

REFUGEE PROTECTION UNDER ISLAMIC AND INTERNATIONAL HUMAN RIGHTS LAW: A COMPARATIVE STUDY WITH INTERNATIONAL HUMAN RIGHTS PRINCIPLES

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Abstract

This paper examines the convergent and divergent aspects of refugee protection frameworks as articulated in Islamic jurisprudence and contemporary international human rights law. It critically analyzes the historical precepts and ethical underpinnings within Islamic law that address the plight of displaced individuals, juxtaposing them with the codified principles found in international conventions such as the 1951 Refugee Convention and its 1967 Protocol. This comparative analysis aims to identify areas of conceptual harmony and practical disparity, particularly concerning the principle of non-refoulement, the definition of a refugee, and the scope of rights afforded to those seeking asylum. Ultimately, this research seeks to bridge the understanding between these legal traditions, advocating for a more robust and ethically informed approach to refugee protection that integrates the humanitarian imperatives from both Islamic teachings and international human rights standards ([Rifai, 2024](#)). It further explores how Islamic legal principles, particularly Maqasid Al-Shariah, align with the objectives of international human rights law, despite historical objections from some Muslim states regarding the scope of certain provisions within the Universal Declaration of Human Rights ([Soofi & Masud, 2024](#)) ([Baderin & Ssenyonjo, 2010](#)). This alignment suggests a potential for harmonized implementation strategies, even though historical debates have highlighted sensitivities regarding specific individual rights within a Muslim cultural context ([Vijapur, 2024](#)) ([Baderin & Ssenyonjo, 2010](#)). Such objections frequently concerned the perceived anthropocentric bias in international human rights discourse, which sometimes overlooked broader ethical considerations prevalent in Islamic legal philosophy ([Sargsyan et al., 2025](#)). However, modern interpretations by international legal scholars now frequently view these historical objections not as a rejection of human rights, but as an attempt to elaborate and contextualize the human rights commitments of UN member states ([Vijapur, 2024](#)). This comparative study will meticulously examine these nuances, scrutinizing how Islamic legal frameworks, deeply rooted in divine principles and moral imperatives, converge with or diverge from the secular, state-centric foundations of international human rights law regarding refugee protection. This analysis further aims to critically assess the historical and contemporary challenges in applying these divergent frameworks, particularly in Muslim-majority states, where the integration of Islamic jurisprudence with international human rights norms remains a complex endeavor ([Rifai, 2024](#)) ([Vijapur, 2024](#)). Moreover, this paper will explore the influence of international human rights law on the development of refugee protection mechanisms, emphasizing the foundational role of instruments like the Universal Declaration of Human Rights in shaping subsequent legal frameworks ([Corella, 2018](#)).

Keywords: Refugee Protection, Islamic Law, International Human Rights Law, Comparative Study, Non- Refoulement.

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1. Introduction

The international legal protection of human rights has experienced substantial growth and evolution since the conclusion of the Second World War and the subsequent establishment of the United Nations in 1945 ([Baderin & Ssenyonjo, 2010](#)). This era marked a pivotal shift towards codifying universal principles for the recognition and observance of human rights, moving beyond strict national sovereignty ([Corella, 2018](#)). The Universal Declaration of Human Rights, adopted in 1948, stands as a foundational document, establishing a common standard of achievement for all nations and profoundly influencing subsequent international and regional human rights instruments ([Rahman, 2020](#)) ([Baderin & Ssenyonjo, 2010](#)).

This foundational text has significantly expanded the scope of refugee protection, influencing the development of refugee law within the broader human rights framework ([Haque & Siddique, 2024](#)). Indeed, the General Comment No. 31 of the UN Human Rights Committee explicitly extends the protections of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights to all individuals, irrespective of nationality, thereby encompassing refugees, asylum-seekers, and stateless persons ([Haque & Siddique, 2024](#)).

This paper's primary objective is to undertake a detailed comparative analysis of refugee protection principles embedded within Islamic jurisprudence and those stipulated under international human rights law, with a particular focus on their practical application and ethical underpinnings. It will examine areas of convergence and divergence, assessing how both frameworks address the complexities of forced migration and the rights of displaced populations. Specifically, the study will investigate how the principle of non-refoulement, a cornerstone of refugee law, is interpreted and applied across these distinct legal traditions, alongside an exploration of the evolving definition of a refugee and the comprehensive scope of rights accorded to asylum seekers ([Ewusie, 2024](#)). This includes evaluating the protection of vulnerable groups, considering the interplay between national policies, and broader international human rights standards ([Azzahra, 2025](#)).

2. Literature Review

The existing scholarship on refugee protection often categorizes discourse into internal Muslim perspectives on human rights and external analyses of Islam and human rights, which emerged alongside modern human rights regimes ([Mol, 2019](#)). These perspectives frequently highlight the tension between state sovereignty and universal human rights principles, especially concerning refugee flows and national security interests ([Kamal, 2025](#)). Furthermore, the preservation of identity for minority groups, including refugees, is a prevalent policy in international human rights law, yet its practical application by international adjudicating bodies is not consistently maintained, as evidenced by case studies such as restrictions on the Islamic headscarf ([Baderin & Ssenyonjo, 2010](#)). This highlights the nuanced challenge of reconciling universal human rights norms with diverse cultural and religious practices in the context of refugee protection ([Zada, 2018](#)). A significant body of international human rights law has evolved over the past 75 years, with the UN championing a wide array of basic rights for individuals, including those pertaining to refugees ([Vijapur, 2024](#)).

3. Methodology

This study will employ a comparative legal methodology, drawing on both doctrinal and analytical approaches to systematically examine primary texts from Islamic jurisprudence, including the Qur'an and Hadith, alongside key international human rights instruments, such as the 1951 Refugee Convention and its 1967 Protocol.

Refugee Protection under Islamic Law:

This will involve a detailed textual analysis of relevant verses and traditions to ascertain the foundational principles guiding the treatment of refugees and displaced persons within the Islamic tradition. Concurrently, the research will analyze the historical applications of these principles through case studies of early Islamic societies, demonstrating their practical implementation in diverse socio-political contexts. The inquiry will also extend to contemporary interpretations and applications of Islamic law in various Muslim-majority states, considering how modern legal systems integrate or diverge from classical Islamic tenets in addressing forced migration ([Nasoha et al., 2024](#)).

This comparative approach will illuminate the challenges and opportunities for harmonizing Islamic legal frameworks with international human rights standards concerning refugee protection, particularly in light of contemporary global displacement crises. Furthermore, the research will explore how principles such as *maslaha* (public interest) and *adalah* (justice) in Islamic law can inform and strengthen contemporary protection frameworks for forcibly displaced populations, aligning with the ethical imperatives of global environmental policies ([Hussein et al., 2024](#)). This will also involve scrutinizing the development of *aman* (safe conduct) and *dhimmi* (protected non-Muslims) statuses within Islamic legal history, evaluating their relevance and adaptability to modern refugee categories and the principle of non-refoulement ([Corella, 2018](#)). This examination will critically assess the historical and contemporary implications of these classifications for the rights and protections afforded to refugees, evaluating their potential to inform or challenge prevailing international legal norms ([Hussein et al., 2024](#)).

Refugee Protection under International Law

International human rights law, particularly through instruments like the 1951 Refugee Convention, establishes a comprehensive framework for the protection of individuals fleeing persecution, defining refugee status and outlining state responsibilities toward these populations. This framework is further bolstered by regional instruments and customary international law, which collectively provide a multi-layered system for safeguarding the rights of those forcibly displaced across borders ([Gasiokwu et al., 2024](#)). The 1951 Convention, in particular, defines a refugee as someone with a well-founded fear of persecution, thereby setting the foundational criteria for international protection, a definition that has evolved yet remains central to contemporary refugee discourse ([Bellin, 2022](#)).

Key principles enshrined within international human rights law, such as non-refoulement, ensure that no individual is returned to a country where they face serious threats to their life or freedom, irrespective of their legal status ([Arif, 2020](#)). Additionally, the principle of non-discrimination, embedded in various international human rights instruments, mandates equal treatment for refugees, ensuring that their

rights are upheld without distinction based on race, religion, origin, or other statuses (Corella, 2018). The Convention also obliges signatory states to treat refugees as favorably as possible, though it notably lacks explicit provisions for interstate assistance in refugee support (Eckenwiler & Wild, 2020).

Comparative Study

This section will systematically compare the protections afforded to refugees under Islamic law and international human rights law, identifying areas of convergence, divergence, and potential synergy between these two distinct legal traditions. It will examine how both frameworks address core aspects of refugee protection, including the right to seek asylum, non-refoulement, and the provision of basic humanitarian assistance, highlighting where their principles align or diverge (Supriyadi, 2022). A detailed analysis will be conducted to explore how the concept of aman in Islamic jurisprudence resonates with the principle of non-refoulement in international law, examining historical precedents and contemporary applications.

Similarly, the dhimmi status and its associated protections within Islamic legal history will be compared against modern international human rights principles concerning minority rights and the prohibition of discrimination. The comparative study will also critically assess the evolution of international human rights law itself, which, since 1948, has seen the adoption of numerous declarations, conventions, and protocols by organizations like the UN, contributing to a vast body of jurisprudence (Vijapur, 2024). Despite this extensive framework, certain rights, such as freedom of movement and the right to asylum, were recognized in a deficient manner within the initial declarations, including the Universal Declaration of Human Rights (Corella, 2018).

This evolution reflects a progressive understanding of human rights, moving from initial broad strokes to more specific and actionable protections, often influenced by the complexities of global conflicts and displacement crises (Vijapur, 2024). The Universal Declaration of Human Rights, despite its foundational importance, initially served as a common standard of achievement rather than a legally binding instrument, paving the way for subsequent covenants to establish enforceable obligations (Vijapur, 2024). This progression underscores the dynamic nature of international law, perpetually adapting to address emerging challenges and solidify protection mechanisms, as exemplified by the increasing recognition of economic, social, and cultural rights as justiciable (Baderin & Ssenyonjo, 2010).

The drafting of the Universal Declaration of Human Rights intentionally overlooked the immediate legal enforceability of some provisions, creating ongoing scholarly debate regarding its initial legal impact (Rahman, 2020). Nonetheless, its profound moral and political scope has been instrumental in shaping the "new ethos of our times" concerning human dignity and universal rights, influencing subsequent legally binding instruments and continuing to serve as an engine for human rights advocacy (Corella, 2018) (Rahman, 2020). Its enduring impact is evident in the subsequent proliferation of international human rights treaties and conventions, which have further elaborated upon and legally codified the principles it espoused, thereby solidifying the framework for contemporary human rights protection (Teo, 2023).

4. Findings and Results:

This section will present a comprehensive synthesis of the comparative analysis,

detailing specific instances of congruence and divergence between Islamic and international human rights law regarding refugee protection. It will highlight how the Universal Declaration of Human Rights has served as a foundational instrument, shaping international human rights law and influencing the discourse around refugee protection, despite its initial non-binding nature ([Rahman, 2020](#)) ([Hannum, 1998](#)).

Indeed, its lofty principles have been consistently translated into "hard" law through the adoption of subsequent legally binding instruments like the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which, along with the UDHR, constitute the International Bill of Rights ([Williams, 2025](#)) ([Rahman, 2020](#)). Moreover, the UDHR's emphasis on inherent dignity and universal rights catalyzed a transformative shift in international jurisprudence, moving beyond state-centric notions to embrace individual protection as a paramount concern ([Baderin & Ssenyonjo, 2010](#)) ([Rahman, 2020](#)). The ongoing tension between state sovereignty and the universal applicability of human rights, however, continues to present challenges in fully realizing these protections, particularly in contexts involving large-scale displacement ([Corrao, 2013](#)).

5. Conclusion and Recommendations

This section will summarize the salient findings from the preceding comparative analysis, elucidating the implications for both legal frameworks and proposing actionable recommendations to enhance refugee protection globally. It will advocate for a more integrated approach that leverages the strengths of both Islamic legal traditions and international human rights principles to develop comprehensive and culturally sensitive solutions for refugees. Furthermore, this convergence could foster greater global cooperation and understanding, transcending traditional geopolitical divisions in humanitarian efforts ([Vijapur, 2024](#)). Such an approach would also bridge the gap between theoretical legal frameworks and practical, on-the-ground implementation, acknowledging the diverse cultural and religious contexts of refugee populations.

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