

SOME HISTORICAL AND POLITICAL ASPECTS OF INTERNATIONAL PROTECTION OF REFUGEES AND IDPS

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Abstract. The article analyzes the historical and political aspects of international protection of refugees and internally displaced persons, the history of international protection of refugees and internally displaced persons, the political roots of the issue of refugees and internally displaced persons, the ancient, medieval and modern stages of the problem. In the article, the author emphasizes that the refugee phenomenon has political roots, and even emphasizes the importance of the role of historical and political elements among the causes of this problem. Therefore, the history of international protection of refugees and internally displaced persons gives grounds to say that this problem is primarily a product of the system of interstate political and military relations, international political cataclysms and transnational conflict situations. The article emphasizes that the international protection of refugees and internally displaced persons in scientific sources on international relations stems from the practice of the first interstate, inter-tribal agreement. The article deals with the legal status of refugees and internally displaced persons, their return to their home countries, and even the punishment of refugees, etc. The regulation of such issues has been investigated. The article also addresses issues such as institutional measures taken in the early twentieth century for the international protection of refugees, the establishment of international organizations specializing in this field, the creation of a legal framework to ensure the international protection of refugees. At the same time, the article analyzes the formation of an improved legal framework for the adoption of the 1951 Convention Relating to the Status of Refugees and its Additional Protocol.

Key words: refugees and IDPs, history of international protection of refugees and IDPs, political refugees and IDPs, international protection of refugees and IDPs.

It is necessary to pay attention for some historical nuances for to analyze the political aspects of international protection of refugees and Internally Displaced Persons (IDPs). The researcher of the history of international protection of refugees and IDPs, U.F. Morgun notes that the issue of refugees and IDPs has ancient political roots [Morgun, 2000]. The author emphasizes that the refugee phenomenon has political roots. He even connects the causes of this problem with the role of historical and political elements. Therefore, the history of international protection of refugees and internally displaced persons fully proves that this problem is primarily a product of the system of interstate political and military relations, international political cataclysms and transnational conflict situations.

According to scientific sources, the international protection of refugees and IDPs comes from the ancient inter-tribal, interstate agreement practice. When analyzing the system of international relations of ancient times, it becomes clear that the mainstay and normative basis of this system were international agreements.

For ancient civilizations, the human factor, especially the issue of international protection of refugees and internally displaced persons, had a radically different meaning than in modern times. In the practice of interstate relations of that period, a person belonging to any state, country or city-state was treated differently for leaving the place of residence for any reason, and these persons became the object of public criticism. They were even inadequate to be accused of treason against their country. Therefore, for a long time it was impossible to talk about the fact that this problem, which is in the internal jurisdiction of each country, suddenly became the subject of the system of international relations. The transnational nature of the protection of refugees and internally displaced persons has gradually taken place, and the entry of refugees and internally displaced persons into the arena of international political relations has taken place as a result of historical development and global evolution.

The first historical document on the international protection and status of refugees was signed in 1278 between the Egyptian pharaoh Ramses II and the Hittite king Hattushli III. This international legal document covers the issues of asylum, the return of refugees, territorial and border disputes,

alliances and peace. Regarding the political nature of the agreement, prof. I.I. Lukashuk noted that the agreement reflected the issues of reciprocal transfer of political refugees [Lukashuk, p.44]

The system of international relations have been established perfect norms and principles on the international protection of refugees and internally displaced persons in the practice of international treaties of the Ancient East, especially the ancient Turkic city-states and tribal unites of the Mesopotamia (Sumer, Akkadian, etc.), Egypt, China, India and other countries.

Professor of University of Toronto, Michael R. Marrus by analyzing of these problems, notes that historically the refugee regime itself has been based almost entirely on laissez-faire treatment. Officials treated everyone equally, regardless of whether they were immigrants or refugees, and imposed a number of restrictions on entry. Later, governments sought to encourage the admission of newcomers, realizing that the availability and wealth of those who could travel would strengthen society. At first, refugees seldom caused tensions in international relations and were not a matter of concern to the government [Marrus, p.9]. Of course, this was due to the fact that a citizen or a permanent resident of the country was considered an exclusively subordinate person of the state, and therefore the phenomenon of refugees or IDPs was considered less relevant to the system of international relations.

In this regard, prof. L.V. Pavlova writes that the events in the international arena have had a decisive impact on the formation of the mechanism of international protection of refugee rights, as well as its subsequent evolution [Pavlova, p.7] We can clearly see the evidence of this idea by looking at the subsequent historical periods in the system of international relations for the protection of refugees and internally displaced persons. Thus, from the analysis of the ostracism system that existed in Athens in the 5th century BC, we are witnessing a development trend in accordance with the new trend of the system of international relations on the international protection of refugees and the root causes of refugee problems in general. According to this rule, if a citizen was considered useless to society for his political and other views, he was expelled from the country on a temporary or permanent basis by a general vote in the people's assembly. We also see from the Greek-Athenian model of the history of international refugee protection that, in fact, the historical roots of the refugee problem have been rich in its political elements.

In fact, at the root of the refugee problem in the system of international relations are political elements, wars between states, acts of military aggression and other acts of territorial integrity, illegal migration, as well as religious and economic factors.

One of the important issues in the system of international relations related to the protection of refugees was the use of this vulnerable population by states to increase their levels of economic development. Britain, which developed the international protection of refugees by these methods, used this system for the economic interests of its country. Thus, in the VI-VII centuries, after the night of Bartholomew, a mass influx of Huguenots to England began. At that time, because most of them had different professions and arts, Britain gave almost all refugee Huguenots the right to asylum. Thus, this state weakened its rivals in the system of international relations of that time and became one of the main spokesmen.

While one of the main reasons for the emergence of the refugee problem in the system of international relations in the Middle Ages was considered to be religious factors, already from the XVII-XVIII centuries political factors began to become one of the main reasons for the emergence of refugees, especially in Europe. According to this process, as a result of the development of the Enlightenment ideology at that time and the great bourgeois revolution in France in 1789, there were refugees and internally displaced persons fighting against the current regime. Analyzing this period of the system of international relations, it is possible to conclude that the progress of political rights and freedoms in human society has led to the emergence of political refugees for political reasons and thus the problems of their international protection.

Morgun considers that the world community has faced the gravity of the refugee problem since the First World War and the model of international protection of refugees and humanitarian aid was established by the League of Nations. At the same time, international organizations regulating this area have been established and a number of international agreements have been adopted. According to these documents, each category of refugees was determined taking into account the countries (nationalities) or territories to which they left, as well as the lack of diplomatic protection

provided by their countries. In the 1930s, the Intergovernmental Committee for Refugees was established under the leadership of the Nansen International Office and the High Commissioner for Refugees, and in 1947 the International Refugee Organization was established.

As can be seen, this period in the history of international relations has played an exceptionally important role in the formation of the institution of international protection of refugees.

It was only in the early 20th century that states were able to take a globally coordinated approach to the refugee problem [UNHCR, 2002]. That is, looking at the history of international relations up to this time, it is absurd to talk about a mature system of normative legal protection of refugees and internally displaced persons within the framework of international organizations and international conventions on refugees and internally displaced persons. This period is remembered in the history of international relations by two important factors through the prism of international protection of refugees. First, in the early twentieth century, international organizations were formed to ensure the international protection of the rights of refugees. Second, the international status of refugees and internally displaced persons has been strengthened by convention.

An important stage in the development of legislation regulating the status of refugees began in 1914-1938. The first step in this direction was taken by the League of Nations, and in August 1921 the first international conference on refugees was held. The conference decided to establish the post of High Commissioner for Refugees. The responsibilities of the High Commissioner included: determining the legal status of refugees, arranging repatriation or resettlement of refugees in host countries, and providing assistance to refugees [Ivanova, 2009]. In general, it should be noted that the formation and development of the institution of protection of the rights of refugees and internally displaced persons in the system of international relations is directly related to the trends formed within the League of Nations. The first step in this direction was the holding of the first international conference on refugees in August 1921 under the auspices of the League of Nations. As a result of this conference, the establishment of the position of the High Commissioner for Refugees, an international body specializing in the protection of refugees, and the establishment of this organization should be considered one of the important innovations in the institutional development of international refugee protection.

Conferences on various issues related to the status of refugees in the history of international relations (conferences held in 1924, 1926, 1928 and 1933) can be considered a step forward in the development of refugee rights. Thus, as a result of the 1924 Conference, in order to provide adequate documents for the "Nansen passports" and to issue these documents, a special opinion was required along with the state's permission for the return of the refugee to the issuing country. Under the 1926 agreement, the Nansen Passport, now considered a refugee's identity card, was considered valid for return to the issuing country, and recommended that states make special donations to cover the large number of refugees arriving or leaving the country [Pavlova, p.106, 2006]. As a result of the 1928 conference, for the first time he considered that the refugee's citizenship and non-protection by the state to which he belongs were the main criteria for recognizing the refugee's identity. The next step in the system of international relations in the field of refugee protection was taken by the 1933 Convention on the International Legal Status of Refugees. Thus, for the first time in the history of international relations, this document reflects the principles of non-extradition and deportation of refugees to other states or countries of origin.

The problem of millions of refugees also led to World War II. During this period in the history of international relations, the refugee problem has become so acute that, through the United Nations, it has once again become a global issue. At that time, the establishment of a fascist dictatorship, the new ruler of the system of international relations, led to a new wave of refugees around the world. Among them were political refugees, persecuted Jews, and other victims of Nazism. The High Commissioner for Refugees from Germany has been appointed to assist these categories of people. In 1938, the Intergovernmental Committee for Refugees was established, the main purpose of which was to facilitate forced emigration from Germany, including Austria. The Committee's scope of activity included those who still had to emigrate because of their political beliefs, religion, or race, as well as those who had already left Germany for those reasons and had not settled in other countries. In 1943, the mandate of the Intergovernmental Committee was expanded. On the eve of World War II, the functions and powers of the post of High Commissioner were severely limited, and in 1946 it

ceased to exist. In the same year, the Intergovernmental Committee was established. Initially, the organization dealt with the forced emigration of refugees from Germany and Austria, and then began to help all refugee groups in Europe on the eve of World War II. In 1947, the Intergovernmental Committee was replaced by the International Organization for Refugees [UNHCR, 2002]. It should be noted that at that time the Organization accepted the international protection of refugees and internally displaced persons as its main mission and acted as the first universal organization to comprehensively address the problems of millions of refugees and internally displaced persons resulting from World War II.

In the years after the Second World War, the dominant position in the system of international relations belonged to the UN. For this reason, this body has taken on the main mission in the field of international protection of refugees and internally displaced persons. Commenting on this period of international relations, scholars believe that the UN played a decisive role in the formation of a modern international system for the protection of refugees, due to two factors: 1) The objective factor - the UN in the person of the international community the need for the assistance of the international community in resolving the issue of repatriation of refugees and displaced persons who were forced to leave their homeland or forcibly expelled from their territories by the Nazis; 2) Subjective factor - entrusting the UN with the function of implementing international cooperation in the field of "promotion and development of respect for human rights and fundamental freedoms for all, regardless of race, gender, language or religion" [Mammadov, p.25, 2016].

The most important institutional mechanism in the system of international relations in the field of international protection of refugees and internally displaced persons was the establishment in 1949 of the Office of the United Nations High Commissioner for Refugees. According to Article 1 of the Charter of this body, the main function of the High Commissioner is to provide international protection in cooperation with interested states, complete settlement of the refugee problem through voluntary repatriation and assimilation with other states.

The main turning point in the system of international relations on the status of refugees and international protection was the adoption of the 1951 Convention Relating to the Status of Refugees (entered into force on April 22, 1954). This document has played two important roles in the legal status of refugees and internally displaced persons in the modern system of international relations. First, the Convention sets out a concrete mechanism for addressing and protecting the refugee problems of the twentieth and twenty-first centuries. Second, for the first time in human history, the Convention established universal, impartial norms that made the legal status of refugees, their rights and freedoms, even superior to national law. It is no coincidence that when this important document was discussed by the UN General Assembly on July 28, 1951, it was adopted under the name of the Grand Charter of International Law on Refugees. Therefore, when scholars of international relations and international law talk about the importance of this document, they consider it the cornerstone of the modern refugee regime [Noll, p. 278, 2003]. At the same time, the 1967 Additional Protocol to the Convention brought a number of important practical innovations to the history of the international protection of refugees and internally displaced persons and made normative contributions to the protection of the rights and freedoms of refugees. With the adoption of this protocol, the refugee protection system became more universal, and refugee status began to apply to everyone. Thus, if the 1951 Convention first contained provisions based on geographical principles and were of a temporary nature, they were abolished with the adoption of the 1967 Protocol [Protocol on refugees, 1967], which applies to all persons who meet the refugee criteria. began to be applied. Writing about the importance of the 1967 Protocol on the international protection of refugees, Prof. D.M. Ivanov notes that all the signatories to this document have undertaken to ensure the international protection of refugees [Ivanov, p. 21, 2010]. Therefore, the role and importance of this document in the system of international protection of refugees and internally displaced persons, especially in the recognition of these rights by states and their recognition as an international obligation, is undeniable.

Thus, the analysis of early interstate treaties and other important documents on the international protection of refugees in the history of ancient and medieval international relations shows that the priority issues at that time, especially the return of refugees, their punishment, as well as their asylum, religious, political, economic, demographic, etc. The initial embryos of the issues were regulated on the basis of contractual and religious norms. In the early twentieth century,

institutional measures were taken for the international protection of refugees, specialized international bodies were established, and the legal framework for international protection of refugees was established. The issues that have been resolved during this period. At the same time, the adoption of the 1951 Convention Relating to the Status of Refugees and the Additional Protocol to it, and the formation of an improved legal framework, have given impetus to a more effective solution to this problem on a global scale.

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