

DEFINITIONS

Complex emergency: emergency combining political instability, ethnic and religious tensions, armed conflicts, economic collapse, environmental degradation, and the disintegration of civil society.

Contingent standards means that the extent to which certain rights are guaranteed to refugees depends on the degree of integration of the refugee within the host country. These rights are not absolute but vary according to specific conditions and stages of a refugee's relationship with the host state.

- *Progressive Attachment:* Rights increase progressively as refugees develop stronger ties to the host country. The Convention outlines different levels of rights based on the refugee's situation and duration of stay:
 1. **Basic Rights:** Refugees are entitled to certain fundamental rights immediately upon their arrival in the host country. These include protection from refoulement (Article 33), access to courts (Article 16), and freedom of religion (Article 4).
 2. **Conditional Rights:** Some rights become applicable once refugees have lawfully stayed for a certain period or have established themselves in the host country. For example, the right to work (Article 17), the right to housing (Article 21), and the right to public relief and assistance (Article 23) often depend on lawful stay and are granted under conditions like those of nationals or other aliens.
 3. **Full Rights:** Certain rights are fully granted only once refugees achieve a more permanent status, such as the right to travel documents (Article 28) and the right to naturalization (Article 34).
- *Comparison with Nationals:* Many rights in the Refugee Convention are framed relative to the treatment of nationals or other non-nationals within the host country.
- *Specific Conditions and Limitations:* Certain rights have specific conditions or limitations attached to them. For instance: the right to work may require the refugee to obtain necessary work permits.
- *Incremental Integration:* The contingent nature of these rights reflects the idea that as refugees become more integrated into the host society, their rights expand. This incremental approach balances the immediate humanitarian needs of refugees with the practical considerations of the host country's capacity and resources.

Declaratory Act means that formal recognition of refugee status by a State or an international organisation does not create refugee status but declares it. In other words, a person becomes a refugee not because a State or an organization confers this status on him, but because he fulfils the criteria defined by the 1951 Convention on the Status of Refugees and the 1967 Protocol. This principle underscores that protection rights do not depend on a state's recognition but on the individual's circumstances.

Guest Theory: developed through US jurisprudence and legal doctrine, this theory fundamentally shifts the perspective on the rights and status of migrants. It posits that an alien, or non-citizen, is merely a "guest" of the state, who may enter the national territory only if granted permission by the state. This permission is viewed not as a right but as a privilege conferred by the state.

Hybrid warfare: military strategy that employs military warfare and blends conventional warfare, irregular warfare and cyber-attacks with other strategies such as fake news, diplomacy, intervention in foreign election etc...

IOM (International Organization for Migration) was established in 1952 as part of the UN = it has a broader mandate that covers other types of migrants and migration-related issues

IDPs: people that have to leave their home and move, but don't cross the international border, they stay within the state.

Nansen Passport: Official internationally recognized refugee travel and identity document, first issued by the League of Nations' Office of the High Commissioner for Refugees to stateless refugees. Revolutionary step: recognition of this passport by other gov to allow the mobility of refugees, their redistribution and self-resettlement.

Non-exclusive catalogue of rights highlights that refugees benefit from a wide array of rights from multiple sources (international human rights treaties, regional agreements, or national laws of the host country.). The Convention provides a foundational framework, a baseline, but it is not exhaustive and additional rights and protections from other legal instruments also apply to refugees. This ensures a comprehensive and evolving protection system that adapts to new legal standards and humanitarian needs. Art 5 of the Convention (non-derogation clause) promotes the idea that the Refugee Convention works alongside other international human rights instruments. Refugees can benefit from broader human rights protections that may be available through other treaties such as the Universal Declaration of Human Rights (UDHR) or the International Covenant on Civil and Political Rights (ICCPR).

Principle of non-refoulement, known internationally as non-pushing refoulement, is a fundamental *principle of international customary law* that prohibits the country receiving asylum seekers from returning them to a country where they would likely be in danger of being persecuted for "race, religion, nationality, membership of a particular social group or political opinion". Unlike political asylum, which applies to those who can demonstrate a well-founded fear of persecution of certain categories of persons, non-refoulement refers to the general repatriation of persons, including refugees from war zones and other disaster spots. It is a principle of customary international law, as it also applies to States which are not parties to the 1951 Convention on the Status of Refugees or to its 1967 Protocol. It is also a principle of Treaty law.

Temporary migration: migrants that tend to come back to their country of origin if they can.

Paradox International Migration Law is rooted in the inherent tension between competing interests of states versus those of migrants. On one hand, states exercise their sovereignty, which includes the right to control their borders and determine who may enter and reside within their territories. This sovereign right is fundamental to statehood and national security, allowing states to regulate immigration according to their laws and policies. On the other hand, migrants possess the right to leave one's country (emigration) and the right to return to it. However, international law does not grant individuals an inherent right to enter any country other than their own (immigration). This creates a significant legal and ethical dilemma: while individuals have the right, protected under various international human rights instruments, to seek better opportunities or escape persecution by migrating, states are not legally obligated to admit them and can instead decide the conditions under which foreigners may enter and stay in their countries.

Such a tension between State/migrant has not always been there. It was “created” with the birth of the modern State and the introduction of immigration laws and border controls. The post-Westphalia era, indeed, leads to a new vision of the State-alien nexus. *

Right of hospitality (need of legal explanation and legitimization for the colonialist occupation → conceptualize right to stay -we reach south America, and we can stay there) refers to the concept of "ius communicationis" in the works of **Francisco de Vitoria** and later elaborated by **Hugo Grotius**. Vitoria initially introduced the idea of "ius communicationis," emphasizing the fundamental principle of free movement between nations. Grotius echoed Vitoria's assertion that every nation has the inherent right to travel to every other nation, emphasizing this as an essential and immutable rule of international law. He underscored that this principle of free communication was rooted in the "sacrosanct law of hospitality." This implies that nations have a duty to extend hospitality and allow passage to individuals from other nations, emphasizing the importance of mutual respect and peaceful interaction among peoples. Additionally, Grotius delineated two crucial aspects of free movement: the right to leave one's own country and the right to remain in a foreign country. He recognized that individuals have the freedom to leave their own country, with certain limitations such as societal interests or times of war. Similarly, he asserted that foreigners should have the right to stay in a foreign country, as long as they have just cause and respect the laws of the host state.

*The paradigm started to change with the birth of the nation state (Peace of Westphalia) and the definition of state under international law according to whom, state is an entity made of:

1. Sovereignty
2. People
3. Territory → borders: perimeters along to which the authority rules

The emergence of borders, thus, changed the understanding of the right to move and rooted the basis to create the conceptualization of the **right to exclude or ius excludendi** (well-established principle of international law):

1. Admit/deny entry
2. Conditions of stay
3. Expulsion

Refugee (Convention 1951) someone who «owing to 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, is unwilling to avail [themselves] of the protection of that country; or who, not having a nationality and being outside the country of [their] former habitual residence, is unable or, owing to such fear, is unwilling to return to it».

UNHCR, UN agency, founded in 1950 by states to provide assistance to refugees. Its tasks have evolved throughout the years. It doesn't take money from the UN; it is based on voluntary donations and the top UNHCR donor is the USA. The problem with these donations is that they are linked to what the donors want (the funds go where the donors want them to go).