

REFUGEE'S AND DISPLACED PERSONS VIZ A VIZ FUNDAMENTAL RIGHT TO SHELTER

By *JohnPaul Kanya Musembi*

Ph.D Research Student

ABSTRACT

Shelter or proper housing is a basic need that all individuals are entitled to as per the humanitarian laws. It is thus why we need to address this in relation to refugees and displaced persons as the world today is experiencing a flood of refugees and displaced person all of whom are facing shelter issues as well as other basic needs. Shelter as a basic need is a fundamental right recognized by many constitutions under the right to life and liberty along with preservation of human dignity within the society. Being so, every individual in society whether citizen of the said society or a foreigner needs to be accorded due respect for his humanity by the society through instruments put in place for the propagation of human rights and fundamental rights as per International law stipulations.

Humanitarian laws are of great importance and necessity in today's world where every individual regard less of their domicile need to protect their own being. "[A]ccording to Aleinikoff and Poellot, "The responsibility of the international community to refugees is not simply to support camps or other arrangements that provide assistance to refugees; it is to end the condition of being a refugee."ⁱ Refugees are entitled to be at liberty and free, with proper shelter as provisions given under Article 21 of the convention on refugees 1951 and therefore the research paper focuses on shelter as fundamental right, how it is being accorded to refugees as well as what more needs to be done to ensure all refugees or displaced persons are well sheltered.

Key words: Refugees, Displaced person and fundamental right to shelter.

INTRODUCTION

Refugees and displaced persons are a common phenomenon of today's world. 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 shelter as human beings and as per the humanitarian laws that protect the same.

The research paper takes a key focus on right to shelter as it is a right that all human being are eligible to access and enjoy of which it is also protected by humanitarian laws. Shelter is a basic need and once an individual is displaced from his original domicile in times of conflict or wars, they end up in new territories as refugees or others as asylum seekers who seek to eventually 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 shelter they acquire and ways in which humanitarian laws can improve on the current influx of refugees in terms of proper shelters or camps.

REFUGEE AND DISPLACED PERSON

A refugee is a displaced person who has escaped from his domicile area due to war, natural disaster or fear of persecution waiting to attain refugee status. This basically means that he has run away from his home in fear and thus seeks refuge in the new territory of country. Refugees are decamped in camps worldwide which they settle in until they are able to go back or be granted citizenships by the countries they run to and in the meantime they settle in these camps which are supposed to offer them the basic needs of shelter, food and clothing.

This paper focuses mainly on shelter offered to these refugees in respect to the standard and capacity.

PROBLEMS REFUGEES ARE FACING

- Over populated camps is an issue as the influx of refugees due to wars and ethnic violence.
- Lack of basic needs such as proper shelters, food and education within the camps.
- Lack of support from Government with other nations threatening closure of camps.
- A rejection by the new communities is an issue.
- Security issue in camps

RIGHT TO SHELTER AS A FUNDAMENTAL RIGHT

Everyone has a fundamental human right to housing, which ensures access to a safe, secure, habitable, and affordable home with freedom from forced eviction. It is the government's obligation to guarantee that everyone can exercise this right to live in security, peace, and dignity. This right must be provided to all persons irrespective of income or access to economic resources.

The right to housing is recognized under Article 25 of the Universal Declaration of Human Rights as part of the right to an adequate standard of living. It states that:

“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”ⁱⁱ ”

Article 11(1) of the International Covenant on Economic, Social and Cultural Rights also guarantees the right to housing as part of the right to an adequate standard of living. Thus, it portrays that proper housing standards are not only an essential amenity but also a right which is protected by international laws. Refugees and displaced persons are hence entitled to similar protection in exercise of their rights. The saddest part of it all is that current refugee influx doesn't guarantee that as the camps are over populated with other nations threatening to close the camps due to lack of necessary support from international bodies.

In international human rights law the right to housing is regarded as a freestanding right. This was clarified in the 1991 General Comment no 4 on Adequate Housing by the UN Committee on Economic, Social and Cultural Rights.ⁱⁱⁱ This thus, shows on the various steps the international communities are undertaking to improve in the protection of rights to shelter. This being the main focus of this research paper is in light of these provisions that refugees and displaced person are able to claim their rights but to what extent are they able to enjoy these rights remains a question.



PROTECTIONS UNDER INTERNATIONAL AGENCIES ON RIGHT TO HOUSING AND SHELTER

- Article 25 of the United Nations Declaration on Human Rights – which provides for the provision of adequate standards of living for all human beings that includes housing, shelter and food.
- Article 11 of the International Covenant on Economic, Social and the cultural rights – similarly empowers the States who are party to it to provide for adequate standards of living in terms of basic needs of food, shelter and clothing.
- Article 27 of the convention on the rights of child - provides that State Parties to it shall accord measures to ensure that children are supported particularly in terms of nutrition, clothing and shelter.
- Article 5 (e) (iii) of the convention on the elimination of all forms of racial discrimination – provides for the right to housing regardless of any ones race, color or ethnic origin.
- Article 14(h) of the convention on the elimination of all forms of discrimination on women – provides that women are allowed to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.
- Article XI of the American declaration on rights and duties of man - provides for the right to health and well being which includes food, clothing, housing, shelter and health care.

RECOMMENDATIONS TO REFUGEE SHELTER ISSUES

As of today the world has an approximate of 65 million displaced persons and 21 million of them being refugees. This is an epidemic which needs redress as the most of these inhuman practices are faced by children and their future becomes uncertain due to the issues refugees are facing in terms of food, shelter, clothing, education or security. The immense numbers of refugees and displaced persons is causing a crisis to policy maker hence need of an evaluation on these issues. This paper looks to give some suggestions and insights in handling issues of refugees and shelter being the special focus. This include

- Government settling refugees faster and ensuring they access their basic needs of shelter, food and clothing.
- The government should also open pathways for resettling refugees to ensure they are integrated in the society and provided a platform to start over.
- Government should offer support to camps and ensure they are well kept and all receive the basic needs of adequate shelter, clothing and food.
- Proactive working of neighboring governments in assuring protection of refugees and displaced persons in terms of provision and securing their basic needs of shelter, food and

CONCLUSION

Right to shelter or housing is a basic need and all human beings are entitled to and it is thus essential that both government and international humanitarian bodies take to task and ensure refugees and displaced person are also availing these freedom and enjoyment. Therefore, both government and humanitarian agencies have a role to play to ensure protection of human lives as well as refugees or displaced persons which is a current problem of the world.

Countries such as Yemen, Syria and now of late the Rohignya community which has been displaced by ethnic violence in Myanmar with the former two experiencing war have been able to show on the current plight of refugees which not just shelter but proper clothing and housing is a lack within the camps that these civilians are placed. It thus a concern of the world at large

to take up all necessary measures to ensure that refugee access basic needs such as food, shelter and clothing.

It is thus, the high time that right to shelter be part and parcel of any refugee or displaced person as nobody decides to be one but circumstances lead to this result and nobody knows but refugees are people who were once settled but what they experience may not be in their hands but humanitarian laws should be adjusted to ensure shelter is adequate and proper as per International law standards.

REFERENCES

ⁱ Rachel Mayer, “THE RIGHT TO NO LONGER BE A REFUGEE”, (The Legal Empowerment of Syrian Refugees in Jordan, Master’s Thesis, 2016); Columbia University Graduate School of Arts & Sciences, P.81.

ⁱⁱ Article 25 of the Universal Declaration of Human Rights.

ⁱⁱⁱTerminski, Bogumil, The Right to Adequate Housing in International Human Rights Law: Polish Transformation Experiences (1989-2009) (2011). *Mediterranean Journal of Human Rights*, Vol. 16, (Double Issue), 2012, pp. 561-592. Available at SSRN: <https://ssrn.com/abstract=2177686>