

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

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Volume 6 | Issue 2

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2023

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# An Analysis of Globalization and Its Ramifications on Refugees Right to Work

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DR. CHRISTABELL JOSEPH<sup>1</sup>

## ABSTRACT

*This article analyzes the various ramifications of globalization on the right to work of refugees. In order to trace the right to work of refugees in their destination country or host country, this article will first delve deep into the Refugee Convention and various other international legal instruments that discuss the rights of international refugees. The article will further analyze the issue in question under three lenses, the first being whether refugees are provided with the right to work in their destination country; the second being if they have indeed been provided with the right to work, has it resulted in positive consequences and the third being if they have not been provided with the right to work, what are the hurdles that have caused the same. The article will then attempt to scrutinize the role of various international agencies in the issue of whether refugees have been awarded the right to work. After a systematic analysis of all the above-mentioned aspects, appropriate recommendations will be made with respect to the various measures that could potentially be taken in order to better facilitate the protection of the right to work of refugees of the globalized world.*

**Keywords:** Globalization, Ramifications, Right to work of Refugees.

## I. INTRODUCTION

Globalization has resulted in a paradigm shift in the dynamics of international migration of refugees. Most countries have now become destinations for a variety of asylum seekers fleeing from war, bloodshed, turmoil, or tyranny and crossing international boundaries in search of protection. The paradigm shifts that globalization has caused when it comes to refugees is that nowadays refugees are more likely to seek asylum in developed countries rather than developing countries regardless of the distance, they might have to cross for the simple reason of wanting better living conditions. In fact, the latest patterns of international refugee migration have demonstrated that refugees are willing to travel longer distances if it means they could reside in a developed country with exemplary living conditions. Once they enter their destination country, they seek employment opportunities in order to sustain themselves and their families. This is where the question of the right to work or refugees comes in. Refugees are not citizens

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<sup>1</sup> Author is an Associate Professor at Christ University, Bangalore, India.

of the host/destination country. While the right to work is a fundamental human right guaranteed by almost every country in the world to their citizens, would refugees be accorded the same benefit? Many international conventions certainly answer in the affirmative. More often than not, refugees are able to claim the right to work in their destination country. But globalization has caused quite a few complications in this general belief.

In order to analyze this issue, it is essential to look into the issue under the perspective of the host countries. Host countries often face huge backlash when allowing refugees because their own citizens fear that the jobs that ideally should go to them would be wrongfully usurped by the new refugees. Before looking into the merits of this argument, it is essential to look into the background on which the refugee convention was put forth.

### **(A) Background**

When it comes to the question of whether refugees should be granted the right to work in their destination country, there are arguments favoring both sides i.e., refugees should be granted the right to work and they should not be. The former is simple; refugees are humans; therefore, they need to be accorded certain human rights, one of which is the right to work. However, the latter argument cannot be simply reduced to 'Refugees should not have the right to work'. This argument leans more towards the intricate systemic complications in the implementation of the right to work for refugees rather than plain and unreasonable refusal to not grant them the right to work. Both these sects of arguments are to be taken into account in this paper while attempting to analyze the issue concerned. But for easier understanding, the former arguments are to be collectively addressed as arguments from the perspective of the refugees and the latter are to be addressed as arguments from the perspective of the destination country.

### **(B) Research methodology**

This particular dissertation employs the doctrinal method of research in order to offer a qualitative analysis of globalization and its ramifications on the right to work of refugees by making use of primary and secondary data already available in the public domain. In order to determine the trend with respect to refugees' right to work under the realm of international law, primary sources such as international conventions and instruments are to be utilized. This dissertation also employs the use of secondary sources such as books, book chapters, journals, periodicals, monographs articles, conference papers, working papers, discussion papers, policy briefs and so on in the course of research for the purpose of constructing structured arguments on the pros and cons of the award of right to work to refugees.

## II. ANALYSIS

### **The Refugee Convention:**

The Refugee Convention was brought into solve the issues that arose during the aftermath of the Second World War in 1951. Apart from this, the 1967 Protocol intended to remove the limitations of time period and geography of the 1951 Convention. Two important aspects pertaining to the Refugee Convention that has to be taken into consideration is the population and participation of countries in the global arena. Firstly, at the time, the population was less and many countries were still under the clutches of colonialism. So, the global stage especially with respect to international conventions were dominated by certain key player countries and the perspectives of most developing countries were wholly disregarded. Keeping this in mind, the provisions of the Refugee Convention, 1951 are to be analyzed. The Convention deals with the right to work under three Articles - Article 17, 18 and 19. What do they discuss?

Article 17: There are three clauses in Article 17. The first clause specifies that signatory parties must give refugees the same favorable treatment as foreign citizens in similar situations when it comes to the right to work for a living. Clause two states that restrictive measures foisted on aliens or alien employment for the safeguarding of the national labor market are not pertinent to a refugee who had been excluded from them at the time of entry into force of this Convention for the Contracting State concerned, or if the refugee meets the conditions outlined below:

- a) He has now lived in the nation for three years.
- b) He has a spouse who is a citizen of the country where he lives. If a refugee has deserted his or her spouse, he or she will not be able to use this clause.
- c) He has one or more children who are citizens of the country where he now resides.

The third article stipulates that the signatory nations must regard the rights of refugees compassionately after taking into consideration wage-earning work for citizens, and in particular for those refugees who have entered their territory through labor recruiting programmes or immigration schemes.<sup>2</sup>

Article 18: Self-employment is addressed under Article 18. The signatory nations must give the freedom to participate in agriculture, industry, handicrafts, and trade on their own account, as well as the ability to organize commercial and industrial firms. This right must be favorable in certain ways, but not less favorable than that which is accorded to immigrants in similar

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<sup>2</sup> The Convention Relating to the Status of Refugees, 1951, art. 17.

circumstances.<sup>3</sup>

Article 19: Liberal professions are addressed in Article 19. Each signatory nation shall impart to refugees accordance with the law residing in their territory in accordance with the law who hold diplomas recognized by that State's competent authorities and who wish to practice a liberal profession treatment as favorable as possible and, in any case, not less favorable than that accorded to aliens generally in similar circumstances.<sup>4</sup> The Contracting States must use their best efforts, in accordance with their constitutions and laws, to guarantee the settlement of such refugees in areas other than metropolitan territory for which they are responsible for international relations.<sup>5</sup>

It is evident that under all the Articles, it has been explicitly stated that refugees must be accorded the same opportunities as other aliens receive when it comes to right to work. In fact, under some circumstances, the right of work of the refugee claims more importance than that of foreign nationals.

Apart from the Refugee Convention, Article 6 of the International Covenant on Economic, Social and Cultural Rights also recognizes the fact that right to work applies for everyone including non-nationals.<sup>6</sup> Article 23 of Universal Declaration of Human Rights also states that the right to work is applicable to everyone indiscriminately. From this Article, one can easily arrive at the inference that the right to work is a human right. This adds more value to the perspective of refugees.<sup>7</sup> There also exist several other regional conventions which affirm what has been stated under these conventions.

Yet, even though the right to work is recognized by many international conventions, the currently prevalent situation is that even certain destination countries which are parties to such conventions do not provide the refugees their right to work. At the same time, one can also deduce that there are certain states who are not parties to these conventions still providing refugees with the right to work. Therefore, one must understand that this issue cannot be solved by merely ensuring all countries become signatories to these conventions. The issue lies in the implementation of the provisions of these conventions. The main hurdle is that many destination countries face the dual burden of protecting the rights of their own citizens and also upholding their international duties as per the conventions to which they are signatories of.

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<sup>3</sup> The Convention Relating to the Status of Refugees, 1951, art. 18.

<sup>4</sup> James Wiley, *Undocumented Aliens and Recognized Refugees: The Right to Work in Costa Rica*, 29 INT'L MIGRATION REV. 423 (1995).

<sup>5</sup> The Convention Relating to the Status of Refugees, 1951, art. 19.

<sup>6</sup> The International Covenant on Economic, Social and Cultural Rights, 1966, art.6.

<sup>7</sup> The Universal Declaration of Human Rights, 1948, art.23.

### III. GLOBALIZATION AND COUNTRY SPECIFIC ANALYSES

Right to work of refugees in destination countries are to be analyzed with reliance being placed on three important steps viz. respect, protection and promotion.

The first country that is to be analyzed with respect to its policy on the right to work of refugees is Bangladesh. Bangladesh does not have any refugee specific domestic legislation. As a result, there is no legal right to work for refugees. With no formal right to work, we can observe a shift to the informal sector, where refugees are abused by being paid meager wages and are constantly at risk of arrest and detention because they lack the right to freedom of movement. Lack of labour rights opens the door to human trafficking and puts people at risk. Women and children who are refugees are disproportionately affected.<sup>8</sup>

In India, the courts play an important role in safeguarding basic refugee rights. There is currently no national legislation in place to guarantee the rights of refugees. Only a few refugee groups, primarily Sri Lankan and Tibetan refugees with identification cards, are permitted to work. Long-term visas also allow refugees to work in the private sector, but the demand for skills remains a barrier. As a result, refugees are compelled to work in the informal economy for long hours and very less wages.<sup>9</sup>

Japan is a signatory to both conventions and has a domestic legislation that grants refugees the right to work. Recognized refugees have the right to work in this country, which they can obtain through a long-term resident status.<sup>10</sup> Refugees in Malaysia, which is not a signatory to either treaty, do not have the right to work. The government does not provide any aid to these people in order to help them make ends meet. NGOs are key players in providing assistance to refugees.

Although the Philippines is a signatory to both conventions, there is no explicit legislation in place and a piecemeal approach is used. Various refugee rights, including the freedom to work, are recognised in the Philippines. Refugees are permitted to work here. They are not obliged to obtain an Alien Employment Permit, which is required for foreign employees. Temporary employment permits are also available to asylum seekers. Refugees in this country have recourse to justice.

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<sup>8</sup> Kristy Crabtree, *Economic Challenges and Coping Mechanisms in Protracted Displacement: A Case Study of the Rohingya Refugees in Bangladesh*, 5 J. MUS.. MH 41 (2010). 10.1080/15564901003610073

<sup>9</sup> U. C. Jha, *Refugees' Right to Work: An Indian Perspective*, 3 ISIL Y.B. INT'L HUMAN. & REFUGEE L. 194 (2003).

<sup>10</sup> Karen Kong, *Refugees' Right to Work in Hong Kong – or Lack Thereof: GA v Director of Immigration*, 14 OXF. UNIV. COMMONW. LAW J. 337 (2014).

Refugee status is not legally recognized in the United States. There is no legal right to be a refugee. Lack of legal status, statelessness, and physical confinement are all obstacles to finding safe and legal work. Refugees are compelled to work in the official sector in exchange for refuge.<sup>11</sup> Participation in these areas has become increasingly challenging in recent years. South Korea, as a signatory to both agreements, has its own refugee protection legislation that recognizes economic and social rights, including the freedom to work.<sup>12</sup>

### **International Agencies:**

Globalization has led to international agencies receiving more validation on their roles, responsibilities and functions. The most relevant international agencies with respect to refugees and their right to work is the United Nations High Commissioner for Refugees and the International Labor Organization. The UNHCR and ILO signed a memorandum in 2016 to focus on refugees and forced displaced persons finding jobs within their own countries. The UNHCR wants to increase the knowledge level of states and its capacity in providing employment assistance for the refugees by way of forums and programmes.<sup>13</sup> The UNHCR also encourages multilateral and bilateral development partners to extend tangible support for initiatives to extend refugees employment opportunities to refugees and wants to explore new funding strategies within the private sector along with the destination countries.<sup>14</sup>

## **IV. RESULTS**

Especially after the advent of globalization, it is evident that the right to work is complemented by a number of other fundamental rights, without which the right to work of refugees would not be realized. The right to protection, the right to free movement, and the development of skills and training are all important rights.<sup>15</sup> Refugees are forced to work in the informal economy because they lack the right to work. Here, restrictions on travel, a lack of protection, low pay, and a lack of access to justice pose problems.<sup>16</sup> Lack of recognition, lack of work permits, and a lack of skills, among other things, pose problems for refugees who have a legal right to work in their destination country. Regardless of whether a country is a signatory or non-signatory to

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<sup>11</sup> Lori A. Nessel, *Deliberate Destitution as Deterrent: Withholding the Right to Work and Undermining Asylum Protection*, 52 SAN DIEGO L. REV. 313 (2015).

<sup>12</sup> A. BETTS ET AL., *REFUGEE ECONOMIES: FORCED DISPLACEMENT AND DEVELOPMENT* (Oxford University Press, 2016).

<sup>13</sup> Adèle Garnier, *Arrested Development? UNHCR, ILO, and the Refugees' Right to Work*, 30 Can. J. Ref. 15 (2014).

<sup>14</sup> EBRU GÜR & SOYALP TAMÇELİK, *INTERAGENCY COOPERATION BETWEEN THE UNHCR AND THE ILO ON THE PROMOTION OF REFUGEES RIGHT TO WORK* (Transnational Press London, 2021).

<sup>15</sup> Alice Edwards, *Human Rights, Refugees, and The Right 'To Enjoy' Asylum*, 17 Int'l J. Re. L. 293 (2005).

<sup>16</sup> Caroline Fleay et al., *Refugees and asylum seekers living in the Australian community: the importance of work rights and employment support*, 48 AJSI 473 (2016).

the 1951 Convention, the refugees' right to work is primarily determined by the establishment and execution of local laws respecting refugee rights. The political and economic situation in the host nations has an impact on the acceptance of the right to work of refugees.<sup>17</sup>

But it cannot be said that the host countries do not enjoy any benefits by guaranteeing refugees the right to work. In fact, there are several important benefits. There is a growth of existing markets as well as the establishment of new markets as a result of the arrival of refugees. The provision of labor rights to refugees would aid in the expansion of international and domestic trade. Refugee entrepreneurs develop market connectivity by serving as suppliers to larger businesses. Refugee entrepreneurs help people become self-sufficient.<sup>18</sup> It is also crucial to consider the long-term repercussions of the refugee right to work. Consider the situation in Addis Ababa, where urban refugees are granted work permits. Administrative and language obstacles are two of the most significant roadblocks. Refugees are more exploited in the workplace, and they need fast access to justice, such as a labor tribunal. It is likewise improper to implement the right to labor without legal basis.<sup>19</sup>

There is concern that the refugee population may supplant natives' domestic labor markets and possibilities. In many nations, the refugee population is smaller than the population of the host country. The exceptions are Lebanon and Jordan, where refugees are allowed to work. The convention's signatory countries also grant the right, which is rarely unconditional. There is a lack of consistency in legal provisions for refugees' right to work, both among signatory and non-signatory nations. The freedom to work under the convention is only very seldom construed as a legal human right.<sup>20</sup>

## V. CONCLUSION

Globalization has resulted in an ever-increasing refugee population, which means that host countries' duties are growing. Due to the ramifications of globalization and technological developments on refugee crises, the circumstances and society in which the Refugee Convention was enacted have changed dramatically.<sup>21</sup> As a result, taking all of the factors into account, additional assistance to host nations is required in order to accomplish the goal of

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<sup>17</sup> Sarah Bidinger, *Syrian Refugees and the Right to Work: Developing Temporary Protection in Turkey*, 33 B.U. INT'L L.J. 223 (2015).

<sup>18</sup> Michael Clemens et al., *The Economic and Fiscal Effects of Granting Refugees Formal Labor Market Access*, CGD Working Paper 496 (2018).

<sup>19</sup> Paul Weis, *The International Protection of Refugees*, 48 AM. J. INT'L L. 193–221 (1954).

<sup>20</sup> Saurabh Bhattacharjee, *Situating the Right to Work in International Human Rights Law: An Agenda for the Protection of Refugees and Asylum-Seekers*, 6 NUJS L. REV. 41 (2013).

<sup>21</sup> T. Alexander Aleinikoff, *The Unfinished Work of the Global Compact on Refugees*, 30 INT'L J. REFUGEE L. 611 (2018).



allowing refugees the right to work. However, it is clear that, in the contemporary globalized economy, the perspective of right to work is shifting from a human right to an economic right, as evidenced by rising trends and patterns.<sup>22</sup>

It remains to be studied whether the proper implementation of the right to work for refugees could benefit both the local and refugee populations. But, moving refugees to self-employment helps to provide work for other refugees as well as expand domestic markets. Providing refugees with the right to work would enable them to sustain their families without relying on charity or other sources.<sup>23</sup> They also wish to give back to the country where they are staying. A refugee's right to work is critical to their survival. As stated in the treaty, refugees shall be given compassionate regard.<sup>24</sup>

It is necessary to provide proper access to language, vocation, and educational training. The host country must grant the freedom to work, as well as the right to free movement and access to justice under labor laws.<sup>25</sup>

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<sup>22</sup> Evan Easton-Calabria & Naohiko Omata, *Panacea for the refugee crisis? Rethinking the promotion of 'self-reliance' for refugees*, 39 III WORLD Q. 1458 (2018).

<sup>23</sup> Ruchi Lal, *Social and Economic Rights of Refugees Under International Legal Framework: An Appraisal*, 58 IND. J. INT'L L. 467 (2018).

<sup>24</sup> Katy Long, *When Refugees Stopped Being Migrants: Movement, Labour and Humanitarian Protection*, 1 MIG. ST. 4 (2013).

<sup>25</sup> Ruba Salih, *Refugees and Cathartic Politics: From Human Rights to the Right to Be Human*, 117 S. ATL. Q. 135 (2018).