

**INTERNATIONAL LEGAL PROTECTION OF REFUGEES AND INTERNALLY
DISPLACED PERSONS: CONTEMPORARY CHALLENGES AND SOLUTIONS**

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Abstract

This article discusses the rights of refugees and internally displaced persons, as well as how they are protected under international mechanisms and which legal instruments ensure this protection. Legal foundations and case law are analyzed together.

Keywords

refugees, internally displaced persons, international legal instruments, European Court of Human Rights, Federal Asylum Act, rights of internally displaced persons under national mechanisms, conclusions and recommendations.

1. Introduction

Relevance and Purpose of the Topic: As our world continues to develop rapidly, numerous changes are occurring in various spheres of life and society. By the 21st century, due to the expansion of global migration processes, armed conflicts, political instability, religious and ethnic persecution, as well as environmental disasters, the number of refugees and internally displaced persons has reached unprecedented levels. This essay not only analyzes theoretical information but also examines practical experiences and global challenges, focusing on how the rights of refugees and internally displaced persons are protected, along with an analysis of the relevant legal frameworks.

2. Research Methods

This essay employs both general and specific research methods, including a systematic approach, comparative legal analysis, formal-legal method, and case-study method.

3. Theoretical Part

First of all, let us define one of the key concepts, “refugees.” A refugee is a person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of their nationality and is unable, or owing to such fear, unwilling to avail themselves of the protection of that country; or a person who does not have a nationality and, as a result of such events, is outside their former habitual residence and is unable or, owing to such fear, unwilling to return.¹ The origin of this term dates back to the First World War. This definition is considered a fundamental norm in international legal practice, obliging all states to protect refugees from political or other forms of persecution. At the same time, the principle of non-refoulement – not

¹ Convention Relating to the Status of Refugees, 28 July 1951

forcibly returning refugees – is recognized as a mandatory rule under international law. Other sources define refugees as “individuals compelled to leave their country due to armed conflict.” The main characteristic is that refugees are not under the protection of their own state and do not possess any other nationality, meaning they do not acquire the legal status of citizenship in any country. According to H.T. Odilqoriyev and B.E. Ochilov, there are two types of refugees. The first type is called “Mandate” refugees. This includes persons who are in the territory of a state that is not a party to the 1951 Convention, who require protection, and who have not been officially granted refugee status by the state, but are protected by the UNHCR (United Nations High Commissioner for Refugees). The second type is called “Convention” refugees, i.e., persons who meet the criteria of the 1951 Convention (having fled persecution due to race, religion, nationality, membership of a particular social group, or political opinion). These persons are officially granted refugee status by the state.²

Not every individual automatically qualifies for refugee status. There are certain requirements that must be met. Firstly, the person must be outside the territory of their country of nationality. In other words, refugee status is granted only to persons who are in the territory of another state. If a person remains in their own country, they cannot be considered a refugee. Secondly, the person must face a real risk of persecution. This means that individuals fleeing poverty, economic hardship, or natural disasters do not qualify as refugees. Refugee status is granted only when there is a threat to a person’s life, freedom, or safety. Thirdly, the grounds for persecution must be based on race, nationality, membership of a particular social group, or political opinion. Most of these criteria are straightforward, but the concept of “membership of a particular social group” may require clarification. Examples of such groups can include journalists, human rights activists, or even LGBT individuals. For instance, in Uzbekistan, LGBT activities are not officially recognized, and homosexual relations are penalized under Article 120 of the Criminal Code of the Republic of Uzbekistan.³ This situation can form a basis for LGBT individuals to seek refugee status internationally. If LGBT persons face legal persecution, penalties, or threats to their lives in a country, they cannot live freely in their homeland. Under international law, such individuals are recognized as being persecuted “on the grounds of membership of a particular social group.” Therefore, they have a legal basis to flee to another country and request refugee status. The United Nations Human Rights Committee has recognized LGBT persons as a “special social group in need of protection”.⁴ They may seek asylum, and international law provides them protection.

4. Legal Foundations

In modern international law, there are three main universal legal instruments specifically aimed at protecting the rights of refugees. They are referred to as universal because these instruments apply to all states, and being open international treaties, all countries in the world have the right to participate. These instruments are:

- ✓ The Statute of the United Nations High Commissioner for Refugees (UNHCR);
- ✓ The 1951 Convention Relating to the Status of Refugees;

² Xalqaro ommaviy huquq darslik 2007 (156-b.)

³ O'zbekiston Respublikasi Jinoyat kodeksi 22.09.1994

⁴ United Nations Human Rights Committee, *Toonen v. Australia*, Communication No. 488/1992, CCPR/C/50/D/488/1992 (1994)

- ✓ The 1967 Protocol Relating to the Status of Refugees.⁵ [International Public Law Textbook, 2023, pp. 205–206]

According to the 1951 Convention, the legal protection of refugees is comprehensively outlined. For example, Article 3 of the Convention establishes the principle of non-discrimination. Under this norm, the States Parties apply the provisions of the Convention to refugees without any discrimination based on race, religion, or country of origin.⁶

In addition, international law guarantees refugees the following rights:

- **Right to life and freedom:** As stated in the preamble of the 1951 Convention, reference is made to the Universal Declaration of Human Rights, recognizing every individual's right to live freely.
- **Protection from refoulement (non-refoulement principle):** This principle is enshrined in Article 33 of the Convention and is recognized as a mandatory norm of customary international law (jus cogens).
- **Access to social protection and healthcare services:** These rights are reflected in Articles 23–24 of the 1951 Convention.
- **Right to work and education:** Article 24 of the Convention is dedicated to labor legislation, directly regulating employment relations, including remuneration, vocational training, collective agreements, and other related matters. Regarding education, Article 22 of the Convention applies, which establishes the following principle: “States Parties shall accord to refugees the same treatment with respect to elementary education as is accorded to their own nationals.”
- **Right to access courts:** This right is always protected. Article 16 of the Convention guarantees refugees the freedom to apply to the courts. Under this provision, every refugee has the right to access the courts freely in the territory of all States Parties.

5. Judicial Practice

Based on the analysis above, let us examine the work carried out in international judicial practice regarding the protection of refugee rights, focusing on the case of the Afghan national M.S.S (the participant's name is anonymized) at the European Court of Human Rights. M.S.S sought asylum in Europe due to armed conflicts and wars in his home country. Initially, he arrived in Greece, but, unable to receive legal assistance, he moved to Belgium and formally applied for asylum. Belgian migration authorities, acting under the Dublin II Regulation, returned him to the Greek asylum system. At that time, Greece faced significant challenges in receiving and accommodating refugees. Upon being deported to Greece, M.S.S was detained and subjected to living conditions that violated human dignity. In summary, in this situation, the Greek state violated **Article 3 of the European Convention on Human Rights**⁷, and Belgium violated the principle of non-refoulement. The Court upheld M.S.S's complaint, finding both states responsible for human rights violations.⁸ Looking at other contemporary examples, Germany is a party to the aforementioned Convention and the 1967 Protocol, granting refugees legal status under national law through the **Federal Asylum Act**.⁹ Turkey is also a party to the

⁵ Xalqaro ommaviy huquq darslik 2023 (205-206 b.)

⁶ Convention Relating to the Status of Refugees, 28 July 1951

⁷ https://www.echr.coe.int/documents/d/echr/convention_eng

⁸ <https://hudoc.echr.coe.int/fre?i=001-103050>

⁹ https://www.gesetze-im-internet.de/asylvfg_1992

Convention, but adopted the Protocol with geographical limitations. In practice, following the outbreak of the Syrian war, Turkey has received 3.6 million refugees.¹⁰ In the case of Uzbekistan, the country is not a party to the 1951 Convention Relating to the Status of Refugees or the 1967 Protocol. Several factors contribute to this. Firstly, national legislation is not fully prepared, as Uzbekistan does not have a formal law on “Refugees and Asylum Seekers.” Consequently, the possibility of ratifying international obligations is limited. Additionally, the capacity to fulfill international obligations is an important consideration, because accession to the Convention and Protocol requires granting refugees full rights, including access to work, education, and social assistance. Given limited national infrastructure and financial resources, Uzbekistan prefers to accept refugees on a humanitarian and temporary basis. In conclusion, the main factors are resource constraints, limited infrastructure, and underdeveloped national legislation. Therefore, refugee protection in Uzbekistan is provided temporarily and in a limited manner, primarily through cooperation with the UNHCR.

Similarly, having analyzed the status of refugees, we now turn to the concept of internally displaced persons (IDPs) and examine how their rights are protected under international law. Firstly, it is important to understand what this term means. According to textbooks, internally displaced persons are defined as individuals who, during the Second World War, were forcibly taken by German occupiers and their allied forces from the territories they occupied to serve as laborers.¹¹ In other words, internally displaced persons are individuals who, during wartime, were relocated against their will for political or military reasons, being deprived of their right to live freely and work. The United Nations Guiding Principles on Internal Displacement recognize such persons or groups as those who, due to armed conflicts, widespread violence, human rights violations, or natural or man-made disasters, are forced to flee or leave their homes or habitual residence, whether within the borders of their own state or across international borders.¹² Just as the rights of every individual are protected under any circumstances, the rights of internally displaced persons are directly regulated at the international level. Some of these rights include the principle of non-discrimination. The United Nations Guiding Principles on Internal Displacement explicitly state that: “Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under national and international law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground of their displacement.” Historically, after the war ended, the issue of returning forcibly displaced persons to their habitual residences was addressed by the International Refugee Organization, established in 1946. It is also known that the former Soviet Union concluded a series of agreements concerning the repatriation of its citizens who had been forcibly relocated during the war.

A number of rights for the aforementioned individuals are reflected in various sources. Here, we will analyze two key principles. Firstly, “Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under national law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground of their displacement. These Principles do not affect individual criminal responsibility under international law for genocide, crimes against humanity, or war crimes”.¹³ This provision highlights the most fundamental legal principle: even though internally displaced

¹⁰ <https://www.unhcr.org/tr/en/refugees-and-asylum-seekers-in-turkey>

¹¹ Xalqaro ommaviy huquq darslik 2007 (157-b.)

¹² <https://www.jmcc.org/en/Article/219/United-Nations-Guiding-Principles-on-Internal-Displacement>

¹³ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G98/104/93/PDF/G9810493.pdf>

persons remain within their country, they are entitled to rights equal to those of other citizens. Discrimination or reduction of their rights is not permitted. Secondly, the Principles stipulate that “States shall respect and ensure respect for international humanitarian law and human rights law applicable to internally displaced persons with regard to their housing, land, and property, and provide them with prompt access to such housing, land, and property from which they have been displaced or denied, unless overriding individual rights or other lawful reasons exist”.¹⁴ This provision ensures the protection of housing, land, and property rights for internally displaced persons. Displaced persons should have the right to return to their previous homes or property or receive legal compensation if return is not possible.

6. Statistical Data

According to statistical data, by the end of 2023, the number of internally displaced persons (IDPs) worldwide exceeded **75.9 million**.¹⁵ Looking at statistics for the period 2023–2024, the countries with the highest numbers of displaced populations are as follows:

Syria: Due to ongoing wars and conflicts, approximately **6.8 million** people have been forcibly displaced.

Ukraine: More than **5 million** people were displaced as a result of Russian aggression.

Sudan: As of 2023, Sudan recorded the highest number of internally displaced persons, totaling **9 million**.¹⁶ It is also worth noting that, currently, the number of displaced persons due to natural disasters continues to increase, including earthquakes, floods, and climate change impacts. At present, the term “displaced persons” is gradually becoming less commonly used.

In the context of Uzbekistan, national legislation does not formally recognize the status of internally displaced persons. Uzbekistan currently does not have a specific law on the Status of Refugees and is not a party to the 1951 Refugee Convention or the 1967 Protocol, as discussed in previous analyses. However, populations forced to move due to ecological disasters (such as the Aral Sea region) and other natural hazards are included in the state’s social protection programs. The Constitution also contains a provision stating: “The State shall take measures to protect and restore the ecological system of the Aral Sea region, as well as to ensure its social and economic development.”¹⁷ The main purpose of this provision is for the state to mitigate the consequences of ecological disasters, restore natural resources, protect public health, and improve living conditions. This norm is considered a mandatory constitutional principle. It forms the basis of Uzbekistan’s environmental policy and legally recognizes a special status for the Aral Sea region. Since 2017, the Government of Uzbekistan has recognized the Aral Sea region as a “**UN Environmental Innovation Zone**”, creating a foundation for providing assistance to internally displaced populations through international cooperation.¹⁸ The focus on ecology is important because environmental degradation and desertification processes can force populations to leave

¹⁴ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G98/104/93/PDF/G9810493.pdf>

¹⁵ <https://academic.oup.com/ijrl/advance-article/doi/10.1093/ijrl/eeaf016/8254458>

¹⁶ <https://www.internal-displacement.org/global-report/grid2024>

¹⁷ <https://lex.uz/docs/-6445145>

¹⁸ <https://documents.un.org/doc/undoc/gen/n17/468/59/pdf/n1746859.pdf>

their homes. Therefore, this provision legally acknowledges the risk of ecological migration and requires the state to implement preventive measures.

Conclusion and Recommendations

If in the future our country faces an influx of internally displaced persons, I would propose the following recommendations:

1. **Adopt a separate law on “Internally Displaced Persons”** and regulate their status through a legal mechanism. This is necessary because the foundation of all relations is rooted in the national legislation and normative authority of the state.
2. **Develop not only national legislation but also ratify relevant international instruments** concerning the status of these individuals. The 1951 UN Convention and the 1967 Protocol directly address such matters and provide a comprehensive framework.
3. **Organizational measures are also crucial.** These include registering internally displaced persons, developing relocation programs, and training responsible agencies to handle such issues effectively.

In conclusion, the fundamental principles of international law always prioritize human rights and the protection of life. Regardless of an individual’s status or circumstances, international standards consistently aim to ensure fair protection and uphold justice for all citizens.

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