

# A COMPARATIVE ANALYSIS OF REFUGEE LAWS IN EASTERN AND WESTERN COUNTRIES: IMPLICATIONS FOR GLOBAL REFUGEE PROTECTION

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## **Abstract**

*The area of international law known as "refugee law" deals with the customary obligations that governments have towards refugees. Scholars of international law have different perspectives on how the provisions of international human rights or international norms relate to refugee law. The present study aims to analyze the refugee laws and policies in different Eastern and Western countries under International law. To identify similarities and differences in how Eastern and Western countries approach giving protection and support to refugees, this study examines and contrasts their laws and policies towards refugees. In the research design, a method for assessing qualitative data will be employed. The statistical data will be obtained from trusted resources such as UNHCR for the population of migrants and refugees in certain Eastern and Western countries.*

**Keywords:** *Refugee, Refugee policy, law, eastern refugee law, western refugee law, international refugee law*

## 1. INTRODUCTION

The reception of significant groups of persons who have been forcibly evacuated can face difficulties and dangerous situations, which are referred to as refugee crises. These can be large populations of internally displaced people, refugees from war, asylums, or other migrants. While attempting to leave the country, while moving to a safe country, or even once to a country that offers asylum, something could go wrong. A scenario may be classified as a crisis from the perspective of the population that has been forcibly uprooted, the perspective of the contracting state, or from both perspectives.

Refugees are those who attributed a very well dread of being victimized for primary motivations of a racial group, religious doctrine, ethnic background, affiliation with a specific social group, or political stance, who live outside their national origin and fail or are reluctant to use that nation's economic protection; or who, not having citizenship and living outside the state of his erstwhile usual residence, can't or not interested in going back to it.<sup>1</sup>

Turkey has been the world's greatest refugee-hosting nation by the middle of 2022. There have been approximately 3.7 million refugees in Turkey, based on information provided by the UN Refugee Agency. In second place with almost 2.2 million was Germany. The information relates to the overall number of refugees in a particular nation without taking into account the date of their request intended for shelter or the date of their departure (Department of Statista Research, 2023).

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<sup>1</sup> Elliott, D., & Segal, U. A. (2012). Refugees worldwide. ABC-CLIO.



### 1.1. International law concerning refugees (IRL)

A system for the worldwide protection of refugees was only established by the international community in 1951 (and later by an expansion of the definition of a refugee in 1967). The primary source of legal safeguards for refugees is the Geneva Convention Relating to the Position of Exiles. IRL stipulates what constitutes a refugee, upholds the right to apply for asylum, and guards against being forcibly deported to a nation where one might face persecution (the nonrefoulement). The UN General Assembly has given the UNHCR the authority to offer worldwide protection to refugees and look for long-term solutions to their suffering. The 1951 Refugee Convention ("Refugee Convention") lists five specific reasons for "persecution," including ethnicity, faith, citizenship, belonging to a specific social group, and political stance. Even if the societal and political environment that led directly to the Refugee Convention has evolved, this list of protected characteristics has not altered in the almost seventy years since it was first created. This study compares and contrasts the refugee laws and policies of Eastern and Western nations to find commonalities and discrepancies in how they approach providing protection and support to refugees. An approach for analyzing qualitative data will be used in the research design. <sup>2</sup>

## 2. BACKGROUND OF THE STUDY

The state has a duty to defend the liberties that its people are entitled to. When officials are incapable or unwilling to intervene, people may suffer dangers that are so severe that they must leave their country and seek safety elsewhere. If this happens, another country must step in to ensure the safeguarding of the fundamental liberties of the refugees. International protection is applicable in this situation. The Convention's authors focused on the problems affecting refugees at the point in time, directly following World War II. According to the 1951 Agreement, a refugee is someone who left their country due to events that occurred before January 1, 1951. Authorities must decide whether to implement this idea globally or only to events in Europe. In the 1950s and the first part of the 1960s, when new refugee crises arose all over the world, it became apparent that where and when the constraints of the 1951 Convention had to be increased. The 1967 Protocol to the Treaty was ratified to do this. The 1967 Protocol is distinct from the 1951 Convention, despite their close relationship. The Protocol repeals the geographical and time limitations of the Convention. States commit to applying all of the fundamental rules of the 1951 Convention (Articles 2-4).

### 2.1. Forced migration law

According to the UN, forced immigration does not constitute a legal principle by international law. It claims there is no consensus on the definition and that the term is frequently used as a catch-all for many forms of forced migration, both within and across national boundaries. The phrase has been used to identify people whose homes have been uprooted as a result of hunger, warfare, natural catastrophes, and extensive development projects. According to the UN, all persons who are in motion have human rights that should be upheld, protected, and realized. Nonetheless, unique current legislation protects the "unique requirements and privileges of refugees and asylum seekers (Tudor, 2022).<sup>3</sup>

### 2.2. Asylum seekers and refugees:

A refugee is an individual who has escaped one's own country but is unable to return since their safety or liberty is in grave danger. The term is defined as it relates to international law in the 1951 Convention. Refugees are entitled to protection from being compelled to go back to their country of origin.

The term "asylum-seeker," which is a catch-all term for someone looking for international protection, is independent of the 1967 Protocol but still closely tied to it. This legal expression is used in numerous countries to refer to someone who has applied for refugee status but hasn't yet received an ultimate ruling. Not every applicant for sanctuary will eventually be granted refugee status. Yet,

<sup>2</sup> (n.d.). Anasayfa - Mülteci Hakları Merkezi. <https://www.mhd.org.tr/images/yayinlar/MHM-14.pdf>

<sup>3</sup> Tudor, S. (2022, December). Refugees and asylum-seekers: UK policy. <https://lordslibrary.parliament.uk/>



the applicant should not be sent back to their country of origin until the immigration entitlement has been entirely considered.

### **2.3. Migrants**

Correctly differentiating between the phrases "migrant" and "refugee" is equally vital. Combining the two can have detrimental effects on the safety and lives of refugees. An individual who chooses to travel for motives other than a blatant threat to their existence or liberty, such as employment, schooling, reunion with family, or even additional private factors, is the perfect description of a migrant. With exception of refugees, migrants may not dread punishment or other serious harm in their native countries. Even when traveling abroad, migrants are still guaranteed government safety and have the choice to return. The majority of countries have agreed to ratify both the Protocol and the Treaty. They do this to emphasize the importance of both agreements to the global system for protecting refugees.

The 1951 Convention and 1967 Protocol are the contemporary manifestations of the long-standing asylum institution. Their inherent universality, lack of bias, and core principles continue to be their greatest assets. We reiterate that the 1951 Convention on the Treatment of Refugees of the United Nations and its Protocol of 1967 are the foundations of international law governing refugees and remain crucial to guaranteeing their protection.

### **2.4. Key protections mentioned in the 1967 Protocol and the 1951 Convention**

Three key topics are covered by the 1951 Convention and 1967 Protocol's Article 1:

1. The definition of a refugee, conditions for losing and regaining refugee status
2. The legal standing (rights and obligations) of refugees in their nation of asylum. This includes the responsibility of refugees to abide by the laws and regulations of their country of asylum as well as their rights there, such as the right to be shielded from repatriation;
3. The obligations of States, such as their obligation to work with UNHCR to carry out its duties and make it easier for it to fulfill its responsibility of overseeing the Convention's implementation.

### **2.5. Characteristics of a refugee according to the 1951 Convention**

Under the 1951 Convention, a person is considered a refugee if they meet the following criteria:

- Racial identity, religious affiliation, nationality, social group membership, or political convictions.
- Not being in one's native nation or normal residence.
- Refusing to use that government's security or relocating out of fear of being persecuted.
- Not being expressly excluded from refugee protection or having their status as a refugee terminated due to a change in circumstances.

### **2.6. Sovereignty and movement of people between states**

International law has made it clear that there should be no racial discrimination, with the basic concept of non-discrimination standing side by side. Second, the legal foundation for interstate migration is currently governed by the concepts of protection and sanctuary. The fundamental guidelines, or the particulars, have several historical roots. The long history of international law and organization about refugees, and in particular, the codification of nonrefoulement in the treaty and traditional international law; the ordinarily but nowadays treaty-based norms on the rescue of distressed individuals at sea, or entrance and financial support to the beached; the understanding that illegal trade and people trafficking are not just offenses to be prevented or brought to trial; the law of responsibility of states, both in link with the safety of immigrants and other such people in need; the third "law," or unavoidable force, in international relations is a dynamic that is partially brought on by capitalism and partly caused by other factors. The third "law," or inescapable factor, is a dynamism in international relations that seems to be partially a major driver of economic growth and partly owing to a backdrop "order" that plainly and as a matter of social fact incorporates worker movement, refugees, and spouses into expansion plans; that also allows albeit inadequately for international transfers of money (remittances); and that is finally embracing the fact that migration cannot be "controlled" (International Journal of Law, 2014).

The term "asylum," which has come to refer to the protection a nation offers to refugees or displaced people on its soil, is not defined under international law. The nonrefoulement principle serves as the



institutions have developed for the ability to file for and be granted asylum, however, asylum covers more than just this idea. It is a procedure that starts when someone is granted protection and concludes when they are granted citizenship by their new country, granted permission to return to their country of origin willingly in safety and dignity, or allowed to discover a lasting solution in another state (U.S. Law)

Some of the components of the right to apply for and receive asylum include the following; respect for the non-refoulement principle, such as quasi at the border; admission of refugees and asylum seekers to the territory of States; connect directly to equitable and efficient procedures for deciding their social standing and safeguards necessities; quick, unrestrained, and secure access to UNHCR; and therapeutic interventions of refugees and asylum seekers following the relevant laws.

A crucial component of worldwide legislation dealing with the rights and safety of people is refugee law. Refugees are individuals who have fled their native countries because they have a real fear of being persecuted, attacked, or violently intervened upon. Because they are concerned about persecution, they have no choice but to be reluctant to go back to their nations. Western nations with refugee laws and policies in place, like the United States, Canada, and the majority of Europe, uphold the ideals of the Refugee Convention. These nations have policies in place for handling requests for asylum, granting either temporary or permanent residence, and providing the availability of basic services like education and medical care.

A foreigner who fears oppression in their republic because of their reliance, civilization, citizenship, contribution in particular social groups, or radical opinions is considered a refugee under the Refugee Act. The US will grant refugee status to anyone who returns a POW or MIA American soldier. As per the United Nations Global Issue, 2023, there are dwindling chances for refugees to find a rapid resolution to their situation. Since the 1990s, every year around 1.5 million refugees have been permitted to return home. Over the past ten years, that number has dropped to roughly 385,000, and as a result, the increase in migration has outpaced viable cures by a large margin.

10.7 million Individuals in Asia and the Pacific are of concern to UNHCR, including 1.2 million stateless individuals, 4.7 million people who are homeless, and 4.2 million refugees and asylum seekers. With more than 3.7 million Syrian refugees registered as of 2021, Turkey is home to the most refugees worldwide, according to the United Nations High Commissioner for Refugees (UNHCR). Over 8 lac refugees, mostly from Afghanistan, live in Iran, while over 1.4 million refugees, mostly from Afghanistan, reside in Pakistan. These nations have put rules in place that provide for temporary protection, access to essential services, and the right to work and go to education for refugees.<sup>4</sup> Over five million Afghans are still forced to live outside of their nation more than 40 years after the Soviet invasion of Afghanistan in 1979. This is due to ongoing conflicts. Since the early 1990s, more than a million Rohingya people have escaped the atrocities in Myanmar in several waves of emigration. Refugees from throughout Asia and the Pacific convey their stories, viewpoints, and ambitions as people who were compelled to flee through first-person tales (UNHCR, 2023).

There has been a massive influx of refugees from violent countries to other Muslim and Arab nations since the beginning of the foreign invasion of Muslim countries (Afghanistan, Iraq, Syria, Lebanon, Palestine, Myanmar, etc.) and following violent revolts as well as other terrorist actions. Western nations. The 9/11 attacks and the ensuing US "War on Terror" forced millions of individuals from the worst-affected regions, such as Afghanistan and Iraq, to flee their homes, contributing to this refugee flow. The urgent question of how to treat refugees has arisen as a result of this. Should they be considered as refugees with certain restrictions or as citizens with rights and obligations? How have refugees been treated historically within Islam and Muslim culture? Little attention is paid to responding to these inquiries. From the beginning of hostilities both within and between nation states, the number of refugees has been rapidly increasing. Western nations are accused of sponsoring refugees in a selective manner and interfering in the internal crises of the affected nations. Many unfriendly governments and military wars are forcing millions of people to flee their homes and seek

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<sup>4</sup> The 10 largest refugee crises to know in 2023. (2023, January 9). Concern Worldwide. <https://www.concern.net/news/largest-refugee-crises>



sanctuary. In contrast, the Rohingya refugees from Myanmar are subject to strict laws and regulations and are denied even Internet access in Bangladesh as a result of the recent Taliban takeover of Afghanistan. It is past time for appropriate laws on this serious matter, and they should be given the dignity and privileges they so richly merit (Islam, 2023).

### 3. RESEARCH QUESTIONS

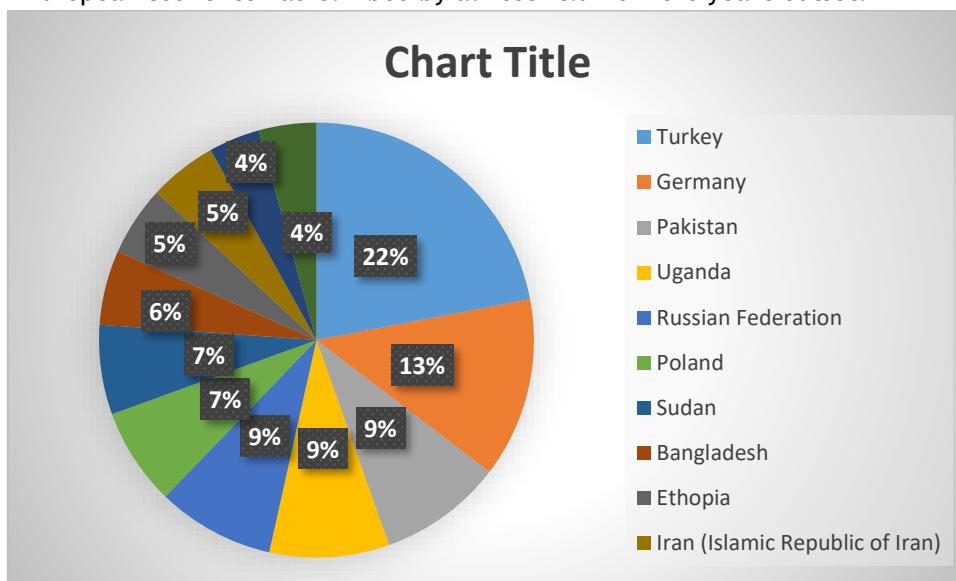
1. How do the legal and policy frameworks for refugees compare between Eastern and Western nations?
2. What are the current statistics on refugees in Eastern and Western countries?
3. What are the shortcomings of the current legal and policy frameworks governing refugees?
- 4.

### 5. METHODOLOGY

The study used a descriptive statistical data analysis from surveys conducted by UNHCR for refugees around the world. The data has been discussed in the form of tables and stats, whereas a qualitative analysis of rules and regulations in Eastern and Western countries has been carried out about International law for refugees.

### 6. ANALYSIS OF STATISTICAL DATA:

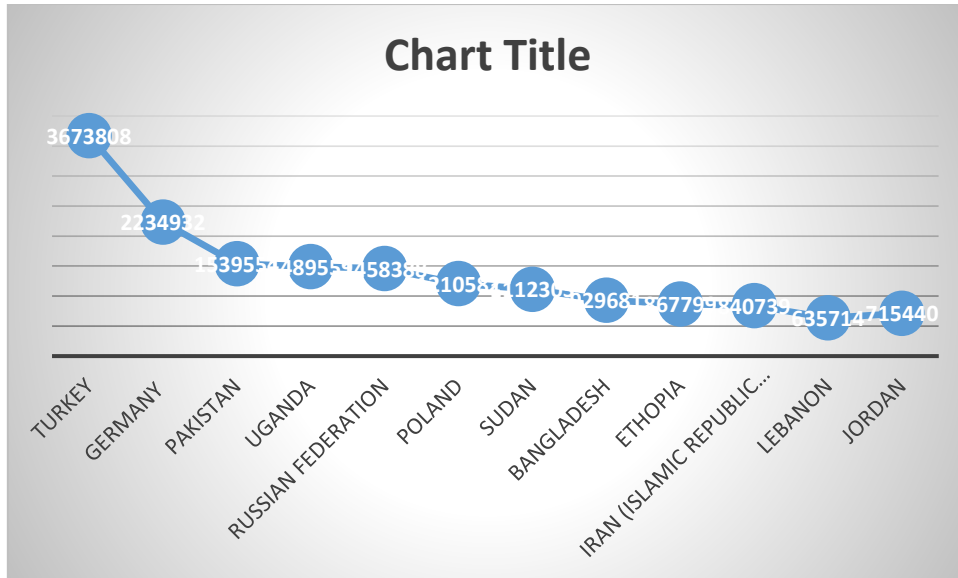
The data presented in the tables below have been obtained from UNHCR statistics of the refugees residing in different Western and Eastern countries. The UNHCR discovered that 12 nations hosted 53% of the world's refugees. <sup>5</sup>The largest rate of refugee migration has been noted in Turkey and the least was recorded to be in Jordan. <sup>6</sup> According to the given stats, 12.5 million refugees, or roughly 40% of all refugees worldwide, is currently being hosted in Europe due to the flood of Ukrainian migrants. It said that as a result of Russia's invasion of Ukraine in February 2022, <sup>7</sup> the number of refugees in European countries had climbed by almost 78% from the year's outset.



<sup>5</sup> UNHCR. (2021). Global Trends Forced Displacement in 2020. Retrieved from <https://www.unhcr.org/globaltrends2020/>

<sup>6</sup> UNHCR, the UN Refugee Agency. (n.d.). UNHCR. <https://www.unhcr.org/asia-and-the-pacific.html>

<sup>7</sup>Major refugee-hosting countries worldwide 2022. (2022, June 16). Statista. <https://www.statista.com/statistics/263423/major-refugee-hosting-countries-worldwide/>



Graph 5.1. UNHCR Data of Refugees in Different Eastern and Western Countries

## 7. DISCUSSION AND ANALYSIS OF POLICIES

### 7.1. Comparative Analysis of the Refugee Policies in Eastern and Western Countries

Countries like China, Japan, and Russia have a more restricted history of providing shelter and defending migrants in the eastern portion of the world. Although these nations have ratified the Refugee Convention and put comprehensive refugee laws and policies in place, they have not signed the Refugee Convention. In certain instances, refugees are treated like undocumented immigrants and mistreated by detention, deportation, or other means. Yet, other nations in the east, including Turkey, Iran, and Pakistan, have taken in a sizable number of refugees from nearby nations like Syria, Afghanistan, and Iraq. Several nations have put laws into place to offer ad hoc protection, access to essential services, and chances for jobs and higher education.<sup>8</sup>

These are discussed in detail below:

#### 7.1.1. Refugee and Asylum seeker policy in the UK

In 2021, the government declared that the UK would continue to be "responsive to the situation of refugees and asylum-seekers" and act "as a positive influence on the globe." It said that, in keeping with its commitments under international law, it had a "proud proven history" of defending individuals who needed it. The "broken" asylum system does, however, need to be reformatted, according to the administration. To implement improvements, new strategies were implemented in 2022.

#### 7.1.2. Seeking refuge in the UK

In order to apply for asylum in the UK, an individual must be there legitimately. Asylum seekers cannot apply from abroad and cannot obtain a visa to do so. A visa can't be acquired with the express purpose of obtaining asylum. Therefore, people who are unable to enter the UK legitimately must do so illegally, such as via small boat, with bogus identification, or with a visa for a different cause, like research or sightseeing. Even while seeking refuge is not unlawful, entering or remaining in the UK without the right authority is.<sup>9</sup> To qualify for the same length of stay as the primary application, applicants may also include their spouse and any kids under the age of 18 as dependencies. Asylum seekers are not required by international refugee law to file their application in the first safe country they reach. According to Home Office instructions, asylum requests may be deemed inadmissible if there is a plausible chance that they would be transferred to a secure third country (Nationality and Borders Act, 2022).

<sup>8</sup> UNHCR. (n.d.). Refugees in Asia and the Pacific. Retrieved from <https://www.unhcr.org/asia-and-the-pacific.html>

<sup>9</sup> YILDIZ, A. (2019). Integration of refugee students in European higher education comparative country cases. Yaşar Üniversitesi.



There are four possible outcomes for an asylum application, according to the Migration Observatory at the University of Oxford: acceptance as a group 1 refugee with 5 years' leave; acceptance as a group 2 refugee with 2.5 years' leave, and the chance to apply for indefinite leave to remain after ten years; or rejection of refugee status but approval to remain in the UK for other humanitarian grounds. The initial judgment might be challenged by the claimant.

The Home Office updated its policy guidelines on UK refugee resettlement in August 2021, describing the three different UK programs that are currently in operation:

1. UK resettlement scheme (UKRS) for refugees living in camps in insecure or war-torn countries close by. After a customer approaches, member local governments in the UK take the initiative to provide aid with assimilation.
2. The communal funding scheme adheres to the same requirements as UKRS. Refugees who have been relocated are connected with a local community organization that has volunteered to aid in their integration into the UK.
3. Mandate resettlement program for refugees who have a relative or friend in the UK who really can house them and who holds a permanent residence visa or a transitory visa with a green card.

#### **7.1.3. Alternative immigration pathways: nation-specific programs**

In recent years, certain Afghans, Ukrainians, and residents of Hong Kong can immigrate to the UK using one of three nationality-specific specialized immigration channels. Not all of these paths lead to refugee status, which comes with the privileges and rights outlined in the 1951 Refugee Convention. Afghan Relocations and assistance policy (ARAP) and ex gratia plan are available to former Afghan civilians who were employed locally. The primary applicant's prior employment with the UK government and potential dangers are taken into account when determining eligibility. The individuals covered by these programmes have not undergone a refugee determination procedure abroad and have not been given refugee status. BNOs and their immediate family members are eligible for the Hong Kong British national (overseas) visa, which enables them to go to the UK and acquire British citizenship. It is not a path to asylum and must be applied for in the same way as a visa (House of Commons Library, 2023).

The UK issued grants of asylum, humanitarian protection, alternative forms of departure, and relocation to 15,684 people (which includes offspring) in the year ending June 2022, according to Home Office statistics.

Following the submission of an asylum petition, 12,968 people received refugee status.

- 859 people received humanitarian assistance.
- Alternative leave was provided to 235 people
- 1,622 people received refugee status as a result of resettlement programs.

#### **7.1.4. UK aid budget for refugees**

It is unclear how many people will qualify for aid and how much the UK's aid budget will ultimately cost. Yet, according to estimates published in March 2023 by the Independent Commission for Aid Impact (ICAI), the UK spent 3.5 billion pounds, or one-third of its aid budget, on hosting refugees in 2022. The ICAI contends that, in contrast to many other European nations, the UK is not taking a normal value to its disclosure, even if it is acknowledged that the aid budget can cover these demands.<sup>10</sup>

#### **6.1.2. American law on refugees**

The United States Refugee Admissions Program, or USRAP, is managed by the State Department. More than 3 million immigrants have been welcomed since the nation's foundation in 1980. President Trump lowered the yearly refugee cap to a historical figure of 15,000 in 2021 because he considered the program as a security risk. President Biden has taken action to extend the refugee program as the frequency of natural catastrophes rises, but it hasn't been simple to enhance the program's capabilities.

<sup>10</sup> Loft, P., Brien, P., & McKinney, C. J. (2023, March). The UK aid budget and support for refugees in the UK in 2022/23. Just a moment... <https://commonslibrary.parliament.uk/research-briefings/cbp-9663/>



Those seeking asylum who want to come to the United States from a foreign country and can demonstrate that they have experienced or have reason to fear going through persecution because of one of five "safeguarded grounds"—culture, faith, race, political views, or membership in a particular social group—are considered refugees under U.S. law and the 1951 Refugee Convention. By the middle of 2022, the UN Office for Refugees estimated that there were approximately 27 million refugees worldwide, roughly half of them originating from the same two nations: Syria and Ukraine. Since the program's inception in 1980, when more than 200,000 refugees were admitted each year, it has generally decreased to 25,465 in 2022. The number of refugees admitted fluctuated greatly during that time, declining during the 1980s and then rising again with the fall of the Soviet Union in the 1990s before reaching a record low in 2021 (Roy, 2023).<sup>11</sup>

The data chart below describes the no. of exiles in quest of asylum in the USA in 2022:

**Table 6.2.1.**

Country of origin	Number of refugees accepted	Percent of total
Afghanistan	1,618	6%
Colombia	261	1%
Democratic Republic of Congo	7,810	31%
El Salvador	519	2%
Eritrea	325	1%
Guatemala	1,085	4%
Honduras	450	2%
Iran	255	1%
Iraq	498	2%
Moldova	507	2%
Myanmar	2,156	8%
Other	1,397	5%
Somalia	456	2%
South Sudan	293	1%
Sudan	1,669	7%
Syria	4,556	18%
Ukraine	1,610	6%

Through USRAP, the U.S. State Department oversees the refugee admission procedure after consulting with other organizations and agencies. A potential refugee must register with the UN High Commissioner for Refugees as their first step before traveling overseas (UNHCR). UNHCR representatives gather evidence, conduct a preliminary assessment, and refer competent people to State Department Resettlement Assistance Centers (RSCs). RSC representatives conduct interviews with candidates, confirm their personal information, and submit their data for background investigations by several U.S. national security organizations. The applicant may be granted entry to the United States if none of these inquiries yield troubling findings. Typically, it takes between 18 months and two years to finish the whole recruitment procedure.

Currently, 49 U.S. states accept refugees for resettlement, while some states do it more frequently than others. As of January 2023, Texas, California, New York, Kentucky, and Washington had taken in the most refugees, accounting for around 13 percent of all admittance to refugees in FY2023, according to the U.S. State Department. One-third of the 601,000 refugees who were relocated between 2010 and 2020 traveled to only 5 states.

According to a 2019 analysis by the CATO Institute, 25 of the 192 export terrorists who committed attacks in the US between 1975 and 2017 were refugees. Only 3 of these incidents resulted in death,

<sup>11</sup> Klobucista, C., McBride, J., & Roy, D. (2017, February 6). How does the U.S. refugee system work? Council on Foreign Relations. <https://www.cfr.org/backgrounder/how-does-us-refugee-system-work-trump-biden>





and all 3 happened before to 1980, the year the Refugee Act created the present diagnostic procedures.<sup>12</sup>

### 6.3. Eastern Countries and refugee law

#### 6.3.1. The refugee policy of Turkey

Turkey, which has taken in approximately 3.6 million Syrian refugees, is the largest refugee-hosting country in the world. In accordance with a geographical restriction Turkey set on its submission to the UN Refugee Convention, Syrians and people arriving from countries to the south and east of Turkey's borders are not granted full refugee status. Despite the fact that the number of individuals displaced due to war, extremism, and tyranny reached historic highs globally, Turkey continues to house the largest number of refugees.

Both the 1951 Refugee Convention and the 1967 Protocol are ratified by the Republic of Turkey, which upholds the 1951 Convention's geospatial limitations and maintains that relocation to a third country is the most preferable lengthy alternative for refugees who showed up as a consequence of events that occurred beyond the Europe. To create a workable, international-compliant national refugee system, Turkey has been updating its laws and institutions. The Law on Foreigners and International Protection, Turkey's first ever asylum law, was passed by the Parliament in April 2013 and went into force on April 11, 2014. The legislation establishes the President of Migration Management (PMM) as the chief institution in enforcing legislation and sets out the fundamentals of Turkey's national refugee system.

Nobody covered by this Article may be sent back to a country where they risk being tortured, receiving cruel or degrading treatment, or having their lives or freedom threatened because of their civilization, sect, country, association with a specific social group, or political opinions. Foreign nationals who desire to visit Turkey for up to 90 days must get a visa from one of the Turkish Republic's consulates in the nation where they were born or are currently residing legally. A total of 90 days cannot be spent in Turkey under the terms of a visa or visa exemption for 180 days.<sup>13</sup>

Turkish law grants people the right to stay if they are unable to return home due to persecution for their racial group, spirituality, political beliefs, country of origin, or affiliation with a particular social group, as well as other reasons such as indiscriminate violence brought on by internal or external armed conflicts, the threat of the capital punishment, brutality, or other forms of unfair, dehumanizing, or demeaning treatment or punishment.

#### 6.3.2. Refugee law in Pakistan

Due to the lack of a national refugee statute and properly defined migratory governance frameworks, Pakistan is particularly challenged by this refugee crisis. Furthermore, despite recent fortification, the Afghanistan-Pakistan border still serves as a hub for trade and the daily travel of undocumented immigrants, making it vulnerable to infiltration by international terrorism. A lack of legal reforms will lead to the mixing of refugees and unauthorized migrants, creating problems for both safety and humanitarian assistance. Pakistan must think about developing a comprehensive refugee strategy for Afghans that complies with both international commitments and regional governance mechanisms with the backing of the United States.<sup>14</sup>

Since there are no national law controlling refugees, The UNHCR is used by Pakistan to assess the status of new refugees and manage their reintegration. The 1951 Refugee Convention and its 1967 Protocol serve as the foundation for the UNHCR's operations. Both establish "refugee status" and define the responsibility of host countries to protect refugees under international law. To avoid forced returns, they also adopt the non-refoulement concept. Interestingly, Pakistan is not a signatory to either of the treaties that serve as the fundamental legal cornerstones of all UNHCR work.

<sup>12</sup> Foster, M., & Lambert, H. (2019). *International refugee law and the protection of stateless persons*. Oxford University Press.

<sup>13</sup> Turkish asylum law analysis: Turkey's delivery of human rights obligations after the EU-Turkey statement. (2020). *The EU-Turkey Statement on Refugees*, 108-160. <https://doi.org/10.4337/9781789909210.00010>

<sup>14</sup> Naseem, N. (2022). *A Balancing Act: Challenges to Pakistan's Refugee Management*. *South Asian voices*. <https://southasianvoices.org/a-balancing-act-challenges-to-pakistans-refugee-management/#:~:text=In%20the%20absence%20of%20a,Convention%20and%20its%201967%20protocol>



The fencing of Pakistan's shared border with Afghanistan in 2021 will emphasize the stark discrepancy between Pakistani official policy and UNHCR mandates. The number of refugees who have entered Pakistan since the Taliban assumed power, as well as their views on the perimeter fence and the presence of authorized passage crossings, are major sources of contention between the UNHCR and the Pakistani government. The UNHCR has asked Pakistan to loosen border security and enhance its funding to deal with refugee flows, despite Pakistan's government's claim that it cannot accommodate additional people. The administration, economy, and health of the region are at risk due to the differences between the Pakistani government and the different partner organizations it must cooperate with. Only until these policy changes and reparations are completed will it be regarded as a desirable place for refugees to live and establish themselves. Political anarchy is also a drawback for the shortcomings of the refugee wellbeing in the country. There is a dire need for the recodification of refugee policy. Certain security issues also raise due to refugees in Pakistan, hence, the government must work on the refugee policy and try to solve the concerned problems while paying heed to the displaced people in Pakistan and their relevant issues.

### **6.3. Refugee Law in India**

Despite India's reputation as a "haven" for migrants, the state can deal with refugee groups haphazardly and capriciously because there is no official law in place. The primary law that governs how people who are not citizens of India are treated is the 1946 Foreigners Act.

Over 0.213 million refugees and asylum seekers are currently being housed in India, most of them from Sri Lanka, Afghanistan, China, or Myanmar, according to estimates from the United Nations. India is at the epicenter of refugee flows due to its location in South Asia, which is bordered by ethnic conflict in Sri Lanka and Myanmar, the war in Afghanistan, and political as well as ethnic repression in China. Yet, neither does India have national legislation about refugee rights nor is it a signatory to the 1951 UN Convention Relating to the Status of Refugees. Instead, it administers refugees following local regulations intended for visitors to India who freely arrive, combining two separate groups with separate rights.

The Indian Constitution applies to those who are residing as the displaced people in India. The primary article is Article 21, which deals with everyone's basic right to liberty and happiness, irrespective of whether or not they are Indian citizens. Many decisions regarding refugees have been made in accordance with Article 21. Article 14 guarantees each person's equality before the law. Articles 5-12, 20, 22, 25-28, 32, and 226 also apply to non-Indian nationals, particularly to refugees. Three types of treatment are available to those seeking asylum:

- National treatment such as equivalent to the citizens
- Equivalent to foreigners such as freedom of residence and movements across the country
- Special treatment such as identity and travel documents

#### **6.3.1. Refugee Acts in India**

In India, there are no specific regulations controlling refugees. The Refugee and Asylum (Protection) Bill of 2009 does exist in India, though. The Foreigners Act of 1946 is the primary piece of legislation that helps refugees and asylum seekers, nevertheless. Laws pertaining to refugees include: The Citizenship Act of 1955 (No. 57 of 1955);

- The 1962 Extradition Act (No. 34 of 1962)

The 1946 Foreigners Act (No. 31 of 1946)

- The Illegal Migrant (Determination by Tribunals) Act of 1983, Public Law No. 39 of 1983
- The India Penal Code Act of 1860 (1860 No. 45)
- The Passport (Entry into India) Act of 1920, Public Act No. 34 of 1920
- The 1967 Passport Act (No. 15 of 1967)
- The 1993 Protection of Human Rights Act (No. 10 of 1994)
- Foreigner Registration Act of 1939 (No. 16 of 1939)
- 1950's Immigrants (Expulsion from Assam) Act
- The 1950 Evacuee Property Administration Act



Citizenship cannot be awarded to refugees because they are a transient population unless they intend to remain there permanently. Refugees, however, might not be accorded citizenship since they intend to return to their home countries. Citizenship rights may be granted, but because they intend to return, they may not be recognized as citizens (IFA, 2023).<sup>15</sup>

Hence under these laws, refugees are given protection in India. The legal system has made it easier for them to play a significant role in protecting refugees through the use of Social Action Litigation and Public Interest Litigation. The Central Government is allowed complete and unfettered discretion to expel foreigners, and they have the opportunity to be considered.

## 8. CONCLUSION

Even though there are several conventions and laws managing migrants around the world, they nevertheless encounter problems. When a huge country like India lacks an exiles law, we might realize that most of the countries share a comparable face and are in the similar situation. If UNHCR and NHRC work together, refugee law will advance far more. Without a doubt, India has to create legislation governing refugees because there may be a lot more issues in the future for many reasons. Organizations should actively support UNHCR whenever it tries to aid refugees. Although the Constitution protects refugees in various capabilities, there ought to be a universal law for such displaced people. The study asserts that most of the people are migrating towards Turkey and Germany both countries represent Eastern and Western parts of the world respectively. But the policy of Turkey is quite more rigid than that of other countries and the policy of Germany, Pakistan, Canada, and the USA are reflexive for such displaced people to migrate and get a lifelong stay at these countries easily. Though, after Trump moving to the USA had become difficult but the policies renewal after Joe Biden has made many people get refuge in the USA. In summation, there are considerable discrepancies between Eastern and Western countries' legislative and regulatory arrangements for refugees, including different approaches to relocation, assimilation, and sanctuary procedures. As an illustration, the United States and the United Kingdom have come under fire for their stringent refugee policy, while Turkey has received praise for housing one of the largest refugee populations in the world. Similar to this, Pakistan and India have adopted various approaches to the issue of refugees, with Pakistan receiving accolades for its benevolent treatment of Afghan refugees and India drawing flak for its handling of Rohingya refugees. Every country and community must work together to find a cooperative and humane solution to the problem of refugees. Investigating the legal and policy frameworks for refugees in Eastern and Western countries has brought to light the complexities and flaws of the current systems as well as the necessity for increased international collaboration and standardization in dealing with the refugee issue. To address the refugee crisis, authorities must give the preservation of refugee rights priority and make investments in long-term solutions. Thus, nations must cooperate and take a more sympathetic stance towards refugees, regardless of their origin or ancestry.

The legal and policy frameworks for refugees in Eastern and Western countries have been broadly outlined in this study, but there is still more to learn and explore. Future studies should concentrate on the refugee crisis' more specific features, such as the psychological effects of displacement, the efficiency of relocation programs, and the contribution of community involvement to refugee integration. The policies and practices of various countries might be further examined. The study's ideas and results can be used by researchers to create more practical and long-lasting solutions to help refugees and deal with the refugee issue.

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<sup>15</sup> Constitutional Provision Regarding Refugee Law in India. (n.d.). International Journal of Law Management & Humanities. Retrieved January 16, 2023, from <https://www.ijlmh.com/paper/constitutional-provision-regarding-refugee-law-in-india/#>