to be pointed out that although United States recognizes not all but some principles of civil and political rights but it completely fails in recognizing social and cultural rights especially the country made of diverse people.

Indeed, the Supreme Court's most recent refugee decision in *INS v. Aguirre-Aguirre*¹⁹ contains the first reference by the Court to the jurisprudence of another state party to the Convention and Protocol as support for its reasoning.²⁰ In contrast, the top courts in other leading common law countries, including those of Australia, Canada, and the United Kingdom,⁹ routinely draw on the thinking of judges in other countries before determining refugee status and adjudicating the content of refugee rights. A commitment to treat similarly situated asylum seekers comparably in each state party makes ethical good sense and provides decision-makers with a practical means of profiting from a broader range of experience. By refusing to look to case

¹⁷ Article IA, Convention Relating to the Status of Refugees, Geneva, 28 July 1951.

¹⁸ Hage, G., 2012. *White nation: Fantasies of white supremacy in a multicultural society*. Routledge.

¹⁹ *INS v. Aguirre-Aguirre*, 119 S. Ct. 1439 (1999).

²⁰ House of Lords decision of *T v. Secretary of State for the Home Department*, 2 All E.R. 865, 882 (H.L. 1996).

law from outside its own borders, the American refugee jurisprudence is strikingly anomalous.²¹

CONCEPTUALISING REFUGEE RIGHTS

Both as a whole and as in its individual provisions, the Refugee Convention falls under current international human rights doctrine on non-discrimination because it is about differentiating among non-citizens. It grants some rights to refugees by comparison with citizens or other non-citizens and it grants some rights as a special measure for refugees. The whole instrument can be viewed as a special measure for persons who qualify under a definition of 'refugee'. Yet other human rights treaties recognise many of the same rights Convention, in favour of refugees and asylum seekers. This article examines the implementation measures in the Refugee Convention and explores the implications for implementation of the relationships with other human rights treaties. Clearly, the protection of rights of asylum seekers and others in expulsion has been implemented by a number of UN and regional human rights treaty bodies. Non discrimination relating to rights in other treaties can be the subject of complaints to a treaty body. The article suggests a way of reinforcing the reporting mechanism of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and International Covenant on Civil and Political Rights (ICCPR) to take into account the special situation of refugees and their protection under the Refugee Convention.

The aspects of the Refugee Convention which relate to the right to seek and obtain asylum in the OAS and the Organization of African Unity (OAU) human rights systems can be developed by each of the relevant treaty bodies in reports and in individual complaint cases. The article finds furthermore residual matters which require further initiatives to fully implement the Refugee Convention in its current context, notably guidance on the application of the definition of 'refugee'. The article finally considers ways of resolving these, including a possible 'Protocol'.

²¹ INS v. Elias-Zacarias, 502 U.S. 478 (1992)

The situation in receiving states would be made more serious, since only a minority of the world's people live in societies that respect human rights or that can meet the material needs of their members. Weiner puts it this way-²²

There are, however, several legitimate objections to broadening the definition of refugees. If acts of discrimination short of persecution are the basis for claiming asylum, a large part of the world's population could do so. Asylum on the basis of discrimination could plausibly be claimed, for example, by over 100 million Indian Muslims whose mosque at Ajodhya was destroyed and who were fearful after many Muslims in Bombay and elsewhere were killed by Hindus. Millions of women around the world could similarly point to discriminatory restrictions imposed by their state or society as justification for seeking asylum. Moreover, a country that does not want its minorities could engage in systematic discrimination and impel countries that embrace a liberal conception of refugees to admit all whose human rights have been violated. The more liberal democratic states and international agencies become in granting asylum to persecuted minorities, the greater the inducement for a nationalist regime to engage in some form of 'ethnic cleansing'.

For instance, the Universal Declaration of Human Rights of 1948 (Universal Declaration) and the International Covenant on Civil and Political Rights²³ gives direction as to when persecution is involved and works accordingly. A person who fears arbitrary detention contrary to article 9 of the Universal Declaration may be persecuted. The same applies to a person who fears punishment contrary to the right to freedom of opinion or expression, as prescribed in article 19 of the Universal Declaration. Universal Declaration enables to understand 'persecution' through article 1 to 9.

JURISPRUDENTIAL ANALYSIS

Every human right violation in the respective country cannot be considered a refugee. To be granted a status of refugee, he/she must fulfil certain prerequisites. One of the prerequisite is that the brutality/violence should be at degree of extremity. If this condition is fulfilled, it will be classified as persecution. It is also to be pointed out that in order to determine illegal

²²M Weiner *The global migration crisis: Challenge to states and to human rights* (1995) 189.

²³ C Humana *World human rights guide* (1983) 13-23.

detention/ arbitrary detention, the detainment should be of extreme nature than only can it be classified for persecution. The above stated is an instance to determine persecution. Furthermore, the human rights violation must be motivated by one or more of the five causes of persecution mentioned in the 1951 Convention: race, religion, nationality, membership of a particular social group or political opinion.²⁴The question of gender would be subsumed under the rubric of 'social group'. A 1996 case in the United States illustrates this well. A nineteen-year old woman from Togo fled her country to the United States and asked for refuge on the basis that she was being forced to undergo female genital mutilation. The United States Immigration Board of Appeals agreed with her that female genital mutilation constituted gender discrimination and persecution. Thus, she was granted asylum in the United States.²⁵

A distinction can be made between an illegal immigrant and a refugee based on the causes prompting a person to leave his or her country and to settle in another. Toolo and Bethlehem put it this way-²⁶

It is possible to argue that there is a difference between refugees (my emphasis) who have been driven from their own countries in large numbers as a result of a national crisis and illegal immigrants (my emphasis) who make a primarily individual decision to come to South Africa. While such an individual decision may reflect the conditions faced by people in the home country, this would be different from the crisis-driven nature of refugees. Refugees are only in a position to return to home when the crisis in their own country has been resolved, whereas illegal immigrants would not be dependent on a political or military solution.

Weiner²⁷ notes in this regard that there are more similarities than differences between the two

²⁴Telephonic conversation with Ms PiaPrutz Phiri, Senior Protection Officer, Southern African Office of the UNHCR, 23 April 1996.

²⁵ United States: Department of justice, Board of Immigration appeals decision in re FauziyaKasinga (female genital mutilation as a basis for asylum) (13 June 1996)'; reproduced in (1997) 9 African Journal of International and Comparative Law 195-216. H Solomon 'Who is an illegal immigrant?' (1996) 5(6) African Security Review; Melander (n 12 above) 7.

²⁶ H Toolo& L Bethlehem 'Labour migration to South Africa' paper read at the National Labour and Economic Development Institute (NALEDI) Workshop on Labour Migration to South Africa, Johannesburg, 31 August 1994 5.

²⁷ Weiner (n 9 above) 188-189

Conventions. It is to be noted that both the definitions view refugees as individuals who lack the protection of their own government due to extreme brutality or it may be so that the government itself may be exploiting their own citizens in such a manner that they have to seek refuge from other countries. In the same vein, Nobel argues strongly for the retention of the 1951 Convention, noting that any confusion relating to the status of refugees is harmful to the cause of their protection.²⁸

Building on this theme, Martin notes that refugee status is a scarce resource.²⁹ The status of being a refugee is an appendage, it is not something which can be obtained as per disposition. Although it is a privilege it is only given to certain set of individuals. The status of being a refugee enables particular set of individuals to seek assurance and protection from the violence that they have desolated. The status of a refugee is not for all individual but for that one individual who is in dire need. It is only the choice of the state that can determine the fate of the individuals by granting them assurance and refuge from the brutality of the past.

There are at least three reasons to recognize that refugees—that is, persons who in fact meet the definition of a "refugee" stipulated in Article 1(A)(2) of the Refugee Convention—are entitled to claim the benefit of the rights articulated in Articles 2 through 34 of the Convention. First, the intention of the treaty to establish a legal obligation to afford rights to refugees is clear from the literal text and structure of the Convention itself. The goal of the Convention was "... to revise and consolidate previous international agreements relating to the status of refugees and to extend the scope and protection accorded by such instruments by means of a new agreement.",³⁰ State parties "have agreed"³¹ to a non-deposable definition of a "refugee,"³² and to apply the provisions of this Convention to refugees without discrimination..³³ The duties owed to refugees by state parties are all stated in mandatory("shall") language. On the plain

²⁸ P Nobel 'Protection of refugees in Europe as seen in 1987' Report No 4, Lund, Sweden: Raoul Wallenberg Institute of Human Rights and Humanitarian Law (1987) 28.

²⁹ Martin 'The refugee concept: On definitions, politics and the careful use of a scarce resource' in H Adelman (ed) *Refugee Policy* (1991).

³⁰ Convention, supra note 10, at 150 (Preamble, 3).

³¹ Harding, J. 2000 *The Uninvited. Migrant Journeys to the Rich World*. London: Profile Books. Also, "The Uninvited," *London Review of Books*, 22(3) :3. February.

³² Favez, J. C. 1999 *The Red Cross and the Holocaust*. Translated by J. and B. Fletcher. Cambridge: Cambridge University Press.

³³ *Saeed* (2010) 241 CLR 252, 267 [42], 271 [59] (French CJ, Hayne, Crennan and Kiefel JJ); 277 [73] (Heydon J).

meaning of the text, refugees are the holders of rights exercisable in relation to state parties to the treaty.³⁴

The obligatory nature of refugee rights is clear not only from the plain meaning of the Convention's textual structure and the strictly limited right to suspend respect for refugee rights under Article 9, but more generally from the way in which the Refugee Convention defines the acquisition of refugee rights. Specifically, refugees acquire rights as a function of their level of attachment to a particular state party. They are entitled to an expanding array of rights as their relationship with the asylum state deepens over the course of a four-part assimilation path. At the lowest level of attachment, some refugees are subject to a state's authority simply because they are physically present within territory under its jurisdiction. A greater attachment is manifest when the refugee is deemed to be lawfully present within the state. A still more significant attachment is inherent when the refugee is lawfully staying in the country. Finally, a small number of rights are reserved for refugees who can demonstrate durable residence in the asylum state. The Convention requires that a more fulsome range of needs and aspirations be met as the refugee's relationship to the asylum state is solidified..

Christina Powell in an article has explained '*liberal universalist model*' where she has gone on to explain the model based on individual rights based on refugees. She has explained the individual rights and its progress in the context of refugees. The author has connected the individualism with the refugees. The refugees has been termed as liberal in the sense that protection of the refugees from any threat to '*life and liberty*' The universal in the sense of the individual that protection from any threats to life and liberty is applicable to every refugee and is not for exceptions.³⁵ The above concept has also been stated by John Rawls in his book theory of justice.

The drafters of the Convention explicitly considered how best to align the refugee rights regime with this transition from an essentially managed system of refugee migration, to a mixed system in which at least some refugees would move independently:

³⁴Ian Sinclair, *The Vienna Convention on the Law of Treaties* 121 (1984).

³⁵ *International Affairs (Royal Institute of International Affairs 1944-)*, Vol. 76, No. 3, Europe: Where Does It Begin and End? (Jul., 2000), pp. 537

*The initial reception countries were obliged to give shelter to refugees who had not, in fact, been properly admitted but who had, so to speak, imposed themselves upon the' hospitality of those countries. As the definition of refugee made no distinction between those who had been properly admitted and the others, however, the question arose whether the initial reception countries would be required under the convention to grant the same protection to refugees who had entered the country legally and those who had done so without prior authorization.*³⁶

CONCLUSION

Searching at the angle, it is solely based on the state to permit refugees to enter into a country. It's far as much as the nation to just accept them or not. It has also been discovered via diverse reviews that the residents are unaware about the actual records and are fed false news in regards to employment, tax cash and various others. it is also to be pointed out that maximum of the citizens is factually unaware about the refugee's program. This leads to unsympathetic nature towards the refugees which is itself dangerous. The public perception is risky sooner or later as it's also one of the causes that may lead to harsher policy in opposition to the refugees. The plight of refugees has been politicized. The refugees had been termed as 'terrorist entering'.

The current scenario is far dangerous than pre-war. The numbers are in millions of refugees who has fled their own country, fleeing from their own country and are victims of violence of extremity at the hands of either government or a war torn state or captured by militants. The current situation is dangerous for the refugees as the countries have started framing harsher policies which are against the very nature of refugee protection.

The situation has changed and so has the view on protection. Governments, particularly of those countries which are developed are treating those as an illegal and not as refugee which has deep impact on the purpose of refugee protection. The countries presently are focusing more on 'protection from refugees' rather than 'protecting the refugees'. The changing view

³⁶INS v. Stevic, 467 U.S. 407,416 (1984).

on refugee is that now they are considered as part of asylum seekers or migrant per say. The countries have made their foreign policy stricter which means that the policies are against them.

Today, Public Perception plays an utmost important role in Human rights. The world has lost the meaning of '*principle of neighbourhood*'. There are various incidents reported in newspaper that disgusts human kind at its core. The show of showing sympathy is temporary or at times it is not even real. The public has disgustingly become selfish. Public has stereotyped past co-incidences. This is hampering the humanity and has made the world enter at its worst phase of mankind destroying the other. To explain past coincidences, it is not meant as all but taking out and reporting which throws bad light on refugees. It is not new that public does not take any time to stereotype any incident and are factually unaware about the incidents or they only know what is only being reported to them. Taking an instance, the terrorist attacks that have been reported has been assumed as attack by refugees. This perception has harmed the protection of refugees.

Politicization has resorted humanity. Politicization plays with the perception. As public perception is against the refugee protection, the politicians play the stance against refugees. This is pure inhumane. They politicize the harsh brutality on refugee which is disheartening within the perspective of humanity. The refugee crisis has been an instance of public perception from 'humane behaviour' to 'hostility' towards them. Islamophobia is another example of hostility against Muslims. We cannot blame anyone but mankind only. Changing opinion shows the humane and selfish nature of mankind. Sometimes, the state is not always to blame as they want to help but when they do they face criticism and that is fierce backlash from the public.

This is to emphasize that it is not only the state or politicization but the public perception also plays an important part in protecting refugees. After public perception, media fails to recognize difference between migrant and refugee. The media and public perception are on the same lane. What media is portraying is the basis where public is framing their stereotypes and forms their opinion on them. Hence, it is not only the state that needs to protect the refugees but everyone from public to media otherwise there is no hope for humanity if we keep on stereotyping. Refugee needs protection and it is our duty as a mankind to protect and give refuge to those who need it.