

## **The Global Refugee Crisis And Its Impact On Host Countries**

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*Refugees are often quoted to be a ‘creature of circumstances’, it’s the grave human rights violations that force people to flee from the country of origin and seek refuge in another country. Recent times have seen a great increase in the number of refugees; the Syrian refugee crisis and the Rohingya refugees have once again highlighted the magnitude of the problem. Different countries have dealt with the refugee crisis differently. This paper attempts to highlight the impact of refugees on host countries. The problems faced by the host countries include sharing of resources, the strain caused on the economies, threat of terrorism and conflict between citizens and refugees. While the problems faced are many there has to be humanitarian approach taken to protect the human rights of these vulnerable people. The 1951 Refugee Convention and the 1967 Additional protocol remain the bedrock of international refugee protection. Many countries such as India have not yet acceded to these two instruments. Therefore can India hide behind the shield of non-accession or is it duty bound to step up and provide refugee protection needs to be analyzed. Further it becomes important to note that certain principles of refugee protection such as the non-refoulement principle have the stature of jus-cogens, principles of customary international law which has to be respected by all nations. In the light of the aforesaid international law principles the present paper highlights the different approaches taken by host nations towards mitigating the global refugee problem.*

### **Introduction**

Even before the World War-II concluded, diverse ethnic groups were forced to migrate and seek refuge on international lands. However, in the last couple of years, due to armed conflicts, generalized violence and the onset of religion-based terrorism, an increasing number of refugees have been forced to leave their homes and countries and seek refuge on international lands. Before and around the World War-II, since the developed economies were redeveloping their cities and reshaping their economic policies, an extra hand of help was appreciated. However, in the recent times, when these developed

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economies are settled, opening doors to *en masse* refugees has become a challenge, with most developed countries formulating their own unique laws, with respect to refugees and asylum-seekers especially from the war-torn Middle Eastern Asia. With the increasing number of refugees, it is significant to note that the number of women, girls & children are at an all time high, since they are forced to leave their homes especially on account of their vulnerable position wherein they may be/are subject to SGBV. Thus, the UNHCR in order to address the specific issues relating to the protection of refugee women enacted various international instruments, including inter alia, the *Convention Elimination of all Forms of Discrimination Against Women*, 1979; *The Declaration on the Protection of Women and Children in Emergency and Armed Conflict*, 1974; *The Convention on Consent to Marriage, 1962; Minimum Age for Marriage and Registration of Marriages*, 1962; *The Convention on the Nationality of Married Women*, 1958 and *The Convention on the Rights of the Child*, 1989. And even though individual countries may not be parties to all of the above-mentioned instruments, they do provide a framework of international human rights standards for carrying out protection and assistance activities related to refugee women.<sup>3</sup>

The UNHCR in 1991, issued “*Guidelines on the Protection of Refugee Women*”<sup>4</sup> with the intent to help the UNHCR staff and its Partners to “*identify the specific protection issues, problems and risks facing refugee women*” and aimed “*to cover traditional protection such as the determination of refugee status and the provision of physical security*” and even recognized that the prevention is preferable to cure and even approach women whose rights have been violated.<sup>5</sup> Further, as per the UNHCR, more than half of the international refugee population are children. In order to improve and enhance the protection and care of refugee children, so that refugee children may be able to live as children first, the UNHCR adopted the Policy on Refugee Children, 1993<sup>6</sup> resulting in the updating of the Guidelines of the Refugee Children<sup>7</sup>. However, Guidelines not being binding in nature do not bear much result. Thus, the international organizations rely on the Convention on the Rights of the Child, 1989 (“**CRC**”) and even though it is not a refugee treaty, refugee children are covered under it since the rights stipulated in the CRC are to be granted to all persons under 18 years of age<sup>8</sup>, without discrimination of any

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<sup>3</sup> <https://www.unhcr.org/publications/legal/3d4f915e4/guidelines-protection-refugee-women.html> (last visited on June 26, 2019)

<sup>4</sup> I.b.id

<sup>5</sup> I.b.id

<sup>6</sup> <https://www.unhcr.org/protection/children/3b84c6c67/refugee-children-guidelines-protection-care.html> (last visited on June 26, 2019)

<sup>7</sup> First published in 1988

<sup>8</sup> Article 1, Convention on the Rights of the Child, 1989

kind<sup>9</sup>. The CRC is of significance for the refugee children because it has been “near-universally”<sup>10</sup>

## **I Refugees in European Union**

Around 467,000 refugees and migrants crossed the Mediterranean Sea between 2016 and the second half of 2017<sup>11</sup> seeking refuge in Europe who are forced to flee their homes from reasons apart from war – sexualized violence, honor killings, forced marriage or female genital mutilations<sup>12</sup> in Syria and Iraq.<sup>13</sup> According to the International Organization for Migration (“IOM”) at least 1883 migrants have died so far in 2017, 70% only while attempting to cross the Mediterranean Sea. Of refugees and migrants entering Europe, a majority are women and children. And these women & children refugees travelling through the Mediterranean Sea are usually smuggled out by from their native war-torn Middle Eastern Countries. The conditions of such travels are not only deadly, but become a voluntary or involuntary avenue to be ensnared in sex trafficking. Of the children who enter Europe, ten thousand unaccompanied minor refugees have been reported missing after reaching Europe.<sup>14</sup> Even after the women and children reach the shores of Europe are at a heightened risk of new violence of at the hands of traffickers, border officials, soldiers, volunteers in refugee camps or fellow (male) refugees<sup>15</sup>, since they live in dire economic situation.<sup>16</sup> The European Convention on Human Rights (“ECHR”) does not contain any specific protections for refugees or asylum seekers but general ECHR human rights may be relied on by women and children refugees and asylum seekers, the ECHR has interpreted to impose positive obligations on Member States with respect to certain specific vulnerable groups, such as unaccompanied child migrants and victims of human trafficking. In May 2017 the Council of Europe adopted an Action Plan on Protecting Refugee and Migrant Children in Europe (2017 – 2019).<sup>17</sup> The Action Plan is based on a clear principle: in the context of migration, children should be treated first and foremost as children. It concerns all

<sup>9</sup> Article 2, Convention on the Rights of the Child, 1989

<sup>10</sup> <https://www.unhcr.org/protection/children/3b84c6c67/refugee-children-guide-lines-protection-care.html> (last visited on June 26, 2019)

<sup>11</sup> <https://www.unhcr.org/protection/children/3b84c6c67/refugee-children-guide-lines-protection-care.html> (last visited on June 26, 2019)

<sup>12</sup> <https://www.medicamondiale.org/en/nc/press/press-releases/details/news/detail/News/current-asylum-policies-put-refugee-women-at-risk.html> (last visited on June 27, 2019)

<sup>13</sup> <https://www.cfr.org/blog/sex-trafficking-and-refugee-crisis-exploiting-vulnerable> (last visited on June 26, 2019)

<sup>14</sup> United Nations (UN) Department of Economic and Social Affairs, International Migration Report 2017, UN Doc ST/ESA/SER.A/202, 28 December 2017, p. 15

<sup>15</sup> <https://www.medicamondiale.org/en/nc/press/press-releases/details/news/detail/News/current-asylum-policies-put-refugee-women-at-risk.html> (last visited on June 27, 2019)

<sup>16</sup> <https://www.cfr.org/blog/sex-trafficking-and-refugee-crisis-exploiting-vulnerable> (last visited on June 26, 2019)

<sup>17</sup> “Council of Europe Action Plan on Protecting Refugee and Migrant Children in Europe” (2017 – 2019) Nicosia, May 19, 2017

children in migration who arrive/have arrived in the territory of any Council of Europe member State, including asylum-seeking, refugee and migrant children.

## Germany Opened Doors in 2015:

In an unprecedented event, Angela Merkel on 24.08.2015, used the “*sovereignty clause*” wherein Germany voluntarily assumed responsibility for processing Syrian asylum applications<sup>18</sup>, suspending the Dublin Protocol, 2003<sup>19</sup>. Thereafter, in September 2015, Czech Republic also decided to offer refuge to Syrian refugees who had already applied for asylum in other EU countries.

The Federal Office for Migration and Refugees (“**BAMF**”), Germany has reported that even though the refugee women’s attendance at the nationwide integration courses is usually low & take longer to attend a course. Further, it was reported that they are at a disadvantage in schooling and vocational trainings as well as learning German, which is essentially based on the fact, that they did not have access to educational institutions and language courses in their native States. The BAMF pays special attention to the refugee women and has even stepped up the childcare provisions for parents attending such courses. However, it was observed that once trained, they are at par with men in obtaining gainful employment, which is focused on specific sectors, such as cleaning, tourism & hotel services and in restaurants.<sup>20</sup>

On 07.06.2019, Germany passed a package of laws which aimed to attract foreign skilled vocational workers with German language, including those from outside of EU in order to address the shortage of skilled workers in many regions and industries across Germany. However, the same package of laws also included the Orderly Repatriation or Return Law, which is intended to make it more difficult for rejected asylum seekers to evade an ordered deportation. The said law by many critics has been considered flawed on account of the fact so much money has been spent on integrating these refugees, that deporting them back would be waster of Merkel’s promise and even the German exchequer.<sup>21</sup>

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<sup>18</sup> <https://qz.com/1076820/german-election-how-angela-merkel-took-in-one-million-refugees-and-avoided-a-populist-upset/> (last visited on June 26, 2019)

<sup>19</sup> Under the Dublin Protocol, 2003, forced refugees are to claim asylum in the first country they reach. On 23.06.2015, Hungary stopped receiving such applications and were detained there.

<sup>20</sup> [http://www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/Kurzanalysen/kurzanalyse7\\_gefluchte\\_tete-frauen.html](http://www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/Kurzanalysen/kurzanalyse7_gefluchte_tete-frauen.html)

<sup>21</sup> <https://www.dw.com/en/germanys-new-refugee-laws-slammed-as-lacking-common-sense/a-49095320> (last visited on June 27, 2019)

**French Immigration Laws:**

The French migration and asylum law<sup>22</sup> has made it harder to obtain asylum in France, whereby the applications for seeking asylum needed to be made within 90 days upon entering French territory or face a fast-track process with fewer safeguards. And asylum seekers including those from “safe” countries were to be deported, deprived of their right to appeal such a decision. Further, the detainment period has increased from 45 to 90 days, wherein there may be instances where even refugee seeking children may also be detained.<sup>23</sup> Further, a positive in the law was that it extended residence permits from 1-4 year for persons given ‘subsidiary’ protection, including to their accompanied children, as opposed to a full refugee status.<sup>24</sup>

**Position in Greece**

Since 2015, Europe has been facing an unprecedented arrival of refugees and migrants: more than one million people entered via land and sea routes.<sup>25</sup> People fleeing violence in the Middle East and South and Central Asia viewed Greece as an entry point to Europe. As of 2018, Greece had become something like a holding pen for people seeking asylum. The 50,000-plus refugees in Greece can no longer legally travel deeper into Europe; therefore, they most will likely remain in the country.<sup>26</sup>

Most refugees living in urban settings are unable to find work to support their families as Greece continues to struggle economically in the aftermath of the 2015 financial crisis. Women, many traveling alone with children, need protection from sexual violence and trafficking. Children need support to heal from trauma. Unaccompanied children, many waiting to reunite with families relocated in other countries in Europe, fall victim to exploitation. It is the International Rescue Committee (“IRC”) which is collaborating with Greece’s ministry of migration policy and local and international humanitarian organizations to address violence against women and girls and to meet the mental health and psychosocial needs of all refugees and asylum seekers.<sup>27</sup>

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<sup>22</sup> Passed on 01.08.2018

<sup>23</sup> <https://www.infomigrants.net/en/post/11112/france-s-new-asylum-law-what-you-need-to-know> (last visited on June 26, 2019)

<sup>24</sup> <https://www.hrw.org/news/2018/08/04/france-approves-flawed-asylum-and-immigration-law> (last visited on June 26, 2019)

<sup>25</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5848526/> (last visited on June 27, 2019)

<sup>26</sup> <https://www.rescue.org/country/greece> (last visited on June 27, 2019)

<sup>27</sup> <https://www.rescue.org/country/greece> (last visited on June 27, 2019)

## **II. Refugees in North America**

### **United States of America**

The admission of refugees to the United States and their resettlement here are authorized by the Immigration and Nationality Act, as amended by the Refugee Act of 1980. The 1980 Act had two basic purposes: (i) to provide a uniform procedure for refugee admissions; and (ii) to authorize federal assistance to resettle refugees and promote their self-sufficiency. The intent of the legislation was to end an ad hoc approach to refugee admissions and resettlement that had characterized U.S. refugee policy since World War II.<sup>28</sup>

Since the enactment of the Refugee Act of 1980, the Immigration and Nationality Act has contained a designation for a group of children defined as “unaccompanied refugee minors” (“**URMs**”): refugee children in the United States under the age of 18, without a parent or close relative who is willing or able to care for them. The State Department identifies refugee children overseas who are eligible for resettlement in the United States but who do not have a parent or guardian. Once these URM s are admitted to the United States, the Department of Health and Human Services’ (“**HHS**’s”) Office of Refugee Resettlement (“**ORR**”) is tasked with caring for them until they are either reunited with their families or reach the age of 18.<sup>29</sup> The URM program ensures that eligible unaccompanied minor populations receive the full range of assistance, care and services available to all foster children in the state by establishing a legal authority to act in place of the child’s unavailable parent(s). The programs encourage reunification of children with their parents or other appropriate adult relatives through family tracing and coordination with local refugee resettlement agencies. However, if reunification is not possible, each program works to design a case specific permanency plan for each minor or youth in care.<sup>30</sup>

As of 2016, over 72% of the resettled refugees are women and children in the United State, where many are single mothers, survivors of torture, people who need urgent medical treatment, religious minorities, lesbian, gay, bisexual, transgender, or intersex (“**LGBTI**”) persons, or others imperiled by violence and persecution.<sup>31</sup>

However, an executive order, signed on January 27, 2017, suspended the Refugee Admissions Program for 120 days and bans all citizens from seven “countries of

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<sup>28</sup> <https://fas.org/sqp/crs/misc/RL31269.pdf> (last visited on June 26, 2019)

<sup>29</sup> <https://www.everycrsreport.com/reports/RL34414.html> (last visited on June 26, 2019)

<sup>30</sup> <https://www.acf.hhs.gov/orr/programs/urm/about> (last visited on June 26, 2019)

<sup>31</sup> <https://www.state.gov/remarks-and-releases-bureau-of-population-refugees-and-migration/fiscal-year-2016-refugee-admissions/> (last visited on June 27, 2019)

concern”—Iraq, Iran, Libya, Somalia, Sudan, Syria, and Yemen—from entering the United States for ninety days.<sup>32</sup> For many women refugees, who have already gone through the refugee vetting process, the executive order means they will be forced to remain in refugee or temporary settlement camps, which present a host of dangers in addition to the ones they have already faced. Women and girls in refugee camps are at heightened risk of both sexual and physical violence, exploitation, sexual harassment, trafficking, and forced marriage.<sup>33</sup>

Furthermore, the United States plans to bring no more than 30,000 refugees to live in the US in fiscal year 2019, which starts October 1. 30,000 is by far the lowest “ceiling” for refugee admissions in the nearly 40 years of the current refugee law. The only year that comes close is fiscal year 2018, when the Trump administration proposed a ceiling of 45,000. Both Trump years are a fraction of the pre-Trump standard for refugee admissions, which averaged 96,000.<sup>34</sup>

The United States is witnessing the erosion of basic protection principles including the dramatic weakening of the U.S. political asylum process, the crippling of the U.S. Refugee Admissions program, and the disregard of humanitarian imperatives in the application of Temporary Protected Status. In humanitarian activities overseas, President Trump has sought to roll back U.S. leadership in financial support for lifesaving assistance based on need, imposed policies that adversely impact women and girls, and failed to assert leadership in efforts to end conflicts that continue to inflict horrific humanitarian suffering.<sup>35</sup>

## **Canada**

In 2015, Justin Trudeau opened the doors for Syrian refugees and has been a usually welcoming country for refugees. In 2018 itself Canada has welcomed 28,000 refugees<sup>36</sup> under the Canadian Immigration and Refugee Protection Act, either by the government or private sponsorship. Further in 2017, Canada introduced Feminist International Assistance Policy<sup>37</sup>, under which it recognizes that women and girls shoulder a heavier burden of care for both families and the community at large. Women and girls are also at higher risk for abuse, exploitation and violence including sexual violence, with little protection and limited legal recourse. It is estimated that one in five refugees or displaced

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<sup>32</sup> <https://www.cfr.org/blog/how-trumps-executive-order-harms-women-refugees> (last visited on June 27, 2019)

<sup>33</sup> <https://www.cfr.org/blog/how-trumps-executive-order-harms-women-refugees> (last visited on June 27, 2019)

<sup>34</sup> <https://www.vox.com/2018/9/17/17871874/refugee-news-record-history-asylum> (last visited on June 27, 2019)

<sup>35</sup> <https://www.refugeesinternational.org/reports/2018/6/19/report-card-on-the-trump-administrations-performance-on-refugee-and-humanitarian-protection> (last visited on June 27, 2019)

<sup>36</sup> <https://qz.com/1536578/canadas-refugee-policy-in-context/> (last visited on June 27, 2019)

<sup>37</sup> <https://www.peacewomen.org/resource/canada-launches-new-feminist-international-assistance-policy> (last visited on June 27, 2019)

### III Conclusion

<sup>38</sup> [https://www.washingtonpost.com/news/world/wp/2019/04/10/feature/the-caliphate-has-crumble-d-but-isis-still-has-units-yazidi-refugees-in-canada/?noredirect=on&utm\\_term=.cf7271c6a1f4](https://www.washingtonpost.com/news/world/wp/2019/04/10/feature/the-caliphate-has-crumble-d-but-isis-still-has-units-yazidi-refugees-in-canada/?noredirect=on&utm_term=.cf7271c6a1f4) (last visited on June 27, 2019)

<sup>39</sup> [https://www.international.gc.ca/world-monde/assets/pdfs/ia-p2-eng.pdf?\\_ga=2.107023362.1643691086.1561616466-640357665.1561616466](https://www.international.gc.ca/world-monde/assets/pdfs/ia-p2-eng.pdf?_ga=2.107023362.1643691086.1561616466-640357665.1561616466) (last visited on June 27, 2019)

<sup>40</sup> [https://www.washingtonpost.com/news/world/wp/2019/04/10/feature/the-caliphate-has-crumbled-but-isis-still-hunts-vaziri-refugees-in-canada/?noredirect=on&utm\\_term=.cf7271c6a1f4](https://www.washingtonpost.com/news/world/wp/2019/04/10/feature/the-caliphate-has-crumbled-but-isis-still-hunts-vaziri-refugees-in-canada/?noredirect=on&utm_term=.cf7271c6a1f4) (last visited on June 27, 2019)

<sup>41</sup><https://www.theglobeandmail.com/opinion/article-refugee-children-face-a-new-battle-in-canada-we-cant-fail-them/> (last visited on June 27, 2019)

<sup>42</sup><https://www.cbc.ca/news/politics/cbsa-deportations-border-removals-1.4873169> (last visited on June 27, 2019)

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and the model adopted by developed nations cannot verbatim be followed here. Even though India has an ever growing population it has been a refugee receiving country and has provided refugee over the years to many Tibetan, Afghan, Sri lankan, Chakma, Syrian refugees. While under the earlier instances refugee status was being provided there appears to be a paradigm shift in the policy being adopted towards the Rohingya refugees. The main reason for this as argued by the government is the safety and security of its citizens. The task being undertaken is to identify the Rohingyas scattered all over the country and deport them back. This act of the Indian State has been highly criticized by the UNHCR which claims that Rohingyas cannot be forcibly deported back to a place where they are likely to face persecution. It would also be against the principle of non-refoulement if that were to happen. This is the only abrasion on the otherwise clean slate of the refugee receiving nation- India. Over the years many refugees have assimilated in the country and contributed towards its development. The policy of the State has been to treat each set of refugees on its own merit and that is the sole reason for not having legislation on the subject. Therefore there is a complete legislative vacuum in the field of refugee laws in India. Further, India has not yet acceded to the 1951 Refugee Convention and the 1967 Additional Protocol. The laws governing refugees in India are the Foreigners Act 1946, The Passports Act 1967. The irony of these two legislations is that nowhere does it define the term 'refugee'. The act paints foreigners and refugees with the same brush, even though the two are completely different. The fundamental right under Article 21 of the Indian Constitution provides the right to life and personal liberty to 'all persons' which includes within its ambit citizens, non citizens, refugees, foreigners and travelers'. The Supreme Court of India has also highlighted the need for respecting the human rights of the refugees in various landmark cases such as the Chakma refugee case<sup>44</sup> which ushered a new era for human rights of refugees in India. Non-accession to the international refugee instruments and legislative vacuum of refugee laws in India has not posed a major road block in refugee protection. The judiciary has played a major role in making this happen. However, to streamline the refugee policy of India legislation on this aspect would play an important role.

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<sup>44</sup> National Human Rights Commission v State of Arunachal Pradesh 1996 AIR 1234