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# THE POLITICAL RIGHTS OF REFUGEES: A COSMOPOLITAN PERSPECTIVE

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## ABSTRACT

A refugee, by definition, is someone who has been forced to flee her country because of persecution, war or violence. In contradistinction to migration, it is not a willful choice, but a painful last resort. The scope and ambit of political activities that a refugee can involve in the country of asylum is a controversial matter of importance. After examining the rights of refugees guaranteed in international law comprising, inter alia, of the Refugees Convention (1951 Convention), customary international law and human rights law, it is seen that that international law makes provisions for protecting the legitimate security concerns of the States and the political rights of refugees viewed from a cosmopolitical perspective. Versions of cosmopolitanism vary depending on the notion of citizenship they employ, including the notions of world citizenship and national citizenship. This project is to examine the scope of political rights of refugees in the context of international law and well accepted principles of justice. It focuses on activities guaranteed by human rights law, activities which, even though not the subject of human rights protection, are equally not prohibited in international law, and activities prohibited in international law in order to ensure respect for the sovereignty of other States. On analysis, it seems that participation in political organisations with a peaceful agenda is protected under international human rights law. The moot research question would be how far justice delivery is plausible under a cosmopolitan regime. Cosmopolitanism is a school of thinking within which global justice is an essential component. It gives importance to individual as opposed to state, community or culture. The individual is considered as a starting point on the basis of the firm belief that all human beings have equal moral worth and therefore have the right to equal moral consideration. Even though there are differing approaches as to how we can ensure such equal moral concern for everyone including refugees, the emphasis on the importance of individual has led to a theory of global justice, which seeks to investigate the question of how best to secure a just life for all individuals on Planet Earth, regardless of their nationality or status. For this purpose, it is necessary to determine what individuals across the world deserve and how distribution of these entitlements can be achieved.

**Keywords:** refugees, political rights, cosmopolitanism

## INTRODUCTION

*"A bundle of belongings is not the only thing a refugee brings to his new home. Einstein was a refugee."* - UNHCR<sup>1</sup>

Since the formation of The United Nations High Commissioner for Refugees (hereinafter referred to as "UNHCR") and following the enactment of the Convention Relating to the Status of Refugees<sup>2</sup> (hereinafter referred to as the "Refugee Convention" or "1951 Convention"), fifty years ago, the world has changed radically. The contemporary international refugee protection framework is constructed on these foundations in the aftermath of the brutal holocaust and Cold War.<sup>3</sup> It is now a complicated organisation that provides critical protection to millions of people who have been forcefully displaced.<sup>4</sup> The Convention and The 1967 Protocol Relating to the Status of Refugees (hereinafter referred to as the "1967 Protocol")<sup>5</sup> are generally regarded to be enduring agreements with a "central place in the international refugee protection regime," as was promulgated by the Member State to the Convention and Protocol in December 2000.<sup>6</sup> Despite this, refugee law continues to remain an uncompleted legal regime of protection, imperfectly covering what should be an extenuating situation.<sup>7</sup> It surely does go some way in order to alleviate the situation of people victimised by human rights violations or the collapse of existing social order in the aftermath of a revolution. However, it falls short in the sense that refugees and asylum seekers may still be denied political status in the host country.

To comprehend the prospects for a truly global society, we must go beyond critiques of citizenship, nationalism, and liberalism and suggest an alternative that does not systematically exclude the world's millions of refugees and stateless people. This opens the path towards the theory of Cosmopolitanism. To put it in another way, the research prospects of this article is to check whether cosmopolitan philosophy values humankind in the concrete variety of its ways of living, rather than just in the abstract.

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<sup>1</sup> UNHCR Campaign Slogan on World Refugee Day (June 20), 2017

<sup>2</sup> Convention Relating to the Status of Refugees, 28 July 1951, 189 UNTS 137

<sup>3</sup> REFUGEE PROTECTION IN INTERNATIONAL LAW: UNHCR'S GLOBAL CONSULTATIONS ON INTERNATIONAL PROTECTION (E. Feller et al. ed., Cambridge University Press) (2003)

<sup>4</sup> Ibid.

<sup>5</sup> Amendment in the form of Protocol that removed geographic and temporal limits of the main Convention, thus enabling it to provide inclusiveness of all refugees.

<sup>6</sup> Alice Edwards, *Human Rights, Refugees, and The Right 'To Enjoy' Asylum*, 17 Int. J. Refug. Law. 293, 295-296 (2005)

<sup>7</sup> Ryszard Piotrowicz, *The Refugee in International Law*, 20 Int. J. Refug. Law. 483, 484-485 (2008)

There is no paucity of socio-legal research and academic writings in the field of the ongoing refugee crisis, especially their human rights concerns. Recent radical progressions in the arena of international law have resulted in recognising the rights of refugees like the Right to seek asylum, the Right to protection against refoulement, the Right to remain etc.<sup>8</sup> However, the question of the political independence of a refugee in the host state has not received much attention. Hence the research aims to determine the political identity of a refugee in the contemporary international scenario. It further aspires to trace cosmopolitical trends in the light of enhanced political autonomy of refugees, if any.

### **"Refugees" under International Law**

A "refugee" who falls under the category of stateless person under international law is often compared to a *floating vessel in the open sea that bears no nation's flag*.<sup>9</sup> Usually, she is called "*res nullius*"<sup>10</sup> under customary international law. The 1951 Convention and its 1967 Protocol Relating to the Status of Refugees (hereinafter referred to as the "Refugee Protocol") are the principal international legal instruments intended to deal in refugee protection exclusively. Article 1 of the 1951 Convention recognises "refugees" as a specific identifiable group under the international law regime without unnecessarily distinguishing them based on local or territorial limits. The provisions of the Refugee Convention extend to all refugees without discrimination based on race, religion, or country of origin.

As per the definition framed under the Convention, a refugee is a person who is not able or not willing to return to his or her homeland and avail protection due to a well-founded fear of persecution based on race, religion, nationality, membership of a particular social group, or political opinion. According to this definition, internally displaced persons (IDPs) – including those people fleeing natural disasters and violence, stateless individuals inside their country of habitual residence or not facing persecution, and those who have crossed an international border fleeing from the homeland – are not considered refugees under the 1951 Convention or the 1967 Optional Protocol.<sup>11</sup>

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<sup>8</sup> Susan. F. Martin, *New Models of International Agreement for Refugee Protection*, 4(3) JMHS.60, 60-75 (2016)

<sup>9</sup> L. OPPENHEIM, *INTERNATIONAL LAW* (A. S. Hershey et al. ed., London: Longmans, Green & Co.,) (1928) 491-492

<sup>10</sup> Hugo Storey, *International Refugee Law and the Protection of Stateless Persons*, 32 Int. J. Refug. Law. 174, 176-179 (2020) "Flotsam" equates to statelessness which was considered a grave anomaly for individuals to avail protection under international law

<sup>11</sup> INTERNATIONAL JUSTICE RESOURCE CENTER, *ASYLUM & THE RIGHTS OF REFUGEES* (2020) <https://ijrcenter.org/refugee-law/> (last visited Oct. 28, 2021, 2:57 AM)

The Right to seek and enjoy asylum in other states is guaranteed by Article 14(1)<sup>12</sup> of the Universal Declaration of Human Rights (hereinafter referred to as "UDHR"), which was adopted in 1948. A determining facet of her refugee status is the absence of nationality and State protection. Besides, already destitute refugees are prone to acute suspicion of being an alien enemy as she is an individual without papers<sup>13</sup> to prove her identity. Nevertheless, the 1951 Convention states specifically that refugees are not required to meet conditions<sup>14</sup> that they cannot meet because of their very nature of circumstances that made them stateless people.

It is found that refugees can be citizens of their countries of origin or stateless individuals.<sup>15</sup> They are "non-citizen residents" in their State of asylum after being granted refugee status. Like all other aliens, refugees are entitled to freedom of expression, association, assembly, and humanitarian treatment at par with citizens. However, permitting the exercise of political rights is generally considered a threat to the national integrity and sovereignty of the asylum-seeking country or its relations with the host country. It is anticipated that the host state would facilitate the same, keeping the country of origin's legitimate security interests in mind and adhering to international treaties.

### **Political Rights- Scope and Classification**

Political rights refer to an individual's freedom to engage in the civil and political affairs of a State and to be actively or passively involve in governance, without fear of arbitrary impediments or restrictions. In fact, the broad range of actions that might be designated as "political" adds to the complexity of the legal framework. Thus, the challenge before international law is to (i) distinguish political from non-political activities and (ii) guarantee the right to exercise the same to refugees in host countries in a uniform manner.

Refugees are granted political rights, but the degree of extent of political freedom that can be exercised by a refugee largely depends upon the discretion of the State. Upon viewing it

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<sup>12</sup> G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec.10, 1948) art.14(1) unequivocally states that everyone is entitled to the right to seek and enjoy asylum in other countries to evade from persecution in homeland.

<sup>13</sup> Paul Weiss, *The International Protection of Refugees*, 48 Am. J. Int'l L. 193, 194 (1954)

<sup>14</sup> Convention Relating to the Status of Refugees, 28 July 1951, 189 UNTS 137, art.6, art.27. It aims to ensure that refugees shall not be prejudiced due to lack of identification documents - "Any refugee on their territory who does not have a valid travel document shall be issued identity papers by the Contracting States"

<sup>15</sup> RUVI ZIEGLER & GUY S. GOODWIN-GILL, in *VOTING RIGHTS OF REFUGEES AND CITIZENSHIP VOTING QUALIFICATIONS* i-ii (Cambridge University Press, 2017)

through this spectrum, the political activities of refugees appear to fall into three categories<sup>16</sup> as a result of the complex interaction of these fields of law:

- a. activities that a host state is Mandated to permit and which are guaranteed by the law of human rights,
- b. activities that a host state is allowed to grant which fall within the scope of sovereign authority and discretion; and
- c. activities that a host state is required to prohibit.

While voting is not the only positive way for refugees and asylum seekers to have their voices raised and interests represented in the host country, it is generally perceived as a core component of civic participation and an essential requirement for a political process to be considered fully democratic.

Refugees are politically excluded or expelled category of individuals from their State of Origin. They happened to be an unfortunate community who could only but dream in vain of engaging in political activities back in their homelands. However, this right to participate in the political decision-making process is fairly recognised as a fundamental human right. <sup>17</sup>Therefore, the question at hand is whether countries at the receiving end are dutybound to grant these lost rights of refugees, or should they restrict the same in the interest of the sovereignty of their nation? The latter argument arises from the presumption that normalising granting of political rights would eventually jeopardise national security and integrity. The 1951 Refugee Convention is remarkably quiet on the "issue of refugee electoral politics," implying that their right to political involvement – and the expression this might manifest – is governed by international and human rights law, as well as the policies of the state granting refugee protection.<sup>18</sup>

An interesting yet intriguing concern of the global community concerning refugees is the status of their rights to be electoral candidates. Thousands of refugees in Scotland<sup>19</sup> have recently been granted the Right to vote in national and local elections of their country. It is a historic step that acknowledges democratic participation as a crucial component of societal integration.

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<sup>16</sup> United Nations High Commissioner for Refugees, *Political Rights of Refugees* (Geneva: PPLA UNHCR Department of International Protection, 2003), available from <https://www.unhcr.org/49c3646cc8.html>.

<sup>17</sup> UDHR G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec.10, 1948) art.2

<sup>18</sup> MANDAL, R. *Political Rights of Refugees*, DIP UNHCR - PPLA/2003/04 (2003)

<sup>19</sup> Frey Lindsay, *Refugees Can Now Vote In Scotland*, FORBES(Feb. 21,2020), <https://www.forbes.com/sites/freylindsay/2020/02/21/refugees-can-now-vote-in-scotland/?sh=79d564c86390>

Furthermore, they also won the Right to stand for elections themselves.<sup>20</sup> Consequently, citizens have resisted treating refugees as their "political equals" or rather "political rivals", and similar patterns are noticed across the globe.<sup>21</sup>

Holding a political opinion is, in all necessity, a precursor for any political action, but it does not constitute exterior behaviour in and of itself. Nevertheless, an external manifestation of the above by exercising the right to freedom of expression is a concomitant. It is crucial to the ability of an individual to engage in meaningful political activities.

Art. 22 of ICCPR guarantees to everyone the right to freedom of association to protect his interests.<sup>22</sup> When it corresponds to refugee law, it is safe to assume that the freedom applies to both nationals and aliens alike. Hence in principle, refugees can exercise their Right to form associations. However, the provision as mentioned above has to be interpreted in consonance with Art.21<sup>23</sup>, which renders the right non-absolute. Reasonable restrictions may be imposed on account of national security, public order and safety or protection of rights and freedom of others. Now the question to be pondered over is how far these restrictions are hindering the unfeigned needs and concerns of refugees in praxis. A hypothetical situation could happen wherein a general political narrative that newly inducted refugees tend to hamper national security could substantially jeopardise the standing of the refugee population.

## **International Legal Norms Regarding Political Rights of Refugees**

### **The Refugees Convention,1951**

There exists no explicit provision in the Refugee Convention to deal with refugees' political rights in contradistinction to economic and social rights. Nonetheless, certain provisions impliedly allude to the scope of the political actions of refugees.

Article 1E is an exclusionary clause, and its interpretation is quite helpful in determining the political status of refugees compared to citizens of the host state. It states that the Convention will not apply to a person who has been identified by the relevant authorities of the host state as having the rights and duties that come along with holding that state's nationality. The clause

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<sup>20</sup> Ibid'

<sup>21</sup> Maissaa Almustafa, *Reframing Refugee Crisis: A "European Crisis of Migration" or a "Crisis of Protection?"*, 19 EPC, 2, (2021)

<sup>22</sup> International Covenant on Civil and Political Rights, 23 Mar. 1976, 171 UNTS 999, art.22 grants the right to freedom of association to everyone and not exclusively to citizens.

<sup>23</sup> ICCPR, 23 Mar 1976, 171 UNTS 999, art 21 recognises the right to peaceful assembly subject to reasonable restrictions placed by the State in the interest of national security, public order, moral and public health

was originally designed to prevent displaced Germans remaining in neighbouring countries from claiming refugee status after WWII.<sup>24</sup> It could be argued that an entitlement to a "political right" would have amounted to the provision only applying to people who have the nationality of their countries of residency, "whereas such people had already been excluded from the definition clause of a refugee under Article 1A (2)". In the decision rendered by the Federal Court of Australia in a case, *Barzideh v Minister for Immigration and Ethnic Affairs*<sup>25</sup>, Judge Hill stated so,

*"I do not think that this article is rendered not applicable merely because the person who has de facto national status does not have political rights of a national. That is to say, the mere fact that the person claiming to be a refugee is not entitled to vote does not imply that the person does not have de facto nationality."*

Article 2 of the Refugee Convention clearly states that refugees do have duties towards the country granting asylum, which includes respect for its laws and regulations required to maintain public order. This just reflects and further affirms the general rule that aliens are subject to the host State's territorial sovereignty. The reference to 'public order' reveals that the State of asylum has every authority, backed by the Convention, to limit, restrict, and totally prohibit refugee activity, in particular political participation where it is necessary to defend the State's vital interests. The clause sounds like an "imperfect obligation"<sup>26</sup> since non-observance of the same neither precipitate loss of refugee status nor attracts penalisation.

Article 15 compels members to grant "most favourable treatment" towards refugees who are legally staying in their territory similar to what is provided to foreign nationals visiting the country. The drafters had contested whether refugees should be allowed to participate in political activities and whether the Article should be amended to accommodate asylum nations to restrict refugees' political activities. While the French representatives exhorted for a modified provision as discussed above, the American representatives argued that the concerns of the opposite party could manifest as an ideology wherein political expressions of refugees

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<sup>24</sup> THE 1951 CONVENTION RELATING TO THE STATUS OF REFUGEES AND ITS 1967 PROTOCOL – A COMMENTARY (ANDREAS ZIMMERMANN. et al. ed., Oxford University Press) (2011) 40, The Berlin (Potsdam) Conference, 1945, in Article XII discussed the 'orderly and humane transfer of German populations' from Poland, Czechoslovakia, and Hungary.

<sup>25</sup> (1996) 69 FCR 417, 429

<sup>26</sup> GOODWIN-GILL *supra* note 14, at 44.

might be prohibited absolutely if the host state desires so.<sup>27</sup> Refugees ought to be granted basic human rights, similar to at least what is afforded to other aliens. Anyhow, none of the views prevailed, and ultimately The Refugee Convention chose to stay silent on the political activities of refugees in the host state. Refugees who are legitimately present on the territory are entitled to freedom of movement, subject to any general rules that apply to aliens, according to Article 26. In all the other cases, Article 7(1) should apply. It states thus:

*"Except where this Convention contains more favourable provisions, a Contracting State shall afford to refugees the same treatment as is accorded to aliens generally."*

In conclusion, refugees in the asylum nation should be guaranteed the same political rights as other aliens. Furthermore, the rights granted by Article 7(1) are subject to Article 3, which bars any discrimination against refugees while exercising political rights solely based on race, religion, or country of origin. Moreover, as per Article 7(3), refugees shall rightfully continue to retain any additional rights they are entitled to at the point of time the Convention came into force for the concerned host State.

### **Customary International Law Practices**

Long before the crystallisation of human rights law (and current refugee law), aliens were afforded only limited and temporary protection under international law, reflecting their generally low social standing. On the other hand, the State of Nationality has long been perceived as possessing the right to demand that the host country treat the former's nationals according to the minimum standard established by customary international law. Even though host State has territorial supremacy, the country of origin retains personal supremacy over expatriate nationals, granting it this prerogative.<sup>28</sup>

Basic minimum rights that are entitled to all aliens, including refugees, are prescribed by customary international law from time to time. The question of what qualifies as an "international minimum standard" is still being debated. It appears to demand that an alien be treated equally before the law and that his person and possessions be protected. However, no law expressly requires host states to grant refugees the same political rights as citizens. Furthermore, any duties so far are owed to the State of origin rather than the individual alien. The relationship and correspondence between refugees and the government of their own

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<sup>27</sup> *Supra* note 22, at 43

<sup>28</sup> See Oppenheim's International Law1 (1992) 903.



country are intricate. As a result, it is unclear how the rule of diplomatic protection<sup>29</sup> might apply to them. It can be safely concluded that customary international law appears to be of questionable benefit in terms of the political rights of refugees.<sup>30</sup>

### **Due Diligence Concept**

It is obvious that providing refuge does not render that a hostile act and for which a State is accountable to the country of origin as per international norms.<sup>31</sup> However, under customary international law, a State is liable and answerable for the activities of private individuals within its territorial boundaries, which would include refugees, if:

- a. the individual's actions are deemed detrimental to some other State, and
- b. the State has failed or was negligent in exercising "due diligence" in regulating the actions of individuals.<sup>32</sup>

The host state holds no more liability to refugees' conduct than it would to any other person within its borders.<sup>33</sup> Where there occurs a breach of the State's responsibility, it would be obligated to pay compensation to the nation that suffered any injury. The due diligence concept presupposes States to judiciously utilise discretion to evade their vicarious liability for the acts done by their people in their territory.<sup>34</sup> When the same applies in the case of refugees, it could result in reiterating the violence, oppression, and persecution that they faced in their native land. This is no less than perpetuating the violation of human rights on the pretext of suppressing their legitimate freedoms.

On the contrary, there exists a situation where the host country would be absolutely liable for the subversive activities of refugees against another nation. Therefore, the thin line between genuine criticisms and subversive actions must be interpreted and acted upon prudently. Most often, host states exhibit the tendency to grant only minimum freedom of political expression to refugees in the homeland.

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<sup>29</sup> Draft articles on Diplomatic Protection, Int'l Law Comm'n, Rep. on the Work of its Fifty-Eighth Session, U.N. GAOR, Doc. 10(A/61/10) The International Law Commission is currently examining and formulating the law regulating diplomatic protection and is debating which state, if any, can lodge a grievance over refugee treatment under customary international law that is not compatible with the prescribed international minimum standards.

<sup>30</sup> *Supra* note 15

<sup>31</sup> See the preamble to the 1951 Convention, the preamble to the UN Declaration on Territorial Asylum 1967 (GA Res. 2312 (XXII)), as well as Article II (2) of the 1969 OAU Convention.

<sup>32</sup> Draft articles on Responsibility of States for Intentionally Wrongful Acts, Int'l Law Comm'n, Rep. on the Work of its Fifty-Third Session, U.N. GAOR 56/83, Doc. A/56/49(Vol. I)/Corr.4.

<sup>33</sup> Jacob Robinson, *The Status of Refugees in International Law*, 1 Am J Int Law, 231, 231-232 (1968)

<sup>34</sup> See Oppenheim, *Supra* note 26, at 394

## ICCPR

ICCPR contains few provisions like Articles 12(2), 12(4), and 13, which applies specifically to refugees. Article 12(2) provides that anyone, including herself, is allowed to leave any country. This is, of course, subject to any limitations imposed by law. Article 12(4) states: "No one's freedom to enter her nation should be taken away arbitrarily."

While the ICCPR grants refugees some political rights in their host countries, Contracting States are committed to protecting the voting rights of their citizens alone in their elections. Article 25 of the 1966 International Covenant on Civil and Political Rights ('ICCPR') expressly guarantees citizens of the State the Right to vote and run for public office. Aliens who stay in that country do not have such a right. This appears to be in tune with the commonly held belief that voting is a political expression of one's deep bond with the State, as reflected by citizenship. Only when the refugee obtains citizenship of the host State through naturalisation, voting rights would ensue.

## Human Rights Law vis-a-vis Refugee Law

Human rights law has had an appreciable effect on the status of aliens in general, and thus refugees in specific, in international law over the last few decades. Earlier, human rights issues were virtually forbidden from entering the global dialogue on refugees, based on the erroneous assumption that, as a humanitarian matter, the refugee situation is distinct from the human rights problem.<sup>35</sup> Nevertheless, the current trend is directed towards integrating human rights, humanitarian, and refugee law.

Human Rights Law, in general, sees no difference between citizens and aliens. States are at liberty to curtail and control the political manifestations of refugees if situations deem so. The bounds of relevant human rights law would primarily decide the extent to which such activities can be lawfully restrained.

## Political Rights in a Cosmopolitan Perspective

### Conceptualising "Cosmopolitanism"

The term "cosmopolitanism", which finds its roots in the Greek word *kosmopolitēs*,<sup>36</sup> can be

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<sup>35</sup> REFUGEES AND THE LAW (Ragini Trakroo Zutshi et al. ed., Human Rights Law Network Publications) (2011)

<sup>36</sup> Citizen of the world

defined, in the simplest form, as a notion wherein all individuals, regardless of any identity affiliations, join together and coexist as a universal community. It could be traced all the way back to the Stoics' self-description as cosmopolitans: "human beings living in a world of human beings and only incidentally members of polities."<sup>37</sup> Cosmopolitans vehemently argue favourably of a global *polis*<sup>38</sup> that can provide equal respect and rights to all irrespective of their nationality, citizenship, or political affiliations. This concept aspires for an ideal situation where national, political, and cultural differences fade away. Cosmopolitanism is a school of thinking within which global justice is an essential component. It gives importance to the individual as opposed to state, community, or culture. The individual is seen as a starting point as it is firmly believed that all human beings are morally equal and hence have the right to equal moral treatment.<sup>39</sup>

Contemporary cosmopolitanism unmoulds itself in different shapes and forms in the wake of emerging globalisation trends. Cosmopolitanism is portrayed not only as a timeless virtue but more as a response to current historical accounts.<sup>40</sup> The concern for global justice is fundamental to the idea of cosmopolitanism, even though it is not the only facet of cosmopolitanism. Even then, cosmopolitan ideas are highly ambitious in achieving global justice. The notion of a political project called global justice considers taking a cosmopolitan stance that entails acceptance of different levels of obligation and membership.<sup>41</sup>

### **The Idea of Cosmic Citizenship**

The notion of "world citizenship" or "cosmic citizenship" envisions the unification of humankind as a whole. The terms are employed metaphorically rather than literally in the current scenario. In the eighteenth century, expressions 'cosmopolitanism' and 'global citizenship' were frequently used to denote a general attitude of 'open-mindedness and impartiality' rather than as pretentious labels for specific philosophical doctrines. The expression 'cosmopolitan' often signifies a "*man of no fixed abode or a man who is nowhere a*

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<sup>37</sup> Brian Barry, *Statism and Nationalism: A Cosmopolitan Critique*, 41 *Nomos*, American Society for Political and Legal Philosophy, 12, 40–66 (1999) <http://www.jstor.org/stable/24219676>.

<sup>38</sup> Brock, Gillian. "Cosmopolitanism". *Encyclopedia Britannica*, 8 Jul. 2015, <https://www.britannica.com/topic/cosmopolitanism-philosophy>. Accessed 18 October 2021.

<sup>39</sup> *Supra* note 35, at 38

<sup>40</sup> Craig Calhoun, *Belonging in the cosmopolitan imaginary*, 3(2) *Ethnicities*.531, 549-553 (2003)

<sup>41</sup> Gerard Delanty, *The Prospects of Cosmopolitanism and the Possibility of Global Justice*, 50(2) *J. Sociol.* 213, 213-216 (2014)

stranger".<sup>42</sup> A cosmic citizen is a person who is not beholden to any religious or political authority and who is not swayed by personal attachments or cultural biases. Simply said, she belongs nowhere but everywhere. Similar to how the notion of "modern state" was promulgated in *Leviathan*<sup>43</sup> as an innovative and somewhat utopian concept, the cosmopolitical ideologies are presented forth as a universal political venture.

Cosmopolitanism today must commence constructing an ethically robust and politically sound ideology that would manifest into healthy relations among community members. This particular notion focuses on four fundamental principles.<sup>44</sup> The first one is "egalitarian individualism", where every individual feels belonging to a moral realm and is regarded as equal worth everywhere. The second proposition is an advancement of the first proposition and extends to every other individual acknowledging and respecting the moral worth of fellow beings. This is how relations ought to harmoniously coexist in a cosmopolitan reign. The Consent principle, which is the third one, emphasises that a commitment to equal worth and moral worth warrants a "non-coercive political process" in which people can negotiate and seek their interconnectedness, dependencies, and diversities. The fourth one aspires for inclusivism coupled with subsidiarity in the public decision-making process where every single individual is guaranteed a right to engage via legitimate political expression, thus ensuring that collective choices are democratically determined through strict compliance of social procedures.

Cosmopolitanism can be connoted to a notion that seeks to nurture, recognise and exhort equal moral worth of individuals, even on a political platform. It is also created and assembled on axioms that everybody could agree to in a reasonable manner. On the other hand, this cosmopolitan worldview should acknowledge that the interpretation and meaning of concepts like equal status, equitable treatment, and equal consideration cannot be defined definitively. That is to say, the hermeneutically sophisticated traditions, with their chronological and cultural frameworks, cannot be dissociated from the connotation of these fundamental notions. Otherwise said, the connotation of cosmopolitan regulatory principles cannot be deduced without reference to continuous public debate.

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<sup>42</sup> Kleingeld, Pauline and Eric Brown, "Cosmopolitanism", *The Stanford Encyclopedia of Philosophy (Winter 2019 Edition)*, Edward N. Zalta (ed.), <https://plato.stanford.edu/archives/win2019/entries/cosmopolitanism/>, accessed on 28 Oct.2021

<sup>43</sup> HOBBS, LEVIATHAN (Harmondsworth: Penguin 1968)

<sup>44</sup> David Held, *Cosmopolitanism: Globalisation Tamed?* 29 Rev. Int. Stud. 465, 465-478 (2003)

## **Possibility of a Cosmopolitan Future**

In the strict sense, there is no room for stateless persons in an ideal cosmopolitan world. The quixotic vision of such a world presupposes that no person can be evicted from a place or denied entry to another frontier because everybody holds equal and proportionate rights over the whole world. This premise might seem utopic, but there is no harm in aspiring to be less short of being perfect.

Four degrees of relationships are possible in a cosmopolitan regime.<sup>45</sup> These range in intensity from low to high and can be understood as variables in creating a cosmopolitan subject. The first degree of cosmopolitanism is cultural, which demonstrates a broad tolerance for diversity, an understanding of interconnectivity, and an openness to others. The second level is concerned with the evaluation of mutuality in cultural identities and bridging the gap of cultural distances. It is the third and fourth expression that is relevant for discussion in the context of the cosmopolitan standpoint of the political rights of refugees. It exhorts a shift in the relationship among political subjects, and it does not necessitate much more than the inclusion of the others. It is possible to speak of global cosmopolitanism when cosmopolitan forms of consciousness permeate beyond the level of individuals to the society level, establishing not just new institutions but also wider social transformations beyond national interests.

Refugee problems are often mistakenly believed to be temporary issues, but they are not so in reality. It permeates beyond an individual's problem to a global issue. When refugees are tyrannised to such a great length that they are even denied the "right to have rights"<sup>46</sup>, the golden principles enunciated in the International Bill of Rights like UDHRD becomes a spineless cord of law. Every person, irrespective of his state of origin, nationality or domicile, is entitled to equal respect, and if the same needs to be extended to everyone, cosmopolitical shreds glittering here and there in international law provinces should be flared up. Newer legislations and ultra-politan international instruments of binding nature shall be drawn up at least necessarily by all nations facing refugee crisis and current host state that provide them assistance. Emphasis should be set upon regulations holding cosmopolitan elements and accountability in the same tunes.

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<sup>45</sup>DELANTY, *THE COSMOPOLITAN IMAGINATION: THE RENEWAL OF CRITICAL SOCIAL THEORY AND THE POSSIBILITY OF GLOBAL JUSTICE*, (Cambridge University Press, 2009)

<sup>46</sup> JAMES C . HATHAWAY, *THE RIGHTS OF REFUGEES UNDER INTERNATIONAL LAW* (Cambridge University Press, 2005)

## **Conclusion**

For far too long, refugee protection in the major nations of the first asylum has been almost solely focused on providing peripheral physical security and humanitarian assistance necessary for survival, with little regard for refugee protection, much fewer durable remedies. It is quite evident that refugees are generally unwelcomed guests to the provinces of sovereign territory. They are considered temporary residents, and, in all honesty, host States look forward to their return back home at the earliest. From analysing the international legal scenario and contemporary state practices, there is a ray of hope to hint that the political autonomy of refugees is nevertheless widening, and the frontiers are opening up as a result of mutual international obligations. Arguably such progressions are laudable, yet the discretion vested in the host States to curtail it any time soon is an impending peril that sovereignty affords them to have. In this context, a cosmopolitan regime is far from blooming to fruition.

Political identity and refugee political expression are understood as an intentionally undeliberated arena of international law because of the very nature of the ramifications that could unfurl upon the concrete realisation of such a status. Only a global or, better still, the cosmopolitan panoramic view may, in the end, could adapt to the political problems of an enhanced borderless era distinguished by overspreading societies of similar fate and outlook of a multilevel or multilayered politics. Cosmopolitanism is the upcoming vogue. It is found and aspired to materialise slowly yet steadily in the wake of rampant globalisation trends. If the new trend sets in, then a world devoid of destitute titles like "refugee", "stateless person", etc. would prevail and thrive. The history beneath is set to perceive the same in the near future.