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## REVIEW AND RESEARCH IN FREEDOM TO LEARN REFUGEE LAW

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### INTRODUCTION

Freedom has always been a part of human rights, it's the cardinal point of the rights that shall be given to every human in every places and times. As it is known that human rights include such freedom to live, freedom of beliefs, freedom of opinion and expression, also freedom to work and learn. Human rights are also a part of international law, for individual's human rights shall be guarded everytime and everywhere. As it's a part of international law, then the actors who is accountable for its protection are States. States shall be able to protect human rights in every aspect. Even if there's a violation of human rights done by non-State actors, States also held responsible for it, where it's considered that State has failed to act diligently to protect individual's human rights from the violations committed by non-State actors (Guercke, 2021). While it's State's responsibility to protect individuals human rights in their territory, the fact that some States are unable or intentionally unwilling to do so, but on the contrary cause the violations of human rights. There are circumstances where unavoidable conflicts occurs by third party or even conflicts conducted by States. Those circumstances created a situation that injuring human rights through persecution and it reached the points where flow of refuge happens.

The awakening moment of the needs to govern on refugees, firstly happened post the establishment of the League of Nations on 1920. After the defeat of anti-Bolshevik forces in Russia in late 1920, the Great Britain and France were taking role on evacuating military and civilian refugees and a group of 4,500 people and helped them to be accepted for permanent settlement by Bulgaria and other countries. Later, on 1922 the ICRC proposed to establish a High Commissioner to define the legal position of Russian refugees, to organise their employment and repatriation as what happened to Constantinople took over the whole international attention. The High Commissioner then started to begin working on a pattern and standards on handling the refugees some basic principles such as non- refoulement also found, defining the refugees, and protecting the refugees had been talked for decades until under the United Nations a new convention relating to refugee established namely The 1951 Vienna Convention Relating to the Status of Refugees (Goodwin-Gill, 2020).

Speaking of refugee law is inseparable with legal issues, generally, and international law, spesifically. In general, refugee law discusses on human rights problems of individuals or group of people which no longer derived from their home country or the country of origin. In other words, the home country of refugees is unable to provide protection to them and the refugee is unwilling to receive protection anymore from their home country for certain reasons. Legal provisions governing on refugee includes juridically universal, juridically regional or even non-juridically universal or regional. In the relation of review and research on refugee law in this article will be observed from international refugee law provisions that are universal and juridical, both Convention 1951 and Protocol 1967. These two instruments shall be read simultaneously for it complement each other.

Article 1 of Convention 1951 governs that an individual may called as refugee if fulfill

the criteria determined as it stated that:

the term “refugee” shall apply to any person who: ... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”

Since the very beginning this Convention was meant to handle refugee issues occurring before 1951 and located in Europe. As for the reality, the flow of refugees keep occurring after 1951 and even until 2021, the year of Covid-19 Pandemic, and happened to be outside the Europe. According to that social phenomenon, then the Protocol 1967 is applied which deprived the limitation of time (*tempus delicti*) and place (*locus delicti*) of Convention 1951.

As the Taliban force takeover Kabul on August 15, 2021, many of Afghans forced to flee out from their home country, avoiding and unwilling to receive protection from the Taliban. The Taliban are a predominantly Pashtun, Islamic fundamentalist group that returned to power in Afghanistan after two decade of insurgency. It known as a group that imposed harsh interpretation of Islamic law and neglected women rights and religious and ethnic minority communities. When the Taliban force reigned in most of Afghanistan’s territory, the Afghans flee caused by trauma and avoiding further persecution from the Taliban.

That was the biggest refugee crisis on 2021, as the UNHCR reported that until 2023, the refugees (and asylum seeker) registered and originating from Afghanistan reached 2,4 million people, consisting of 41% women and 40% children and for the returnees of refugees and Internally Displaced Person reach 740,000 people. Most of the refugees flee to Pakistan, Iran, also United Arab Emirates (UAE). The UAE government particularly took part on evacuating thousands of Afghans on private chartered flights and positioned themselves as a transit country, understanding that the refugees would move to another country and many of them later resettled in the US and Canada, and 2,400 to 2,700 of Afghans remain in the UAE as of January 2023 with the status of “arbitrarily detained” (Medialine, 2023). Under that circumstances, the flow of Afghan refugees that occurred after the year of 1951 and happened to be outside the Europe, it is able to be covered under the Convention 1951. Thus, the research of refugee law should observe on several aspects including before, during, and after the refuge happens, also observing on how to conduct research in the relation of refugee law while looking carefully on the peculiarity of research on law in general and refugee law in particular.

Law is normative and *sui generis*, normative law is the science of the rules of science about norms (Krustiyati, 2021). In conducting review and research in legal field shall consider and recognize the type of laws, sources of law, and the essence of law. Conducting review and research in the field of civil law is different to criminal law. While in civil law is looking for formal truth, the criminal law is looking for material truth. Civil law is seeking for closest cause (*causa proxima*) and on criminal law there should no any doubt (beyond reasonable doubt). Compared to international law, and refugee law particularity also applies differently. Refugee law is a part or branch of international law and it has coordinative characteristic unlike the national law (civil law and criminal law) with sub-ordinative characteristic. Sources of law is the place to find law, for international law the sources of it are govern on Article 38 of The International Court of Justice Statute, which stated:

The Court, whose function is to decide in accordance with international law such

disputes as are submitted to it, shall apply:  
international conventions, whether general or particular, establishing rules expressly recognized by the contesting states ;  
international custom, as evidence of a general practice accepted as law;  
the general principles of law recognized by civilized nations ;  
subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

On the civil law system the primary source of law is acts and later followed by jurisprudence, while in common law system hierarchically the jurisprudence is prior the acts. The civil law system applying codification and unification of law and on common law system focuses on the development of jurisprudence and influenced not only the structure of procedural but also of the substantive law (Rheinstein, 1952). The vary and complexity of law may lead us to conduct review and research based on particular field and in this article will spesifically discuss on the review and research of refugee law, in order to understand comprehensively on its current application in present time and how it's still relevant with todays occurences. Noticing that there is freedom to perform review and research to learn and understand the refugee law, it shall always be remembered to do it in the right path and with respect to the basis of existing way of review and research.

## **METHOD**

This article employs juridical normative method with statute approach, conceptual approach, historical and case approach (Marzuki, 2005). Juridical normative research method is a biblical legal research conducted by examining and studying literatures and secondary datas related with the issues discussed (Soekanto and Mahmudji, 2013, p. 13). Statute approach used in this review and research consists of Vienna Convention 1951, Protocol 1967, and other legal instruments related to refugee matters in both international and national level. Conceptual approach will be carried out by analyzing by using theories and principles related with the issues. And lastly, historical and case approach will be conducted by understanding the origin of refugee law and how it developed, and comparing other cases of refugee that occurred in the past few years. By applying this method through these approaches, a holistic and comprehensive analysis will be a result of the review and research of refugee law.

## **DISCUSSION**

### **Review of Refugee Law**

Reviewing Refugee Law is appropriately to review it through all legal instruments with the characteristic of universal and juridical. Universal means it applies to the entire world society and juridical means it's based on legal aspects. The historical of refugee law instruments has developed since a century ago. Humanitarian cases caused by war influenced the awareness and importance to regulate the matter of refugee legally. Since the League of Nations established more than a century ago, until this modern era, refugee issues still existing and it looks like no one could ever get rid of it. As for conflicts arises and cause another wave of refuges. Knowing that it will not end in the upcoming years, and has never been resolved at all, then the existence of legal instruments related to refugee law is becoming very essential. There are plenty of universal and juridical legal instruments related to refugee law, some of them are:

### **Vienna Convention 1951**

The 1951 Vienna Convention Relating to the Status of Refugee, is the main instrument regarding the refugee law. Besides it rules on the determination of refugee status, it also governs on both States and refugee obligations, the rights of refugees that need to be protected, and main principles on the refugee law. However, this Convention contains time and place limitation, for it only could be applied to events occurring in Europe before January 1, 1951. This convention covers only refugees who arrived to Europe prior 1951. It has explained on the section above, that someone may fulfill the term of “refugee” if a person is outside of his/her home country fearing of accepting persecution and his/her home country is unable or unwilling to provide protection (see Art. 1).

Another important part to be reviewed from this convention is the existence of a very essential principle of refugee law, which is the non-refoulement principle that could be found on Article 33 of the Convention. It prohibits the expulsion or returning of refugees, or in other words, no refugees will be expelled or returned in any manner to the frontiers of territories where his life and freedom are threatened. But this principle will not apply if there are enough reasons to prove that the refugees considered as a danger to national security or have been sentenced by court for serious crime. This principle originates coming from the ‘Conference of Enquiry’ 1921, the conference laid the foundations of the principle, it affirmed that no Russian refugee should be compelled to return unless to those who in fact want to go back (Gill, 2020).

This Convention also governs on the rights and obligations of refugees and contracting states. The refugees has duties to the country accepting them, where they must conform to its laws and regulations as to measures taken for the maintenance of public order (see Art. 2) while the rights of refugees are similar to what basic human rights are, freedom to practice religion and religious education for the children of refugees (Art. 4), right to own moving objects and immovable objects (Art. 13), right of union (Art. 15), right to self-employment (Art. 18), right to perform liberal profession (Art. 19), right to education (Art. 22), right to decent working condition and social security (Art. 24), and freedom to move (Art. 26) (Krustiyati and Astuti, 2021).

As for the contracting States, the obligations include prohibition of expulsion or return (Art. 33), prohibition to impose penalties of their illegal entry (Art. 31), prohibition to impose movement restrictions, prohibition to discriminate (Art. 3), and others. And for the rights of contracting States are to take temporarily measures deemed necessary for national security (Art. 9), not bound to provide travel documents (Art. 28), can expel refugees on the grounds of national security or public order (Art. 32 para (1)), and other rights. This convention also established guidelines for refugee treatment in the country where they are located which assures to refugees a minimum standards of human rights (Krustiyati and Putro, 2022).

### **Protocol 1967**

In reality, post January 1, 1951 the amount of refugees continued to arise, and happened to be outside Europe, as a consequence the 1951 Convention was not able to cover such events and the protection also treatment towards refugees became questionable. The absence of law relating to such matter, later on made the UN General Assembly established the 1967 Protocol on the Status of Refugees. It amended the 1951 Convention for the limitation of time and place. Article 1 para. 2 and 3 of Protocol 1967 stated:

For the purpose of the present Protocol, the term "refugee" shall, except as regards

the application of paragraph 3 of this article, mean any person within the definition of article I of the Convention as if the words "As a result of events occurring before 1 January 1951 and..." and the words "...as a result of such events", in article 1 A (2) were omitted.

The present Protocol shall be applied by the States Parties hereto without any geographic limitation, save that existing declarations made by States already Parties to the Convention in accordance with article I B (I) (a) of the Convention, shall, unless extended under article I B (2) thereof, apply also under the present Protocol.

By the removal of time and place limitation, then Convention 1951 could be applied to any events of refuge occurred post 1951 and outside the Europe, and the Convention 1951 still applied to current refuge cases.

#### UNHCR Statute

High Commissioner of Refugee firstly established on 1922 under the League of Nations, being responsible for the handling of Russian refugees. Now, under the United Nations, the High Commissioner of Refugee is being responsible for refuge cases around the world. It has its own Statute adopted on 1951. It was meant to be an ad hoc but as the number of refugees still increasing, the UNHCR still exist until now. The UNHCR is the organization that is responsible for refugee matters around the world. The presence of UNHCR is very necessary to States that are not a party to Convention 1951, just like Indonesia. In transit countries, UNHCR shall take part on determining the status of refugee and their final solution for each refugees. Article 1 of the Statute stated that the UNHCR shall assume the function of providing international protection to refugees who fall within the scope of the Statute and seeking permanent solutions for the problem of refugees. The functions of the UNHCR also stipulated

on Article 2 para. 8 and 9, that the UNHCR shall provide protection of refugees by such means as follows:

Promoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and amendments;

Promoting the execution of any measures to improve the situation of refugees and reduce the number requiring protection;

Assisting governmental and private efforts to promote voluntary repatriation or assimilation;

Promoting the admission of refugees;

Endeavouring to obtain permission for refugees to transfer their assets for resettlement;

Obtaining from governments information concerning number and conditions of refugees in their territories;

Keeping in close touch with governments and inter-governmental organizations;

Facilitating the coordination of private organizations concerning the welfare of refugees;

Engage in activities such repatriation and resettlement.

#### UDHR 1948

Lastly, the instrument that is not specifically ruled on refugee but applies universally and juridically and covers the matter of refugee, the Universal Declaration of Human Rights 1948. Miseries suffered post the World War II forced the United Nations to formed an international bill on human rights. A special commission was established to create the bill and later the UDHR was created. The declaration consists of provisions as following:

Article 1 and 2: general principles;

Article 3 until 21: civil and political rights;  
Article 22 until 27: economic, social, and cultural rights;  
Article 28 until 30: closing provisions.

This declaration was meant to be a guidelines on minimum standards of human rights that was aspired by all human beings and implemented by UN Members. The declaration was considered as moral guide and may have higher position than any treaties. No members deny or rejected this declaration but accepted it as something that binds them. And for that reason, the UDHR 1948 fulfil the criteria of international custom, accepted as general principles of law recognized by civilized nations, and accepted as a peremptory norm of general international law (Amanwinata, 2000, p. 38). Rights provided by the UNHCR, are mostly what refugees shall accept too, acknowledgement that all human beings are born free and equal in dignity and rights (Art. 1), rights and freedom without distinction of any kind (race, colour, sex, language, religion, political or other opinion, etc.) (Art. 2). Right to life, liberty, and security (Art. 3), freedom from slavery (Art. 4), freedom from torture or cruel, inhuman, or degrading treatment (Art. 5). All of those rights mentioned, are also the main reason why wave of refugees occurred. Persecution for reasons of discrepancy violates their human rights, so any refuge happens, it is a violation towards human rights.

Those instruments mentioned above bind as a part of international law. As the refugee law is rooted on human rights matter, then it is inseparable. We cannot put aside human rights from the refugee law, as the core of refugee law is how to protect and restore refugee's violated human rights. Moreover, the UDHR 1948 has special legal binding power, for it binds every State as an *ius cogens* or also known as peremptory norm. *Ius cogens* are permanent principles or norms, peremptory, that shall not be neglected, for it has the force to withdraw a treaty if it contradicts with the principles (Starke, 1999). Both in the presence of absence of States ratification towards it, it binds them as the minimum standards of human rights and morally binds every State. Substantially, the UDHR 1948 binds each UN State members and is respected and manifested or transformed into national laws. The UDHR 1948 is a form of international custom, as a general practice accepted by law. It's a peremptory norm of international law which is accepted by the international society. The UDHR 1948 was regarded as *anius cogens* for it consists of provisions in the sake of communal interests of international society, it has the humanitarian purposes and in accordance to the UN Charter (Amanwinata, 2000). Thus, the protection of human rights has been accepted and binds State for being responsible for it as a moral obligation.

Moreover, in the coordinative system of international law, there is another principle that is generally accepted and applied, which is the good neighbor policy with the fundamental of peaceful co existency (Krustiyati, 2009). With human rights has been a moral obligation and the existence of good neighbor policy, then the matter of refugee as a part of human rights also has the same consequences, it binds State as moral obligation. Refugee issues are part of international human rights issue, each State shall implement the responsibility just like it applies on human rights. The regulations on refugees governed on Convention 1951, Protocol 1967, and UNHCR Statute shall be accepted as a moral obligation and every State as a part of international society shall provide the standard minimums of human rights towards refugees that by accident or intentionally entered their territory.

After reviewing the refugee law that is found on various universal and juridical legal instruments, it shall be understood that each instrument has the same binding power, either it's legally or morally. As human rights regulated on the UDHR 1948

apply as *ius cogens*, then every State shall exercise basic standard minimums of human rights protection to the refugees. From reviewing the refugee law, besides understanding the legal standing, rights, principles and obligations related to refugees, it's also understanding the binding power of the universal and juridical instruments towards State especially on international level. Furthermore, on researching the refugee law, it aims to understand on how to implement refugee law against arising cases of refugees.

### **Research of Refugee Law**

Research on refugees matters observing the before, during, and after the refuge occurs. To perform the observation, it's necessary to pick on an example of refugee cases and in this article we will discuss on the currently ongoing flow of refuge of the Afghan refugees. The climax of momentum that cause many Afghans were forced to flee was marked when the Taliban took over and reigned on most Afghanistan territory on August 15, 2021. Observing the before, is trying to look for the main cause or reason on why the refuge happened. So this is related with the home country, Afghanistan, whether the people were suffering persecution or not, and to understand this, it is needed to preview on the historical moments. The existence of Taliban, islamic radical armed group in the land of Afghanistan started back on early 1990s, where the members had studied conservative religious schools and gained military advantage, later they were able to took over Kandahar and promised that cities on Afghanistan would remain safe. At that time, the Taliban was welcomed as they were able to defeat Mujahideen commanders that accused of rights violations and war crimes.

In 1996, later the Taliban also took over Kabul, the capital city and controlled Afghanistan. They imposed a very strict interpretation of Islamic law and the highlights of Taliban's characteristic was forbidding women from getting education and jobs. Extreme punishments were also performed to anyone who disobeyed the Taliban, from imprisonment to publicly beaten, from public execution to amputation. Men were required to grow beards and women must wear full body burka. They also banned televisions, music and cinema. Also another series of various violations of human rights. That's becoming the ground on why the Afghan later feared the Taliban, for the government under Taliban did not exercise human rights protection at all. They were forced to followed the principles the Taliban held.

It's until early 2000s where later Taliban were accused to be involved with Al-Qaeda and the US started to begin its invansion in Afghanistan and tried to get rid of Taliban. Taliban was ousted in 2001 by the role of the US and a new government was established. Since being ousted, the Taliban kept trying to invade and fought Afghan new powers. After 20 years of waiting, the Taliban was able to seized power by conducting invasion towards cities in Afghanistan (Amini and Arifani, 2021). The moment they took control over Kabul and made Afghanistan's President flee abroad, leaving his people behind created unavoidable chaos over the country. Since 2021 until now, many of the Afghans try to leave their home country under fear of Taliban. While in fact, it's reported, that until now that the Taliban retook over Afghanistan, some violations towards human rights still occurred just like 20 years ago. Taliban still treat women just like in the past time, women are banned from education below six years, banned from working, and forced to marry Taliban fighters (Dailymail, 2023).

It's then understood by observing the historical behind Taliban took over and forced Afghans flee abroad it's because the persecution performed by the Taliban under their government under the reason of religion. The Taliban imposed strict religious

paradigm and to anyone disobeying will be punished and received persecution. Also under the reason of sex, the women are likely to be erased from public life, forced to marry strangers. All of the reason what has been exercised is a solemn proof of violation to human rights. The government of Afghanistan also unable to provide the protection for it has been defeated by the Taliban, even the President of the country left with no responsibility. Furthermore, Afghan people also unwilling to receive protection offered by the Taliban for they know that it will only torture their human rights. Under that circumstances, Afghans were leaving their home country behind, especially as long as Taliban still reigns. Numbers of refugees originating from Afghanistan still counts big and it's still an issue that needs to be solved by the international community.

Moving onto the observation of during the refuge occurs, most of the Afghans had moved out since 2021, the year when the Taliban took over. Afghan refugees as the UNHCR reported, are the third largest displaced population in the world after Syrian refugees and displaced Venezuelans. Until now, at least there are 2,7 million people forced to flee across borders and live as refugees across 98 different countries. Speaking of refuges, it's necessary to look back at the regulation of Convention 1951 and Protocol 1967, also UDHR 1948. Especially if the country where the Afghan refugees entered had ratified the Convention or not. Ratification is an approval by the Head of State or Government upon the signing of an international treaty which executed by its designated full power but nowadays it is considered as an act of confirmation (Krustiyati and Astuti, 2021). Once a state had ratified a certain international treaty, then it binds them and obliges them. As a consequences, states must conduct its obligations contained in the treaty.

If a State had ratified the 1951 Convention, then it's bound to perform the obligations regulated. Related to the case of Afghan refugees, then the State shall provide handling ruled on the guidelines found on the Convention if any of the Afghan refugees arrived in their country. Most of the refugees were fleeing to Pakistan and Iran as the host country. Pakistan and Iran had hosted more than 1,3 million and 780,000 registered Afghan refugees before durable solutions applied to them as the UNHCR reported. The interesting part is that Iran had been a contracting state to the convention and protocol since 1976 through accession while Pakistan has not ratified neither the Convention and Protocol. As the hosting country, Iran was obliged to provide protection for the refugees, such as building shelters, and was able to determine the status of the refugees since it is the party to the Convention. If a registered refugee is living in the land of Iran, then Iran shall guarantee the rights shall be received by the refugee, such as educations and works. According to the report of UNHCR, refugees in Iran have been given access to enjoy education, health, and other opportunities as most of them settled in cities, towns, and villages in Iran while only few left living in UNHCR's shelters.

As for Pakistan, juridically didn't bound to the Convention, but as discussed before, that refugee issues are the issues of human rights, then it's a matter of international community that no State shall abandoned the fact that a refugee needs protection from them. As a result, even though the Pakistan has not ratified the Convention, moral obligations to protect human rights is the ground for Pakistan to welcome and hosted the refugees from Afghanistan. Real practice performed by the Pakistani Government shown through Good Practice involving Government of Pakistan, Government of Afghanistan, and UNHCR since 2006. The Government of Pakistan compile largest database of refugees, provided shelter and safety, through registration and identity documents facilitated their access to free and public primary education, health care, subsidized food and non-food items, water, electricity,



vocational and skills developments programs, training in trades, even granted for scholarships. The approach that the Government of Afghanistan chose was through bilateral and regional approaches.

Until this very moment, only 149 states had ratified the 1951 Convention and its Protocol, 44 members of the UN were not a party to both legal instruments of refugee law. Most of the non parties of the Convention and protocol are Middle East countries and Southeast Asian countries (Janmyr, 2021). Although treating the refugees could be exercised without ratifying or accessing the Convention, but bringing the Convention into accession would provide better benefits for the State. State accession would provide clearer basis to the government to provide refugees with international protection and allow them to deal with issues related to asylum in a structured manner; facilitate the mobilization of international support in hosting refugees (Janmyr, 2021, p. 196). States that are not the party to the Convention will not able to determine the status of refugees but they still need to provide basic human rights to the refugee, at least shelters and foods. In the meantime, the non party state has to wait while the UNHCR tries to determine the status and the host country who will accept the refugees to be settled and it will not take a short time periode. In the moment of waiting, it is inevitable that the refugees may suffer more, and the protection of human rights may not be fulfilled. As a part of international community, each State shall be able to consider that the protection of human rights is a serious matter so that by being a party to the 1951 Convention would help to achieve the fulfilment of human rights protection and accelerate the resolvment of refugees issues.

Lastly on the research of refugee law is observing the after part of refuges, what is the final point shall be given to a refugee. The after part is to looking for durable solutions or the refugees problem solving. There are several options available to be applied for the refugees such as:

#### Repatriation

Refugee repatriation, traditionally defined with the physical return of refugees to their country of origin, returning home from exile. But it cannot be simply mere movement or return for it involves restoration of refugees human rights. At the first place, refugees left their country of origin because of the inability or unwillingness of their home country to provide human rights protection. As an option to solution for refugees, repatriation requires the restoration of that protection of human rights, so it 's not a simple return to home. It requires a political process involving host country, home country and the UNHCR to remaking a political community back in the home country that will provide the lost protection. The repatriation will be performed voluntarily with means that no refugees shall be back returned forced (Long, 2010).

#### Naturalization

Integrating the refugees into local community, or naturalize them, could be also an option to refugees durable solutions. Naturalization conducted if a host country offers a refugee a citizenship. The refugee may assimilate with local people, just like how some Afghans refugees in Indonesia marrying local women and building their own family but noting that Indonesia didn't grant any citizenship as Indonesia still not a party to the 1951 Convention. Of course, offering a citizenship to the refugees is state's absolute decision with full consideration.

#### Resettlement

Resettlement is regarded as a permanent or durable solution and, as advocated by the United Nations High Commissioner for Refugees (UNHCR), resettled refugees get permanent settlement with the opportunity for eventual citizenship. The UNHCR

Statute clearly states that UNHCR's mandate includes seeking permanent solutions for refugees. UNHCR's exact role in national resettlement policies depends, among others, on its bilateral relationship with the resettlement state and states from which resettlement occurs. Refugees resettled under the auspices of UNHCR usually receive permanent residency and have access to civil, political, economic, social and cultural rights similar to those enjoyed by nationals. UNHCR practice on resettlement includes two main elements: first, resettlement targets refugees as defined by Article 1(A)(2) of the 1951 Convention and in particular vulnerable refugees for whom no other durable solution is available. Second, UNHCR foresees that resettled refugees are to be granted a permanent residency and have access to civil, political, economic, social and cultural rights similar to those enjoyed by nationals (Ciger, 2022, p. 37-39).

Durable solutions above, shall be executed promptly for the sake of refugees fulfilment of human rights protection. The longer the refugees wait on the decision regarding their future, the more of absence of their human rights protection. By researching the refugee law, it's understood how the refugee law applies before, during, and after the refuge happens. Refugee law still plays important role as the guidelines for states to treat refugees. Refugees happens based on persecutions happening in someone's home country and violates his/her human rights protection, under fear he/she is forced to leave his/her home country being. During the refuges, states whether it's a party or not a party to the 1951 Convention shall provide standard minimums of human rights to any refugee entering its territory. While in the meantime, UNHCR tries to seek for durable solution for a better life to the refugees. By researching refugee law, it's found that, refugee law is a part of international law that needs international community's attention. Everyone has the right to live peacefully, and every state shall contribute on guarantee it. The research of refugee law helps to understand how the existing refugee law may apply to occurring events related to refugee.

## **CONCLUSION**

Based on the review and research as the freedom to learn on refugee law, it is concluded that:

Reviewing the refugee law, may lead us into the understanding of the universal and juridical legal instruments of refugee law, such as Convention 1951, Protocol 1967, UNHCR Statute, and UDHR 1948. For state party of mentioned Convention and Protocol, obligations governed shall be performed by them. As for non state party, that doesn't make them to be free of obligation. Refugee law is a part of international law in the field of human rights. The rights of refugees originating from the human rights governed on UDHR 1948, that has been international custom and even *ius cogens* that applied universally. As an *ius cogens*, every state in this world has the same obligation to provide protection to the refugees, in other words, it morally oblige them. By reviewing the refugee law, it's understood on the existence of refugee law.

Researching the refugee law, bring us into the understanding on how the reviewed refugee law implemented on realities. Researching refugee law conducted by observing before the refuge happened, during the refuge occurred, and the after part as a final point. Refuge happened caused by persecutions under certain reasons, unwanted circumstances forcing someone to not receive any protection of human rights either the home country unable or unwilling to do so. During the refuge, as the flow of refuges move out from their country sporadically, states hosting the refugees shall fulfil the protection of human rights for the refugee, securing them. As refugee

matters is a serious international issue, it's hoped that many more countries will aware of the importance to ratify or access the Convention or Protocol. In the meantime, the after part of refugees is how to figure out the durable solutions for the refugees with viable options such repatriation, naturalization, and resettlement.

The freedom to conduct review and research on refugee law, may provide us the understanding of refugee law comprehensively. How it is still relevant with todays refuges and what needs to be developed in the future, all for the sake of the contribution to provide protection of human rights that also belongs to refugees. Numbers of refugees in this world are still a large number and never ends since a century ago. It's highly hoped that, every human being in this world may enjoy the freedom to live in peace.

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