

Refugees

Introduction

As per the United Nations High Commission on Refugees, a refugee is a person who has fled war, violence, conflict or persecution and has crossed an international border to find safety in another country. The rights of refugees are protected under the 1951 Refugee Convention and as per the year 2017 there were 25.4 million refugees across the entire world. Apart from the UNHCR there are several other United Nations departments that are there to coordinate protection, such as the United Nations Relief and Works Agency (UNRWA) which only coordinates among Palestinian refugees. Other than the 1951 Convention, there are several other resolutions and conventions such as the UN Protocol Relating to the Status of Refugees, but moreover all of them have one similar definition. There are several other terms that fall under the broad definition of a refugee, such as migrants, stateless people, internally displaced people and asylum seekers. As per UNHCR reports of 2021: Turkey, Jordan, Uganda and Pakistan are the states hosting the highest number of refugees. Furthermore, the UNHCR has also proved that 69% of the refugees have fled from either conflict or post conflict zones such as Syria, Venezuela, Afghanistan, South Sudan and Myanmar. Low and middle income states host almost 83% of the world's refugees and the least developed countries provide asylum to 27% of the total refugee population.

In 600 AD, the concept of asylum seeking came into being as a person who sought sanctuary in a holy place could not be harmed by anyone. The Ancient Greeks and Egyptians brought this idea forward. At the same time several European Nations also understood this concept. After several incidents such as in 1685 when thousands of Huguenots fled to England after being outlawed by Protestantism in France, the first international refugee coordination of refugees came into existence after the creation of the League of Nations. This eventually became an international forum when 800,000 Russians became stateless when Lenin revoked citizenship and when one million Armenians fled the country after the ruthless events of the Armenian genocide. During this time many countries such as the United States of America were not satisfied with refugees entering their country in huge numbers. Therefore, the US Congress passed the Emergency Quota Act in 1921. Later on in 1924, an Immigration Act was also passed further restricting the entrance of Southern and Eastern Europeans in the country. The rise of Nazism led the League of Nations to create a separate group only to cater to German refugees. Later on the mandate of this commission was expanded for people from Austria and Sudetenland.

Rights of Refugees

The rights of refugees have been described in the 1951 Refugee Convention and they encompass both customary law and international legal instruments. It is very difficult for refugees to return

back to their motherland even in post-conflict zones. Even Though the UNHCR has declared that refugees have the right to return, there are some problems that might arise. Refugees returning back to their original country would not have access to the property they have, ownership might be unclear as a family might have split, the death of an owner might lead to further disputes or refugees who might have settled in a third world country would lose the indefinite leave to remain in the country. Non rehabilitation is the right not to be returned to persecution and is a cornerstone of international refugee law, as set forth in the 1951 Convention Relating to the Status of Refugees. The right not to be reimbursed is different from the right to asylum. To respect the right to asylum, states must not deport genuine refugees. In contrast, the right not to refit allows states to transfer genuine refugees to third world countries with a respectable human rights record. The Mobile Procedural Model, proposed by political philosopher Andy Lamey, emphasizes the right to non-reimbursement by guaranteeing refugees three procedural rights and guaranteeing these rights in the constitution. This proposal attempts to strike a balance between national governments' and refugees' interests. Family reunification is a major reason for immigration in many countries. Refugee families often become divided thus it is their right to reunite if a family member with a permanent right of residency applies for reunification. As per the UN Convention on the Rights of Refugees, refugees have to be provided with travel documents if they wish to lawfully reside in a country. Refugees are also restricted from onward movement, once they are settled in one nation and their rights are protected, they are unable to further move forward to another state. In order to commemorate the rights of refugees, the United Nations General Assembly passed a special resolution calling for a World Refugee Day.

Internally Displaced People

By the end of 2020, 53.2 million individuals were internally displaced due to armed conflict, generalized violence, or human rights violations as per the Internal Displacement Monitoring Center. 17.5% of the population of Ukraine has been internally displaced within the country as a result of the Russian invasion. This has occurred due to the continuation of mines and remnants of war. The humanitarian crisis has led to worsening living conditions for women and children. These internally displaced people have also become targets of conflict related sexual violence. Women traveling alongside borders experience high insecurity and risk of violence, including risk of human trafficking. The Ukraine Flash Appeal has provided increased support for such individuals in order to protect human rights. In the year 2021, more than 118,000 displacements occurred due to conflict especially in the Gaza Strip. Destruction of homes by Israeli led air strikes have caused people to leave their homes and eventually become internally displaced. On 3rd June 2022, the UN Office for the Coordination of Humanitarian Affairs (OCHA) reported that 139 people were displaced in the West Bank when their homes were demolished by Israeli authorities. As per the UNHCR, Colombia is the country with the highest number of Internally Displaced Persons. The major reason for this is lack of government attention in rural areas. There are large armed groups that get people indulged in unethical activities thus leading them to

becoming homeless. These groups are funded by lucrative drug trade which continues to thrive in unstable regions. Colombia has the fourth highest rate of deforestation, the majority of which occurs in areas of origin for Internally Displaced People. Non Governmental Institutions such as the Korea International Cooperation Agency, USAID and other such organizations assist internally displaced persons with reintegration to rural communities through legal means.

Stateless Individuals

In international law a stateless individual is someone who has no affiliation with any state nor are they a citizen of any country. All refugees are not considered stateless people and many of them have never crossed an international border. In 2018, the UNHCR reported that there are 12 million stateless individuals in the entire world. The causes for statelessness include conflict of law, sex, discrimination, state succession, administrative obstacles, renunciation, non state territories, or statelessness nations. Conflicting nationality laws often lead to statelessness. There are two internationally known methods of acquiring citizenship which are the right of the soil and the right of the blood. The right of the soil allows for citizenship to be granted as per the country of birth while the right of the blood is a regime by which nationality is acquired through descent.

A person who does not have either parent eligible to pass citizenship by right to the blood can be stateless at birth if born in a state which does not recognize the right to the soil. Even Though the Convention on the Elimination of All Forms of Discrimination Against Women prohibits sex-based discrimination in regards to the provision of nationality or citizenship, there have been changes in favor of sex neutrality in nationality laws. These include Algeria, Morocco, and Senegal. In most large-scale statelessness situations, statelessness is a result of discrimination. Many states define their body of citizens based on ethnicity, leading to the exclusion of large groups. This violates international laws against discrimination. The UN Committee on the Elimination of All Forms of Discrimination stated on October 1, 2014, that the "deprivation of citizenship on the basis of race, color, descent, or national or ethnic origin is a breach of States' obligations to ensure non-discriminatory enjoyment of the right to a nationality. Nations such as Kurdistan are not official nations nor are they recognized by the United Nations, therefore the entire Kurdish population is considered stateless. In Pakistan, 1 million Pakistani Bengalis have not been offered citizenship after the 1971 Bangladesh Liberation War and similarly, there are Afghans who entered Pakistan during the Soviet invasion and since have been denied citizenship. In the state of Qatar, Bedoons are mostly stateless individuals from the Ghufrani tribe. In the year 2005, 5000 members of this tribe were stripped of their citizenship. It was after an international outcry that 2000 of them had their citizenship restored. In the Kingdom of Saudi Arabia Osama bin Laden was asked to return his passport in the 1990s. Humanitarian conditions for the Rohingya people have generally been worsening and at the same time, there have been complications in their nationality laws.

Asylum-Seeking

A person who leaves their country and applies for international protection is known as an asylum seeker. In other words, a person who is a migrant and is forcefully displaced due to war or other reasons is referred to as an asylum seeker. The immigration authorities decide whether an individual acquires asylum or not otherwise they are classified as illegal immigrants. An asylum seeker can be considered a refugee if the circumstances fall under the refugee definition of refugee laws such as the European Convention on Human Rights. There are three types of asylum which include convention refugee status, subsidiary protection status, and temporary protection visa. In many countries, country of origin information is used by the Immigration Bureau as part of the assessment of asylum seekers, and the government has commissioned an investigation into the accuracy of their reports. In some countries, investigations have been made in regards to the refusal rate of immigration authorities in decision making and found that individuals rejected more applicants than others who evaluated similar cases. Immigration authorities also need to standardize the reasons for accepting or rejecting applications so that the arbitrator's decision is consistent with their companion's decision. Subsidiary protection is for people who are not classified as refugees and it is for those who do not have much risk of prosecution. A Temporary Protection Visa is for people, especially in Australia who applied for refugee status after making an unauthorized arrival. As of now rights of asylum seekers are not similar to those of refugees. In most cases, asylum seekers cannot work or volunteer. In the European Union individuals who have applied for asylum-seeking have limited access to health care facilities. Yet there are nations such as Germany that have laws such as the Asylum Seekers Benefits Act only so asylum seekers can have access to basic medical facilities such as vaccinations and childbirth. In some nations, asylum seekers are considered illegal aliens because neither are they recognized as refugees nor as legitimate migrants. Such individuals are mostly placed in immigration detention before being deported. More than government agencies, NGOs are working more efficiently in order to protect the rights of asylum seekers.

Past Agreements and UN Actions

There are several conventions that include the rights of refugees and migrants. Article 14 of the Universal Declaration of Human Rights is the first international document that discusses and recognizes the right to seek and enjoy asylum from persecution. There are conventions that discuss the rights of refugees in conflict zones, these include the Geneva Convention Relative to the Civilian Persons in the time of war. Article 44 and 70 specifically discusses this very matter. Articles 2, 12, and 13 of the International Covenant on Civil and Political Rights further focus on how every state should ensure that all civil and political rights are being granted to all refugees. This covenant also discusses the guarantee of freedom of movement and prohibits forced expulsion. 1967, Protocol Relating to the Status of Refugees removes the geographical and time limitations written into the original Refugee Convention under which mainly Europeans were

involved in events occurring before 1st January 1951. Basic human rights are guaranteed to all refugees in conventions such as the one against torture and the one on the rights of a child. The UN committee against torture has set up some fundamental principles in regards to the expulsion of refused asylum seekers. Article 22 of the Convention on the Rights of a Child states that a child who is seeking refuge should be guaranteed proper refugee rights and humanitarian assistance. In cases where no parents or other family members can be found, the child shall be accorded the same protection as any other child deprived of his or her family environment. The Guiding Principles on Internal Displacement are a set of 30 recommendations for the protection of internally displaced persons. These define an internally displaced person and have specified that such people have the right to leave their country, seek asylum, and be protected against forcible return to their homeland. The Convention Governing the aspects of refugees accepted the definition of the 1951 Refugee Convention and expanded it to include people who were compelled to leave their country not only as a result of persecution but also owing to external aggression, occupation, and foreign domination, or events seriously disturbing public order. This definition is a wider definition than the one found in the UN Refugee Convention and adapts the definition to the reality of the developing world. The African Union's definition also recognizes non-state groups as perpetrators of persecution and it does not demand that a refugee shows a direct link between herself or himself and the future danger. It is sufficient that the refugee considers the harm sufficient to force her/him to abandon their home. The European Convention on Human Rights does not contain any right to asylum and it makes no direct reference to asylum seekers or refugees. A very important case by the European Court of Human Rights (the United Kingdom, 1989), however, established that states were indeed responsible, in certain instances, for the well-being of individuals in other countries. The case concerned article 3 of the European Convention that "No one shall be subjected to torture or inhuman or degrading treatment or punishment". In recent years the European Court has again stressed the unconditional nature of the prohibition against ill-treatment and established the principle that a state wishing to deport even an individual found guilty of a serious criminal offense or constituting a threat to national security must first make an independent evaluation of the circumstances the individual would face in the country of return. Although article 3 is most often called upon to protect asylum seekers and refugees, other articles may also be invoked to ensure that their human rights are respected. In particular article 4 (prohibition of forced or compulsory labor), article 5 (deprivation of liberty), Article 6 (right to a fair and impartial hearing "within a reasonable time"), article 8 (respect for private and family life), Article 9 (right to freedom of thought, conscience, and religion), article 10 (right to freedom of expression), Article 13 (right to the grant of an effective remedy before a national authority) and article 16 (no restrictions on political activity of aliens) can offer substantial protection.