

“The Confluence of International Humanitarian Law and Refugee Movements: A Legal and Ethical Perspective”

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ABSTRACT

International Humanitarian Law (IHL) is a set of legal principles and norms that govern armed conflicts and includes safeguards to protect the rights of civilians and combatants who are not involved in hostilities. Refugees are people who abandon their native countries because they are afraid of persecution, armed conflict, or violence. They seek shelter in other nations and are protected by international law. This paper explores the intricate relationship between IHL and refugee movements and delves into how IHL provides a framework for protecting basic human rights of the refugees during armed conflicts. With a growing number of displaced people globally, the convergence of IHL, which controls armed conflicts and civilian protection, with refugee flows has become increasingly important.

The paper addresses the obstacles that refugees experience in conflict zones and examines the recent developments and trends in the context of refugee movements and armed conflicts. The paper sheds light on the legal mechanisms available to protect refugees under IHL, including international conventions and agreements and further examines the obligations of states to provide asylum and adhere to non-refoulement principles in order to prevent the repatriation of refugees to dangerous regions. Ethical responsibility of international community and nations towards refugees is also highlighted in this paper. Various challenges faced in implementing IHL for the protection of refugees are also identified which include non-compliance by parties to conflicts, resource constraints, and the complexities of cross-border refugee movements. This paper advocates for a more holistic approach that incorporates legal and ethical issues to safeguard refugees' rights and safety in an increasingly complicated global setting and proposes measures for strengthening refugee protection under IHL.

Keywords – International Humanitarian Law, Armed Conflict, Refugee, United Nations High Commissioner for Refugees, Non-refoulement.

“Refugees are mothers, fathers, sisters, brothers, children, with the same hopes and ambitions as us—except that a twist of fate has bound their lives to a global refugee crisis on an unprecedented scale.”

-Khaled Hosseini

1. INTRODUCTION

International Humanitarian Law has been around since the 19th century, although the principles and practices on which it is based are much older. International humanitarian law, or *jus in bello*, is the law that governs the way in which warfare is conducted. IHL is purely humanitarian, seeking to limit the suffering caused. It is independent from questions about the justification or reasons for war, or its prevention, covered by *jus ad bellum*.¹ This rule, often known as the law of armed conflict or the law of war, was created to find a balance between humanitarian considerations and the minimization of suffering.² International humanitarian law, or *jus in bello*, is the law that governs the way in which warfare is conducted. Refugees are people who have crossed an international frontier and are at risk, or have been victims, of persecution in their country of origin.³ UNHCR most recently estimated that, by end of 2022, for the first time in recorded history, the number of people forcibly displaced is now 108.4 million, and over 35.3 million refugees.⁴ In 2019, more than two-thirds of all refugees came from five countries: Syria, Venezuela, Afghanistan, South Sudan, and Myanmar. All of which involve either war or gross human rights violations. Most refugee crises in modern history have arisen from war and conflict, and while both, International Refugee Law and International Humanitarian Law seek to protect human dignity, the means by which they do so varies substantially.⁵ While many parts of IHL are now accepted as international customary law (i.e., general practice, accepted as law and which is independent of treaty law), increasingly it is violated by warring parties.⁶

¹ “Jus in bello - Jus ad bellum,” *International Committee of the Red Cross*, 2014 available at: <https://www.icrc.org/en/war-and-law/ihl-other-legal-regimes/jus-in-bello-jus-ad-bellum> (last visited August 23, 2024).

² Rachit Garg, “International Humanitarian Law” *iPleaders*, 2022 available at: <https://blog.ipleaders.in/international-humanitarian-law-2/> (last visited August 23, 2024).

³ “How does IHL protect refugees and internally displaced persons?,” (2015).

⁴ “How many refugees are there in the world? - Refugee Council of Australia,” available at: <https://www.refugeecouncil.org.au/how-many-refugees/> (last visited August 23, 2024).

⁵ Eman Amad, “International Refugee Law and International Humanitarian Law: Regime Interaction and Overlap” *DLP Forum*, 2023 available at: <https://www.dlpforum.org/2023/03/09/international-refugee-law-and-international-humanitarian-law-regime-interaction-and-overlap/> (last visited August 23, 2024).

⁶ “International Humanitarian Law,” available at: https://civil-protection-humanitarian-aid.ec.europa.eu/what/humanitarian-aid/international-humanitarian-law_en (last visited August 23, 2024).

1.1 Meaning of International Humanitarian Law

International Humanitarian Law (IHL) is a compilation of rules that aim to mitigate the humanitarian consequences of armed conflict.⁷ IHL imposes restrictions on the methods and means of warfare and is also known as “the law of armed conflict” or “the law of war.” IHL is part of public international law, which is made up primarily of treaties, customary international law and general principles of law.⁸ Rules of international humanitarian law (IHL) try to regulate conflict to minimise human suffering. IHL reflects a balance between the military necessity in a conflict and the needs for humanitarian protection.⁹ It seeks to govern the conduct of hostilities, primarily by alleviating unnecessary suffering in order to prevent conflicts from reaching a point of no return.¹⁰ To prevent unwarranted suffering and devastation, it employs the strategy of constraining the means and methods of warfare. Additionally, it prescribes specific conduct during conflicts and establishes, among other things, the entitlement to assistance for civilians not engaged in combat, aiming to mitigate the affliction caused by warfare.

1.2 Jus In Bello and Jus Ad Bellum

A distinction must be made between IHL, which regulates the conduct of parties engaged in an armed conflict (jus in bello), and public international law, as set out in the Charter of the United Nations, which regulates whether a state may lawfully resort to armed force against another state (jus ad bellum).¹¹ IHL does not stipulate whether the commencement of an armed conflict was legitimate or not, but rather seeks to regulate the behaviour of parties once it has started.¹² International humanitarian law, or jus in bello, is the law that governs the way in which warfare is conducted. IHL is purely humanitarian, seeking to limit the suffering caused. It is independent from questions about the justification or reasons for war, or its prevention, covered by jus ad bellum.¹³

⁷ Rachit Garg, “International Humanitarian Law” *iPleaders*, 2022 available at:

<https://blog.ipleaders.in/international-humanitarian-law-2/> (last visited August 22, 2024).

⁸ “What is international humanitarian law?,” *International Committee of the Red Cross*, 2014 available at:

<https://www.icrc.org/en/document/what-international-humanitarian-law> (last visited August 21, 2024).

⁹ “Basic principles of IHL,” *Diakonia International Humanitarian Law Centre* available at:

<https://www.diakonia.se/ihl/resources/international-humanitarian-law/basic-principles-ihl/> (last visited August 22, 2024).

¹⁰ “Doctors without borders | The Practical Guide to Humanitarian Law,” available at: <https://guide-humanitarian-law.org/content/article/3/international-humanitarian-law/> (last visited August 23, 2024).

¹¹ “What is international humanitarian law?,” *International Committee of the Red Cross*, 2014 available at:

<https://www.icrc.org/en/document/what-international-humanitarian-law> (last visited August 21, 2024).

¹² *Ibid.*

¹³ “Jus in bello - Jus ad bellum,” *International Committee of the Red Cross*, 2014 available at:

<https://www.icrc.org/en/war-and-law/ihl-other-legal-regimes/jus-in-bello-jus-ad-bellum> (last visited August 23, 2024).

1.3 Significance of International Humanitarian Law in the 21st Century

The importance of IHL stems from its vital role in reducing the humanitarian impact of armed conflicts and safeguarding fundamental principles even during hostilities. IHL aims at safeguarding individuals who are not actively involved in combat or have ceased to be part of hostilities, including those who are wounded, shipwrecked, prisoners of war and civilians and confining the consequences of violence during combat. It is a key framework that strives to alleviate the suffering of both civilians and combatants by defining standards that limit the use of excessive force, ban targeting non-combatants, and protect critical infrastructure such as hospitals and cultural heritage sites. Furthermore, IHL strengthens the accountability of parties involved by ensuring that violations are investigated and perpetrators are held accountable, leading to deterrence and the protection of vulnerable people. In this way, IHL not only provides a legal foundation for protecting lives and minimising suffering, but it also defends humanity's essential values even in the midst of conflict.

2. HISTORICAL DEVELOPMENT OF INTERNATIONAL HUMANITARIAN LAW

International humanitarian law has a brief but eventful history. It was not until the second half of the nineteenth century that nations agreed on international rules to avoid needless suffering in wars—rules they bound themselves to observe in a Convention.¹⁴ Subsequent to that time, the evolving nature of armed conflicts and the immense destructive capabilities of contemporary weaponry have mandated numerous revisions and extensions of humanitarian law, achieved through meticulous negotiations. The scattered provisions of LOAC have been accumulated in the documents, the Lieber Code in 1863 and the first Geneva Convention in 1864. Later on many Conventions, Protocols, Declarations on Armed Conflicts (AC) have been adopted in various time depending on the nature of conflict and protection of the victims.¹⁵ Certain clauses pertaining to safeguarding populations from the repercussions of war and their security within occupied territories are encompassed in the Regulations concerning the laws and customs of war on land, annexed to the Hague Conventions of 1899 and 1907. The historical evolution of International Humanitarian Law (IHL) can be summarized as follows:

- **Hague Convention, 1907** – This convention imposed restrictions on the means and techniques of warfare. During World War I the Hague provisions proved to be insufficient in view of the dangers originating from air warfare and of the problems relating to the treatment of civilians in enemy territory and in occupied territories. The

¹⁴ <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet13en.pdf>

¹⁵ Mohammad Saidul Islam, “The Historical Evolution of International Humanitarian Law (IHL) from Earliest Societies to Modern Age,” 9 *Beijing Law Review* 294–307 (2018).

International Conferences of the Red Cross of the 1920's took the first steps towards laying down supplementary rules for the protection of civilians in time of war.¹⁶

- **Four Geneva Conventions, 1949** - The conventions encompass a significant portion of global humanitarian law and extend protection to vulnerable populations. Almost all nations worldwide have chosen to adhere to these conventions. This Convention was established to prevent subsequent conflicts from inflicting comparable levels of human distress as witnessed during the two World Wars. The Geneva Conventions adopted prior to 1949, primarily addressed combatants and didn't encompass civilians.
 - **Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949 (Fourth Geneva Convention)** – A substantial portion of International Humanitarian Law (IHL) is encompassed within the fourth Geneva Conventions of 1949, which have been extended and by two additional protocols - the Additional Protocols of 1977, focusing on the safeguarding of individuals affected by armed conflicts. Article 44 of the Fourth Geneva Convention specifies that Detaining Powers should not treat as enemy aliens, refugees who do not, in fact, enjoy the protection of any government. Article 73 of Additional Protocol I state that refugees must be regarded as protected persons in all circumstances and without any adverse distinction.¹⁷
- **Protocol Additional to the Geneva Conventions of 12 August 1949 (Protocol I)** – This protocol governs international armed conflicts and provide protection to the victims and was adopted on 8th June, 1977.
- **Protocol Additional to the Geneva Conventions of 12 August 1949 (Protocol II)** – Protocol 2 which was adopted on 8th June, 1977 governs non-international armed conflicts.
- **The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict** – This optional protocol was adopted in 2000 and aims to protect children from involvement in armed conflicts.

3. MEANING AND CONCEPT OF REFUGEES

The inception of UNHCR in 1950 and the formulation of the Geneva Convention in 1951 aimed to establish a comprehensive characterization of “refugees.” A refugee, according to the 1951 Geneva Convention, is someone who “owing to a well-founded fear of being persecuted for

¹⁶ “Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949.” available at: <https://ihl-databases.icrc.org/en/ihl-treaties/>, <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949> (last visited August 23, 2024).

¹⁷ Eman Amad, “International Refugee Law and International Humanitarian Law: Regime Interaction and Overlap” *DLP Forum*, 2023 available at: <https://www.dlpforum.org/2023/03/09/international-refugee-law-and-international-humanitarian-law-regime-interaction-and-overlap/> (last visited August 23, 2024).

reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country.”¹⁸ The definition of the term “refugee” which is contained in Article 1A (2) of the 1951 Convention does not include an individual who is fleeing from an armed conflict. For instance, the 1951 convention does not classify generalized violence as one of the grounds for “well-founded fear of persecution”. To overcome temporal and geographical constraints, the 1967 protocol was introduced. This protocol was characterized by greater inclusivity and the removal of limitations for signatories.

Article 1 of the Convention Relating to the Status of Refugees, as modified by the 1967 Protocol, defines a ‘refugee’ as any person 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 his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”¹⁹

The Convention Governing the Specific Aspects of Refugee Problems in Africa (1969) and the Cartagena Declaration (1984) on refugees have adopted a broader definition that includes people fleeing events that seriously disrupt public order, such as armed conflicts and other situations of violence.²⁰ Primarily, three major incidents precipitate the widespread displacement of refugees: egregious human rights violations, armed conflicts, and natural disasters.²¹

3.1 Interface between International Humanitarian Law and Refugee Movement

IHL complements International Refugee Law (IRL) such that violating IHL may form a substantial basis for persecution or fear of persecution. UNHCR acknowledges that: “If someone is forced to flee an armed conflict in their country because of human rights violations and breaches of humanitarian law, these factors will be part of what determines that person’s refugee status.”²² The interface between IHL and refugee movements pertains to the legal and ethical considerations surrounding the protection and treatment of refugees within the context of armed conflicts and other situations of violence. While IHL is primarily concerned with regulating the behaviour of parties involved in armed conflicts, it also concerns the rights and

¹⁸ *Ibid.*

¹⁹ “How does IHL protect refugees and internally displaced persons?” (2015).

²⁰ *Ibid.*

²¹ Eman Amad, “International Refugee Law and International Humanitarian Law: Regime Interaction and Overlap” *DLP Forum*, 2023 available at: <https://www.dlpforum.org/2023/03/09/international-refugee-law-and-international-humanitarian-law-regime-interaction-and-overlap/> (last visited August 23, 2024).

²² *Ibid.*

safeguards of those affected by conflict-related displacement, including refugees. This interface is significant due to the vulnerability of refugees and the potential violations of their rights during conflicts.

4. PROTECTION OF REFUGEES UNDER INTERNATIONAL HUMANITARIAN LAW

IHL distinguishes between civilians and combatants, protecting the former from attack and the latter from punishments or sanctions for violating domestic laws ('combatant immunity'). Certain protections are accorded to those 'no longer taking direct part in hostilities' (hors de combat).²³ IHL provides enhanced safeguarding, which encompasses shielding against forced displacement, for individuals who meet the criteria as 'protected persons'. For instance, Customary IHL Rule 129, titled "The Act of Displacement", provides that Parties to an international armed conflict may not deport or forcibly transfer the civilian population of an occupied territory, in whole or in part, unless the security of the civilians involved or imperative military reasons so demand.²⁴

IHL functions on the premise that individuals are entitled to and are anticipated to receive protection from their respective nations during armed conflicts. Citizens of a country detained by that nation are not eligible for 'protected persons' status, and if detained by other nations, they are presumed to maintain loyalty to their nation, except in extraordinary situations. Modern refugee law can be traced back to the repercussions of World War II where the United Nations Relief and Rehabilitation Administration (UNRRA) and the International Refugee Organisation (IRO) helped refugees.²⁵ Refugees are protected by refugee law – mainly the Convention Relating to the Status of Refugees (1951) and the Convention Governing the Specific Aspects of Refugee Problems in Africa (1969) – and human rights law, and particularly by the principle of non-refoulement.²⁶ They fall under the mandate of the Office of the United Nations High Commissioner for Refugees. Refugees are also protected by IHL when they are in a State involved in an armed conflict.²⁷ Besides the general safeguards guaranteed to civilians by the IHL, refugees are also granted special protection under the Fourth Geneva Convention and Additional Protocol I.

International humanitarian law offers refugees who find themselves in a state experiencing armed conflict a two-tiered protection. First, provided that they are not taking a direct part in hostilities, as civilians refugees are entitled to protection from the effects of hostilities.

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ "How does IHL protect refugees and internally displaced persons?," (2015).

²⁷ *Ibid.*

Secondly, in addition to this general protection, international humanitarian law grants refugees additional rights and protections in view of their situation as aliens in the territory of a party to a conflict and their consequent specific vulnerabilities.²⁸ Following are some of the most relevant protections offered by the IHL to refugees –

- Prohibition of Displacement – Parties in conflict are strictly forbidden from displacing civilians in armed conflicts, aligning with the principle of minimizing harm to the civilian population. Under the Fourth Geneva Convention, occupation entails a clear prohibition of individual or mass forcible transfers, whether within the occupied territory or beyond its borders, including to the occupying power's territory or other states, with only rare exceptions.
- Non-Refoulement - One of the core principles in the interface between IHL and refugee movements is the principle of non-refoulement. Non-refoulement refers to the obligation of States, not to refoule, or return, a refugee to the territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.²⁹
- Access to Humanitarian Assistance - IHL enables the delivery of humanitarian aid to refugees, guaranteeing their ability to obtain vital necessities such as sustenance, shelter, medical treatment, and other critical services, even within conflict-affected areas.
- Special Protections - IHL acknowledges the heightened vulnerability of refugees resulting from their displacement. Consequently, refugees are granted distinctive safeguards surpassing those available to ordinary civilians. These safeguards encompass securing their receipt of humanitarian assistance and rectifying any infringements upon their rights.
- Treatment in Detention - In the event refugees are held in detention amid armed conflicts, IHL mandates their humane treatment and safeguards them against any form of abuse. Refugees should be shielded from violence, torture, and any form of cruel or degrading treatment.
- Obligation on States – IHL imposes responsibilities on both states and parties to conflict to honor the rights and dignity of refugees. States hosting refugees must safeguard their rights, while parties to conflict must prevent refugees from bearing disproportionate impacts due to hostilities. Article 44 of the Fourth Geneva Convention specifies that

²⁸ “Humanitarian Law, Human Rights and Refugee Law – Three Pillars - ICRC,” 18:16:07.0 available at: <https://www.icrc.org/en/doc/resources/documents/statement/6t7g86.htm> (last visited August 23, 2024).

²⁹ Diganth Raj Sehgal, “Rights of migrants and refugees under International Humanitarian Law” *iPleaders*, 2021 available at: <https://blog.ipleaders.in/rights-of-migrants-and-refugees-under-international-humanitarian-law/> (last visited August 23, 2024).

Detaining Powers should not treat as enemy aliens refugees who do not, in fact, enjoy the protection of any government.³⁰

In summary, the nexus between IHL and refugee movements underscores the significance of safeguarding the rights, security, and welfare of refugees in times of armed conflicts. IHL offers a structure that harmonizes with global refugee law, aiming to alleviate the plight of refugees and guarantee the observance of their rights, even amidst the complexities posed by conflict-induced adversities.

5. ROLE OF INTERNATIONAL ORGANISATIONS IN SAFEGUARDING REFUGEES

The involvement of international organizations in protecting refugees highlights their essential function in delivering aid, and advocacy for displaced communities. On a global level, these organizations hold a central position in safeguarding the rights and welfare of refugees which includes providing humanitarian assistance, monitoring and reporting the human rights violations of refugees, giving legal protection to the refugees, capacity building, etc.

- i. United Nations High Commissioner for Refugees** - The UNHCR is an organ of the U.N. Organization, established in 1950, which works for the protection of refugees, forcibly displaced communities and assists in their repatriation. The UNHCR won two Nobel Prizes for its work in 1954 and 1981.³¹ UNHCR provides life-saving assistance, including shelter, food, water and medical care for people forced to flee conflict and persecution, many of whom have nobody left to turn to and defend their right to reach safety and help them find a place to call home so they can rebuild their lives. UNHCR also works with countries to improve and monitor refugee and asylum laws and policies, ensuring human rights are upheld.³²
- ii. United Nations International Organization for Migration** - The International Organization for Migration (IOM) is a United Nations agency that provides services and advice concerning migration to governments and migrants, including internally displaced persons, refugees, and migrant workers.³³ In 1951, the IOM was founded as the Intergovernmental Committee for European Migration (ICEM) with the mission of aiding the resettlement of individuals displaced by World War II. It attained United Nations agency status in 2016. IOM supports migrants across the world, developing effective responses to the shifting dynamics of migration and, as such, is a key source

³⁰ “How does IHL protect refugees and internally displaced persons?,” (2015).

³¹ Diganth Raj Sehgal, “Rights of migrants and refugees under International Humanitarian Law” *iPleaders*, 2021 available at: <https://blog.ipleaders.in/rights-of-migrants-and-refugees-under-international-humanitarian-law/> (last visited August 23, 2024).

³² “About UNHCR,” *UNHCR* available at: <https://www.unhcr.org/about-unhcr> (last visited August 23, 2024).

³³ “International Organization for Migration,” *Wikipedia*, 2024.

of advice on migration policy and practice. The organization works in emergency situations, developing the resilience of all people on the move, and particularly those in situations of vulnerability, as well as building capacity within governments to manage all forms and impacts of mobility.³⁴

- iii. **International Committee of the Red Cross** – Established in 1863, The International Committee of the Red Cross (ICRC) is a humanitarian organization based in Geneva, Switzerland, and is a three-time Nobel Prize Laureate. State parties (signatories) to the Geneva Convention of 1949 and its Additional Protocols of 1977 (Protocol I, Protocol II) and 2005 have given the ICRC a mandate to protect victims of international and internal armed conflicts. Such victims include war wounded persons, prisoners, refugees, civilians, and other non-combatants.³⁵
- iv. **Amnesty International** - Amnesty International (AI), international nongovernmental organization (NGO) founded in London on May 28, 1961, that seeks to publicize violations by governments and other entities.³⁶ AI makes sure that the governments honour their shared responsibility to protect the rights of refugees, asylum seekers and migrants and campaign for governments to properly process the asylum claims of asylum seekers so that they don't leave them in limbo – sometimes even locked away in detention centres – for years.
- v. **Refugee International** – Established in the year 1979, Refugees International (RI) is an independent humanitarian organization that advocates for better support for displaced people (including refugees and internally displaced people) and stateless people.³⁷ Refugees International advocates for lifesaving assistance, human rights, and protection for displaced people and promotes solutions to displacement crises.³⁸ Refugees International does not accept both United Nations and government funding. The organization's advocacy focuses on influencing resource allocation and policy modifications by government and UN entities, aiming to enhance the circumstances of refugees and displaced individuals.

Apart from these entities, numerous other organizations are dedicated to safeguarding and advancing the rights of refugees. In essence, international organizations act as essential catalysts in safeguarding refugees, functioning within a framework that surpasses national

³⁴ “Mission,” *International Organization for Migration* available at: <https://www.iom.int/mission> (last visited August 23, 2023).

³⁵ “International Committee of the Red Cross,” *Wikipedia*, 2023.

³⁶ “Amnesty International (AI) | History, Headquarters, & Facts | Britannica,” *available at*: <https://www.britannica.com/topic/Amnesty-International> (last visited August 23, 2023).

³⁷ “Refugees International,” *Wikipedia*, 2023.

³⁸ “Global Voices for Rights and Refuge,” *Refugees International* available at: <https://www.refugeesinternational.org/> (last visited August 23, 2023).

boundaries. Their efforts encompass advocating for refugees' rights, safety, and dignity, while persistently seeking enduring solutions to their displacement.

6. REFUGEE CRISIS IN CONTEMPORARY WORLD

The contemporary world is dealing with a serious refugee crisis which has emerged due to factors including political instability, human rights violations and armed conflicts. As a result, millions of people are compelled to flee their homes in search of safety and a better life. At the beginning of 2022, the United Nations High Commissioner for Refugees (UNHCR) announced that more than 100 million people were displaced around the world. By May 2023, the displacements crossed another 10 million (over 110 million), accounting for 1.3 per cent of the global population.³⁹ Below are some of the most substantial and profoundly distressing refugee crises are unfolding across the globe –

- **Ukraine** - In early 2014, armed conflict broke out in eastern Ukraine following Russia's annexation of Crimea. Fighting has simmered since despite efforts at diplomacy and cease-fires. Since Russia launched a full-scale military invasion into Ukraine in February of 2022, more than 7 million people have been internally displaced, and 6 million are now refugees in neighboring countries like Moldova, Poland, Romania, Slovakia, Hungary and Belarus.⁴⁰
- **Myanmar (Rohingya Crisis)** - The Rohingya, an ethnic minority group in Myanmar, have endured a history of violence and prejudice spanning several decades. However, the gravest turn of events occurred in August 2017 when Myanmar's military initiated a brutal crackdown on Rohingya Muslims, involving armed assaults, shelling, and loss of life. This onslaught compelled numerous individuals to abandon their homes in Rakhine State. The aftermath saw the establishment of the world's largest refugee camp in Bangladesh's Cox's Bazar, where a majority sought refuge. Meanwhile, others sought safety in countries such as India, Thailand, Malaysia, and other parts of Southeast Asia.
- **Syria** - The Syrian refugee crisis remains one of the largest humanitarian crises in the world. The displacement resulted from the violent government crackdown of 2011 that sparked public protests and led to the Syrian Civil War. More than a decade later, there

³⁹ "From Syria To Ukraine, Largest Refugee Crises Around The World," <https://www.outlookindia.com/>, 2023 available at: <https://www.outlookindia.com/international/from-syria-to-ukraine-list-of-largest-refugee-crises-around-the-world-news-298803> (last visited August 23, 2024).

⁴⁰ "7 of the World's Largest Refugee Crises & Their Effects on Hunger," *World Food Program USA* available at: <https://www.wfpusa.org/articles/largest-refugee-crises-around-world-effects-hunger/> (last visited August 23, 2024).

are nearly 7 million Syrian refugees around the world and more continue to seek refuge in Turkey, Lebanon, Jordan, Iraq and Egypt and European countries.⁴¹

- **Venezuela** - The Venezuelan migration and refugee crisis is the largest recorded refugee crises in the Americas. It is also among the largest external displacement crises in the world.⁴² The humanitarian crisis emerged from the economic and political turmoil stemming from the Bolivarian Revolution under the leadership of Venezuelan President Hugo Chávez. Over 7.2 million individuals have fled Venezuela to date, with many still grappling with impoverished conditions. The majority of Venezuelan refugees and migrants have sought refuge in neighboring nations such as Colombia, Peru, Ecuador, Brazil, and Chile, significantly straining their resources and infrastructure.
- **South Sudan** - South Sudan, the world's youngest nation, is also the site of one of the largest refugee crises in the world, with 2.3 million South Sudanese refugees and nearly 2 million internally displaced. Part of a larger Sudan crisis, concerns arose for South Sudan when it gained independence in 2011.⁴³ The escalation of conflict and violence within the nation by 2013 led to a humanitarian crisis, compelling millions of South Sudanese to seek refuge in neighboring countries including Uganda, Sudan, Ethiopia, Kenya, and the Democratic Republic of the Congo.

Beyond those mentioned, several nations, including Afghanistan, Palestine, Somalia, Eritrea, the Democratic Republic of Congo, and the Central African Republic, also grapple with humanitarian crises. As refugee numbers escalate, there is a heightened imperative for governments to urgently implement solutions such as repatriation, local integration, and resettlement.

7. CHALLENGES IN IMPLEMENTATION OF IHL FOR PROTECTION OF REFUGEES

Thousands of people fleeing persecution in Myanmar suffered for weeks on board boats while Thailand, Malaysia and Indonesia bickered over who should help them in May 2015.⁴⁴ This crisis presents tremendous challenges to states, international organisations, and communities as they work to meet the immediate needs of refugees, safeguard them, and develop long-term solutions. The mishandling of refugees at international borders reflects a lack of both commitment and reluctance from states. Additionally, it underscores the pressing requirement

⁴¹ "From Syria To Ukraine, Largest Refugee Crises Around The World," <https://www.outlookindia.com/>, 2023 available at: <https://www.outlookindia.com/international/from-syria-to-ukraine-list-of-largest-refugee-crises-around-the-world-news-298803> (last visited August 23, 2024).

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ "8 ways to solve the world refugee crisis," *Amnesty International*, 2015 available at: <https://www.amnesty.org/en/latest/campaigns/2015/10/eight-solutions-world-refugee-crisis/> (last visited August 27, 2024).

to enhance the existing mechanisms designed for safeguarding such individuals. IHL is a set of rules designed to mitigate human suffering during armed conflicts, however, the practical implementation of IHL in the context of refugee protection can face various challenges like cultural and linguistic barriers, difficulties in delivering aids and essential services, resource constraints, displacement dynamics, difficulty in enforcement of laws due to political constraints and jurisdictional issues. The application of IHL to refugees can be complex due to legal uncertainties surrounding their status, rights, and the specific obligations of parties involved.

Securing the recognition and protection for refugees based on IHL can present difficulties, particularly when host nations or conflicting parties may not completely adhere to relevant agreements.

8. CONCLUSION AND SUGGESTIONS

Every feasible measure must be undertaken to guarantee that refugees possess sufficient housing, sanitation, healthcare, security, and nourishment. There is a legal and ethical obligation to cater to these people, express solidarity and ensure their safety. Additionally, precautions should be taken to prevent the separation of family members. IHL hinges on an individual's nationality, rather than the presence of an international boundary. Even the characterization of a “protected person” relies on the concept of nationality. Emphasis should be made on ensuring refugee rights within the context of IHL and there is a need for continued research and collaboration to address the evolving challenge.

8.1 Suggestions to Address Refugee Crisis

It is necessary to have planned actions and methods aimed at addressing the challenges posed by large numbers of displaced individuals seeking refuge due to conflict, persecution, or other circumstances. Strategies must be designed to provide comprehensive and sustainable solutions to the complex issues associated with the refugee crisis which may include the following –

- Resettlement stands as a crucial remedy for the utmost vulnerable refugees, encompassing torture survivors and individuals facing severe medical conditions.
- Governments should cease attributing economic and social challenges to refugees and migrants, focusing instead on combating all forms of xenophobia and racial bias. Doing otherwise is profoundly unjust, exacerbates animosities and apprehensions toward foreigners and in certain instances, results in violence – even fatal consequences.
- All the countries must thoroughly investigate and prosecute human trafficking syndicates that exploit refugees.

- Individuals escaping conflict should be granted the right to cross borders, regardless of possessing travel documents. The practice of pushing people back and erecting extensive barriers only compels them to embark on riskier pathways to find refuge.
- Establishing secure pathways to refuge for refugees is a which entails enabling individuals to reunite with their family members and issuing visas to refugees, eliminating the need for them to exhaust their savings or face perilous sea journeys in search of safety is a pivotal solution.
- Efforts should be made by the international community to address the root causes of the conflict that has led to the refugee crisis and durable solution should adopted such as permanent resettlement, local integration, etc.
- Promoting international cooperation among nations to jointly shoulder responsibilities and provide resources for tackling the global refugee crisis can help in promoting refugee rights.

These approaches will be helpful in fulfilling the immediate needs of the refugees while also tackling the root causes of their displacement.