The Principle of Non-Refoulement: A Customary Rule or an Emerging Peremptory Norm in International Law

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Abstract

The principle of non-refoulement is a fundamental tenet of international law and the cornerstone of refugee protection. Emphasized in numerous international instruments, this principle prohibits the forced return of individuals to territories where they face a serious risk of persecution, torture, or threats to their lives. This article examines the nature and status of the principle of non-refoulement in international law. In this regard, the historical evolution and development of this principle, its scope and content within international law, state practice, and judicial decisions are analyzed. Additionally, the fundamental question is addressed: Is the principle of non-refoulement in contemporary international law a customary rule or a peremptory norm (jus cogens)? Considering state practice, legal doctrine, and judicial precedents, it can be concluded that the principle of non-refoulement has attained the status of a customary rule in international law, binding upon all states. Although this principle has not yet evolved into a peremptory norm, existing evidence suggests that it is moving toward acquiring such a status.

Keywords: Principle of non-refoulement, international refugee law, customary international law, peremptory norm (jus cogens), 1951 Refugee Convention

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1. Introduction

The principle of non-refoulement is the cornerstone of refugee protection in the international legal system and one of the most fundamental obligations of states concerning human rights. Rooted in humanistic and ethical values, this principle ensures that no refugee is returned to a territory where they face the risk of persecution, torture, or threats to their life.

In today's world, where we witness increasing and systematic violations of human rights, wars, and internal conflicts, millions of people are compelled to leave their homelands and seek asylum in other countries to preserve their lives and human dignity. In this context, the principle of non-refoulement serves as a shield against violations of fundamental refugee rights, ensuring their security and protection from potential dangers.

Despite the vital importance of the principle of non-refoulement in refugee protection, states do not adopt a uniform approach in accepting and implementing this principle. At times, political, security, and economic considerations take precedence over their human rights obligations. This has led to serious challenges in refugee protection and the guarantee of their rights.

The principle of non-refoulement has been emphasized in various international and regional instruments and treaties, including the 1951 Convention Relating to the Status of Refugees. However, its precise nature and status in international law remain a subject of debate and disagreement among legal scholars. Some regard the principle of non-refoulement as a customary norm in international law, binding on all states regardless of their membership in international treaties. In contrast, others consider it a peremptory norm (jus cogens), arguing that no derogation from it is permissible due to its fundamental importance to the international community.

This study aims to analyze the nature and status of the principle of non-refoulement in international law by examining its historical evolution and developments, its scope and content in international law, state practice, and judicial precedents in this regard. Ultimately, by analyzing the arguments of both proponents and opponents, it seeks to answer the fundamental question: Is the principle of non-refoulement in contemporary international law a customary rule or a peremptory norm?

2. The Evolution of the Principle of Non-Refoulement

The idea of returning individuals to other states under certain conditions is a relatively recent concept. In the past, formal agreements between states for the mutual surrender of political opponents were common. Only from the mid-19th century did the concepts of asylum and the principle of non-extradition for political offenders emerge as a possible right of states to protect such individuals. At that time, the principle of non-extradition reflected the public will to protect those who had fled from oppressive governments.

This period saw political upheavals in Europe and South America, as well as mass killings of religious minorities in Russia and the Ottoman Empire, leading to waves of migration. In this context, the British Aliens Act of 1905, which included an exception for admitting persecuted refugees, highlighted the need to protect those who had suffered persecution. With the League of Nations entering the refugee sphere, the fundamental principle was accepted that no individual should be returned to their country of origin without sufficient security guarantees (Goodwin-Gill, 1978, 2021a, 2021b).

Even before the term "non-refoulement" became widely used, "Fridtjof Nansen," the High Commissioner for Refugees, successfully prevented the return of refugees in at least three instances.

The term "non-refoulement" originates from the French verb *refouler*, meaning to repel or push back, similar to a defeated enemy unable to break through a defensive line. In the context of immigration control in Europe, refoulement is a technical term referring to the immediate return of individuals who have entered illegally and the rapid refusal of entry to those without valid documentation. Thus, refoulement should be distinguished from expulsion or deportation.

The latter is a more formal process whereby a legally residing foreigner may be required to leave a country or be forcibly removed.

The term "refoulement" and, indeed, the obligation of non-refoulement were first explicitly articulated in the history of refugee law in Article 3 of the 1933 International Convention Relating to the Status of Refugees. According to this provision, the contracting parties committed not to apply police measures for the expulsion or refusal of refugees who had been granted regular residence in their territory unless such measures were necessary for reasons of national security or public order (League of Nations, 1933).

After World War II, a new era began to improve the status of refugees. On February 12, 1946, the United Nations General Assembly, through Resolution No. 8, unanimously recognized the importance and necessity of resolving the refugee and displaced persons issue and affirmed that refugees and displaced persons who had expressed a valid objection to returning to their country of origin should not be forced to do so.

In 1949, the United Nations Economic and Social Council established a special committee to examine the desirability of drafting a convention on the status of refugees and stateless persons and to prepare a draft convention if deemed appropriate. As a result of these efforts, the principle of non-refoulement was ultimately incorporated into Article 33 of the 1951 United Nations Convention Relating to the Status of Refugees, which explicitly states:

*"No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." (*Jaeger, 2001*).*

Thus, the principle of non-refoulement, having traversed historical developments and legal transformations, has been firmly established in contemporary international law as one of the fundamental pillars of refugee protection and a guarantor of their basic rights.

3. Content of the Principle of Non-Refoulement

The content of the principle of non-refoulement consists of the prohibition of expelling a refugee to a country or territory where they would face a serious risk of persecution, torture, or other ill-treatment. Although the principle of non-refoulement does not imply the right to asylum or even the obligation to admit an asylum seeker, the admission of the asylum seeker—at least until the asylum claim is assessed—is a *de facto* obligation of the state, and the asylum seeker must be allowed to remain during this period (Jaeger, 2001).

The prohibition of refoulement is an inseparable component of the concept of asylum; thus, to examine its historical background, it is necessary to refer to texts concerning the emergence of asylum.

In evaluating the principle of non-refoulement, it should be noted that this principle is emphasized as a vital norm for international protection in both human rights treaties and refugee law (United Nations High Commissioner for Refugees).

Today, this principle explicitly includes the prohibition of rejection at the border, as refugee protection begins with their safe entry into the territory of a state. Although some states, through actions such as interception, return, and border closures, effectively violate the principle of non-refoulement, such practices do not absolve them of the legal responsibility arising from this principle. Over the past seven decades, the broad interpretation of the principle of non-refoulement, including the prohibition of rejection at the border, has further solidified its status. Beyond the 1951 Convention and the 1967 Protocol, the principle of non-refoulement is recognized as part of international human rights law. This principle prohibits the transfer of a person to a place where they would face a risk of torture, cruel, inhuman, or degrading treatment or punishment, arbitrary deprivation of life, the death penalty, or enforced disappearance (United Nations High Commissioner for Refugees, 2005).

4. The Absolute Nature of the Principle of Non-Refoulement

In human rights law, the principle of non-refoulement has an absolute and non-derogable nature. In other words, the assessment and comparison of an individual's conduct (however undesirable) with the risk they would face upon return to their home country are not permissible. This principle, despite claims by some states advocating for exceptions for dangerous individuals or terrorists, has been consistently and firmly upheld by the European Court of Human Rights and United Nations treaty-monitoring bodies. However, certain states, citing national security concerns and alleging that an individual is a terrorist or a dangerous criminal, attempt to create exceptions to this principle.

In human rights law, the principle of non-refoulement has a broader scope of application than the 1951 Convention, as the Convention includes conditions and exceptions both in its definition of a refugee and in the application of the principle of non-refoulement.

Professor Stigall, an expert in international law, argues that human rights have become the primary criterion for determining who is entitled to asylum. However, the use of the term "refugee" in this context has a quasi-legal meaning, as human rights law may provide protection against refoulement for individuals who do not fall within the definition of a refugee under international law, without granting them the same legal status as refugees.

5. Definition of a Refugee Under the Refugee Convention

Paragraph (a)(2) of Article 1 of the Refugee Convention defines a "refugee" as a person who, owing to events occurring before January 1, 1951, has a well-founded fear of persecution based on race, religion, nationality, membership in a particular social group, or political opinion, has left their country, and, due to this fear, is unwilling or unable to avail themselves of the

protection of that country. Additionally, stateless persons who, due to such events, are outside their country of former habitual residence and, owing to a well-founded fear, cannot or do not wish to return there, also fall within this definition.

Accordingly, and based on Article 33 of the Convention, any individual who meets these criteria is recognized as a refugee and can invoke the principle of non-refoulement. It is noteworthy that refugee status is declaratory in nature and does not require formal recognition. Therefore, even if an individual has not been officially recognized as a refugee, they can still invoke the principle of non-refoulement. This principle was explicitly stated in the preparatory work of the 1951 Convention and has also been affirmed by the UNHCR and the Executive Committee of the High Commissioner's Programme (EXCOM) (United Nations High Commissioner for Refugees).

One of the conditions for refugee status is facing the risk of persecution. However, the 1951 Convention does not provide a specific definition of "persecution." This omission was intentional during the drafting process, as the drafters sought to include various forms of persecution within the scope of the principle of non-refoulement. Even in international law, no universally accepted definition of persecution exists.

6. Scope of Application of the Principle of Non-Refoulement in International Law

The scope of application of the principle of non-refoulement is a complex and evolving issue in international law. Traditionally, the obligation of states to prevent the refoulement of individuals at risk was confined to their territorial jurisdiction, including land and territorial waters. However, in recent years, the application of this principle has extended beyond territorial borders. This expansion is reflected in the concept of *extraterritorial areas*. Accordingly, if a state exercises effective control over an area outside its territorial jurisdiction, such as border zones or vessels at sea, it may be required to comply with the principle of non-refoulement in that area. For example, if border authorities of a state intercept an asylum seeker at a border area, they cannot return them to a country where they would face danger. The United Nations High Commissioner for Refugees (UNHCR) emphasizes the necessity of assessing each case individually and considering all circumstances to determine the scope of application of the principle of non-refoulement. Despite existing ambiguities and challenges in defining the territorial scope of this principle, its significance in protecting individuals from being returned to dangerous conditions is undeniable.

Article 33 of the 1951 Convention Relating to the Status of Refugees, which constitutes the fundamental legal basis for the principle of non-refoulement in international refugee law, has been ratified by 145 states. As one of the most widely accepted conventions in the international community, it reflects a global commitment to this principle. While the prohibition of refoulement extends beyond states' territorial borders, its scope is not unlimited. According to Article 33 of the Convention, this prohibition applies only in areas outside the refugee's country of nationality. In other words, the state of nationality retains its sovereign authority, generally preventing international protection by other states. Consequently, embassies and diplomatic missions cannot provide protection against refoulement. Furthermore, for the prohibition of refoulement to apply, there must be a causal link between the actions of a state and the risk of persecution faced by the refugee.

To qualify for refugee protection, an individual must meet two conditions: first, they must have a well-founded fear of persecution (Article 1 of the Convention); and second, the persecution must be based on race, religion, nationality, membership in a particular social group, or political opinion (Article 33 of the Convention).

6.1. Scope of Application of the Principle of Non-Refoulement Under the 1951 Convention

The principle of non-refoulement, as established in Article 33 of the 1951 Convention, unequivocally applies to refugees who meet the definition set forth in Article 1 of the Convention. However, its applicability is not limited to formally recognized refugees; it also extends to asylum seekers. In practice, if this principle did not apply to asylum seekers, they would face significant risks and receive no effective protection.

The UNHCR, in its Conclusion No. 6 (1977), has emphasized that individuals seeking asylum or claiming refugee status are entitled to protection under the principle of non-refoulement, even if they have not yet been formally recognized as refugees. In other words, this principle applies to all individuals facing a serious risk of persecution in their country of origin, and no one should be returned to a place where such dangers exist. The United Nations General Assembly has also affirmed this position.

The legal or immigration status of an asylum seeker does not affect the application of the principle of non-refoulement. In other words, the manner in which an asylum seeker enters a state's territory—whether legally or illegally—is irrelevant. What matters is the consequences of the state's actions after the individual's arrival. If an asylum seeker is returned to a country where they face a serious risk of persecution or torture, this action constitutes a violation of the principle of non-refoulement under international law. However, the status or personal circumstances of the asylum seeker may limit the obligations of the receiving state. For instance, in cases where asylum seekers have been rescued at sea, an absolute refusal to allow disembarkation would only be considered refoulement if it ultimately results in returning them to conditions where persecution is feared. In such cases, additional obligations may also be imposed on the coastal state that refuses disembarkation.

6.1.1. The Issue of Risk

The logical and legal connection between paragraph 1 of Article 33 and Article 1 of the 1951 Convention is evident in state practice. In practice, the right to protection under the principle of non-refoulement depends solely on meeting the criterion of a "well-founded fear." Although the drafters of the 1951 Convention were aware of the inconsistencies in the wording of these two articles, they did not fully address the implications.

Mr. Rochefort, the representative of France, suggested that Article 1 pertains to individuals at the border seeking entry into a contracting state, whereas Article 33 concerns measures applied at later stages. He noted that the simultaneous application of both articles was entirely possible, although he acknowledged an apparent and somewhat unsettling contradiction between paragraph 1 of Article 33 and Article 1. However, this contradiction did not relate to evidentiary standards or extraterritorial application but rather to the category and range of individuals who should be excluded from refugee status or the benefits of the principle of non-refoulement. Despite the differences in wording, the interrelation of these two articles has been consistently recognized.

In both articles, a "well-founded fear" is the primary criterion for granting refugee status and applying the principle of non-refoulement. The deprivation of these rights is always considered an exceptional and limited measure. Therefore, the principle of non-refoulement protects anyone who would face a well-founded fear of persecution or other serious dangers upon return to a specific country.

6.1.2. Exceptions to the Principle of Non-Refoulement Under the 1951 Convention

Article 33 of the 1951 Convention does not impose any general conditions on the principle of non-refoulement. However, paragraph 2 of this article provides limited exceptions to its application. According to paragraph 2 of Article 33, the principle of non-refoulement does not apply to a refugee if there are reasonable grounds to believe that their presence poses a danger to the national security of the host country or if they have been convicted by a final court judgment of a particularly serious crime and are considered a threat to public safety. The application of these exceptions depends on the individual characteristics of the refugee, and the determination of whether a refugee constitutes a threat to national security falls under the jurisdiction of the competent state authorities.

As the British representative proposed the inclusion of paragraph 2 of Article 33 at the 1951 Conference, this approach aligns with paragraph 2 of Article 32 of the Convention as well as with existing immigration laws and practices. Additionally, the application of this exception is only permissible after an individualized assessment.

In the past, the concept of "national security" was rarely defined in domestic asylum laws. However, in recent years, some states have attempted to define this concept, often linking "security" to "terrorism" and incorporating this interpretation into asylum determination procedures and refugee status adjudications. Furthermore, examining laws related to national security mechanisms and institutions provides a better understanding of common concerns among security officials and the concept of "threat to security."

Article 33(2) of the 1951 Convention refers to a threat to the security or public order of the host state. However, Lauterpacht and Bethlehem argue that states cannot rely on this provision to expel an individual on the grounds that they pose a threat to another state or to the international community.

Hathaway, a professor of international law, contends that there is no legal basis for restricting the interpretation of Article 33(2) solely to threats directed at the host country. The Supreme Court of Canada, in the *Suresh* case involving a Tamil asylum

seeker, ruled that a threat to national security could arise from events occurring outside Canada that indirectly jeopardize the country's security. The court, referencing the September 11, 2001 attacks and emphasizing the interdependence of national security among states, stated that "the security of one nation is often linked to the security of other nations." It further held that the activities in question do not necessarily have to take place within the host state's territory and may include actions conducted abroad that threaten its interests.

Lauterpacht and Bethlehem assert that states' discretion in national security cases is subject to two conditions. First, the state must provide reasonable and substantiated grounds to demonstrate that the presence of the refugee constitutes a future threat to national security. The evidentiary standard for this is similar to that set out in Article 1(F) of the Convention. Second, given the severe consequences of expelling a refugee, the state must establish that the individual poses a very serious threat to national security to justify their removal. In other words, only an exceptionally serious threat to national security can justify the expulsion of a refugee. They further argue that, drawing on the protections enshrined in Article 1(F), the concept of "threat" in Article 33(2) should be interpreted as a "very serious threat."

It remains unclear whether proving a threat to society overlaps with proving the commission of a particularly serious crime. Jurisprudence in this area is limited, and the term "particularly serious crime" lacks a precise definition. Nevertheless, adherence to the principles of justice and fair trial is essential when applying this exception.

6.2. Scope of Application of the Principle of Non-Refoulement Under the International Covenant on Civil and Political Rights (ICCPR)

The International Covenant on Civil and Political Rights (ICCPR) was adopted in 1966 and entered into force on March 23, 1976. With 168 state parties, the ICCPR does not explicitly refer to the principle of non-refoulement. However, the United Nations Human Rights Committee has interpreted certain provisions of the Covenant, including Article 6 on the right to life and Article 7 on the prohibition of torture, as implicitly encompassing the prohibition of refoulement.

Given the significance of the principle of non-refoulement in preventing torture, an examination of Article 7 of the ICCPR is necessary. This article stipulates that no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment. The Human Rights Committee has interpreted this provision as implicitly prohibiting the return of individuals to a place where they would face such risks (General Comment No. 20, paragraph 9).

Additionally, Article 6 of the Covenant, which recognizes the inherent right to life, can also serve as a legal basis for the principle of non-refoulement. The Human Rights Committee has stated that states must refrain from expelling or extraditing individuals who face the risk of execution in another country. The Committee's interpretation of Article 6 underscores states' obligation to protect the right to life under all circumstances.

6.3. Scope of Application of the Principle of Non-Refoulement Under the Convention Against Torture

The Convention Against Torture is significant because it was the first human rights instrument to explicitly enshrine the principle of non-refoulement. This principle is articulated in Article 3 of the Convention. According to this article, no State Party shall expel, return (*refouler*), or extradite a person to another State where there are substantial grounds for believing that they would be in danger of being subjected to torture. To determine whether such grounds exist, competent authorities must consider all relevant factors, including the existence of widespread and severe human rights violations in the receiving country. Given that this Convention currently has 158 State Parties, Article 3 serves as a crucial legal basis for invoking the principle of non-refoulement.

For the application of this article, it must be demonstrated that the individual will likely be subjected to torture upon return. In assessing this risk, reference must be made to the definition of torture under Article 1 of the Convention and its interpretation.

6.4. The European Convention on Human Rights

Although the European Convention on Human Rights does not explicitly mention the principle of non-refoulement, this principle has been developed through the case law of the European Court of Human Rights. Article 3 of the Convention, which prohibits torture and inhuman or degrading treatment, has served as the basis for this development. Moreover, the Court has

interpreted other provisions of the Convention, including Article 2 (right to life) and Article 8 (right to respect for private life), as implicitly prohibiting refoulement.

However, since Protocol No. 13 of the Convention, which abolishes the death penalty entirely, has not been ratified by all member states, Article 2 does not necessarily prevent the extradition of an individual to a country where they face the risk of execution.

7. The Principle of Non-Refoulement as a Customary Rule of International Law

Recognizing the principle of non-refoulement as a customary rule expands its scope of application. In this way, the principle becomes binding not only on State Parties to the 1951 Convention but on all states. The International Court of Justice (ICJ) has identified state practice as the material element and the belief in the binding nature of the rule (*opinio juris*) as the psychological element in the formation of a customary rule.

Under international law, a state that persistently objects to the formation of a customary rule may be exempt from its application unless it explicitly withdraws its objection. Accordingly, the *persistent objector* rule reinforces the principle of state consent in the development of customary international law. In practice, no state has acted as a persistent objector to the principle of non-refoulement.

According to Article 33 of the 1951 Refugee Convention, the principle of non-refoulement is immune from any reservations. This underscores the fundamental significance of the principle in international law and suggests that it has evolved into a customary rule. Consequently, it appears that all states, even those that are not parties to the 1951 Convention, are obligated to adhere to this principle.

In 2001, the State Parties to the 1951 Convention formally recognized the customary nature of the principle of non-refoulement. Additionally, all United Nations member states unanimously adopted a resolution emphasizing the importance of the full implementation of this principle by all states, including non-signatory states. The member states of the African Union, under the Kampala Declaration, have committed to taking all necessary measures to ensure full compliance with this fundamental principle of non-refoulement.

The resolutions of the UNHCR, as instruments adopted by general consensus, are among the key sources affirming the high legal value of the principle of non-refoulement. Furthermore, the incorporation of the prohibition of refoulement in various international instruments, adopted with broad international consensus, demonstrates a continuous state practice that elevates the principle beyond a mere treaty-based obligation confined to a specific convention. The repeated references to the prohibition of refoulement in international treaties further reinforce the claim that this principle has attained customary status.

Lauterpacht and Bethlehem argue that the principle of non-refoulement has evolved into a customary norm of international law, as it prohibits the forced return of an asylum seeker or refugee to a territory where they face a well-founded risk of serious persecution, torture, or inhuman and degrading treatment.

Conversely, Hilbronner contends that many Eastern European, Asian, and Middle Eastern states have refrained from adopting refugee agreements containing the non-refoulement provision. Therefore, according to Hilbronner, there is no uniform state practice or *opinio juris*—the belief in its legally binding nature—necessary for the formation of a customary rule.

Hathaway, supporting Hilbronner's argument, asserts that the two fundamental conditions for the emergence of a customary norm in international law have not yet been met, as many states have not explicitly declared their acceptance of the binding nature of the non-refoulement obligation as explicitly outlined in the 1951 Convention.

8. The Principle of Non-Refoulement and Jus Cogens

The fundamental question in this section is whether the principle of non-refoulement can be considered a peremptory norm (*jus cogens*) of international law, obligating all states to comply with it. According to Article 53 of the 1969 Vienna Convention on the Law of Treaties, a *jus cogens* norm is a rule recognized by the international community of states as a whole as one from which no derogation is permitted, and any modification of it is only possible through the emergence of a new general rule of international law with the same characteristic.

To determine whether the principle of non-refoulement has attained the normative status of a *jus cogens* norm, two essential requirements must be examined: its acceptance by the international community of states as a whole and its recognition as a norm from which no derogation is permissible.

The Executive Committee of the United Nations High Commissioner for Refugees (UNHCR) is among the key bodies that emphasize the *jus cogens* nature of the principle of non-refoulement. In its Resolution No. 25 of 1982, the committee reaffirmed the fundamental importance of this principle and stated that it has gradually acquired the characteristics of a *jus cogens* norm in international law. Additionally, in Resolution No. 79 of 1996, the Executive Committee reiterated the non-derogable nature of the principle of non-refoulement as one of the defining characteristics of *jus cogens* norms in international law.

The Cartagena Declaration also supports the argument that non-refoulement has become a *jus cogens* norm. This declaration recognizes the principle of non-refoulement as a fundamental norm and asserts that, under current international law, it should be accepted and enforced as a peremptory norm.

One of the key arguments in favor of the *jus cogens* nature of the principle of non-refoulement is the prohibition of reservations concerning this principle. Just as *jus cogens* norms are immune to reservations due to their fundamental importance, Article 33 of the 1951 Refugee Convention, which enshrines the principle of non-refoulement, is explicitly exempted from reservations under Article 42(1) of the same Convention. This indicates that the parties to the Convention intended to elevate the principle of non-refoulement above other obligations and shield it from any reservations.

Proponents of the *jus cogens* nature of non-refoulement argue that its peremptory status means that state policies must not be implemented in a manner that forces individuals to return to territories where they face a serious risk of persecution.

Opponents of this argument contend that recognizing non-refoulement as a peremptory norm of general international law would deprive states of any discretion to deviate from it. In other words, if non-refoulement were recognized as *jus cogens*, any modification or exception to it would only be possible through the establishment of a new peremptory norm with the same characteristic.

The International Convention for the Suppression of the Financing of Terrorism, in Article 4, obligates State Parties to criminalize acts of terrorism in their domestic laws and to prosecute terrorists. Opponents argue that the protection of individuals from expulsion should never result in impunity. Therefore, asylum law should not serve as a means to evade criminal prosecution. States must not only assume responsibility for protecting individuals in need but also hold them accountable for their actions under criminal law.

Despite the explicit prohibition of refoulement in human rights instruments, the existence of exceptions related to terrorism, along with the exceptions outlined in Article 33(2) and Article 1(F) of the 1951 Convention, demonstrates that the objective of elevating non-refoulement to *jus cogens* status in international law has not yet been fully realized.

Thus, the argument of opponents—that these exceptions, particularly the exclusion of terrorists from protection under non-refoulement and their prosecution, indicate that this principle has not yet become a peremptory norm of general international law—appears to be well-founded.

9. Conclusion

The principle of non-refoulement is a fundamental norm in international law that prevents the forced return of individuals to territories where they face a serious risk of persecution, torture, or even loss of life. This principle has been emphasized in numerous international and regional instruments, and state practice, international organizations, and judicial decisions highlight its growing significance.

Considering the consistent practice of states and the belief in the binding nature of this principle, it can be regarded as a customary norm in international law. This recognition creates a broad protective framework for refugees, asylum seekers, migrants, and others who would face serious risks if returned to their countries of origin.

Although the principle of non-refoulement has not yet attained the status of a *jus cogens* norm in general international law, existing evidence—including its human rights nature, the broad consensus among states in adopting relevant resolutions, the prohibition of reservations concerning this principle, and international judicial practice—suggests that it is moving toward acquiring such a status.

Given the importance of this principle in safeguarding human dignity and fundamental rights, the international community appears to be progressing toward recognizing non-refoulement as a *jus cogens* norm, the violation of which would be impermissible under any circumstances.

Ethical Considerations

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

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Conflict of Interest

The authors report no conflict of interest.

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