

International Law Issues and Countermeasures of Refugee Protection

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Abstract: On January 17, 2022, the Russia-Ukraine war broke out, and on October 11, 2023, a new round of Israeli-Palestinian conflict broke out. In the context of the continued escalation of the Russia-Ukraine conflict and the renewed Israeli-Palestinian conflict, the international community is facing an increasingly severe problem of illegal immigration and refugees. At present, scholars at home and abroad have made a lot of achievements in the research of the world refugee problem in the areas of the concept of refugees, causes, responses to refugee problems, and solutions. However, domestic academic circles have done more research on regional or national refugee issues, such as European refugees, North African refugees, Syrian refugees, etc., and the research on the world refugee issue from a global perspective is relatively weak. This article is to study the refugee protection issue from the international legal level it is to discuss refugee protection from the global perspective.

Keywords: Refugee, International law, humanitarianism, Refugee protection

1. Introduction

The global refugee problem has become a serious problem that the international community must face up to. In the past decade, the number and scale of refugees worldwide have increased dramatically. According to the annual report released by the United Nations Refugee Agency, the number of people displaced by war, conflict, and violence reached an unprecedented 108.4 million by the end of 2022, an increase of 19.1 million over the same period last year, the largest increase ever. In the latest Israeli-Palestinian conflict, an average of three Palestinian children are injured every hour [1]. The refugee problem not only has a profound impact on the economic and social development of refugee-sending countries but also has a far-reaching negative impact on refugee-hosting countries, refugee-receiving countries, the normal international order, and international security.

Studying the international law issues and countermeasures of refugee protection, from the perspective of human rights, can promote the healthy development of international human rights cause, promote the realization of the world vision of "everyone enjoys human rights", and accelerate the construction of a community with a shared future for mankind. From the perspective of social governance, it is helpful to find a better solution to the problem of refugee resettlement, ease the conflict between the refugee group and the domestic people in the receiving country, and defuse the potential violence risk caused by the refugee problem in the international community. From the

perspective of economic development, it can avoid the financial and economic pressure brought by the refugee problem in the receiving country and grasp the economic opportunities. Therefore, I believe that from the perspectives of human rights, social governance, and economic development, the research on the refugee issue has great practical significance and value.

At present, scholars at home and abroad have made more achievements in the research of the world refugee problem in the areas of the concept of refugees, causes, impacts, regional and national refugee problems, refugees and legal problems, refugee protection problems, refugee problems, and solutions. However, there are also certain limitations, for example, the domestic academic research on refugee issues mainly focuses on regional or national refugee issues. Such as European refugees, North African refugees, Syrian refugees, Afghan refugees, Myanmar Rohingya refugees, etc., but from a global perspective, the overall focus on the world refugee problem is relatively weak [2]. This article is to study the refugee protection issue from the international legal level it is to discuss refugee protection from the global perspective. This research on this issue is mainly divided into four modules. The first is the summary of the current situation of refugees, and I have summarized four characteristics of the current situation of refugees, which are as follows: 1. The refugee crisis has never been alleviated in areas where conflicts have broken out, and the refugee base is large and the growth rate is fast. 2. The living conditions of refugees are poor and it is difficult to guarantee the living conditions of refugees in receiving countries. 3. The areas inhabited by refugees are relatively concentrated, and developing countries are the main recipient countries of refugees. 4. There are many difficulties in refugee protection and security risks in refugee camps. The second module is a summary of the international legal basis for refugee protection. I have summarized three kinds of treaties and three principles. The third part is to find out the plight of refugee protection in international law from the existing legal basis, and the last part puts forward its solution to contribute to the protection of refugees.

2. International Law Aspects of Refugee Protection

The first is the current situation of the international refugee problem. The first feature is that the refugee crisis has never been alleviated in areas where conflicts have broken out, the refugee base is large and the growth rate is fast. This is largely reflected in data - UNHCR's annual flagship Global Displacement Trends Report, released in June 2023, states that by the end of 2022, The number of people displaced by war, conflict, and violence reached an unprecedented 108.4 million, an increase of 19.1 million over the same period last year and the largest increase on record. In September 2023, just three months later, the UNHCR released its Mid-year Trends Report saying that by the end of September 2023, the number of displaced people worldwide was likely to have exceeded 114 million, An increase of 5.6 million people from the end of 2022, another record high. In a 2015 AFP story, there was a photo that stuck with me for the rest of my life of a young child's body washed up on a beach after a migrant boat sank, The little boy was lying face down on his stomach on a beach near Bodrum, one of Turkey's best tourist destinations. This strong contrast made me feel a deep sense of helplessness and heartache. In fact, behind the scenes of war and conflict, far too many refugees are facing the plight of displacement and enduring unbearable suffering [3].

The second feature is the poor living conditions of refugees, which are difficult to guarantee in the receiving countries. Refugees are living in makeshift tents made of blankets, in poor and overcrowded conditions. The daily subsistence diet of refugees is provided by UNHCR and the governments of asylum countries, and due to the large number of refugees and the limited capacity of host countries, refugees are merely surviving. On the other hand, the living medical and health conditions of refugees are also extremely simple and backward, and the sanitary conditions are not up to standard. In crowded and harsh environments, bacteria are more likely to breed and infectious diseases break out. Secondly, because these refugees do not have the citizenship of the host country, as well as the

discrimination and exclusion of refugees in the host country, it is difficult for them to find jobs there, and even if they can find jobs, they are the lowest paid jobs in the society. It can be seen that the living conditions of refugees are very bad [4].

Third, the areas inhabited by refugees are relatively concentrated, and developing countries are the main recipient countries of refugees. The biggest refugee problem is not in Europe. Many developed countries have a great rejection of refugees, so in the establishment of domestic laws and regulations for refugees, identification conditions are very strict and harsh. For example, when Australia was a host country, it had a "Pacific solution" policy for refugees, The policy does not directly resettle refugees in their own countries but instead transfers them to Pacific Islands for processing such as the approval of refugee claims. As a result, faced with such harsh refugee acceptance conditions in developed countries, most refugees choose to flood into developing countries, the five main refugee-hosting countries are Turkey, Lebanon, Jordan, Iraq, and Egypt. All are developing countries.

Fourth, there are many difficulties in refugee protection and security risks in refugee camps. The reason for this is that most refugees can only flee to the border zone of their country, because the border zone is a frequent zone of war and regional conflicts, The refugee camp is located here, not only the safety of refugees is threatened, but also the safety of refugee relief workers, and the refugee relief work is difficult to carry out smoothly.

3. Research on International Countermeasures of Refugee Protection

In the face of such a complicated and intractable refugee problem, many international laws and regulations related to refugee protection have been introduced. Includes three types of treaties (relevant provisions in international human rights law, specialized international treaties on the protection of refugees, regional legal instruments on the protection of refugees) Three principles (Principle of non-refoulement, principle of international cooperation, principle of humanism). The first is "relevant provisions in international human rights law": Fundamentally speaking, the refugee issue is a human rights issue, and the basic principles and general norms of international human rights law also apply to refugees. International human rights law mainly includes the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and other legal documents. There are many provisions for refugee protection in human rights law. In summary, refugees enjoy a series of basic rights under international human rights law.

(1). The lives and physical safety of refugees are protected. (2) The freedom of refugees is protected. (3) Refugees have the right to education and work. These principles of human rights law provide strong legal support for refugee protection. These principles provide strong legal support for refugee protection. Second, "specialized international treaties for the protection of refugees, At present, in the international community, "the general and fundamental instruments of international refugee protection are the Convention relating to the Status of Refugees (hereinafter referred to as the 1951 Convention) adopted by the United Nations General Assembly in Geneva and the 1967 Protocol relating to the Status of Refugees. (hereinafter referred to as the 1967 Protocol), these two international instruments constitute "regional legal instruments for the protection of refugees". The provisions of the 1951 Convention relating to the Status of Refugees are the primary international standard for the protection of refugees. Its most important provision, the principle of "non-refoulement" contained in Article 33, is the basis of the refugee protection mechanism. According to this principle, refugees must not be forcibly returned or pushed back into situations where their lives and freedom would be threatened. Not being 'pushed back' for refugees means being granted asylum. The 1967 Protocol relating to the Status of Refugees mainly extends the definition of refugee status in the 1951 Convention relating to the Status of Refugees to a global context. These two legal documents have saved the lives of millions of refugees and are still regarded today as important

human rights protection documents on which the international community relies. At their core, they embody the most basic humanitarian values [5].

Finally, "Regional legal instruments for refugee protection". The reason for this kind of legal document is that even if there is a universal convention, the content of the convention is still relatively backward and rigid compared to the actual problem. Many refugees displaced by war, civil unrest, and natural disasters cannot legally be protected by other countries, Regional legal instruments on refugee protection are needed when universal conventions do not adequately and fully guarantee refugee rights. The most important of these are the Convention Relating to Certain Aspects of the Problem of Refugees in Africa, promulgated by the Organization of African Unity in 1969 (hereinafter referred to as the African Refugee Convention), and the Cartagena Declaration, promulgated by the Latin American Regional Organization in 1984. These two documents make important additions to the original definition of refugee, More refugees in need of protection were included in the scope of protection, and international refugee law was developed.

Three principles, the first is the principle of non-refoulement, the principle of nonrefoulement mainly includes the boundary of non-refusal, prohibition of extradition, and non-expulsion of three levels of meaning. This acceptance means not only the non-expulsion of asylum seekers but also their welcome and reception. The receiving State should have the possibility to submit an asylum application to the refugee, and receiving also means giving him minimal reception and assistance, To allow them to live in dignity is the primary responsibility of the State and the intrinsic meaning of the principle of non-refoulement [6].

The Principle of International Cooperation means that the refugee problem is not a matter of one country or two countries, The refugee issue falls within the scope of international law and is something that all countries need to work together on. Because of the complexity of the causes and the magnitude of the impact of refugees, no country can stay out of it, and no country can solve the problem alone. International solidarity is essential if the refugee problem is to be solved, Only when countries jointly identify the root causes, share the burden reasonably, and establish a communication mechanism can the refugee problem be effectively contained. Only in this way can refugees be resettled in a timely manner and their rights be guaranteed [7].

Finally, there is the "humanitarian principle". International humanitarian law has a four-plus-two structure, consisting of the four Geneva Conventions and two related protocols. Humanitarianism in refugee protection mainly means that for qualified refugees from hostile countries and countries with disputes and conflicts, the receiving country should provide assistance and protection without discrimination or even harm. This is purely obligatory output, with no return. Humanitarian principles require receiving countries to separate inter-state conflicts from the issue of refugee protection, and not to seek revenge or blame. Even if this principle is difficult to implement in practice, we must always adhere to and pursue it, because it is the requirement of human nature.

As can be seen from the above, there have been several international legal documents on refugee protection, and formed a principle as the cornerstone of, International legal system from universality to specialization to regional refugee protection. With the amendment of the 1967 Protocol to the Convention on the Status of Refugees, refugee protection breaks through the limitations of time and space To refugees anywhere, anytime today, the refugee protection mechanism has been gradually established, and the core role of the international refugee protection mechanism has been established by the United Nations High Commissioner for Refugees (UNHCR) in 1950 [8]. The 1951 Refugee Convention and the 1967 Protocol constitute the international system and the basis of international law for modern states to seek multilateral cooperation in dealing with refugee issues. But as a matter of fact, many pressing issues still have no legal basis to follow and cannot be effectively resolved. In my opinion, the current dilemma of refugee protection in international law is mainly due to two points. First, the traditional definition of refugee in international law cannot cover the new refugee

phenomenon, According to the study of the 1951 Convention, the legal problems faced in refugee protection can be mainly divided into: First, the traditional definition of refugee in international law cannot cover the new refugee phenomenon. The second is the apparent abuse of the asylum and extradition system against refugees in genuine need of protection. The 1951 Refugee Convention and the 1967 Protocol define a refugee as: "I," a person defined as a refugee by previous international instruments "; "The event occurred before January 1, 1951, and the applicant has reasonable grounds for concern and is unable or unwilling to be protected by the country of origin because of such concern." Or a person who does not possess the nationality of the State of habitual residence and who is outside the State of habitual residence and is objectively unable or subjectively unwilling to be protected by that State. These concerns are based on religious conflicts, racial discrimination, differences in nationality, and the fact that these people are living outside the country of origin for these reasons and this fear" [9].

Based on the analysis and summary of the above articles, four key points for the identification of refugee status under the 1951 Refugee Convention can be obtained: (1) The primary objective factor in determining whether an asylum seeker is a refugee is whether the asylum is sought outside his or her own territory. For a stateless person, it is to remain outside his country of habitual residence. (2) Unable or unwilling to be protected by that State due to a well-founded fear of persecution. The inability or unwillingness to be protected by the State is the fear of persecution based on legitimate grounds, which is a core element of the definition of refugee. (3) The fear of persecution is based on race, religion, nationality, belonging to a social group, or political opinion. Applicants must show that their fear of persecution is based on any of these reasons to be considered a refugee. 4, "Events occurring in Europe before January 1, 1951" or "Events occurring in Europe or elsewhere before January 1, 1951".

There are obvious limitations to such a definition: first, the limitations of time (before 1 January 1951) and place (in Europe) prevent new types of "refugees" from receiving the protection they deserve under the Convention relating to the Status of Refugees [8].

Secondly, no account has been taken of the possible future presence of refugees from other regions or of new groups of refugees in the European region itself. In the middle of the 20th century, a new type of refugee group emerged, which was represented by the African refugee group. Even Europe itself is seeing the emergence of a new type of refugee.

Finally, many of them fall into the category of refugees in their living situation, but because they do not meet the political requirements of refugees under the Convention, they are unable to enjoy the rights that refugees should enjoy. People who meet the criteria of the 1951 Refugee Convention and the 1967 Protocol are referred to as "convention refugees". Because any law or convention has its limitations of lagging reality, the Convention's refugee constitutive requirements emphasize "fear of persecution". Refugees for political reasons are "convention refugees." However, in practice, armed conflicts, terrorist activities, natural disasters, and ecological crises are the main culprits of refugees, and political reasons are not the only conditions for refugees [10].

4. Conclusion

Therefore, in conclusion, the traditional definition of refugee in international law cannot cover the new refugee phenomenon. Because of the above-mentioned legal problems in refugee protection, what international countermeasures should be taken to further avoid these problems and improve the international legal system of refugee protection? In my opinion, it can be divided into two points: First, strengthen international legislation and improve the international convention system on refugee protection. 1. Expand the definition of refugee in international law. We can draw on the definition of refugees in the African Refugee Convention and the Cartagena Declaration, which are two international and regional norms, Removing citizenship as one of the causes of refugees, and

removing those who are refugees because their country of origin has been subjected to foreign aggression, occupation or internal unrest, People who have to leave their country of origin to seek refuge in other countries are also included in the scope of international law, so that a large number of war refugees can obtain refugee status recognized by international law. 2. Improve the procedural provisions in the process of refugee protection. To prevent state parties from using procedural loopholes to evade the responsibility to protect, procedural provisions for the protection of refugees could be added to the treaty. Including rules for the screening of refugees, "The screening of refugees is a very specialized and complex problem, The vetting and screening of refugees requires both a significant amount of time and a certain number of professionals, and when there is a large influx of outsiders, This process of screening refugees on a case-by-case basis becomes impractical." The UNHCR has many years of experience in this field and can draw out detailed provisions on refugee screening based on its practical experience. As this is within the domestic jurisdiction of the State party, it is only possible to propose norms of a general nature that can be accepted, In particular, curbing some cases of political exclusion of refugees; Setting strict conditions for the application of exclusions in the Convention, To prevent States from using it to circumvent their responsibility to asylum. Finally, the extradition and asylum system should be strictly applied.

Finally, the refugee issue is not only a frivolous issue on the international round table but also a heavy burden on the souls of tens of millions of refugees. That is why we should continue to work on refugee protection.

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