

A Return to the Principle of Non-Refoulement: Re-examining and Reconciling the Principle and its Exceptions

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Several points of debate have come about because of the tension between the protection of human rights as juxtaposed against State sovereignty and control over State borders. While the 1951 Convention relating to the Status of Refugees provides for a middle ground for States and refugees, through the principle of *non-refoulement*, the principle have been criticized as an erosion of state sovereignty.

The principle of *non-refoulement* prescribes that no refugee should be returned to any country where he or she is likely to face persecution or torture. While the principle may encounter problems in terms of implementation, the important issue to resolve is whether the same has attained the status of customary international law.

Current State practice reveals the non-compliance of governments with their obligation to respect refugee rights, by invoking the exceptions to the principle. In order to ensure the rights of refugees, it must be kept in mind that the principle of *non-refoulement* is already of a customary nature, while the exceptions to the principle are non-customary in nature. The interests of States must be taken into perspective, without disregarding the rights of refugees.