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THEORETICAL AND LEGAL FOUNDATIONS OF THE PROTECTION OF REFUGEES

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ABSTRACT

The concept of refugees emerged in international law during the twentieth century and has become one of the most pressing global issues of the modern era. This article analyzes the legal definition of refugees, the historical development of refugee law, and its contemporary state. The 1951 Convention Relating to the Status of Refugees and the 1967 Protocol are examined as the primary legal foundations of international refugee protection. According to the latest reports of the United Nations High Commissioner for Refugees (UNHCR), the number of forcibly displaced persons worldwide reached 123.2 million by the end of 2024, while this figure declined to 117.3 million by the end of June 2025. Of these, 42.5 million were refugees[1]. The article summarizes historical developments, legal principles, and statistical data, while also addressing contemporary challenges and proposing possible solutions.

Keywords: refugees, international law, 1951 Convention, 1967 Protocol, principle of non-refoulement, UNHCR, forced displacement, climate refugees.

Introduction

The issue of refugees has existed throughout human history as a significant social and legal phenomenon. In every historical period, wars, political instability, religious persecution, and ethnic discrimination have forced people to leave their homes and seek safety elsewhere. However, the systematic regulation of this issue at the level of international law largely emerged in the aftermath of the Second World War. Massive population movements, the displacement of millions of people, and the existence of stateless and unprotected individuals prompted the international community to establish a clear legal status for refugees and develop mechanisms for their protection.

In international law, the term “refugee” was formally defined for the first time in the **Convention Relating to the Status of Refugees**, adopted on 28 July 1951. According to the Convention, a refugee is a person who, owing to a well-founded fear of persecution based on race, religion, nationality, membership of a particular social group, or political opinion, is outside his or her country of nationality and is unable or unwilling to avail himself or herself of the protection of that country[2]. This definition is of considerable academic significance because it distinguishes refugee status from ordinary migration or economic movement by linking it to specific legal and security-related criteria. Thus, refugee status reflects a condition of compulsion and risk rather than merely the fact of relocation.

Initially, the 1951 Convention had a limited scope of application. It applied only to events occurring before 1951 and primarily to refugees in Europe. This limitation reflected the historical context of the period and was aimed at addressing the consequences of the Second World War. However, subsequent armed conflicts, post-colonial crises, and political repression in other regions of

[1] United Nations High Commissioner for Refugees, *Global Trends: Forced Displacement in 2024* (UNHCR, Geneva, 2025), p. 2, https://www.unhcr.org/global-trends-report-2024

[2] United Nations, *Convention Relating to the Status of Refugees* (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137, Article 1(A)(2), https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-relating-status-refugees

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the world led to a significant increase in the number of refugees. Consequently, the limitations of the Convention became insufficient in practice.

To address this issue, the **1967 Protocol Relating to the Status of Refugees** was adopted[3]. While preserving the core principles of the 1951 Convention, the Protocol removed its temporal and geographical restrictions. As a result, refugee protection acquired a universal character and became applicable worldwide rather than being confined to Europe. This development marked a turning point in the evolution of international refugee law and continues to serve as a fundamental framework for regulating global migration and displacement.

One of the most fundamental principles of refugee law is the **principle of non-refoulement**. Enshrined in Article 33 of the 1951 Convention, this principle prohibits states from returning refugees to territories where their lives or freedoms may be threatened. Its legal significance lies in balancing state sovereignty with the protection of fundamental human rights while prioritizing the preservation of human life. Over time, this principle has gained such broad recognition that it is now widely regarded as a norm of customary international law, binding even on states that have not ratified the Convention[4].

Overall, the international legal regulation of refugee issues constitutes an essential component of the global human rights protection system. The 1951 Convention and the 1967 Protocol form the cornerstone of this framework, while the principle of non-refoulement serves as one of its most important guarantees for safeguarding the lives and freedoms of refugees.

Although the idea and practice of refugee protection predate the emergence of modern international law, the development of refugee protection as an institutional and legal system became particularly evident during the early twentieth century. Initially, refugee problems were addressed through individual state initiatives or temporary arrangements, and no unified international legal framework existed. One of the most significant early initiatives was the **Nansen Passport**, introduced in 1921 by the Norwegian scholar and diplomat **Fridtjof Nansen** under the auspices of the League of Nations[5]. This document enabled stateless persons and refugees, particularly Russians and Armenians, to travel internationally and represented one of the first mechanisms aimed at recognizing the legal status of refugees. It later served as a foundation for the institutional development of refugee law.

The refugee crisis intensified after the Second World War, leaving millions of people across Europe and beyond homeless, stateless, and without legal protection. In response, the **International Refugee Organization (IRO)** was established in 1946 to facilitate the resettlement, repatriation, and reintegration of displaced persons. However, as its mandate was temporary, the need for a permanent global mechanism remained.

Consequently, in 1950 the **United Nations High Commissioner for Refugees (UNHCR)** was established by the United Nations General Assembly[6]. The principal functions of UNHCR include providing international protection to refugees, assisting them in finding asylum, determining their

[3] United Nations, *Protocol Relating to the Status of Refugees* (adopted 31 January 1967, entered into force 4 October 1967) 606 UNTS 267, https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-relating-status-refugees

[4] Sir Elihu Lauterpacht and Daniel Bethlehem, 'The Scope and Content of the Principle of Non-Refoulement' in Erika Feller, Volker Türk and Frances Nicholson (eds), *Refugee Protection in International Law* (Cambridge University Press, Cambridge, 2003), pp. 87–177.

[5] Guy S. Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (4th edn, Oxford University Press, Oxford, 2021), pp. 19–21.

[6] United Nations General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, UNGA Res. 428(V), 14 December 1950, https://www.unhcr.org/statute-unhcr

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legal status, and promoting durable solutions such as voluntary repatriation, local integration, or resettlement in third countries. To this day, UNHCR remains the central institution within the international refugee protection system.

The 1951 Convention has become the most important legal instrument of international refugee law and has been ratified by more than 144 states[7]. This widespread acceptance demonstrates its status as the principal legal standard governing refugee protection worldwide. The Convention clearly defines the legal status of refugees, their rights, and the obligations of states. For this reason, it is often described as the "cornerstone" of international refugee law.

Subsequently, regional legal instruments expanded and adapted the concept of refugees to contemporary realities. Notably, the **1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa** and the **1984 Cartagena Declaration on Refugees** in Latin America broadened the refugee definition beyond individual persecution[8]. These instruments included situations involving generalized violence, foreign aggression, internal armed conflict, and massive violations of human rights. This development illustrates the evolution of refugee law from a narrow individual-centered approach toward a broader humanitarian perspective.

Today, the global refugee crisis has reached unprecedented levels. According to UNHCR, the number of forcibly displaced persons worldwide reached **123.2 million** by the end of 2024, representing one of the highest figures in human history[9]. Statistically, this means that approximately one in every sixty-seven people on Earth was forcibly displaced, underscoring the global and systemic nature of the problem.

By June 2025, the number had declined slightly to **117.3 million**[10]. Of these individuals, **42.5 million** were refugees who had crossed international borders, while **67.8 million** were internally displaced persons (IDPs) who remained within their own countries but had been forced to flee to safer regions. The remaining individuals consisted of asylum seekers whose refugee status had not yet been formally determined.

A particularly significant demographic aspect of forced displacement is that approximately **40 percent** of displaced persons are children[11]. This demonstrates that the refugee crisis is not merely a legal or political issue but also a profound humanitarian challenge. Many displaced children are deprived of access to education, healthcare, and opportunities for normal social development, creating long-term social consequences.

The refugee protection system has evolved from early initiatives such as the Nansen Passport to comprehensive institutional mechanisms embodied by UNHCR and the 1951 Convention. Today, it is reinforced by numerous regional and international instruments and has become one of the most important areas of human rights protection. Over the last decade, forced displacement has increased dramatically and has become one of the most serious humanitarian challenges worldwide. Statistical analyses indicate that the number of forcibly displaced persons has nearly doubled during this period.

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[7] United Nations Treaty Collection, *Convention Relating to the Status of Refugees – Status as at 2025*, https://treaties.un.org

[8] Organization of African Unity, *Convention Governing the Specific Aspects of Refugee Problems in Africa* (1969); *Cartagena Declaration on Refugees* (1984), http://www.oas.org/dil/1984_Cartagena_Declaration_on_Refugees.pdf

[9] United Nations High Commissioner for Refugees, *Global Trends: Forced Displacement in 2024* (UNHCR, Geneva, 2025), p. 2.

[10] United Nations High Commissioner for Refugees, *Mid-Year Trends 2025* (UNHCR, Geneva, 2025), p. 1.

[11] United Nations High Commissioner for Refugees, *Global Trends: Forced Displacement in 2024* (UNHCR, Geneva, 2025), p. 19.

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The primary causes include escalating armed conflicts, political instability, ethnic and religious tensions, economic crises, and the weakening of state institutions in various regions. As a result, millions of people have been compelled to leave their homes and seek safety either within their countries or abroad.

At present, the countries generating the largest refugee populations include **Syria, Afghanistan, Sudan, Ukraine, and Venezuela**. Ongoing wars, political instability, and economic collapse in these states have led to mass displacement. Long-standing conflicts in Syria and Afghanistan, armed confrontations in Sudan, the large-scale military conflict in Ukraine, and the severe economic and social crisis in Venezuela have all contributed significantly to refugee flows.

Another important characteristic of forced displacement is the prevalence of **protracted displacement**. Statistical evidence indicates that situations lasting two years or longer account for approximately two-thirds of all refugee cases. This demonstrates that refugeehood is often not a temporary condition but rather a long-term social reality. Individuals living in protracted displacement frequently face limited access to education, employment, healthcare, and social integration, thereby increasing the risk of creating "lost generations."

Although the legal framework established by the 1951 Convention and the 1967 Protocol represented a historic milestone in refugee protection, contemporary global challenges reveal the limitations of traditional approaches. In particular, climate change is generating new forms of forced displacement through extreme weather events, rising sea levels, desertification, and water scarcity. These individuals are often referred to as **climate refugees**, yet they remain outside the formal legal scope of the 1951 Convention[12]. This highlights a significant gap in international law, as the existing refugee definition primarily addresses political and social persecution rather than environmental factors.

Furthermore, the fact that some states have not acceded to the Convention or the Protocol weakens the overall effectiveness of the international refugee protection regime. Even in states that are parties to these instruments, weak domestic legislation, insufficient political commitment, and negative societal attitudes toward migration often hinder the full realization of refugee rights. In practice, refugees frequently encounter difficulties in accessing employment, quality education, and adequate housing.

Although the principle of non-refoulement remains one of the most important guarantees in international law, its implementation is not always consistent. In some cases, security concerns, political interests, or restrictive migration policies lead to practices that undermine this principle, creating serious challenges for the international legal order.

Conclusion

In conclusion, the concept of refugees and the system established for their protection have evolved from early initiatives under the League of Nations, such as the Nansen Passport, to the comprehensive legal framework embodied in the 1951 Convention and the 1967 Protocol. Today, this system faces one of the greatest humanitarian challenges in modern history. UNHCR statistics indicating 123.2 million forcibly displaced persons in 2024 and 117.3 million in 2025 demonstrate the immense responsibility confronting the international community.

To address this challenge effectively, international law must continue to evolve, particularly through the development of legal mechanisms capable of responding to displacement caused by

[12] United Nations Human Rights Committee, *Ioane Teitiota v New Zealand*, Communication No. 2728/2016, CCPR/C/127/D/2728/2016 (7 January 2020); United Nations High Commissioner for Refugees, *Legal Considerations Regarding Claims for International Protection in the Context of the Adverse Effects of Climate Change and Disasters* (2020).

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climate change. In addition, strengthening the financial and institutional capacities of UNHCR and other international organizations, as well as enhancing regional cooperation, will be essential. Only through such efforts can the fundamental rights of refugees - including the rights to life, security, and freedom of movement - be fully protected in practice.

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