FORCED TO FLEE: A VICTIMOLOGICAL ANALYSIS OF REFUGEE VULNERABILITY

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ABSTRACT

The contemporary global refugee crisis constitutes one of the most urgent human rights challenges of the twenty-first century, marked by unprecedented levels of forced displacement, intensifying geopolitical conflicts, and increasingly restrictive state responses. Refugees flee persecution, armed conflict, ethnic cleansing, and structural oppression, yet displacement rarely ends their vulnerability; instead, it transforms victimisation into a continuous transnational process characterised by physical, psychological, sociocultural, and legal harm. Victimology provides a crucial analytical framework for understanding this continuum by illuminating how harm is produced not only through direct violence in refugees' countries of origin but also through dangerous transit routes, coercive border practices, administrative discretion, and exclusionary social environments in host states. This article engages classical and contemporary victimological theories—including structural and critical victimology, trauma-informed victimology, and criminological perspectives such as labelling and social disorganisation theories—to examine how refugees experience primary victimisation in conflict zones, secondary victimisation through hostile asylum regimes, and tertiary victimisation resulting from xenophobia, statelessness, and social marginalisation. Drawing on jurisprudence from international bodies such as the ECtHR and UNHRC—including *Hirsi Jamaa v. Italy*, *Soering v. United Kingdom*, and *Teitiota v. New Zealand*—as well as Indian cases such as *National Human Rights Commission v. State of Arunachal Pradesh* and *Mohammad Salimullah v. Union of India*, the article demonstrates how legal gaps, particularly India's absence of a codified refugee protection framework, perpetuate structural victimisation. Addressing gender-based persecution, child-specific vulnerability, intergenerational trauma, and the criminalisation of migration, the article argues that refugee victimisation is rooted in global inequalities of power, access, and protection. It concludes by proposing victimology-informed reforms grounded in human rights, restorative justice, and trauma-sensitive governance as essential pathways toward a humane and effective refugee protection regime.

Keywords: Refugee Victimisation; Structural Victimology; Non-Refoulement; Statelessness; Trauma; Human Rights; India.

I. INTRODUCTION

The global escalation of forced displacement has transformed refugees into a central concern of international law, human rights discourse, and victimological scholarship. According to UNHCR data, the number of refugees worldwide has consistently risen over the past decade, driven by protracted conflicts, political persecution, authoritarian governance, climate change, ethnic cleansing, and economic instability[1].The refugee condition is marked by profound precarity, where individuals lose not only territorial belonging and political identity but also access to fundamental rights that safeguard human dignity.

In victimological terms, refugees occupy a complex category that challenges traditional frameworks. Classical victimology focuses on direct interactions between offenders and victims, primarily within the context of criminal justice systems. Refugees, however, often suffer harm at the hands of multiple actors—state authorities, non-state armed groups, traffickers, smugglers, hostile border forces, discriminatory administrative systems, and even host communities. Their victimisation is cumulative, transnational, and often prolonged, blurring the boundaries between conflict-related violence, state-created harm, institutional neglect, and societal discrimination. Refugees may therefore be conceptualized as archetypal subjects of structural victimisation, whose suffering is embedded within political systems and socio-legal frameworks rather than merely isolated criminal acts.

India's approach to refugees reflects this complexity. Despite hosting Tibetan, Sri Lankan Tamil, Rohingya, Afghan, and other refugee groups, India is neither a signatory to the 1951 Refugee Convention nor its 1967 Protocol. In the absence of a dedicated legal framework, refugee governance is mediated through discretionary executive practices and broad provisions of the Foreigners Act, 1946. This creates a legal vacuum in which refugees remain vulnerable to detention, deportation, and social exclusion, even while Indian courts intermittently extend constitutional protections to non-citizens. The tension between humanitarian principles, state sovereignty, and national security concerns underscores the need for a victimology-informed analysis that recognizes the structural nature of harm experienced by refugees.

Understanding refugee experiences through victimology is essential not merely for conceptual clarity but for shaping policy and legal reforms capable of addressing the full spectrum of harms they endure. Victimology highlights the importance of institutional behaviour, social

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[1] United Nations High Commissioner for Refugees, *Global Trends: Forced Displacement 2024* (UNHCR 2024).

attitudes, state obligations, and international norms—dimensions often overlooked in conventional refugee studies. This expanded article situates refugee victimisation within broader theoretical, legal, and sociopolitical contexts, providing deeper analytical foundations for rethinking refugee protection in India and globally.

II. THE CONCEPT OF REFUGEE VICTIMISATION

Refugee victimisation occurs across multiple stages and is shaped by diverse forces—state actors, non-state militias, traffickers, border authorities, bureaucratic structures, and societal prejudices. In the pre-migration phase, refugees often experience persecution, ethnic cleansing, gender-based violence, torture, and other gross human rights violations. The ICTR's decision in *Prosecutor v Akayesu* revealed the extent to which atrocities such as rape and sexual violence may constitute genocide, demonstrating that many refugees flee crimes of the gravest international concern[2].

Transit produces its own dangers. Refugees may be exposed to trafficking, forced labour, extortion, maritime disasters, and violent border policies. States increasingly externalise border control, pushing migrants back extraterritorially. The ECtHR judgment in *Hirsi Jamaa v Italy* condemned maritime interceptions and reaffirmed that refoulement obligations apply even beyond territorial boundaries[3].

Within host societies, refugees face discrimination, exclusion from welfare, precarious employment, and threats of detention or deportation. These structural conditions perpetuate tertiary victimisation. Statelessness further entrenches harm: lacking legal personality, refugees cannot claim rights or secure long-term stability, producing intergenerational vulnerability. UNHCR's global data illustrates how stateless children inherit a lifetime of exclusion[4].

Refugee victimisation therefore constitutes an ongoing, multi-phased process shaped by the interplay of persecution, institutional failures, legal invisibility, and structural inequality.

III. VICTIMOLOGY THEORIES AND THEIR APPLICATION TO REFUGEE VICTIMS

Victimology provides an analytical framework for understanding the structural and interpersonal harms experienced by refugees. While classical victimology focused primarily

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[2] *Prosecutor v Akayesu*, Case No ICTR-96-4-T (ICTR 1998).
[3] *Hirsi Jamaa and Others v Italy*, App No 27765/09 (ECtHR 2012).
[4] UNHCR, *Global Action Plan to End Statelessness 2014–2024* (2014).

on individual victim–offender dynamics, contemporary victimological theories emphasize social structures, power relations, and institutional behaviour. Refugees, by virtue of their displacement, occupy a position of multidimensional vulnerability that aligns with and expands upon these theoretical frameworks.

Lifestyle Exposure Theory

Lifestyle exposure theory suggests that victims' routines and environments influence their risk of victimisation. For refugees, the absence of stable housing, guardianship, and legal protection increases exposure to exploitation during transit, in detention centres, and within informal labour markets.

Routine Activity Theory

Routine Activity Theory similarly identifies the convergence of motivated offenders, suitable targets, and lack of capable guardianship as key components of victimisation. Refugee camps, where oversight is limited and dependence on aid is high, often create contexts where all three elements converge, making refugees highly susceptible to harm.

Structural Victimology

Structural victimology posits that social, political, and economic systems produce and sustain victimisation. Refugees embody structural victimhood because their displacement is often rooted in state failure, authoritarianism, ethnic violence, and geopolitical conflict. Host states may further entrench structural victimisation by denying legal status, restricting mobility, conducting mass detentions, or implementing punitive asylum policies. The Supreme Court of Canada in *R v Appulonappa* acknowledged that criminalising refugees for irregular entry constitutes an unjust application of state power, thereby recognising structural forces at play[5].

Critical Victimology

Critical victimology interrogates how power dynamics shape the definition of victimhood. Refugees challenge conventional categories because states frequently portray them as security risks rather than victims. This narrative fosters policies such as border militarisation, off-shore detention, and pushbacks, all of which constitute state-produced harm. Critical victimology exposes how refugees' suffering is often minimised or rendered invisible in policy discourses, reinforcing structural injustice.

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[5] *R v Appulonappa*, 2015 SCC 59 (Can.).

Trauma-Informed Victimology

Refugee trauma is both acute and chronic, shaped by violence, displacement, uncertainty, and social exclusion. Trauma-informed victimology emphasises the need for systems that recognise the psychological effects of victimisation. Asylum procedures that require detailed recounting of traumatic events without emotional support often re-trigger trauma, leading to inconsistencies in testimonies. UNHCR guidelines highlight that trauma may impede memory recall and narrative coherence, yet asylum systems frequently interpret such manifestations as credibility gaps[6].

Criminological Additions: Labelling Theory and Social Disorganization Theory

Refugees often experience criminalisation through legal labels such as "illegal migrants," "infiltrators," or "security threats." Labelling theory explains how such designations contribute to social stigma, exclusion, and discrimination. Social disorganization theory further illuminates how refugee settlements, frequently deprived of formal governance structures and services, create conditions conducive to exploitation, crime, and further victimisation—not by refugees but against them.

IV. STAGES OF REFUGEE VICTIMISATION: PRIMARY, SECONDARY, AND TERTIARY

Refugee victimisation unfolds across distinct but interconnected stages shaped by territorial movement, institutional engagement, and shifts in socio-legal status. These stages—primary, secondary, and tertiary—provide an analytical structure for understanding how harm accumulates across the refugee trajectory. The refugee journey is rarely linear; instead, refugees navigate recurring cycles of renewed trauma, instability, and institutional neglect. Each stage produces its own forms of victimisation while reinforcing the vulnerabilities produced in earlier stages.

4.1 Primary Victimisation: Pre-Migration Persecution and Violence

Primary victimisation is situated within the refugee's country of origin, encompassing persecution, structural violence, ethnic cleansing, and large-scale human rights violations. Refugees often flee situations where formal legal systems have collapsed or have been weaponised by authoritarian regimes. State-sponsored atrocities, forced disappearances,

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[6] UNHCR, *Guidelines on International Protection No. 4: Gender-Related Persecution* (2002).

genocide, mass rape campaigns, suppression of political dissent, and religious persecution constitute common triggers for displacement. The UN Fact-Finding Mission on Myanmar documented systematic atrocities against the Rohingya population—including mass killings, sexual violence, destruction of villages, and denial of citizenship—thus illustrating how primary victimisation produces mass displacement[7].

In international criminal law, refugee-producing harm frequently qualifies as persecution, torture, crimes against humanity, and genocide. The ICTR's judgment in *Akayesu* established that rape may constitute genocide when perpetrated with intent to destroy a protected group[8].Refugee victimisation must therefore be understood not as incidental harm but as a consequence of deliberate policies pursued by states or powerful non-state actors.

4.2 Secondary Victimisation: Harm During Transit and Through State Institutions

Secondary victimisation occurs when refugees encounter systemic failures within border regimes, asylum procedures, and state institutions. Fleeing persecution often requires crossing dangerous terrains, heavily patrolled borders, or maritime routes where refugees may be subjected to drowning, piracy, extortion, or refoulement. Smuggling networks and trafficking syndicates exploit refugees' desperation. The absence of lawful pathways forces refugees into precarious transit routes, thereby increasing their exposure to harm.

The European Court of Human Rights (ECtHR) in *Hirsi Jamaa v Italy* held that Italy violated Article 3 of the European Convention by intercepting migrants at sea and returning them to Libya, where they were at risk of torture, arbitrary detention, and inhumane conditions[9].The Court emphasised that non-refoulement applies even extraterritorially, underscoring the responsibility of states to avoid exposing refugees to secondary victimisation.

Furthermore, refugees frequently encounter institutional hostility, including prolonged detention, denial of legal representation, and coercive interrogation. Asylum systems often operate under a presumption of suspicion, compelling refugees to repeatedly recount traumatic experiences, thereby re-triggering psychological distress. Institutional disbelief and bureaucratic scepticism undermine refugees' dignity and create barriers to securing legal protection.

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[7] United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on Myanmar* (2018).
[8] *Prosecutor v Akayesu*, Case No ICTR-96-4-T (ICTR 1998).
[9] *Hirsi Jamaa and Others v Italy*, App No 27765/09 (ECtHR 2012).

4.3 Tertiary Victimisation: Harm Sustained Within Host Societies

Tertiary victimisation is rooted in the structural and cultural dynamics of host societies. Even after escaping immediate danger, refugees remain vulnerable to discrimination, xenophobic violence, social exclusion, and precarious living conditions. Many states restrict access to employment, education, healthcare, and social welfare for refugees, viewing them through a Security or economic lens rather than a humanitarian one.

In India, despite constitutional protections for non-citizens, refugees often encounter police surveillance, lack of documentation, and continuous threat of deportation under the Foreigners Act, 1946. Their precarious legal status makes them susceptible to exploitation in informal labour markets and vulnerable to trafficking networks. Xenophobic rhetoric in public discourse, sometimes amplified by political actors, reinforces stereotypes of refugees as criminals or infiltrators, thereby facilitating tertiary victimisation.

Tertiary victimisation is not merely social but institutional, as states often maintain ambiguous legal frameworks that prevent refugees from achieving durable solutions. The absence of citizenship pathways, long-term residency rights, or integration policies creates a perpetual liminality, turning refugees into "permanent outsiders." This persistent exclusion represents a profound form of structural victimisation that shapes refugees' lives long after displacement.

V. INTERNATIONAL REFUGEE LAW, NON-REFOULEMENT, AND STRUCTURAL VICTIMISATION

International refugee law establishes a protective regime that seeks to safeguard individuals fleeing persecution. However, the implementation of this regime is deeply affected by state interests, geopolitical tensions, and domestic political narratives. In practice, refugees confront restrictive policies, securitised borders, and bureaucratic obstacles that transform protection mechanisms into sites of renewed victimisation. Understanding how international refugee law interacts with victimology requires an appreciation of its limitations and the ways states manipulate legal frameworks to avoid humanitarian obligations.

5.1 Historical Evolution of Refugee Protection and the Principle of Non-Refoulement

The 1951 Convention Relating to the Status of Refugees and the 1967 Protocol constitute the foundational instruments of international refugee law. Central to this regime is Article 33(1) of the Convention, which articulates the principle of non-refoulement, prohibiting states from returning refugees to territories where they face threats to life or freedom. Over time, non-

refoulement has evolved into a norm of customary international law, binding on both signatory and non-signatory states.

The UN Human Rights Committee's decision in *Teitiota v New Zealand* extended non-refoulement to climate-induced harm, signalling a recognition that environmental degradation can also produce conditions incompatible with life and dignity[10].Although the Committee ultimately upheld New Zealand's decision, it established that states must consider climate-related threats when assessing removal. This demonstrates the expanding conceptualisation of harm relevant to refugee protection.

5.2 Human Rights Law as a Supplementary Protection Regime

In addition to refugee-specific instruments, other branches of international law—such as international human rights law, international humanitarian law, and international criminal law—interact with refugee protection. Instruments such as the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture (CAT), and the Convention on the Rights of the Child (CRC) impose obligations on states to prevent torture, arbitrary detention, and inhuman treatment irrespective of immigration status.

The ECtHR's judgment in *Soering v United Kingdom* held that extraditing an individual to a country where they face a real risk of inhumane treatment violates Article 3 of the European Convention[11]. Although not a refugee case, its reasoning underpins the universality of non-refoulement and has influenced refugee jurisprudence globally.

5.3 Externalisation of Borders and State Avoidance of Refugee Obligations

In recent decades, many states have adopted practices that externalise migration control—such as off-shore detention, maritime interceptions, carrier sanctions, and third-country agreements. These practices effectively shift asylum obligations outside territorial borders, enabling states to evade responsibility. In victimological terms, such externalisation constitutes structural violence, as it intentionally creates hostile environments to deter asylum seekers.

Australia's "Pacific Solution," the United States' "Remain in Mexico" policy, and the European Union's agreements with Turkey and Libya exemplify how states institutionalise deterrence strategies. These measures intensify refugee vulnerability, subjecting them to detention, exploitation, and violence in unsafe territories. The ECtHR's strong condemnation of Italian

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[10] *Teitiota v New Zealand*, CCPR/C/127/D/2728/2016 (UNHRC 2020).
[11] *Soering v United Kingdom* (1989) 11 EHRR 439.

pushbacks in *Hirsi Jamaa* underscores the incompatibility of such practices with international law.

5.4 Refugees as Victims of State Crime

States not only fail to protect refugees but sometimes actively perpetrate harm. In victimology, this constitutes "state crime"—acts or omissions by state authorities that violate legal norms and cause harm to individuals. Border pushbacks, indefinite detention, withdrawal of welfare support, and revocation of asylum status can be conceptualised as state crimes when they knowingly expose refugees to violence or deprivation.

VI. REFUGEE VICTIMISATION IN THE INDIAN CONTEXT

India's refugee landscape is shaped by its geopolitical position, diverse migration patterns, and constitutional jurisprudence. Although India has historically hosted significant refugee populations—including Tibetans, Sri Lankan Tamils, Chakma-Hajongs, Afghans, Pakistanis, and Rohingya—it has not adopted the 1951 Refugee Convention or enacted a domestic refugee law. Instead, refugee governance relies on discretionary executive authority, fragmented administrative policies, and selective cooperation with UNHCR. This legal vacuum contributes to structural victimisation because refugees lack predictable rights, uniform procedures, or legal safeguards.

6.1 Constitutional Protections and Judicial Expansion of Rights

Despite the absence of a refugee statute, Indian courts have played a crucial role in extending constitutional protections to refugees. Article 21 of the Indian Constitution, guaranteeing the right to life and personal liberty, applies to "all persons," including non-citizens. In *National Human Rights Commission v State of Arunachal Pradesh*, the Supreme Court held that the Chakma refugees were entitled to protection of their life and liberty and directed state authorities to prevent their forced eviction[12].This decision foregrounded constitutional morality over majoritarian hostility.

Similarly, the Gujarat High Court in *Ktaer Abbas v Union of India* affirmed that non-refoulement is implicit in Article 21, restricting the State's ability to forcibly return refugees to territories where they face danger[13]. The Court emphasised that humanitarian considerations

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[12] *National Human Rights Commission v State of Arunachal Pradesh*, (1996) 1 SCC 742.
[13] *Ktaer Abbas Habib Al Qutaifi v Union of India*, (1999) 1 GLR 620.

must guide state action.

6.2 The Rohingya Controversy and the Tension Between Security and Rights

The Supreme Court's judgment in *Mohammad Salimullah v Union of India* represents a shift toward securitised refugee governance. The Court permitted the deportation of Rohingya refugees detained in Jammu, subject to diplomatic verification, citing national security concerns[14]. This decision reflects the growing trend of framing refugees as security threats rather than victims of persecution. It also illustrates how executive assertions of sovereignty can outweigh humanitarian commitments, producing institutional victimisation.

6.3 Structural and Social Marginalisation of Refugees in India

Refugees in India often live without legal identity documents, restricting access to employment, housing, education, and healthcare. Tibetan refugees are comparatively better integrated due to historical arrangements, while Sri Lankan Tamil refugees in Tamil Nadu reside in camps with limited autonomy. Rohingya refugees face acute marginalisation, including police surveillance, eviction threats, and barriers to welfare schemes. The vulnerability of refugee women and children is exacerbated by limited access to justice and protective services.

The absence of a refugee law creates inconsistency in treatment across different refugee groups, leading to arbitrary practices and unequal protection. Institutional discretion can foster exploitation, corruption, and unpredictable administrative outcomes, deepening tertiary victimisation.

VII. GENDER-BASED VICTIMISATION OF REFUGEE WOMEN

The victimisation of refugee women is shaped by the intersection of gender, displacement, social instability, and the erosion of protective institutions. Women frequently experience gender-based violence both as a cause of displacement and as a consequence of their refugee status. In conflict settings, rape, sexual slavery, forced impregnation, and other forms of gendered violence are used as deliberate tools of persecution meant to terrorise communities and exert political control. These forms of persecution have been recognised internationally as crimes of genocide, crimes against humanity, and war crimes, reaffirming that gender-specific harms play a decisive role in refugee flight.

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[14] *Mohammad Salimullah v Union of India*, 2021 SCC OnLine SC 281.

The *Akayesu* judgment remains a landmark in establishing the role of gendered violence in forced displacement. The ICTR's recognition that sexual violence could constitute genocide when perpetrated with intent to destroy a protected group underscores that millions of displaced women are survivors of crimes of the highest gravity[15].Moreover, gender persecution extends beyond the battlefield. Women fleeing patriarchal societies may face domestic violence, honour-based killings, forced marriage, or state-sanctioned gender oppression. Yet asylum systems do not always interpret gender-based violence as persecution, creating inconsistencies in refugee status determinations.

During transit, refugee women face heightened risk of trafficking, forced prostitution, and exploitation by smugglers and armed groups. Statelessness and lack of documentation further render women vulnerable to coercion, as they depend on dangerous networks for food, shelter, or safe passage. Sexual exploitation is also prevalent in refugee camps where limited oversight, inadequate lighting, and overcrowded living arrangements facilitate abuse. Humanitarian settings often struggle to provide safe spaces for women or enforce accountability mechanisms against perpetrators.

In host countries, refugee women frequently confront discriminatory policing, barriers to reproductive healthcare, and cultural isolation. The decision in *A.T. v Hungary* by the CEDAW Committee revealed that structural failures within domestic legal systems—such as inadequate protective orders and inaccessible shelters—constitute forms of gendered victimisation[16].Although A.T. was not a refugee, the decision is pivotal in establishing that states must adopt gender-sensitive protective frameworks—an obligation even more critical in the refugee context where vulnerability is compounded by lack of nationality and socio-economic dependence.

Gender victimisation also shapes access to justice, as refugee women may fear retaliation, lack legal knowledge, or face cultural and linguistic barriers. Traumatic experiences can inhibit reporting or compromise the clarity of testimonies, yet asylum adjudicators sometimes misinterpret such hesitancy as dishonesty. Societal prejudices, especially in conservative or patriarchal host communities, may stigmatise women for violence they endured, subjecting them to tertiary victimisation.

In sum, refugee women suffer a continuum of gender-specific harms that intertwine with

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[15] *Prosecutor v Akayesu*, Case No ICTR-96-4-T (ICTR 1998).
[16] *A.T. v Hungary*, Communication No 2/2003 (CEDAW Committee 2005).

displacement, structural inequality, and institutional neglect. Any comprehensive refugee protection regime must therefore address gender as a central rather than peripheral component of victimisation.

VIII. CHILD REFUGEE VICTIMS AND INTERGENERATIONAL TRAUMA

Children constitute one of the most vulnerable categories of refugees due to their developmental needs, legal dependence, and susceptibility to long-term psychological harm. Their victimisation is often multidimensional, encompassing physical danger, psychological trauma, forced labour, family separation, sexual exploitation, and statelessness. The refugee experience for children is profoundly shaped by the collapse of protective environments—families, schools, communities, and state institutions—that ordinarily constitute the foundation of childhood stability.

Child refugees frequently encounter primary victimisation in the form of war, persecution, and the destruction of their social worlds. Exposure to bombings, displacement, torture of family members, and prolonged insecurity produces deep psychological trauma that affects cognitive development, emotional regulation, and behavioural patterns. Such experiences are compounded during transit, where children may be separated from caregivers, coerced into trafficking rings, or detained in conditions incompatible with their age-specific needs.

The Inter-American Court of Human Rights (IACHR), in its *Advisory Opinion OC-21/14*, emphasized that detaining children solely for immigration-related reasons violates their dignity and best interests, which must be paramount in all decisions affecting them[17]. This interpretation is consistent with the Convention on the Rights of the Child (CRC), which recognises that deprivation of liberty should be used only as a last resort and never solely on the basis of migratory status. Nonetheless, many countries—including the United States, Australia, and parts of Europe—have maintained or justified child detention under border security frameworks, thereby inflicting secondary victimisation through institutional structures.

Statelessness constitutes another major source of harm. Children born in refugee camps or in countries that do not recognise birthright citizenship often remain legally invisible. Lack of documentation restricts access to healthcare, education, mobility, and future employment, creating a cycle of marginalisation that persists into adulthood. UNHCR has documented

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[17] Inter-American Court of Human Rights, *Rights and Guarantees of Children in the Context of Migration*, Advisory Opinion OC-21/14 (2014).

extensive cases of Rohingya children born in Bangladesh, Malaysia, and India who remain stateless despite being third-generation refugees[18].

Intergenerational trauma emerges when the psychological and material consequences of displacement are transmitted across generations. Parents who suffer from PTSD, depression, or chronic stress may inadvertently pass anxiety patterns or behavioural instabilities to their children. Judith Herman's seminal work on trauma identifies that chronic insecurity disrupts the formation of identity, trust, and emotional security in children, often producing lifelong psychological implications[19]. The lack of stable community structures, coupled with systemic exclusion from rights and opportunities, ensures that trauma becomes embedded within refugee family systems.

Child refugees therefore exemplify how victimisation can become structural, cyclical, and deeply rooted in legal and social marginalisation. Addressing child refugee victimisation demands a rights-based approach that moves beyond minimal humanitarian assistance and seeks to restore dignity, identity, and developmental stability.

IX. TRAUMA, PSYCHOLOGICAL VICTIMISATION, AND THE VICTIMOLOGICAL IMPACT OF DISPLACEMENT

Trauma constitutes one of the most pervasive yet under-acknowledged dimensions of refugee victimisation. Unlike singular traumatic events experienced in conventional crime contexts, refugee trauma is prolonged, cumulative, and layered, often spanning years or even decades. Refugees endure trauma in their home countries due to persecution and violence; during transit due to physical danger, exploitation, and uncertainty; and in host countries due to exclusion, discrimination, and lack of secure legal status. This cumulative trauma shapes refugees' psychological functioning, social identity, and ability to navigate institutional systems.

Refugees frequently experience complex post-traumatic stress disorder (C-PTSD), a condition associated with chronic exposure to harm rather than isolated traumatic incidents. Symptoms include emotional dysregulation, intrusive memories, dissociation, anxiety disorders, hypervigilance, and impaired interpersonal functioning. Research by the World Health Organization (WHO) shows that refugees exhibit substantially higher rates of depression, PTSD, and anxiety compared with the general population[20]. Yet few asylum systems integrate

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[18] UNHCR, *Global Action Plan to End Statelessness 2014–2024* (2014).
[19] Judith Herman, *Trauma and Recovery* (Basic Books 1992).
[20] World Health Organization, *Mental Health of Refugees and Asylum Seekers* (WHO 2022).

mental health assessments into protection procedures.

Institutional processes often exacerbate trauma. Asylum interviews require refugees to recount experiences of torture, rape, or persecution in detail, sometimes repeatedly, and often without psychological support or culturally sensitive frameworks. Trauma-related memory fragmentation may cause inconsistencies in testimonies, which adjudicators may misinterpret as lack of credibility. UNHCR's guidelines caution that trauma may impair memory recall, time perception, and narrative coherence, yet asylum systems still rely heavily on testimonial consistency[21]. Such institutional failures constitute a form of secondary psychological victimisation.

Cultural factors influence trauma expression and coping mechanisms. Refugees from collectivist cultures may experience displacement as a rupture of identity tied to community, tradition, and land. Loss of linguistic and cultural context deepens the psychological impact, producing what sociologists describe as "cultural bereavement." Refugees may also experience survivor's guilt when separated from family members who remain in dangerous conditions, compounding emotional distress.

The social environment in host countries further shapes psychological victimisation. Xenophobic rhetoric, discrimination in welfare systems, and the constant threat of deportation reinforce a sense of insecurity and marginalisation. For stateless refugees, the absence of legal identity creates existential uncertainty about their future, diminishing their sense of agency and belonging.

Trauma-informed victimology advocates for systems that recognise the psychological implications of displacement. This includes incorporating mental health assessments into asylum procedures, adopting culturally sensitive therapeutic interventions, ensuring continuity of care, and training officials to understand trauma responses. Without trauma-informed frameworks, refugee protection systems risk perpetuating harm rather than mitigating it.

X. VICTIM SUPPORT MODELS AND REFUGEE PROTECTION

Victim support for refugees must be understood as a multi-dimensional framework that encompasses legal assistance, psychosocial rehabilitation, access to basic services, and integration into host societies. Unlike conventional victims of crime, refugees encounter repeated instances of harm across borders and through state systems, making them uniquely

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[21] UNHCR, *Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture* (2004).

dependent on institutional support structures. Yet in many jurisdictions, refugee protection remains limited to procedural recognition of asylum claims without comprehensive mechanisms to address the underlying victimisation that refugees endure. A victimology-informed support model must therefore incorporate approaches that acknowledge the structural and psychological nature of refugee suffering.

10.1 Legal Support and Access to Justice

Legal assistance forms the foundation of refugee support, as documentation, status determination, and due process rights significantly shape refugees' access to housing, healthcare, education, and employment. However, asylum systems often impose complex procedural requirements that refugees—particularly those with limited literacy or knowledge of legal norms—struggle to navigate. Refugees may lack the linguistic, cultural, and educational resources necessary to articulate their claims effectively. Inadequate interpretation services, lengthy adjudication timelines, and discretionary decision-making processes further undermine access to justice.

UNHCR guidelines emphasise that states have positive obligations to facilitate fair asylum procedures, including access to legal counsel and safeguards against arbitrary detention[22]. Without legal support, refugees face the risk of deportation, detention, and denial of essential rights. In many Global South countries, including India, legal aid infrastructure for refugees is minimal, resulting in heavy reliance on NGOs and UNHCR field offices. The absence of codified refugee rights amplifies the arbitrariness of administrative decisions, contributing to structural victimisation.

10.2 Psychosocial and Mental Health Support

Psychosocial support is critical for addressing trauma, restoring dignity, and promoting long-term recovery. Refugees often experience complex layers of trauma, grief, loss, and cultural dislocation, making mental health services essential. However, many asylum systems, including India's, lack integrated mental health frameworks within refugee protection policies. Refugee camps and informal settlements frequently offer minimal psychosocial care, leaving trauma untreated. The consequence is often impaired functioning, reduced social integration, and difficulty navigating bureaucratic procedures.

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[22] UNHCR, *Procedural Standards for Refugee Status Determination under UNHCR's Mandate* (2020).

Trauma-informed care requires creating safe environments, ensuring privacy during interviews, administering culturally sensitive therapeutic interventions, and providing continuity of care. Community-based mental health programs have proven effective in promoting psychosocial resilience by integrating cultural rituals, peer support, and family counselling[23]. For female survivors of sexual violence, specialised services—including safe shelters, reproductive healthcare, and gender-sensitive counselling—are necessary to ensure rehabilitation.

10.3 Social Support, Welfare Access, and Community Integration

Refugees' access to welfare and basic services shapes their ability to lead dignified lives. Food security, housing, healthcare, education, and employment are essential components of social support. However, in many states—especially those without formal refugee legislation—access to welfare is inconsistent and often dependent on executive discretion. In India, Tibetan refugees enjoy relatively greater access to education and employment, while Rohingya refugees face significant restrictions. Such discrepancies reflect institutional biases and policy fragmentation.

Integration into host communities reduces tertiary victimisation by countering xenophobia and providing refugees with social networks. Community integration initiatives—such as language programs, vocational training, and local employment schemes—significantly reduce the risk of exploitation and improve psychosocial stability. Criminological studies indicate that communities with strong integration policies experience lower crime rates and reduced social tension, demonstrating the broader societal benefits of refugee support.

10.4 Economic Empowerment and Prevention of Exploitation

Economic marginalisation is a major driver of secondary and tertiary victimisation. Denial of employment rights forces refugees into informal labour markets where they face exploitative conditions, wage theft, trafficking, and hazardous work environments. Economic empowerment initiatives—such as microfinance programs, skill-building workshops, and social enterprises—help refugees achieve economic stability and reduce dependence on aid networks. Several countries, including Uganda and Canada, have implemented progressive policies granting refugees the right to work, thereby facilitating self-reliance and integration.

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[23] WHO & UNHCR, *mhGAP Humanitarian Intervention Guide* (2015).

10.5 Restorative Justice Approaches for Refugees

Restorative justice, traditionally applied to criminal contexts, can be adapted to refugee settings to restore dignity, agency, and community belonging. Refugees often experience ruptured community ties, loss of identity, and disempowerment. Restorative approaches—such as community healing rituals, conflict resolution programs, and participatory governance in refugee settlements—promote social cohesion and reduce feelings of alienation. These models also encourage host communities to understand refugee experiences, thereby reducing xenophobia and fear-based narratives.

XI. POLICY RECOMMENDATIONS

Addressing refugee victimisation requires comprehensive policy reforms that recognise the structural, psychological, and socio-legal dimensions of harm. The following recommendations draw on international best practices, human rights norms, and victimological principles, emphasising the need for multi-level engagement from states, international organisations, and civil society.

11.1 Enactment of a Domestic Refugee Protection Law in India

India's reliance on the Foreigners Act, 1946 creates a legal environment that allows for arbitrary detention, deportation, and inconsistent treatment across refugee groups. A dedicated refugee statute would institutionalise due process safeguards, establish fair and transparent asylum procedures, and codify non-refoulement as binding domestic law. Such legislation should incorporate gender-sensitive and child-sensitive guidelines, aligning India with international humanitarian standards.

11.2 Integration of Trauma-Informed Practices into Refugee Governance

Policies must recognise the psychological impact of persecution and displacement. Trauma-informed governance entails training immigration officials, judges, and police in trauma-sensitive approaches; ensuring privacy during interviews; and avoiding re-traumatising interrogation techniques. Mental health assessments should be integrated into asylum processes and long-term rehabilitation programs.

11.3 Ending the Criminalisation and Detention of Refugees

Detention should be a measure of last resort, used only when necessary and proportionate. Detaining refugees solely on the basis of their legal status constitutes structural victimisation.

Alternatives such as community housing, open camps, or supervised release should replace punitive detention systems. States must also repeal policies that criminalise irregular entry, as reaffirmed in *R v Appulonappa*, where criminalisation was deemed inconsistent with refugee protection objectives[24].

11.4 Regional Cooperation Mechanisms in South Asia

South Asia lacks a unified refugee protection framework. A regional instrument—similar to the African Union's 1969 Refugee Convention—could harmonise protection standards and promote burden-sharing among neighbouring states. Collaborative efforts could include joint registration databases, common asylum procedures, and coordinated approaches to statelessness.

11.5 Strengthening UNHCR Mandate and International Oversight

UNHCR's capacity to monitor and intervene should be expanded, particularly in countries without domestic refugee legislation. International oversight bodies, including regional human rights courts and UN treaty committees, must hold states accountable for violations of non-refoulement and human rights norms.

11.6 Enhancing Socioeconomic Rights and Long-Term Solutions

Ensuring access to education, employment, housing, and healthcare reduces vulnerability to exploitation and promotes integration. States should adopt models such as Canada's private sponsorship programs or Uganda's policy of granting refugees access to land and employment. Durable solutions—including voluntary repatriation, local integration, and resettlement—must be pursued consistently.

XII. CONCLUSION

Refugee victimisation is a complex, multi-layered phenomenon rooted in structural inequalities, geopolitical tensions, and socio-legal exclusion. Victimology provides critical insight into how harm is experienced, reproduced, and sustained across borders, institutions, and generations. Refugees face intense forms of primary victimisation in their home states, secondary victimisation through hostile border regimes and bureaucratic systems, and tertiary victimisation in host societies. These harms cannot be understood solely through the lens of asylum law but require an interdisciplinary approach incorporating trauma studies, sociology,

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[24] *R v Appulonappa*, 2015 SCC 59 (Can.).

criminology, and human rights theory.

India's refugee landscape demonstrates how the absence of codified legal protections creates environments in which arbitrary decision-making, discretionary policing, and administrative opacity become normalized. Judicial interventions, while significant, remain insufficient substitutes for comprehensive legislative reform. Refugee women, children, and stateless communities face compounded forms of victimisation that demand targeted and culturally sensitive interventions.

Ultimately, refugee victimisation must be addressed through holistic, rights-based, and trauma-informed frameworks that recognise refugees as victims of systemic injustice rather than as security threats or economic burdens. A victimology-centred approach reshapes refugee protection into a model grounded in dignity, empathy, and accountability—values essential for any society committed to human rights and justice.