

Refugee Status and Legal Framework in Iran

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Abstract

The present study aims to examine the status and legal regulations governing refugees in Iran. Since their arrival, Iraqi and Afghan refugees have not enjoyed a clearly defined legal status recognized under international norms. This reality has necessitated a detailed investigation into their situation within Iran. Utilizing a library-based research method and analysis of official documents, this paper examines refugee-related provisions within the Iranian Constitution, asylum procedures in Iran, the impact of asylum approval on family members of the applicant, the practical approach of the Islamic Republic of Iran towards asylum seekers, and an overview of the specific circumstances of Afghan and Iraqi refugees in Iran. The findings indicate a disparity in the treatment of Iraqi and Afghan refugees. Iraqis, having more economic freedom, often consider Iran as a second home and show strong emotional attachment to it. In contrast, Afghan refugees face economic restrictions and social limitations. Misconduct by Afghan nationals is often amplified in the media, while similar issues concerning Iraqis tend to be concealed. Furthermore, Iraqis in Iran have access to mosques and professional, commercial, and economic organizations—resources that are largely unavailable to Afghan refugees.

Keywords: Refugee, Afghan refugees, Iraqi refugees, International law.

Received: 16 October 2024

Revised: 05 November 2024

Accepted: 22 November 2024

Published: 30 November 2024



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Citation: Savari, R., Azad Bakht, F., & Ghasemi, M. (2024). Refugee Status and Legal Framework in Iran. *Legal Studies in Digital Age*, 3(4), 81-87.

1. Introduction

In international legal instruments, particularly the 1951 Geneva Convention, a comprehensive definition of a refugee is provided. According to this Convention, a refugee is someone who, owing to a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, is outside the country of their nationality and is unable or unwilling to avail themselves of the protection of that country. The right to seek asylum is recognized under the United Nations Charter and the 1948 Universal Declaration of Human Rights. Refugees are entitled to certain rights under these frameworks, and states are consequently obligated to uphold these rights. The full scope of refugee rights is delineated in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, which have been ratified by 146 countries. Given the significance of this issue, many states have incorporated refugee-related laws into their domestic legal systems. However, the extent to which these national laws align with international standards remains a matter of scholarly interest. This research endeavors to study the legal status of refugees in Iran and to provide a brief analysis of the conditions of refugees from different countries residing within the country. The phenomenon of forced migration imposes substantial social and economic

burdens on host countries, often prompting the introduction of domestic laws that may contradict international agreements. Furthermore, refugees are frequently compelled to abandon their cultural, ethnic, social, and sometimes religious identities in order to adapt to new environments—a cost that is rarely addressed. The global surge in refugee movements, the deterioration of living conditions in certain host countries, and the human rights implications of such crises have elevated the significance of refugee studies. The treatment of refugees by host states, the impact of their status on international peace and security, and the geopolitical consequences of cross-border displacement all contribute to the importance of this field. Afghanistan and Iraq, in particular, have produced the largest numbers of refugees due to the Soviet invasion in the 1980s, subsequent internal conflicts, and the U.S. military intervention. Against this backdrop, the present study seeks to investigate the legal and practical frameworks governing refugee affairs in Iran.

2. Theoretical Framework of the Research

2.1. Concepts of Refugee Status

The concept of 'refugee' in international law dates back to the tragic years of World War I (1913–1922) and coincides with the founding of the League of Nations. For approximately half a century (1919–1969), the international community made sustained efforts to provide solutions for refugee-related crises, resulting in the creation and implementation of key legal instruments. Among the most notable are the Universal Declaration of Human Rights, the Declaration of the Rights of Man and of the Citizen, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the 1951 Refugee Convention, the 1967 Protocol relating to the Status of Refugees, and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. These documents form a strong legal foundation for the protection of human rights globally. According to paragraph 2 of Article 1 of the 1951 Convention, a refugee is defined as someone who, owing to a well-founded fear of persecution due to race, religion, nationality, membership in a particular social group, or political opinion, lives outside their country of habitual residence. Article 13 of the Convention obliges contracting states not to return a refugee to a country where their life or freedom would be threatened on these grounds. Article 1 of Iran's 1963 Refugee Regulation defines a refugee as an individual who, due to political, religious, racial, or social group-related reasons, seeks refuge in Iran out of fear for their life or the lives of their dependents (Cohen & al, 2005).

3. Refugee Status in the Constitution of the Islamic Republic of Iran

The Constitution of the Islamic Republic of Iran recognizes the right to asylum. Article 155 stipulates: “The Islamic Republic of Iran may grant asylum to those who seek political asylum unless they are regarded as traitors or criminals under the laws of Iran.” The procedures for granting asylum and the associated rights and responsibilities of refugees are outlined in Iran's Refugee Regulation enacted on December 16, 1963, along with the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, to which Iran acceded in 1975 through parliamentary approval. Given that these instruments were adopted during the monarchy, there may be some doubt about their current validity. However, in July 1986, the Guardian Council declared: “Existing laws of the country shall remain valid unless deemed inconsistent with the Constitution. In cases requiring interpretation of compatibility with the Constitution, the laws remain enforceable until the Guardian Council issues a definitive interpretation.” This statement confirms the continued enforceability of refugee-related legislation in Iran.

3.1. Granting Asylum

Once granted asylum, the applicant receives legal protection and corresponding benefits. Asylum is contingent upon a formal application in which the applicant must provide compelling evidence to justify the need for protection. Despite Iran's accession to the 1951 Refugee Convention and its 1967 Protocol, granting asylum remains a sovereign right of the state. Therefore, no individual can legally compel the Iranian government to provide asylum, even if the applicant meets all criteria (Ebadi, 2006).

Article 1 of Iran's 1963 Refugee Regulation defines a refugee as someone who, due to political, religious, racial, or social group-related reasons, seeks refuge in Iran to protect their own life and that of their dependents. While broadly consistent with international standards, some differences exist between Iranian law and the 1951 Convention and 1967 Protocol. Notably:

- The Convention and Protocol mention both “race” and “nationality” as grounds for asylum, whereas Iranian regulation mentions only “race.” As “race” encompasses a broader spectrum than “nationality,” the scope of the Convention and its Protocol is technically wider.
- Iran's refugee regulation also considers fear for the lives of the applicant's dependents as a legitimate ground for asylum. In contrast, the international instruments only address fear concerning the individual applicant. This makes the Iranian regulation broader in scope in this particular aspect (Ebadi, 2006).

3.2. *Stateless Refugees*

Iran has not acceded to the Convention Relating to the Status of Stateless Persons, nor has it adopted domestic legislation specifically addressing statelessness. Nevertheless, the practical treatment of stateless individuals in Iran generally aligns with the treatment of other refugees.

The key distinction lies in the source of the threat: for individuals with a nationality, the threat originates from their country of citizenship; for stateless persons, the danger must arise from their country of habitual residence. Thus, while not formally regulated, the practical application of refugee protections to stateless individuals mirrors that extended to nationals of other countries (Ebadi, 2006).

3.3. *Asylum Application Procedures in Iran*

Requests for asylum in Iran can be made through several channels (Ebadi, 2006):

1. **Entry through border zones:** Upon entering Iranian territory, individuals must report immediately to the nearest border post or competent authority. If carrying weapons, they must surrender them against receipt. Their application is then forwarded to the local border patrol, which collects initial information and transmits it via provincial authorities to the Ministry of Interior.
2. **Application from abroad:** Foreign nationals residing outside Iran may submit an application for asylum in Iran through diplomatic channels.
3. **Application by residents in Iran:** Foreigners already residing in Iran may request asylum directly from within the country.

The Ministry of Interior oversees a Permanent Committee for Refugees, composed of representatives from the Ministry of Foreign Affairs, the Ministry of Labor and Social Affairs, the Ministry of Intelligence, the Armed Forces General Staff, the Police, and the Political Directorates of the Interior Ministry. If needed, subcommittees may be formed at provincial or district levels. The Committee has the authority to accept or reject asylum claims and make decisions on other refugee-related matters.

Investigations into asylum seekers abroad may be assigned to Iranian diplomatic missions. Each application is reviewed individually—even in cases of mass arrivals, such as groups of Iraqi Kurds, who were temporarily accommodated before undergoing individual case reviews. Those meeting the criteria are issued residence permits, while others face deportation (Ebadi, 2006).

Certain categories of individuals are categorically ineligible for asylum under Iranian law, even if their lives are in danger (Ebadi, 2006):

- Those who have committed crimes against peace, humanity, or war crimes.
- Individuals convicted of serious non-political crimes such as murder, smuggling, or theft.
- Persons who have acted contrary to the purposes and principles of the United Nations.

4. **Impact of Asylum Approval on the Applicant's Family Members**

The approval of an individual's asylum request and the issuance of a refugee residence permit also extends protection to the applicant's family. If an applicant is granted asylum, their spouse, children, and other dependents who have entered Iran with them are also eligible to receive refugee status. However, the Iranian government retains the discretion to deny asylum to specific family members if their presence is deemed contrary to national interests. For example, if it is discovered during investigations that the applicant's spouse is a spy or otherwise untrustworthy, asylum may be granted to the applicant but denied to their spouse, who would then be subject to deportation. Iranian law is silent regarding the legal status of unaccompanied minors seeking asylum. However, the government has generally adopted a humanitarian policy toward such children. For instance, in the context of Afghan refugees, the Ministry of Interior issued directives indicating that children and women from areas in Afghanistan affected by war and airstrikes should be admitted into Iran for humanitarian reasons. These groups typically arrive in large family or tribal units, making identification easier. If an unaccompanied minor is found without a guardian and requires care and shelter, they are placed under the supervision of state-run welfare institutions (Ebadi, 2006).

5. Executive Performance of the Islamic Republic of Iran in Dealing with Asylum Requests

Research on individuals who request asylum after entering Iran requires sufficient time to establish whether the applicant meets the conditions. During this period, asylum seekers cannot be granted permission to stay in Iran. Therefore, such individuals are sent to camps known as "quarantine camps" where thorough investigations are conducted regarding their documents and the accuracy of their statements. After the necessary investigations are completed and their physical and mental health, as well as their non-infection with contagious diseases, are confirmed, they may be granted permission to leave. In some cases, permission may be granted with a guarantor, while in other cases, it may be granted without any guarantee. For instance, during the Iran-Iraq war, when Iraqi refugees were fleeing to Iran, individuals holding Iranian identity cards were allowed to leave without requiring a guarantor once the authenticity of their civil documents was verified. Residents of these camps receive a monthly stipend, which is determined by the Islamic Republic of Iran based on its financial capabilities, the number of recipients, and their needs. The stipend is paid to the head of the family, whether it is the father, mother, eldest child, or any individual considered the family head (Koser, 2016; Masoumi).

6. Entry of Foreign Nationals into Iran

According to Article 1 of the Law Regarding the Entry and Residence of Foreign Nationals in Iran, enacted in May 1931, foreign nationals must obtain permission from the relevant Iranian authorities for entry, stay, and departure from Iran. The entry permit to Iran and transit through the country is obtained through a visa issued by Iranian officials abroad on the basis of a note or identity documents issued by the foreign national's government. Iranian authorities abroad are required to refrain from issuing visas in the following cases (Ebadi, 2006):

A. If there is doubt about the authenticity of the documents presented. B. If individuals, under Iranian law, are considered Iranian nationals and attempt to travel to Iran with foreign nationality documents. C. If the foreign national's presence in Iran is against the security or public order of the country, or is detrimental to the country's interests for other reasons. D. If the foreign national has a criminal record for a misdemeanor or felony in Iran or abroad. E. If the foreign national has been previously expelled from Iran. F. If the foreign national's presence in Iran could harm public health or public morals. G. If the foreign national cannot prove they have the means to support themselves in Iran through their own assets or legitimate employment.

Foreign nationals who enter Iran without a visa or cross prohibited borders are committing a crime and must be punished. The amended Article 15 of the Law Regarding the Entry and Residence of Foreign Nationals in Iran, enacted in 1988, stipulates (Ebadi, 1385, 22):

"Individuals who violate this law will be sentenced to imprisonment for one to three years or a fine ranging from 500,000 to three million rials, unless a harsher penalty is prescribed by other laws. These violations include:

1. Forging or knowingly using forged passports, residence permits, or transit documents, or obtaining such forged documents for another person.

2. Providing false testimony or making false statements to obtain a residence permit, passport, or other identity documents.
3. Crossing Iran's borders without the necessary documents or through unauthorized entry points.
4. Using someone else's identity documents to establish their nationality or identity.
5. Concealing or returning to Iran after being expelled."

The most significant legal consequence of being granted asylum is the right to reside in Iran. An individual whose asylum request is accepted has the right to stay in the country, and the treatment should be as favorable as that given to other foreigners residing in Iran. Upon approval for asylum, an asylum seeker's residency booklet is issued. According to Article 6 of the Asylum Regulation, "In case of asylum approval, the residence booklet is issued by the National Police, which serves as official identification, registered with the local police department. The holder must renew it every three months. A copy of the residence booklet is sent to the police station in the area of residence for record-keeping. If the booklet is lost or destroyed, a replacement may be issued, and there is no fee for issuing or renewing the booklet" (Ebadi, 2006).

7. The Situation of Afghan Refugees in Iran

The presence of migrants and refugees in Iran imposes significant costs on the Iranian government and the country. Despite limited foreign aid, such as from UNHCR, aimed at encouraging migrants to return, these resources have been redirected to Afghanistan in recent years. Iranian officials claim that in contrast to the massive financial burden Iran bears for refugees, international organizations provide little substantial help, and the media often criticize Iran. In 2010, the total budget allocated by UNHCR for Afghan refugees in Iran was about 19.5 million dollars, a portion of which went to health and education projects through bilateral agreements with Iranian organizations. However, the funding provided was insufficient compared to the costs incurred by Iran in terms of healthcare, housing, and social services for Afghan refugees. Moreover, around 700 special patients, mostly Afghan, receive medical care under Iran's Ministry of Health and Medical Education.

Additionally, approximately 1.1 million authorized Afghan migrants and 2 million unauthorized migrants in Iran occupy a significant portion of the country's job market, creating competition for employment opportunities for Iranian citizens.

The Iranian government, along with UNHCR, has initiated several programs to assist refugees, such as providing vocational training and offering insurance coverage. Despite this, the overall support from international agencies has been limited, and the Iranian government continues to bear most of the burden of supporting Afghan refugees. The government has also provided significant aid for the reconstruction of Afghanistan, including building homes, roads, and schools, in order to encourage Afghan refugees to return to their homeland.

According to the UN's Human Rights Watch, the rights of Afghan refugees in Iran are often violated. A report claims that Afghan refugees face difficulties due to the lack of a functioning asylum system in Iran, arbitrary detention, and a lack of protection against exploitation. The report also accuses the Iranian government of failing to meet its international obligations towards refugees, violating both domestic laws and international refugee rights standards.

8. An Examination of the Situation of Iraqi Refugees in Iran

Some estimates suggest that the actual number of Iraqis residing illegally in Iran may reach up to 500,000 individuals. While a portion of this population has obtained Iranian nationality, others returned to Iraq following the fall of Saddam Hussein. According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), as of September 2003, more than 202,000 Iraqi refugees were registered in Iran—representing more than half of the global Iraqi refugee population at that time.

Approximately 50,000 Iraqi refugees reside in 22 camps situated in Iran's western provinces along the border with Iraq. Following the collapse of Saddam Hussein's regime, around 11,500 of these individuals voluntarily repatriated. Many others have settled in urban areas of western Iran, as well as in religious cities throughout the country.

Currently, more than 200,000 Iraqis are legally residing in urban and rural areas of Iran, while approximately 48,000 individuals remain in refugee camps. Many Iraqi refugees prefer to live in Tehran due to its higher standard of living and better employment opportunities. A significant community of Iraqis resides in the southeastern districts of Tehran. Nevertheless,

according to the Director-General of the Bureau for Aliens and Foreign Immigrants Affairs (BAFIA) of Iran's Ministry of Interior, roughly 50% of the 200,000 legally registered Iraqi refugees returned to Iraq after Saddam Hussein's fall.

In general, Iraqi refugees express a high level of satisfaction with life in Iran, as the Iranian government has provided considerable support and services. The *Bint al-Huda* Girls' Educational Complex and the *Shahid Sadr* Boys' Educational Complex, both established in Tehran by the refugee community with robust support from Iranian authorities, are notable examples of education services dedicated to Iraqi refugee children.

Iraqis residing in Iran typically reject terms such as “refugee,” “asylum-seeker,” or “displaced person,” preferring instead to be recognized as *Muawadin*—a term denoting individuals of Iraqi origin with prior Iranian citizenship who had been residing in Iraq. This classification often facilitates greater access to public institutions and state services. Presently, this group enjoys a favorable economic status in Iran. Their ownership of luxurious villas along the Caspian Sea and the northern regions of the country, as well as hotels in the holy cities of Mashhad and Qom, and their active presence in Tehran's commercial centers, underscores the Iranian government's supportive approach toward these western neighbors.

Moreover, the presence of Iraqi refugees and migrants in various government bodies further demonstrates Iran's substantial and strategic support. Interestingly, the near-total absence of academic and legal research on the condition of Iraqi refugees in Iran reflects a lack of scholarly attention to this issue by legal and international relations experts.

The relatively strong economic conditions and social security in Iran—particularly when compared to the ongoing political, economic, and security crises in Iraq—continue to discourage Iraqi refugees and migrants from returning to their country of origin.

9. Conclusion

Iran acceded to the 1951 Convention Relating to the Status of Refugees in 1975 (1354 SH), approximately 25 years after its adoption. However, it did so with reservations to Articles 17, 23, 24, and 26, regarding them as merely recommendatory and thus not binding. This accession strategy appears to have been primarily a political gesture, rather than a genuine commitment to international legal standards. Iran had previously enacted domestic regulations concerning refugees in 1963 (1342 SH), thirteen years after the adoption of the Convention. The aim of this study is to analyze the legal framework governing refugee affairs in Iran. Notably, the treatment of Afghan and Iraqi refugees in Iran has not been uniform. Due to this differential treatment, the attitudes of these refugee communities toward Iranian society have also diverged.

Key differences include:

1. Misconduct or social disorder attributed to Afghan refugees is often highlighted in Iranian media, while similar behavior by Iraqis is usually downplayed or ignored.
2. Unlike Afghans, who lack religious, professional, or economic associations, Iraqis in Iran have established such institutions.
3. Afghans are generally confined to low-skilled labor markets, whereas Iraqis may own hotels, run businesses, or even hold governmental positions—including roles in the Ministry of Foreign Affairs, the Atomic Energy Organization, and the Judiciary.
4. While there are numerous official statistics available on Afghan refugees, similar data for Iraqis is scarce or fragmented.
5. Iranian scholars have conducted significant research on Afghan refugees, whereas academic work on Iraqi refugees remains virtually nonexistent.
6. Governmental directives and circulars concerning Afghan refugees far outnumber those issued with respect to Iraqi refugees.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

Acknowledgments

Authors thank all individuals who helped us do this study.

Conflict of Interest

The authors report no conflict of interest.

Funding/Financial Support

According to the authors, this article has no financial support.

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