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EMPLOYMENT RIGHTS OF REFUGEES UNDER THE 1951 CONVENTION RELATING TO THE STATUS OF REFUGEES

Mohammad Naqib Ishan Jan¹, Ashgar Ali Ali Mohamed¹ & Muhamad Hassan Ahmad¹

¹ Department of Civil Law, Ahmad Ibrahim Kulliyyah of Laws,
International Islamic University Malaysia, P.O.Box 10, 50728,KualaLumpur, Malaysia

Abstract: The 21st Century is shockingly witnessing the growing trends of stateless, vulnerable and persecuted people around the world. Albeit the 1951 Convention relating to the Status of Refugees (1951 Convention) and its 1967 Protocol Relating to the Status of Refugees (1967 Protocol) offer numerous legal basis for the protections of refugees, these are still seemed inadequate to address the global plights of refugees. One of the problems associated with refugees is unemployment while seeking refuge in the host State. Surviving in a foreign country without a proper mean to earn a living often compels them to indulge in illegal activities which may inevitably affect the national security of the host nation. Hence, it is essential to guarantee employment rights to the refugees for their survivals. It is observed that most of the States nowadays are reluctant and not very much forthcoming in welcoming refugees let alone employing them. In fact, there are many benefits that a host State can gain from allowing refugees to work while they are living it its territory, namely, promoting the living standard of refugees in its jurisdiction, integrating them well in to the host society, and boosting the national economy, among others.

Key words: Employment rights, Refugees, Standards of treatment, 1951 Convention Relating to the Status of Refugees, United Nations High Commission for Refugees (UNHCR)
INTRODUCTION

Generally, the responsibility to grant access to safe and lawful employment is a fundamental human right. This is a fundamental principle and applicable to all persons, which also consist of refugees and asylum seekers, for good reasons. Allowing a person to involve in safe and lawful work enables that person to fulfill his or her basic survival needs and also to contribute to the needs of the family, community and the country in which they reside. The recognition of this right is an avenue that a person may achieve a range of other civil, political, economic, social and cultural rights. This further fulfilled the human desire to feel useful, valued and productive.

OBJECTIVE

To examine major legal provisions dealt with the employment of refugees under the 1951 Convention.

LITERATURE REVIEW

By looking at the current global trend, most of the States nowadays are reluctant and not very much forthcoming in welcoming refugees let alone employing them. Therefore, authors recommend through in this paper that a host State should allow refugees to work while they are settling it its territory for the purpose of promoting the living standard of refugees in its jurisdiction, integrating them well in to the host society, and boosting the national economy.
FINDINGS

1. Development of International Refugee Law
   - Refugee Protective Measures Initiated by the League of Nations
     - Established in 1919 under the Treaty of Versailles, was the first international organisation that faced a large influx of refugees.
     - The main cause for the influx of refugees was the First World War that started on 28 July 1914 and continued until 11 November 1918.
     - The League of Nations took some limited measures to respond towards the protection of some, though not all, refugees.
     - Russians, Armenians, Assyrians and Assyro Chaldeans and Germans are were the only categories of refugees who came within the mandate of the League’s agencies for refugees.
   - Refugee Protective Measures Initiated by the UN
     - Established on 24th October 1945, which acknowledges the problem of refugees and displaced persons of all categories is one of the immediate urgency.
     - The UN General Assembly tasked the Economic and Social Council (ECOCOS) to institute a comprehensive organisation to look for solutions with regard to refugees. Meanwhile, the General Assembly decided to establish the United Nations High Commissioner for Refugees (UNHCR) and it started its journey as the only international body responsible for the defense of refugees since 1951 (Degu, 2002).

2. Minimum Standards of Treatment
   - It establishes the main rights and obligations of refugees as well as the treatment to which they are entitled from the country of asylum (UNHCR, 2006).
   - The rights or the minimum standards of treatment refugees enjoy under the 1951 Convention are accompanied with certain duties as Article 2 makes it clear that refugees have duties to “the country of asylum, including “respect for its laws and for measures taken for the maintenance of public order”.
   - The minimum standards of treatment of refugees under the 1951 Refugee Convention include first national treatment, which is the highest standard requiring that refugees to be treated the same as nationals in various matters.
3. Employment Rights of Refugees

- Under the 1951 Convention, refugees have rights to be employed, self-employment, practice a profession, own a property, and access to higher education.
- It categorises these rights into three types:

| Wage-earning Employment | • A refugee with legal status who stays in a host country would be accorded to status of a foreign national and such will grant the right to engage in employment for the purposes of earning income.
  • The problem arises at this juncture is that term ‘wage-earning employment’ was not specifically defined in the 1951 Convention.
  • It is assumed that ‘the term ‘wage-earning employment’ comprises employment as those who are remunerated to a greater or smaller extent in the form of little payment, commissions or percentages (farmhands, office workers, salesmen).
  • Article 17 applies to assistant dentists, assistant architects, law clerks and assistant attorneys, etc” (UNHCR, 1997).
  • Article 17 (2) -in any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:
    - has completed three years’ residence in the country;
    - has a spouse possessing the nationality of the country of residence
    - has one or more children possessing the nationality of the country of residence”.

| Self-employment | • Article 18 of the 1951 Convention imposes duty up on the State Parties to provide a refugee the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.
  • the State parties should support refugees with the opportunity to own a land for those interesting in agricultural farming, industries, etc.

| Liberal Professions | • Article 19 (1) of the 1951 Convention requires State Parties to recognise the educational qualifications of the refugees through the competent authorities and allow them to practice a liberal profession if they desire.
  • The purpose of this provision is to integrate the status of refugees in the society by making them skillful in the area of their interest so that they will be able to provide better services.
  • Under Article 19, a refugee hold an educational certificate and that qualification need to be recognised by the competent authorities of the State in whose territory the refugee is lawfully settling.
  • A diploma must be considered as recognised if it is obtained from a university or an equivalent institution in the country concerned.
  • To make some clarification on some of the terms in this provision for the
purposes of understanding, these terms are two fundamentals which profession (the person concerned must possess certain qualifications, normally confirmed by a diploma from a university, or a similar institution, or a license from a State agency, a chartered society or some other legally competent body allowing him to practice" (UNHCR, 1997)) and liberal (the person concerned acts on his own, not as an agent of the State or as a salaried employee).

CONCLUSION

In a nutshell, the 1951 Convention makes it compulsory for the Contracting States to provide refugees with rights to be employed, self-employment, practice a profession, own a property, and access to higher education. These rights are inalienable and thus any Member State that hosts refugees should be aware of these exercisable rights by refugees and ensure these rights in its respective domestic legislation. Of course, the standards of treatment with regard these rights mentioned in the 1951 Convention are not exhaustive as it merely sets the minimum standards of treatment. Therefore, other sets of international human rights law and international customary law can be referred to fill the gap in the international refugee law if that is necessary. By doing so, a State Parties is considered not only in compliance with the 1951 Convention and 1967 Protocol but also promoting the living standard of refugees in its jurisdiction, integrating them well in to the host society, and boosting the national economy.

SELECTIVE REFERENCES
