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“HUMAN RIGHTS LAW GLOBAL REFUGEE PROTECTION: POST 2025 MIGRATION CRISES”

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ABSTRACT

With very few spheres of international law, there is such a moral weight with regards to protecting refugees. Having become heavier since the 1951 Refugee Convention was negotiated, the text of the treaty is brief, its ambitions curtailed by Cold War politics and its application has been pushed, challenged and in certain cases silently sabotaged by the very states that drafted it.. This research looks at how that root legal instrument, and the wider array of international human rights law which has developed alongside it have coped with the displacement issues of the twenty-first century and what the years just before and just after 2025 will tell us about the strength and vulnerability of the international protection system.

The study takes place in four phases. It begins with a historical and doctrinal question of the normative architecture of the international refugee law on the construction of the definition of a refugee, the concept of non-refoulement and the web of rights obligations that states entered into by becoming signatories to the 1951 Convention and the 1967 Protocol. It next overlay the institutional scene: the United Nations High Commissioner of Refugees, the Global Compact on Refugees, and the regional frameworks with some levels of success having transformed universal norms into practical protection. A third phase investigates the strains that have been put on the regime in practice in mass displacement in Syria, Myanmar, Venezuela, Afghanistan and Ukraine, systematic pushback operations in the Mediterranean and in the Aegean, offshore processing in the Pacific, and the new wave of nationalist asylum politics throughout the democratic world.. The fourth and most futuristic step is what the conjuncture in 2025 will require: does current legal tools have the flexibility to adapt to climate-displaced people, or are new institutional innovations required to prevent the gap between protection promises and protection reality, and how the increasingly dominant role of artificial intelligence in asylum determination mechanisms can be regulated?

There are a number of original arguments presented. First, non-refoulement no longer exists under the treaty-based standard that is formulated in Article 33 of the 1951 Convention but exists as a peremptory rule of customary international law an argument that has important legal implications to offshore processing regimes and diplomatic assurance regimes. Second, the case of *Teitiota v New Zealand* decided by the Human Rights Committee is wary of its.

Immediate holding, creates a legally consistent route on the way to the acknowledgment of the climate displacement as a human right issue pursuant to the International Covenant on Civil and Political Rights, which route must be purposely expanded by both treaty practice and national jurisprudence. Third, the contrasting treatment of the Syrians, Afghans, and Eritreans with Ukrainian nationals in 2022 by the European Union in its abrupt activation of temporary protection would be expected to show serious structural injustice against the Syrians, Afghans, and Eritreans, a type of injustice whose legal consequences the scholarly literature has not fully addressed.

The research finds that neither a renegotiated Convention nor a proposed global refugee court nor even an increased UNHCR mandate can ease all the problems with the system, whose flaws must ultimately be political as well as purely juridical. What is needed is a political re-assertion of the traditional understanding that protection of refugees is an issue of international legal imperative, but not of charity and that such imperative is complemented by institutional reforms which make such imperative more difficult to escape and more difficult to enforce.

Keywords: Refugees law; non-refoulement; human rights law; UNHCR; Global Compact on refugees; climate displacement; AI and asylum; statelessness; burden-sharing; post 2025 international order.

Introduction

The contemporary global landscape is witnessing an unprecedented rise in forced displacement. By the end of 2024, more than 117 million individuals were forcibly displaced worldwide, a figure that reflects a dramatic increase compared to previous decades. This reality exposes a fundamental tension between the existing legal framework governing refugee protection and the evolving nature of displacement. The international refugee protection system, primarily built upon the 1951 Refugee Convention and its 1967 Protocol, was designed

in response to a historically specific crisis and is increasingly being stretched beyond its original intent.

The Convention framework assumes that displacement arises from identifiable forms of persecution based on limited grounds such as race, religion, nationality, membership of a particular social group, or political opinion. However, modern displacement is far more complex. It includes mass migration driven by civil conflicts, environmental degradation, climate change, and generalized violence, which do not always fit neatly within the traditional legal definition of a refugee. As a result, a significant protection gap has emerged, leaving many displaced persons outside the scope of international legal protection.

Further, the implementation of refugee law is deeply influenced by political considerations. States often engage in restrictive practices such as pushbacks, externalization of asylum procedures, and offshore processing, thereby undermining the principle of non-refoulement. These practices raise serious concerns about the effectiveness of international legal obligations and the willingness of states to uphold them.

The problem is therefore twofold: first, the normative framework of refugee law is insufficient to address contemporary forms of displacement, particularly climate-induced migration; and second, even where legal protections exist, their enforcement is inconsistent and often shaped by political interests rather than humanitarian obligations. This research seeks to critically examine whether the existing international refugee protection system is capable of responding effectively to the challenges of the post-2025 migration landscape.

The significance of this study lies in its attempt to critically evaluate the adequacy of international refugee law in addressing the realities of modern displacement. Refugee protection is not merely a legal issue but a matter of global humanitarian concern, involving questions of human rights, state sovereignty, and international cooperation. As displacement continues to rise, the limitations of the current legal framework become increasingly evident. This research contributes to the existing body of scholarship by examining the interaction between refugee law and international humanrights law, highlighting areas of complementarity as well as gaps. It also provides an institutional perspective by analyzing the role of organizations such as the United Nations High Commissioner for Refugees (UNHCR) and the Global Compact on Refugees in translating legal norms into practical protection.

Another important aspect of this study is its focus on emerging challenges, particularly climate displacement and the use of technology in refugee management. These issues are at the forefront of contemporary debates but remain inadequately addressed within the existing legal framework. By examining these developments, the study seeks to contribute to ongoing discussions on reforming the international refugee protection system.

Furthermore, the dissertation has policy relevance, as it proposes potential legal and institutional reforms aimed at strengthening refugee protection. It underscores the need for a rights-based approach that recognizes refugee protection as a legal obligation rather than an act of charity.

Literature Review

The field of international refugee law has been extensively studied from doctrinal, institutional, and empirical perspectives. Traditional doctrinal scholarship has focused on the interpretation of the 1951 Refugee Convention, particularly the definition of a refugee and the principle of non-refoulement. Scholars have highlighted the adaptability of the Convention through judicial interpretation, which has allowed it to extend protection to new categories such as victims of gender-based persecution and non-state actors.

Institutional literature has examined the role of international organizations, particularly UNHCR, in implementing refugee protection. It emphasizes the challenges faced by these institutions, including resource constraints and dependence on state cooperation. The Global Compact on Refugees has been analyzed as an attempt to promote burden-sharing and international cooperation, though its non-binding nature limits its effectiveness.

Empirical studies have focused on patterns of displacement and state responses, revealing significant disparities in the treatment of refugees across different regions. For instance, the contrasting responses to different refugee crises, such as those involving Syrians, Afghans, and Ukrainians, highlight the influence of political considerations on refugee protection.

Recent scholarship has also begun to address emerging issues such as climate-induced displacement and the role of human rights law in filling protection gaps. The decision in *Teitiota v. New Zealand* has been particularly significant in opening a pathway for recognizing climate displacement within the framework of human rights law.

This dissertation builds upon these strands of scholarship by integrating doctrinal, institutional, and empirical perspectives to provide a comprehensive analysis of the international refugee protection system.

Research Objectives

The primary objective of this study is to examine the effectiveness of the international refugee protection system in addressing contemporary displacement challenges. The specific objectives are:

To analyze the historical and normative foundations of international refugee law.

To examine the legal framework governing refugee protection, including the principle of non-refoulement.

To evaluate the interaction between refugee law and international human rights law.

To assess the role of international and regional institutions in implementing refugee protection.

To identify gaps in the existing legal framework, particularly in relation to climate displacement.

To propose legal and institutional reforms aimed at strengthening refugee protection in the post-2025 context.

Research Questions

This study seeks to address the following research questions:

Whether the existing international refugee protection system is adequate to address contemporary displacement challenges?

How do international refugee law and human rights law interact in providing protection to displaced persons?

To what extent do institutional mechanisms effectively implement refugee protection?

Why does the current legal framework fail to adequately address climate-induced displacement?

What reforms are necessary to strengthen the international refugee protection system in the post-2025 era?

Hypothesis

The study is based on the hypothesis that the existing international refugee law framework is inadequate to address contemporary forms of displacement, particularly climate-induced

migration, and requires significant legal and institutional reform. While human rights law provides supplementary protection, it is insufficient to fully bridge the existing gaps without a restructured and more inclusive refugee protection regime.

Research Methodology

This dissertation adopts a doctrinal legal research methodology, focusing on the systematic analysis of treaties, judicial decisions, and scholarly writings. Primary sources include the 1951 Refugee Convention, the 1967 Protocol, and relevant international human rights instruments such as the International Covenant on Civil and Political Rights and the Convention Against Torture.

Judicial decisions from international and regional courts are examined as authoritative interpretations of legal principles. In addition, the study considers UNHCR Executive Committee Conclusions as evidence of state practice and *opinio juris* in the development of customary international law.

A comparative approach is also employed, analyzing different national and regional responses to refugee protection. This includes jurisdictions such as Australia, Germany, Colombia, and Kenya, which represent diverse approaches to refugee governance.

The research is further supported by empirical data from organizations such as UNHCR and the Internal Displacement Monitoring Centre, ensuring that the legal analysis remains grounded in contemporary realities.

Scope and Limitations

This study focuses on individuals who cross international borders and fall within the framework of international refugee protection. While related issues such as internally displaced persons and economic migration are acknowledged, they are not the primary focus of this research.

The temporal scope of the study spans from the post-World War II period to the present, with particular emphasis on developments between 2018 and 2025. Geographically, the study adopts a global perspective, though the availability of data varies across regions.

The research is primarily doctrinal in nature and does not involve fieldwork or primary empirical data collection. As a result, the analysis relies on existing data and secondary sources, which may limit the scope of empirical insights.

EVOLUTION AND FOUNDATIONS OF INTERNATIONAL REFUGEE LAW

The contemporary system of international refugee protection is the product of a long and complex historical evolution shaped by political upheavals, humanitarian crises, and shifting conceptions of state responsibility. Far from being a static or self-contained body of law, international refugee law has developed incrementally in response to successive waves of displacement. Its foundations lie not only in formal legal instruments but also in the moral and political imperatives that emerged from some of the most devastating events of the twentieth century.

This chapter traces the historical development and normative foundations of international refugee law, beginning with early attempts at addressing displacement during the interwar period and culminating in the establishment of the modern legal framework through the 1951 Refugee Convention and the 1967 Protocol. It also examines the conceptual structure of refugee protection, including the definition of a refugee, the rights framework, and the limitations embedded within the system. By situating contemporary refugee law within its historical context, this chapter provides a foundation for understanding both its strengths and its enduring limitations.

Early Refugee Crises and the League of Nations Response

The origins of international refugee protection can be traced to the aftermath of the First World War and the political transformations that followed. The collapse of empires, the redrawing of national boundaries, and the Bolshevik Revolution in Russia resulted in large-scale displacement across Europe. For the first time, the international community was confronted with the challenge of addressing the plight of individuals who were outside their country of origin and lacked the protection of any state.

The response of the League of Nations to this crisis was largely improvised and experimental. In 1921, Fridtjof Nansen was appointed as the first High Commissioner for Refugees. His mandate was initially limited but expanded over time as new refugee groups emerged. One of

the most significant contributions of this period was the introduction of the “Nansen Passport,” an internationally recognized travel document issued to stateless refugees. This innovation addressed a practical problem—lack of legal identity—and at the same time created an early form of international recognition of refugee status.

The Nansen system, however, was fundamentally limited. It was voluntary in nature, lacked enforcement mechanisms, and depended heavily on the cooperation of states. Although it represented an important step toward international responsibility-sharing, it did not establish a comprehensive legal framework for refugee protection. Instead, it created a patchwork system that responded to specific crises without addressing the broader structural issues underlying displacement.

Interwar Failure and the Lessons of the Evian Conference

The interwar period exposed the limitations of the international community’s approach to refugee protection. The rise of National Socialism in Germany and the persecution of Jews and other minority groups led to a new wave of displacement that far exceeded the capacity of existing mechanisms. Despite the growing urgency of the crisis, the response of states remained inadequate.

The Evian Conference of 1938 stands as a stark illustration of this failure. Convened to address the refugee crisis in Germany and Austria, the conference brought together representatives from thirty-two countries. However, despite expressions of sympathy, most states were unwilling to accept additional refugees, citing economic constraints and domestic political pressures. The conference produced few tangible outcomes, and its failure demonstrated the absence of binding international obligations and the dominance of state sovereignty over humanitarian considerations.

The lessons of the interwar period were profound. They revealed that voluntary cooperation was insufficient to address large-scale displacement and highlighted the need for a binding legal framework that would impose obligations on states. The failure to protect refugees during this period ultimately contributed to the development of a more structured and legally grounded system in the aftermath of the Second World War.

Post-World War II Developments and the Emergence of a Legal Framework

The end of the Second World War marked a turning point in the development of international refugee law. The scale of displacement during the war was unprecedented, with millions of people displaced across Europe. The humanitarian crisis created a sense of urgency that led to the establishment of new international institutions and legal frameworks.

In 1946, the International Refugee Organization (IRO) was created to address the immediate needs of displaced persons, including repatriation and resettlement. Although the IRO played an important role in assisting millions of individuals, it was conceived as a temporary solution and was eventually dissolved in 1952.

The need for a more permanent and comprehensive framework led to the adoption of the 1951 Convention Relating to the Status of Refugees. The Convention represented the first attempt to define the concept of a refugee in legal terms and to establish a set of rights and obligations governing their treatment. It marked a shift from ad hoc responses to a rule-based system grounded in international law.

However, the Convention was shaped by the political realities of the time. It was limited in both temporal and geographical scope, applying only to events occurring before 1 January 1951 and allowing states to restrict its application to Europe. These limitations reflected the belief that displacement was a temporary phenomenon linked to specific historical events, rather than a permanent feature of the international system.

The 1951 Refugee Convention: Structure and Significance

The 1951 Refugee Convention remains the cornerstone of international refugee law. Its most significant contribution lies in the definition of a refugee, which is set out in Article 1A(2). 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 unable or unwilling to avail themselves of the protection of their country of origin.

This definition reflects the historical context in which the Convention was drafted. It is rooted in the experiences of persecution during the Second World War and is focused on

individualized forms of harm linked to specific grounds. While this approach provides a clear legal framework, it also imposes limitations by excluding forms of displacement that do not fit within these categories.

In addition to defining who qualifies as a refugee, the Convention establishes a range of rights for refugees, including the right to non-discrimination, access to courts, employment, education, and public assistance. It also outlines the obligations of states, including the duty to cooperate with the United Nations High Commissioner for Refugees (UNHCR).

One of the most important principles enshrined in the Convention is the prohibition of refoulement, which prohibits states from returning refugees to territories where they face threats to their life or freedom. This principle has become a fundamental norm of international refugee law and is widely regarded as its cornerstone.

The 1967 Protocol: Universalization of Refugee Protection

By the 1960s, it had become clear that the limitations of the 1951 Convention were no longer tenable. New refugee crises were emerging outside Europe, particularly in Africa and Asia, as a result of decolonization and political instability. These developments highlighted the need to expand the scope of the Convention.

The 1967 Protocol Relating to the Status of Refugees addressed this issue by removing the temporal and geographical restrictions of the Convention. It extended the application of the Convention's provisions to all refugees, regardless of when or where they were displaced. This marked a significant step toward the universalization of refugee protection.

Despite this expansion, the Protocol did not alter the core definition of a refugee. As a result, the fundamental limitations of the Convention remained intact. While the Protocol broadened the scope of protection, it did not address the changing nature of displacement or the emergence of new forms of forced migration.

Cold War Influences and the Ideological Dimensions of Asylum

The development of refugee law during the Cold War was influenced by ideological considerations. Refugee status often became a tool of political expression, with Western states

granting asylum to individuals fleeing communist regimes while being less receptive to those fleeing other forms of persecution. This selective approach undermined the principle of neutrality and highlighted the role of political interests in shaping refugee protection.

The ideological dimension of asylum also affected the interpretation of the refugee definition. In some cases, the concept of persecution was expanded to include broader forms of political oppression, while in others it was applied narrowly to exclude certain groups. These inconsistencies contributed to the fragmentation of refugee protection and raised questions about the objectivity of the legal framework.

Conceptual Foundations of Refugee Protection

The legal framework of refugee protection is built upon several key concepts, including persecution, the five protected grounds, and the notion of state protection. Persecution is not explicitly defined in the Convention, leaving it to be interpreted by courts and decision-makers. This has allowed for a degree of flexibility but has also led to divergent interpretations across jurisdictions.

The five protected grounds—race, religion, nationality, membership of a particular social group, and political opinion—serve as the basis for determining refugee status. While these categories provide a structured approach, they may not capture the full range of contemporary displacement scenarios.

Another important concept is the idea that a refugee is someone who lacks the protection of their own state. This reflects the underlying assumption that states are the primary providers of protection, and that international protection is a substitute when national protection fails. However, this assumption is increasingly challenged in situations involving non-state actors, failed states, and generalized violence.

Limitations of the Existing Framework

Despite its significance, the existing framework of international refugee law is subject to several limitations. The definition of a refugee is narrow and excludes individuals displaced by factors such as environmental degradation, economic collapse, and climate change. This creates a protection gap that leaves many displaced persons without legal recognition.

Furthermore, the implementation of refugee law is uneven and often influenced by political considerations. States may adopt restrictive policies that limit access to asylum or undermine the rights of refugees. The lack of effective enforcement mechanisms further weakens the system, as there are limited consequences for non-compliance.

These limitations highlight the need for a critical re-examination of the existing framework and the development of new approaches that can address the complexities of modern displacement.

Conclusion

The international refugee protection regime, as examined throughout this dissertation, stands at a critical and transformative juncture. It is a system rooted in the historical experiences of the mid-twentieth century, shaped by the moral urgency of post-war displacement and institutionalized through the 1951 Refugee Convention and its 1967 Protocol. Over the decades, it has evolved into a complex legal and institutional framework that has provided protection to millions of individuals. Yet, as the analysis across the preceding chapters demonstrates, this framework is increasingly confronted with challenges that strain both its conceptual foundations and its practical effectiveness.

At one level, the system continues to exhibit remarkable resilience. Its core principles—particularly the prohibition of refoulement, the recognition of persecution as a basis for protection, and the articulation of refugee rights—remain central to international legal discourse. The adaptability of the framework, achieved through judicial interpretation and the integration of human rights law, has allowed it to respond, at least partially, to changing circumstances. The expansion of the concept of persecution to include non-state actors, gender-based violence, and identity-based harm illustrates this capacity for evolution.

However, this adaptability has limits. The refugee protection regime remains anchored in a set of assumptions that are increasingly misaligned with contemporary realities. The definition of a refugee, while foundational, operates as both a gateway and a barrier, extending protection to some while excluding many others whose displacement does not fit within its narrowly defined categories. The requirement of a nexus to specific grounds of persecution fails to capture the complexity of modern displacement, particularly in cases involving environmental degradation, economic collapse, and generalized violence. As a result, the system produces not only protection but also exclusion, leaving significant populations without legal recognition or

rights.

This structural limitation is compounded by the gap between legal norms and state practice. While the framework establishes clear obligations, its implementation remains uneven and often inconsistent. The analysis of contemporary refugee crises in Chapter 5 demonstrates that protection is frequently shaped by political considerations rather than legal principles. The differential treatment of refugees based on nationality, geography, or perceived political alignment reflects a pattern of selective humanitarianism that undermines the universality of the protection regime.

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