

# **REFUGEES, ASYLUM SEEKERS AND DISPLACED PERSONS VIZ A VIZ HUMANITARIAN LAWS**

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## **ABSTRACT**

The world seems to tend often to overlook the plight ahead of us and thus refugees have become a common problem in our societies today. The world has become blind and instead of formulating laws which cab this problem we are in turn subjecting the individuals into more misery. Today refugees or what they have come to be known as recently that is, 'Boat People' are increasing day in day out with governments as well as bodies entitled to control the same doing less. Politics has been a major problem in trying to eradicate this plight with no one willing to lessen their political grip which leaves millions in plight of survival, rejection and death.

Refugees, asylum seekers and externally displaced person are similar entities differentiated only with reasons as to why they fall in a particular group. Refugees are individuals who flee from conflict or unhealthy living conditions likewise to displaced person but an asylum seeker is basically a refugee seeking refugee status where he flees from fear of death or persecution upon return to ones domicile. It is therefore, why this research articles looks to delve into these three facets surrounding refugees and in doing so highlight the differences in them as well as look into the different ways humanitarian laws are able to tackle this problem as well as offer possible solutions towards the current refugee influx which is being experienced worldwide.

"No one leaves home unless home is the mouth of a shark"<sup>1</sup>, are the famous words of Warsan Shire a poet and immigrant who has been championing for the rights of refugees and marginalized people providing encouragement to those affected.

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<sup>1</sup> Warsan Shire, "Conversations about Home (at a deportation center)", poet and writer, 26<sup>th</sup> November 2012.

**Keywords:** Refugee, Asylum seeker, Displaced Person and Humanitarian Laws.

## INTRODUCTION

Refugees and displaced persons has been a common element since the first and second world wars and has thus become a thing of importance in the current age. By the end of the Second World War the world came into crisis with displaced persons in large number thereby creating a crisis in resettlement of such individuals. The 1951 convention by the United Nations held in Geneva brought a huge relief in terms of refugee and displaced persons rights and thus culminating the European refugee crisis. The Convention mainly builds on the rights conferred under article 14 of Universal Declaration of Human Rights.

The world is at a crossroad with the amount of refugee crisis and civil wars that are causing the rising number of displaced persons worldwide. It is of essence that we look into the different facets that these individuals who are first of all displaced and later become refugees due to unavoidable circumstances with a special recognition of their fundamental right to life as human beings and as per the humanitarian laws that protect the same.

The research paper takes a key focus on right to life and liberty as it is a right that all human being are eligible to access and enjoy of which it is also protected by humanitarian laws. Life and liberty are basic rights of any individual and once one is displaced from his original domicile in times of conflict or wars, they end up in new territories as refugees or asylum seekers who seek to acquire a refugee status. It is with this line of events that the research paper looks into addressing the status of refugees or displaced persons in these new territories in terms of proper protection and access to their humanitarian rights and ways in which humanitarian laws can improve on the current influx of refugees in terms of proper administration of their basic needs such as shelters, food and education as well as resettlement.

## REFUGEES AND DISPLACED PERSONS

A Refugee according to the United Nations Geneva Convention, is a person who is outside their country of citizenship because they have well founded grounds for fear of persecution because of their race, religion, nationality, membership of a particular social group or political opinion,<sup>2</sup> and is unable to obtain sanctuary from their home country or, owing to such fear, is unwilling to avail themselves of the protection of that country.

A displaced person on the other hand has been defined as someone who has been forced to leave his home or his natural habitat due to reasons of war, persecution or natural calamities such as floods, droughts. If the displaced person has crossed an international border and falls under one of the relevant international legal instruments, they are considered a refugee.<sup>3</sup> A forced migrant who fled his or her home because of political persecution or violence but did not cross an international border, is commonly considered to be the less well-defined category of internally displaced person (IDP), and is subject to more tenuous international protection.

Once one understands these two above terms another important term which we should be aware of with respect to refugees and displaced persons is an “Asylum Seeker”. An Asylum Seeker is a person who has been displaced and is not in his country of origin and has applied for refugee status in his current state and is therefore, not a refugee until he/she is granted refugee status by the country he is seeking asylum from.

It is therefore, important to know that a refugee is a basically a displaced person whose plea of asylum has been granted by the country in which he seeks asylum.

## PROBLEMS OF REFUGEES AND THEIR RIGHT

Refugees have a lot of hurdles and problem in which they undergo before they live normally again. Today there is a refugee crisis in the world due to war and political problems. It is

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<sup>2</sup> UNHCR, Communication & public Information Service; “*Convention & Protocol Relating To The Status of Refugees*”; p. 5, (2010), Available at, ([www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf](http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf))

<sup>3</sup> Accessed at, [http://www.unhcr.ch/html/menu3/b/o\\_c\\_ref.htm](http://www.unhcr.ch/html/menu3/b/o_c_ref.htm)

therefore, of necessity to look into some common refugee problems which are being faced in the world today. These problems include;

- Problem of member states to the 1951 convention not granting or allowing refugees into their country – this is a current problem being faced in Europe at the moment with the Syrian refugees being denied access to some European nations yet they have ratified the refugee convention. Similarly the Rohingya muslim minorities who hail from Myanmar and fled to Bangladesh due to genocide type of humiliation only for them to be rejected and left with no aid at all.
- Problem of camps failing to meet humanitarian standards – these is a major problem as there is need of more camps as some camps are over populated and don't have the necessary basic requirements such as adequate shelter, water and food.
- Problems of insecurity and terrorism – this is also a major problem as there is fear of terrorism and security from these refugees and thus a problem. As portrayed by the current American Regime which nullify some Muslim countries from visits as well as subjugation of the already status granted refugees notices to return to their original countries which is not in conformity with the principle of non-refoulment set up by the United Nations.
- Problems of resettling refugees – refugees are facing lots of problems while in these camps and waiting for their statuses to be conferred and thereby losing large parts of their economic and personal development.
- Problem of education – education being a vital element in human beings refugee suffer in terms of not receiving adequate education while in camps and there not being laws that allow them to join educational institutions without getting refugee status.
- Rejection by society – Refugees also suffer from a lot of discrimination in certain societies where they are seen as not fit to be part of the society creating hatred and communal conflicts which lead to more problems.

## **RIGHTS OF REFUGEES**

Refugees have rights same as other citizens within the state but also have some special rights with which their able to live without fear of losing. These include right of return and principle of non-refoulment.

### **RIGHT OF RETURN**

The process of returning home is not an easy procedure but the United Nations under the Pinheiro principle are guided by the fact that refugees have not only the right to return home but also right to the same property. It seeks to return the post conflict status quo and ensure no one benefits from violence. This not being an easy procedure certain protocols have to be followed with the right of return which include;

- may never have had property (e.g. in Afghanistan);
- cannot access what property they have (Colombia, Guatemala, South Africa and Sudan);
- ownership is unclear as families have expanded or split and division of the land becomes an issue;
- death of owner may leave dependents without clear claim to the land;
- people settled on the land know it is not theirs but have nowhere else to go (as in Colombia, Rwanda and Timor-Leste); and
- have competing claims with others, including the state and its foreign or local business partners (as in Aceh, Angola, Colombia, Liberia and Sudan).

### **PRINCIPLE OF NON-REFOULMENT**

Under this principle the refugee is granted the right not to be returned to a place of persecution and is the foundation for international refugee law, as outlined in the 1951 Convention Relating to the Status of Refugees. It therefore, a guarantee that once a refugee has acquired refugee status he/she therefore cannot be forced to leave or go back.



## **CURRENT REFUGEE CRISIS**

The current refugee crisis in Europe is a problem that needs to be focused upon as solutions need to be sought through the United Nations. Currently Europe is flooded with a lot of refugees from Syria and though some European nations have opened their gates such as Germany which has taken a large amount of these refugees, some nations have not done the same though they are ratified to the 1951 convention.

The recent growth of terrorist groups into Europe has also led in nations denying the access of these refugees into their nations thereby creating a problem as refugees are being looked down to being terrorist yet not all of them are into such acts. This situation is a problem with recent French attacks killing lots of innocent civilians and leading the society having a bad view towards refugees coming into their society.

This kind of picture needs to be eradicated because it leads to many more worse problems and will eventually lead to growth of racism and other forms of human rights violations.

## **CONCLUSION**

The problem of refugees has been with us for a long period and it is therefore of importance we take keen and solve this menace by formulating laws which will make sure problems of refugees are taken care once and for all. This process though tough and tedious should be able to clear problems such as member states to the charter opening their gates to refugees and making sure their resettlement is guaranteed as per the UN protocols and in doing so safe guarding the lives of millions of innocent victims trying to relocate and continue with life as normal people in society.

Refugee flee because they are in fear of their lives and right to life being a fundamental right under united nations it is important that the problems of refugees are taken care of and thereby safe guarding the lives of human beings suffering persecution in turn protecting them and giving them reason to live by amending the laws to incorporate refugee welfare programs where resettled refugee are supported to continue with a normal life though various commissions should be set up to tackle the refugee problems in need of the hours unlike the

way Syrian refugees were stranded in Europe and similarly the Rohingya from Myanmar due to some countries building walls towards refugees instead of abridging them closer to a normal life like any other individual.

This study shows refugee laws being of lack in some areas and it is the high time we solved these kinds of problems with the current Rohingya refugee crisis being an example.

