

# THE RIGHTS OF REFUGEES AND INTERNALLY DISPLACED PERSONS IN ARMED CONFLICTS

OS DIREITOS DOS REFUGIADOS E DOS DESLOCADOS  
INTERNOS EM CONFLITOS ARMADOS

LOS DERECHOS DE LOS REFUGIADOS Y DE LOS  
DESPLAZADOS INTERNOS EN CONFLICTOS ARMADOS

## SUMMARY:

The rights of refugees and internally displaced persons (IDPs) in armed conflicts encompass a complex interplay of legal, humanitarian, and socio-political dimensions. These individuals, often fleeing violence, persecution, or upheaval within their own countries, face numerous challenges and vulnerabilities.

This scientific article delves into the legal, humanitarian, and socio-political aspects concerning the rights of refugees and internally displaced persons during armed conflicts, emphasizing their vulnerability and the challenges they face. Explores the legal foundations such as international humanitarian law, human rights treaties, and the Refugee Convention that establish the rights and protections for displaced populations during armed conflicts. Examines the various factors leading to displacement, whether direct consequences of conflict violence or indirect effects and highlights the significant human and security costs associated with displacement.

Discusses the available measures and mechanisms, including the roles of states, international organizations, and non-state actors, in providing protection, humanitarian aid, and support to refugees and IDPs. Notes the encountered by displaced populations, including access to basic needs, vulnerability to abuses,

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discrimination, and difficulties in achieving durable solutions. Provides practical illustrations through case studies or real-world examples of specific conflicts or regions, demonstrating the complexities and nuances of protecting the rights of displaced persons.

Concludes with recommendations aimed at improving the legal frameworks, policies, and international interventions to better protect the rights of refugees and IDPs in armed conflicts.

### **KEYWORDS:**

Refugees; Internally Displaced Persons (IDPs); Armed Conflicts; International Humanitarian Law; Human Rights Treaties; Displacement; Protection of Civilians; Vulnerability.

### **INTRODUCTION**

The rights of refugees and internally displaced persons (IDPs) in armed conflicts are critical aspects of international humanitarian law and human rights. As conflicts persist globally, millions of individuals find themselves forced to flee their homes either as refugees, crossing international borders, or as IDPs within their own countries.

Armed conflict frequently causes people to flee either as a direct consequence of violence or due to the indirect or cumulative effects of war. The human and security costs of displacement can be high, as civilians become particularly vulnerable to different types of harm, and situations of conflicts can be exacerbated and protracted. Therefore, preventing and addressing displacement has been frequently recognized in the UN Security Council's Protection of Civilians agenda. The actions of States and their militaries, as well as armed non-state actors in situations where they effectively control people and territory, affect the protection of displaced persons in conflict zones. Compliance with the law and ensuring the provision of adequate humanitarian assistance can help prevent displacement and improve protection during displacement. Conversely, violations of applicable international law in armed conflict can cause displacement, suffering during displacement, and impede durable solutions to displacement [1].

Importantly, States and relevant non-state armed actors, need to sup-

port and cooperate with other actors with international mandates for the protection of displaced persons such as the UNHCR and the ICRC [1].

International legal frameworks, including the Refugee Convention and various human rights treaties, establish the rights of displaced populations during armed conflicts. This article will explore the fundamental rights afforded to refugees and IDPs, emphasizing the importance of upholding these rights amid the complexities of armed conflicts.

## **REFUGEES AND INTERNALLY DISPLACED PERSONS**

Refugees and Internally Displaced Persons (IDPs) in armed conflicts are populations forced to leave their homes due to violence and persecution. Refugees cross international borders, seeking safety, while IDPs remain within their country. Both groups face significant challenges, including the risk of violence, limited access to essential services, and legal and protection issues.

Those displaced by armed conflict are usually (but not always) civilians, and have various protections afforded to them under international humanitarian law, international human rights law, and international refugee law. Displacement is not a uniform phenomenon, and an individual's displaced status is legally determined by the specific context of each situation, the actors involved, the causes of displacement, and specific protection needs [1].

International humanitarian law and human rights frameworks, such as the Refugee Convention, provide the basis for safeguarding their rights. Addressing the needs of refugees and IDPs requires a comprehensive approach, including humanitarian assistance, protection measures, and long-term solutions addressing the root causes of conflict.

In considering the legal protections afforded to displaced persons under international law, there is a distinction between the status of refugees, who flee across international borders, and internally displaced persons (IDPs), who flee their habitual place of residence but stay within their country of origin. Such classifications can be useful to determine legal status or for understanding specific protection needs that often arise in the context of displacement. Nevertheless, it is worth noting that such classifications often group together non-homogeneous groups and are not sufficient to understand the full breadth of diverse protection needs in a

given situation. Furthermore, individuals who have not been displaced, such as those unable to leave or those responsible for hosting other displaced persons, also have their own protection needs as civilians affected by conflict [1].

The classification of displaced persons based on their status as refugees or IDPs is valuable for determining their legal standing and addressing specific protection needs that may arise in each context. However, it is crucial to recognize the limitations of such classifications, as they often group together diverse and non-homogeneous populations, making it challenging to fully comprehend the range of protection needs within a given situation.

The customary international legal principle of non-refoulement, incorporated in international refugee law, international humanitarian law, and human rights law, prohibits States from returning any individual to a situation where their life or freedom would be threatened. International refugee law imposes responsibilities on States about certain displaced persons who arrive in their territory and jurisdiction. However, this protection is restricted to specific circumstances based on a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion. It does not protect people fleeing for reasons other than persecution, for instance, due to natural disasters/degradation, or those who do not leave their country of nationality, such as internally displaced persons [1].

In examining the complexities of legal protections for displaced persons, it is crucial to acknowledge the broader spectrum of protection needs, including those of individuals who have not been displaced but are affected by conflict, such as those unable to leave or those hosting displaced persons. A comprehensive approach to addressing the diverse circumstances and needs of affected populations is essential to ensure the effective implementation of legal protections and the safeguarding of human rights in situations of displacement.

Many displaced individuals do not fall under the international law definition of refugees. The majority of people displaced by conflict today are internally displaced persons who have not left their country of origin and are not covered by international refugee law. Nevertheless, all displaced individuals retain protection under IHL in situations of armed

conflict and under IHRL and have the right to enjoy the same rights and freedoms that accrue to other persons in their country, under domestic and international law, without discrimination. Furthermore, displaced civilians who remain in or flee to areas of armed conflict remain entitled to protection as civilians under IHL. The Guiding Principles on Internal Displacement provide practical guidance on addressing the needs of IDPs, by identifying IHRL and IHL principles that guarantee the rights relevant to the protection and assistance of IDPs, as well as their resettlement and reintegration upon return to their place of habitual residence. While the aforementioned Guiding Principles are not legally binding, they are still authoritative since they are derived directly from IHL and IHRL [1].

## **REFUGEES**

Who are refugees?

The 1951 Refugee Convention defines a refugee as “someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.” There are different types of refugees, for instance, Asylum Seekers, Internally displaced persons, stateless persons, Religion or political affiliation refugees, Hunger refugees, War refugees, climate change refugees, and refugees of gendered violence. driven by factors such as armed conflicts, political instability, environmental crisis, and economic factors due to which people flee in search of safety and better opportunities. This displacement leads to the loss of homes, livelihoods, and communities. Socioeconomic impacts affect both hosts and refugees, with limited access to employment, healthcare, and education, along with increased competition. However, the existence of certain international legal frameworks such as the 1951 Refugee Convention defines the rights and obligations of refugees, while the UNHCR is entrusted with their protection. In addition, the 1967 Protocol expanded the Convention’s scope highlighting that people displaced before 1951 or outside of Europe are also eligible for protection under the Convention. The UNHCR advocates for refugee rights, offers assistance, and seeks durable solutions, in this regional instruments also supplement the global efforts [4].

The UNHCR’s advocacy for refugee rights, provision of assistance,

and pursuit of durable solutions underscores the global commitment to addressing the needs of displaced populations. Additionally, regional instruments complement these efforts, emphasizing the collaborative approach required to navigate the intricate landscape of refugee protection. Together, these mechanisms strive to provide a comprehensive and compassionate response to the challenges faced by refugees worldwide.

According to the UNHCR's Global Trends Report 2022, 108.4 million worldwide people at the end of 2022 were forcibly displaced as a result of persecution, conflict, violence, human rights violations, and events seriously disturbing public order [4].

By the end of 2022, more than half of all refugees (52%), including others in need of international protection, were from Syria, Ukraine and Afghanistan [5].

War refugees are individuals who have been forced to flee their home countries due to armed conflict, violence, persecution, or the breakdown of societal order. These individuals seek safety and protection in other countries, often crossing international borders. The status of "refugee" is conferred upon them based on the conditions outlined in international law, primarily the 1951 Refugee Convention and its 1967 Protocol.

After 12 years of war, Syria remains the world's largest refugee crisis. More than 6.8 million Syrians have been forced to flee their country since 2011, and another 6.8 million people remain internally displaced [5].

The escalation of the war in Ukraine in February 2022 created the fastest displacement of people in Europe since the Second World War. In the first days, as many as 200,000 refugees a day crossed into neighboring countries. At this point, over 8.3 million refugees have fled the country, while a further 5.4 million people remain displaced within Ukraine [5].

Since the shift in power in Afghanistan, humanitarian needs across the country have skyrocketed, making it now the world's largest-ever humanitarian appeal. An estimated 3.4 million people have been internally displaced and as the country endures the worst drought in 27 years, these numbers are likely to continue to soar [5].

Efforts to address the needs of war refugees involve both short-term humanitarian responses, such as providing emergency aid, and long-term solutions that address the root causes of conflict and promote conditions for safe and sustainable return or resettlement. International cooperation

is essential in managing and supporting the global population of war refugees.

## **PROTECTION UNDER INTERNATIONAL HUMANITARIAN LAW**

Whereas refugee law contains a specific definition of refugee, humanitarian law is very vague and only rarely employs the term. All the same, this does not mean that refugees are neglected by humanitarian law since they are protected by it when they are in the power of a party to a conflict [3].

During international armed conflicts, nationals of a State who flee hostilities and enter the territory of an enemy State are protected by the Fourth Geneva Convention as aliens in the territory of a party to the conflict (Articles 35 to 46 of the Fourth Convention). This Convention requests favorable treatment for refugees on the part of the host country; since, as refugees, they do not enjoy the protection of any government, they must not be treated as enemy aliens solely based on their nationality (Article 44 of the Fourth Convention). Protocol I reinforces this rule while also referring to the protection of stateless persons (Article 73 of Protocol I). Refugee nationals of a neutral State who find themselves in the territory of a belligerent State are protected by the Fourth Convention when there are no diplomatic relations between their State and the belligerent State. Article 73 of Protocol I maintains this protection even when diplomatic relations exist [3]. Protocol I further reinforces these protections and extends them to stateless persons, emphasizing the humanitarian imperative to shield vulnerable populations during armed conflicts.

The Fourth Geneva Convention plays a crucial role in protecting nationals of a State who flee hostilities and seek refuge in the territory of an enemy State. Articles 35 to 46 of the Fourth Convention outline the rights and protections afforded to these individuals, emphasizing the need for favorable treatment by the host country.

This Convention further stipulates that “In no circumstances shall a protected person be transferred to a country where he or she may have reason to fear persecution for his or her political opinions or religious beliefs” (principle of non-refoulement, Article 45, para. 4 of the Fourth Convention) [3].

Additionally, the Convention provides special protection for refugees during the occupation of a territory. If refugees, during this period, fall into the power of a State of which they are nationals, the Occupying Power is prohibited from taking actions such as arresting, prosecuting, convicting, or deporting them from the occupied territory, as stated in Article 70, paragraph 2 of the Fourth Convention.

It is crucial to note, however, that nationals of a State who seek refuge in the territory of a State not involved in an international conflict are not automatically protected by international humanitarian law. Their protection depends on the presence of internal armed conflict in the receiving State, in which case Article 3 common to the Geneva Conventions and Protocol II come into play. In such situations, refugees may find themselves victimized by conflicts both in their home country and in the country providing refuge, highlighting the complexities and challenges faced by displaced populations.

What is a refugee crisis?

A refugee crisis is defined as when many displaced people move from their home country to another, difficulty or dangerously. The term refugee crisis can refer to displacement happening in the country of origin, the country of arrival, or to problems and dangers facing refugees whilst they are on the move. A crisis can refer to the perspective of the refugees, the country to which they flee, or, in many cases, both [6].

A refugee crisis in armed conflicts occurs when there is a significant and often abrupt increase in the number of people fleeing their homes and seeking refuge due to the impacts of armed conflict. Armed conflicts can create complex and urgent situations that lead to mass displacement, overwhelming the affected regions and often necessitating international humanitarian responses.

The plight of refugees is characterized by the sudden and often harrowing nature of their displacement. Many refugees, having fled their homes, find themselves with nothing more than the clothes on their backs, lacking access to basic necessities such as food and clean water. The transformation into a refugee can occur in an instant, highlighting the urgency and unpredictability of the circumstances they face. The crises in Gaza, Syria, Ukraine, and Afghanistan have resulted in some of the largest refugee crises in recent history. Currently, there is more conflict in the world



than ever before, which is driving displacement and creating refugees.

What causes a refugee crisis? The biggest causes of a refugee crisis are:

- conflict and war
- hunger and poverty
- persecution and violence and
- climate change.

Conflict and war are the most common causes of mass displacement of people, leading them to become refugees. In some cases, people can become refugees literally overnight when violence erupts in a country due to war or political unrest [6].

While conflict remains a primary driver, other factors such as hunger, poverty, persecution based on gender or sexual orientation, and the impacts of climate change contribute significantly to the displacement of large groups of people. The multifaceted nature of these challenges underscores the complexity of addressing the diverse reasons that force individuals to flee their countries.

Promoting peace, addressing the root causes of conflicts, and ensuring the protection and well-being of displaced populations are crucial components of managing and resolving refugee crises in the context of armed conflicts. International cooperation and adherence to humanitarian principles are essential for an effective response.

## **PERSONS DISPLACED WITHIN THEIR OWN COUNTRY**

Who are internally displaced persons?

According to the Guiding Principles on Internal Displacement, internally displaced persons (also known as “IDPs”) are “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized border [2].

Internally displaced persons face numerous challenges, particularly in situations of armed conflict, which heighten their vulnerability across various domains. They experience significantly higher mortality rates compared to the general population and are exposed to threats such as

physical attacks, sexual assault, and abduction. Moreover, the deprivation of adequate shelter, food, and health services adds to the hardships faced by IDPs.

The overwhelming majority of internally displaced persons are women and children who are especially at risk of abuse of their basic rights. More often than refugees, the internally displaced tend to remain close to or become trapped in zones of conflict, caught in the crossfire, and at risk of being used as pawns, targets, or human shields by the belligerents [2]. Their precarious situation underscores the urgent need for focused efforts to address the specific vulnerabilities and risks faced by internally displaced persons.

Int Internally displaced persons (often referred to as IDPs) have been forced to flee their homes because of war, violence, or persecution, but have not crossed an international border. At the end of 2022, over 62.5 million people around the world were internally displaced, including 6.8 million in Syria and 5.4 million in Ukraine [5]. Internally displaced persons (often referred to as IDPs) have been forced to flee their homes because of war, violence, or persecution, but have not crossed an international border. At the end of 2022, over 62.5 million people around the world were internally displaced, including 6.8 million in Syria and 5.4 million in Ukraine [5]. ernally displaced persons (often referred to as IDPs) have been forced to flee their homes because of war, violence, or persecution, but have not crossed an international border. At the end of 2022, over 62.5 million people around the world were internally displaced, including 6.8 million in Syria and 5.4 million in Ukraine [5].

### **What is the difference between an internally displaced person and a refugee?**

The key distinction is that IDPs remain within their own country, while refugees have crossed an international border. Both groups, however, share common challenges and vulnerabilities and require humanitarian assistance and protection. International organizations, governments, and NGOs play crucial roles in addressing the needs of both internally displaced persons and refugees.

According to the 1951 Convention on the Status of Refugees, a “refugee” is a 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.” Subsequent international instruments (such as the Cartagena Declaration on Refugees and the Convention Governing the Specific Aspects of Refugee Problems in Africa) have expanded this definition for some states to persons fleeing the general effects of armed conflict and/or natural disaster [2].

A crucial requirement to be considered a “refugee” is crossing an international border. Persons forcibly displaced from their homes who cannot or choose not to cross a border, therefore, are not considered refugees, even if they share many of the same circumstances and challenges as those who do. Unlike refugees, these internally displaced persons do not have a special status in international law with rights specific to their situation. The term “internally displaced person” is merely descriptive.

### **THE RIGHTS OF INTERNALLY DISPLACED PERSONS**

Like all human beings, internally displaced persons enjoy human rights that are articulated by international human rights instruments and customary law. In situations of armed conflict, moreover, they enjoy the same rights as other civilians to the various protections provided by international humanitarian law [2].

The Guiding Principles on Internal Displacement, created in 1998, restate and compile existing international human rights and humanitarian law germane to the internally displaced and also attempt to clarify grey areas and gaps in the various instruments about situations of particular interest to the internally displaced [2]. These principles aim to address gaps and uncertainties in various instruments, focusing on issues specifically relevant to the internally displaced.

Overall, the Guiding Principles on Internal Displacement establish a comprehensive framework to safeguard the rights and well-being of internally displaced persons in diverse and challenging circumstances.

The Guiding Principles note that arbitrary displacement in the first

instance is prohibited (Principles 5-7). Once persons have been displaced, they retain a broad range of economic, social, cultural, civil, and political rights, including the right to basic humanitarian assistance (such as food, medicine, and shelter), the right to be protected from physical violence, the right to education, freedom of movement and residence, political rights such as the right to participate in public affairs and the right to participate in economic activities (Principles 10-23). Displaced persons also have the right to assistance from competent authorities in voluntary, dignified, and safe return, resettlement, or local integration, including help in recovering lost property and possessions. When restitution is not possible, the Guiding Principles call for compensation or just reparation (Principles 28-30) [2].

## **PROTECTION UNDER INTERNATIONAL HUMANITARIAN LAW**

As previously seen, during armed conflict the civilian population is entitled to an immunity intended to shield it as much as possible from the effects of war. Even in times of war, civilians should be able to lead as normal a life as possible. In particular, they should be able to remain in their homes; this is a basic objective of international humanitarian law [3].

However, when civilians are forced to leave their homes owing to serious violations of international humanitarian law, they are still a fortiori protected by this law. This protection may come from the law applicable either to international or to internal armed conflicts, as both types of conflict may result in displacements of people within their own country [3].

The Guiding Principles on Internal Displacement, established in 1998, serve as a crucial framework that reaffirms and consolidates existing international human rights and humanitarian law applicable to internally displaced persons. These principles aim to address gaps and uncertainties in various instruments, focusing on issues specifically relevant to the internally displaced

The protection to which displaced persons, as civilians, are entitled in the event of displacements due to international armed conflict is set forth in considerable detail (Protocol I, for example, dedicates a major section to it — Articles 48 ff.). The civilian population is also entitled to receive items essential to its survival (Article 23 of the Fourth Convention;

Article 70 of Protocol I). The same holds true for the population of occupied territories (Articles 55 and 59 ff. of the Fourth Convention; Article 69 of Protocol I). In addition, the civilian population cannot be deported from occupied territory. Generally speaking, the civilian population enjoys the fundamental guarantees stipulated in Article 75 of Protocol I. Civilians fleeing from an internal armed conflict enjoy protection very similar to that during international armed conflicts. Although the fundamental principles of this protection have been clearly spelled out, it must be admitted that the rules are less specific. Owing to the predominance nowadays of internal armed conflicts, a fairly detailed description will be given here of the relevant rules [3]. Overall, the Guiding Principles on Internal Displacement establish a comprehensive framework to safeguard the rights and well-being of internally displaced persons in diverse and challenging circumstances.

### **How does conflict impact children?**

Children are especially vulnerable to the effects of war and frequently represent at least half of the population in a conflict area. They suffer fear and insecurity, and disruption to every aspect of their lives. Children who have been displaced are at an increased risk of sexual and physical violence, disease and malnutrition, and separation from family members. As displaced persons or refugees, they may experience severe poverty, abuse, exploitation, and psychosocial distress [13].

Refugee children in armed conflicts face significant challenges that impact their well-being and future prospects. These challenges include forced displacement, exposure to violence, loss of family and community support, limited access to education and healthcare, and the risk of exploitation.

At the end of last year, more than 450 million children – or one in six – were living in a conflict zone, the highest number in 20 years. A record 36,5 million children were displaced from their homes as a result of conflict, violence, and other crises. The conflict in Ukraine has caused two million children to flee their country and displaced some three million internally. Every child living under these circumstances is a child deprived of their basic rights and protection. They need support with water, food, shelter, healthcare, education, and protection [10].

Families are forced to flee their homes to escape conflict, disasters, and humanitarian emergencies, with 72% of refugees coming from five countries: Syria, Gaza, Venezuela, Ukraine, Afghanistan, and South Sudan [10]. These families are confronted with the harsh realities of displacement, often lacking access to essential elements such as water, food, shelter, healthcare, education, and protection.

Addressing the needs of these vulnerable populations requires concerted efforts from the international community to provide the necessary support and resources. Every child living in such challenging circumstances deserves the opportunity to enjoy their basic rights, and it is crucial to prioritize their well-being and protection amidst the complex challenges posed by conflicts, disasters, and humanitarian emergencies.

### **THE LINK BETWEEN CONFLICT AND REFUGEES**

Conflict is one of the leading causes of displacement and people becoming refugees. When armed conflicts, civil wars, ethnic tensions, or other forms of violence break out, people are often forced to flee their homes in search of safety [6].

In many cases, families flee their homes to escape violence or persecution, becoming refugees overnight. Once they have fled, child refugees often face several challenges. They may struggle to find shelter, clean water, and food, or to access basic services like healthcare and education. Child refugees are more vulnerable to abuse, exploitation, and extreme poverty [6]. Addressing the root causes of conflicts, providing immediate humanitarian aid, and implementing long-term solutions for displaced populations, especially vulnerable groups like child refugees, are imperative for mitigating the impact of crises on human lives.

Because of long-standing conflicts in countries like [Syria](#), many children may spend half their lives as refugees. Escaping the hardships of their home country is only the beginning of a dangerous journey that many refugees face. Many refugees end up living in camps where access to shelter, clean water, and toilets is not always guaranteed [6].

Humanitarian responses need to prioritize the unique needs of refugee children, ensuring access to safe shelter, education, healthcare, and psychosocial support. Protection measures should be in place to prevent child recruitment, trafficking, and other forms of abuse. Long-term solu-

tions should focus on addressing the root causes of conflict, promoting peace, and creating conditions for the safe return and sustainable reintegration of refugee children into their communities.

## **GIVING REFUGEE CHILDREN A FUTURE - WHAT MUST BE DONE**

### **1. Prevent human rights abuses**

People must speak out and campaign against the human rights violations that cause children and their families to flee their homes. We must demand that our governments, the United Nations, and regional organizations uphold those rights, hold accountable those who violate them, and bring pressure to bear to stop the abuses [11].

The call to action involves not only condemning violations but also exerting pressure on those responsible for these abuses. It is through sustained efforts, both at the grassroots and international levels, that we can create a world where human rights are respected, protected, and upheld. By fostering a global commitment to justice and accountability, we can strive towards a future where every individual, irrespective of their background, can live in dignity and security. Ultimately, preventing human rights abuses requires a united front that prioritizes the well-being of vulnerable populations and actively works towards a world free from injustice and oppression.

### **2. Protect the rights of all refugees**

Safeguarding the rights of all refugees necessitates a concerted effort by governments to not only ratify but also diligently implement international treaties related to refugees and asylum-seekers. Governments must ratify and implement the international treaties relating to refugees and asylum-seekers. The majority of the world's states have ratified the 1951 UN Convention relating to the Status of refugees and its 1967 Protocol (146 countries). However, some have not. Many of those who have ratified the Convention and Protocol flout its most basic principles [11].

To truly protect the rights of refugees, it is essential for governments to not only commit to these treaties but also adhere to their core principles. This involves providing refuge to those fleeing persecution, ensuring

access to fair and efficient asylum processes, and upholding the principle of non-refoulement. International collaboration is crucial to hold nations accountable for their commitments and to address instances where the rights of refugees are compromised.

Moreover, addressing the root causes of forced migration, such as conflict, persecution, and human rights abuses, is integral to creating an environment where people do not have to flee their homes in the first place. The protection of refugee rights should be seen as a shared global responsibility, and efforts must be made to foster empathy, cooperation, and understanding among nations to build a world where the rights and dignity of all individuals, including refugees, are respected and upheld.

### **3. Protect the human rights of refugee children and provide for their special needs**

Governments in asylum countries, and the international agencies that assist them, must fully apply international guidelines and standards relating to children and child refugees, in particular those relating to detention and asylum procedures. The 1989 Convention on the Rights of the Child has enjoyed near universal ratification by UN Member States. Children (defined as “every human being below the age of eighteen years unless, under the law applicable to the child, the majority is attained earlier”) are intended to enjoy all the rights under the Convention without discrimination, and the UNHCR has adopted the Convention as its guiding principles, incorporating its standards in the UNHCR Policy on Refugee Children [11].

To effectively meet the special needs of refugee children, it is essential to provide not only for their physical well-being but also for their educational, psychological, and social needs. A holistic approach that considers the unique vulnerabilities of refugee children is crucial. Governments and international organizations must work collaboratively to create environments that promote the dignity, safety, and development of refugee children, fostering a future where these young individuals can thrive and contribute positively to society.

### **4. Provide an advocate for refugee children in situations of armed conflict**



Since so many refugees and displaced children are fleeing situations of armed conflict, special attention should be focused on ways to protect them from human rights abuses in times of war, including those occurring in the context of child recruitment. Whoever is appointed to the newly-created post of UN Special Representative of the Secretary-General on the Impact of Armed Conflict on Children must act as an advocate for the right of children in this situation to flee, and for the protection of their rights until it is safe for them to return home [11].

Addressing the specific challenges faced by refugee children in armed conflict requires a comprehensive and sustained approach. This includes actively engaging with governments, international organizations, and local communities to enforce measures that prevent child recruitment, provide psychological support, and ensure access to education and healthcare. By taking on the role of a strong advocate, the UN Special Representative can play a pivotal part in shaping policies and initiatives that prioritize the protection and rights of refugee children affected by armed conflict, ultimately contributing to a safer and more secure future for these vulnerable individuals.

### **5. Provide resources to match the scale of the problem**

International monitoring mechanisms on human rights matters must be given the funds and staff they need to be effective. The Committee on the Rights of the Child, entrusted with monitoring children's rights worldwide, is composed of 10 part-time members — they meet for only 12 weeks each year. The secretariat comprises three staff members at the UN Centre for Human Rights. As yet, it is unclear whether the Special Representative on the Impact of Armed Conflict on Children will have any permanent staff exclusively assigned to work with them, or whether they will have to rely on secondments and part-time assistance from other UN agencies [11]. Similarly, the newly-established position of the UN Special Representative on the Impact of Armed Conflict on Children requires dedicated resources to fulfill its mandate effectively. Permanent staff and adequate funding are crucial for this representative to carry out their advocacy and monitoring responsibilities comprehensively. Relying on secondments and part-time assistance from other UN agencies may compromise the effectiveness of their efforts.

Refugee children in armed conflicts face severe challenges, including displacement, exposure to violence, and loss of support networks. Humanitarian efforts must prioritize their unique needs, ensuring access to education, healthcare, and psychosocial support. Protection measures are essential to prevent recruitment, trafficking, and abuse. Long-term solutions should address the root causes of conflict, promote peace, and facilitate the safe return and sustainable reintegration of refugee children into their communities.

### **FACTS ABOUT WHAT REFUGEE WOMEN FACE**

Refugee women in armed conflicts face significant challenges, including heightened vulnerability to gender-based violence and displacement. They often encounter difficulties accessing essential services such as healthcare and education. Humanitarian responses must be gender-sensitive, addressing the specific needs of women, including reproductive health and psychosocial support.

With women often suffering the brunt of displacement – from being subjected to sexual and gender-based violence as they flee their homes and occupy camps, to being responsible for rebuilding the lives of their families and communities after conflict – the challenges women refugees face are immense. Refugee women and girls face specific challenges including discrimination, psychosocial trauma, sexual and gender-based violence, and risk of human trafficking.

When experiencing armed conflicts and forced migration, women face challenges related to changed living conditions, gender-based violence, and health-related consequences. Consistently, women are targets of severe structural and personal violence, while lacking access to even the most basic healthcare services. Societal changes are needed to improve the protection and rights of women in these settings. Despite facing considerable trauma, these women display considerable resilience and endurance by finding strength through social support and internal resources. Synthesized qualitative research illustrates that women value social support, including peer support. Peer support is a promising intervention that needs to be evaluated in future experimental studies [12].

Legal and protection issues, such as obtaining asylum and addressing statelessness, are common. Empowering refugee women through

education, skills training, and economic opportunities is crucial for resilience. Meaningful participation in decision-making processes and attention to family dynamics, especially for mothers, are essential. Long-term solutions require addressing root causes, emphasizing conflict prevention, peacebuilding, and supporting safe return and reconstruction for refugees, including women.

Fact 1: 1 in 5 women refugees experience sexual violence.

Women refugees and internally displaced women suffer from marginalization, sexual and gender-based violence, and child marriage. Some experience sexual and gender-based violence as they flee conflict.

In camps or due to poverty, some women and girls may be kidnapped, trafficked, or forced into marriage. 9 out of 10 countries with the highest rates of child marriage are considered either fragile or extremely fragile states, where long-ingrained gender norms pressure girls into vulnerable situations. And we have seen the number of women raped and sexually abused while internally displaced due to the war in Ukraine soar too [7].

Fact 2: Women and children make up most of the people forcibly displaced by renewed conflict in Syria.

Before the Türkiye-Syria earthquakes, Syria's 12-year war had already displaced half of the country's pre-war population of 23 million.

Now, there are 6.7 million people displaced within Syria and more than 18,000 registered refugees and asylum-seekers in the country. Nearly 70% of their population is women and children - and too many are forced into surrounding areas, some in camps where resources are scarce and weather conditions harsh.

In places like Syria, where women have been making advances in gender equality, disease, and displacement threaten that progress. And for many displaced by the earthquakes, estimated to be over 50,000 families in Syria alone, this is their second experience of displacement.

Fact 3: 50 percent of refugees, internally displaced, or stateless populations are women and girls.

Of the over 100 million people who have been forced into displacement, over half are women and girls. Women are often the first responders when a crisis hits yet their voices are often left out of policies that are designed to protect them. In addition to poverty and other issues that all refugees may face, women refugees have an added layer of oppression

from gender discrimination [7].

Fact 4: South Sudanese and other refugees in Sudan have been forced to return to their home countries as conflict has soared.

Even before the recent uptick in conflict, Sudan was battling extreme weather, social and political unrest, and rising food prices - exacerbated by the war in Ukraine global impact. Nearly 1.4 million people have been displaced from their homes. For many, this is not the first time.

With no end to the violence in sight, people are desperately seeking safety, both within Sudan itself and in bordering countries, such as Chad, South Sudan, Egypt, Ethiopia, and the Central African Republic. For hundreds of thousands of people, this has meant returning to their home countries under dangerous conditions [7].

Fact 5: Refugee women could generate and contribute \$1.4 trillion to the annual global GDP.

Contrary to the myth that refugees are unskilled and uneducated, many of them have much to contribute. While some refugees might have never had the chance to gain formal education, many are highly educated and highly skilled [7].

Refugee women in armed conflicts face heightened vulnerability, experiencing gender-based violence and displacement. Humanitarian responses must be tailored to their specific needs, including reproductive health and psychosocial support. Legal and protection challenges, such as asylum issues and the risk of statelessness, are prevalent. Empowering refugee women through education and economic opportunities is crucial, along with fostering their meaningful participation in decision-making. Family dynamics, especially for mothers, warrant attention. Long-term solutions require addressing root causes, prioritizing conflict prevention, peacebuilding, and facilitating safe return and reconstruction for refugee women.

Many refugees face barriers to inclusion in local economies, which makes finding stability for their families a challenge. For women refugees, the barriers are even higher as gender discrimination closes doors or leads to lower pay. Yet if we invested in economic opportunities for women refugees, we could help close gaps in poverty, gender equality, and inclusive work – all while helping economies on a local and global scale [7].

## **TRAFFICKING IN PERSONS AND REFUGEE STATUS**

Persons who have been trafficked across an international border, in transit, or at a destination, may need international protection as refugees based on this experience. Ensuring protection against their refoulement and access to procedures that can determine their refugee status is therefore critical. Despite this, victims of trafficking continue to face barriers in receiving the assistance and protection they need, not only as victims of trafficking but also as potential refugees [9].

The intersection between trafficking in persons and refugee status necessitates a robust and comprehensive approach to ensure the protection of those who have experienced such exploitation. Individuals who have been trafficked across international borders, during transit, or at their destination often require international protection as refugees, given the unique challenges they face. It is paramount to guarantee protection against refoulement and facilitate access to procedures that can accurately determine their refugee status.

Unfortunately, victims of trafficking encounter persistent barriers in receiving the necessary assistance and protection, both as victims of trafficking and as potential refugees. Overcoming these obstacles is essential to address the dual vulnerabilities they face. Efforts should be intensified to enhance awareness, streamline legal frameworks, and improve collaboration between relevant authorities and organizations to create a supportive environment for victims of trafficking seeking refugee status.

Additionally, addressing the root causes of trafficking and creating comprehensive strategies to prevent and combat this heinous crime is integral to ensuring the rights and well-being of vulnerable individuals. Governments, international organizations, and civil society must work collaboratively to establish and implement policies that recognize the intricate link between trafficking and refugee status, thereby fostering a more humane and just response to those who have endured such traumatic experiences. By bridging gaps in protection, we can aspire to a world where victims of trafficking are not only recognized and supported but also afforded the opportunity to rebuild their lives under the umbrella of international refugee protection.

## **WHAT IS THE RELATIONSHIP BETWEEN THE REFUGEE DEFINITION UNDER INTERNATIONAL LAW AND TRAFFICKING IN PERSONS?**

While not all victims of trafficking are refugees, depending on the circumstances, some victims of trafficking will qualify for refugee status under the 1951 Refugee Convention or regional refugee instruments.

UNHCR's Guidelines on International Protection No. 7 set out when the 1951 Convention refugee definition applies to victims of trafficking and persons at risk of

being trafficked. This is particularly relevant in situations where:

- a) victims who have been trafficked abroad seek international protection as a refugee in the State in which they are currently present;
- b) victims who have been trafficked inside their own country and then fed abroad seek international protection as a refugee;
- c) persons who, although having never been trafficked, fear becoming a victim of trafficking in their country of origin and have fed abroad in search of international protection as refugees [9].

Under Article 1(A) of the 1951 Refugee Convention, victims of trafficking or persons who fear being trafficked are refugees if they have a well-founded fear of persecution in their country of origin where the state is unable or unwilling to protect them. Persecution is considered to include fear of serious harm or serious human rights violations such as threats to life or freedom. That persecution must be linked to their actual or imputed race, religion, nationality, membership of a particular social group, or political opinion, also known as the five Refugee 'Convention Grounds' [9].

In the context of trafficking, the perceived persecution may arise from various sources, including exploitation based on ethnicity or minority group, the risk of reprisals or re-trafficking by the original traffickers in the individual's country of origin, and severe ostracism, discrimination, or punishment by state authorities or community members due to their status as a trafficking victim. This risk is particularly significant among those who have been trafficked for sexual exploitation.

In trafficking contexts, the persecution feared by an individual or group can include, for example, exploitation based on one's ethnicity or minority group or reprisals and/or re-trafficking by their traffickers

in their country of origin. It can also result from severe ostracism, discrimination, or punishment by State authorities or community members for having been a victim of trafficking - whether at home or abroad. This risk is particularly pertinent among those who were trafficked for sexual exploitation [9].

### **TRAFFICKING IN SITUATIONS OF ARMED CONFLICT AND VIOLENCE AND REFUGEE STATUS**

UNHCR's Guidelines on International Protection No 12 guides claims for refugee status related to situations of armed conflict and violence. It highlights that such situations are a major cause of refugee movements today, and are often rooted in, motivated, or driven by, ethnic, racial, religious, political, gender, or social group divides. UNHCR's Guidelines on International Protection No. 1, on the needs of persons feeling gender-related persecution further explains that sexual and gender-based violence, human trafficking, sexual slavery, and conjugal slavery/ forced marriage, are common forms of persecution in many situations of armed conflict and violence.

The intersection of trafficking in persons and refugee status in armed conflicts poses significant challenges for humanitarian responses. Efforts should focus on strengthening legal frameworks, improving identification mechanisms, and ensuring that the unique needs and vulnerabilities of trafficking victims among displaced populations are addressed within the broader context of refugee protection and assistance [9].

### **WHAT ARE THE CHALLENGES IN PROVIDING INTERNATIONAL PROTECTION AS REFUGEES TO VICTIMS OF TRAFFICKING?**

Providing international protection as refugees to victims of trafficking in armed conflicts presents significant challenges. The complexities of identifying trafficking situations amidst the chaos of conflict, coupled with the specific vulnerabilities of trafficking victims, create obstacles to effective protection.

Gaining access to asylum systems is a particular challenge that victims of trafficking often face. Victims of trafficking may be unaware of their right to apply for asylum and they may not receive timely informa-

tion about how they can do so. This can be especially difficult for children and women when the information about procedures for making an asylum application is not available in a child-friendly or gender-sensitive manner. At times, language barriers, accessibility, and illiteracy pose additional problems to victims of trafficking. In other cases, legislative, regulatory, or policy deficits may mean that immigration authorities, courts, or even NGOs, only consider identified victims of trafficking as eligible for national protection schemes specific to victims of trafficking, and not as eligible for protection as refugees, or for a subsidiary or complementary protection status. Further, asylum authorities are often ill-equipped to identify victims of trafficking from among asylum-seekers and may also lack the capacity to assess the relationship between an asylum-seekers actual or feared trafficking experience and their potential need for international protection as refugees [9].

These challenges are in addition to:

- a) the fear that many victims of trafficking have of stigmatization, deportation by the authorities, or retaliation by their traffickers, should they report that they have been, or are being, trafficked;
- b) the frequent lack of systems that systematically identify victims of trafficking from among migrant and refugee populations.

Article 14 of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons emphasizes the importance of implementing the Protocol in accordance with international human rights and refugee law. This underscores the need to ensure that efforts to combat trafficking do not impede an individual's right to seek asylum. Additionally, assistance should not be conditioned on a victim's willingness to appear as a witness in legal proceedings against their traffickers. Caution is warranted to avoid linking the merits of an asylum claim with a victim's participation in legal actions, preserving the integrity of the asylum process and respecting the rights of trafficking victims.

A comprehensive and collaborative approach involving governments, international organizations, NGOs, and local communities is essential. Strengthening legal frameworks, improving coordination mechanisms, enhancing the capacity of humanitarian actors, and prioritizing the specific needs of trafficking victims within the broader refugee protection framework are crucial steps toward mitigating the challenges in



providing international protection to victims of trafficking in the context of armed conflicts [9].

### **TRAFFICKING RISKS TO REFUGEES**

Refugees and asylum-seekers are particularly vulnerable to abuse and exploitation at different stages of their flight, including at their destination. They may be compelled to use smugglers as their only means to free persecution, conflict, and violence without travel or identity documents, to cross dangerous terrain, and to circumvent border controls that prohibit access to asylum-seekers, exposing them to risk. Once at their destination they may encounter discrimination, restrictions on freedom of movement, inadequate or nonexistent livelihood or educational opportunities, and experience limited access to humanitarian assistance or other support systems. This can push them to solicit smugglers to move in search of better protection and/or opportunities, or into the hands of traffickers who may prey on refugees and asylum-seekers residing in camps, reception centers, or other settlements [9].

Regrettably, the vulnerabilities of refugees and asylum-seekers in camps, reception centers, or settlements make them potential targets for human traffickers. Exploitation and abuse may occur, as traffickers take advantage of the precarious situations faced by those seeking refuge.

In summary, the trafficking risks faced by refugees and asylum-seekers are multifaceted, encompassing perilous journeys, discrimination, limited access to essential services, and susceptibility to exploitation by traffickers. Addressing these challenges requires comprehensive efforts at both national and international levels to enhance protection, support systems, and the overall well-being of individuals seeking refuge.

### **WHAT STATES CAN DO**

To ensure that international protection as a refugee is available to victims of trafficking who need it, asylum authorities must be able to identify links between trafficking and refugee protection needs. National procedures for protecting victims of trafficking, children, and asylum-seekers should be linked, and referral systems in place to ensure that the best available assistance and solutions are found in every case [9].

States should provide child-friendly, gender-sensitive, accessible,

and widely available information on how to report trafficking and on how to apply for asylum, including what support services and protection are available if they do.

States have a responsibility to prevent refugees and asylum-seekers in their jurisdiction from falling victim to trafficking in the first place. This can be done by:

- taking steps to protect the places where refugees and asylum-seekers reside;
- having fair and efficient asylum procedures in place;
- training relevant stakeholders on the risks of trafficking to these populations – including how to identify victims of trafficking from among them;
- making available appropriate livelihood and educational opportunities to eliminate the need for negative coping mechanisms and mitigate against the risk of exploitation.

Finally, States are urged to:

- ensure access to their territory to refugees fleeing persecution, conflict, and violence to avoid them resorting to smugglers/traffickers;
- provide effective protection and assistance in countries of asylum so that refugees are not motivated to move onward, potentially by resorting to smugglers/traffickers;
- provide more targeted and safe legal migration and admission pathways to reduce the need for dangerous and irregular movement in the first place [9].

In implementing these measures, states can contribute significantly to enhancing the protection and well-being of refugees and asylum-seekers, particularly those who are vulnerable to trafficking. Coordination and collaboration at national and international levels are crucial to building comprehensive and effective systems that address the complex challenges faced by individuals seeking refuge.

## CONCLUSION

The plight of refugees and internally displaced persons (IDPs) in armed conflicts underscores the urgent need for comprehensive and effective responses. Both groups face significant challenges, including the risk of violence, lack of access to essential services, and legal complex-

ities. International humanitarian and human rights frameworks provide a foundation for protecting their rights, emphasizing the importance of upholding these principles amid the complexities of conflict. Addressing the needs of refugees and IDPs necessitates a multifaceted approach, combining immediate humanitarian assistance, robust protection measures, and long-term solutions that address the root causes of conflict and facilitate safe and sustainable reintegration into communities.

IHL and IRL are separate legal frameworks that aim, in their own way, to protect those affected by conflict. While IHL concerns all persons affected by conflict (including combatants, IDPs, refugees, etc.), IRL is specifically designed to offer protection to refugees. These two frameworks often overlap because armed conflict and violence activate the application of IHL, and such situations often result in mass movements of refugees. It should be appreciated that both IHL and IRL offer a comprehensive structure aimed at protecting those groups of people who are perhaps the most vulnerable. Most displacements, whether externally or internally, are as a result of violence and armed conflict. Most refugee movements, such as the Syrian Refugee Crisis, are a result of armed conflict. Reprehensibly, however, major conflicts around the world have tripled since 2010, which means that more people than ever are at risk due to armed conflict and the violence that ensues. The mismanagement of refugees at international borders reflects a lack of interest as well as hesitation from states. Moreover, it illustrates that there is a dire need to improve the current instruments created for the protection of such individuals.

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