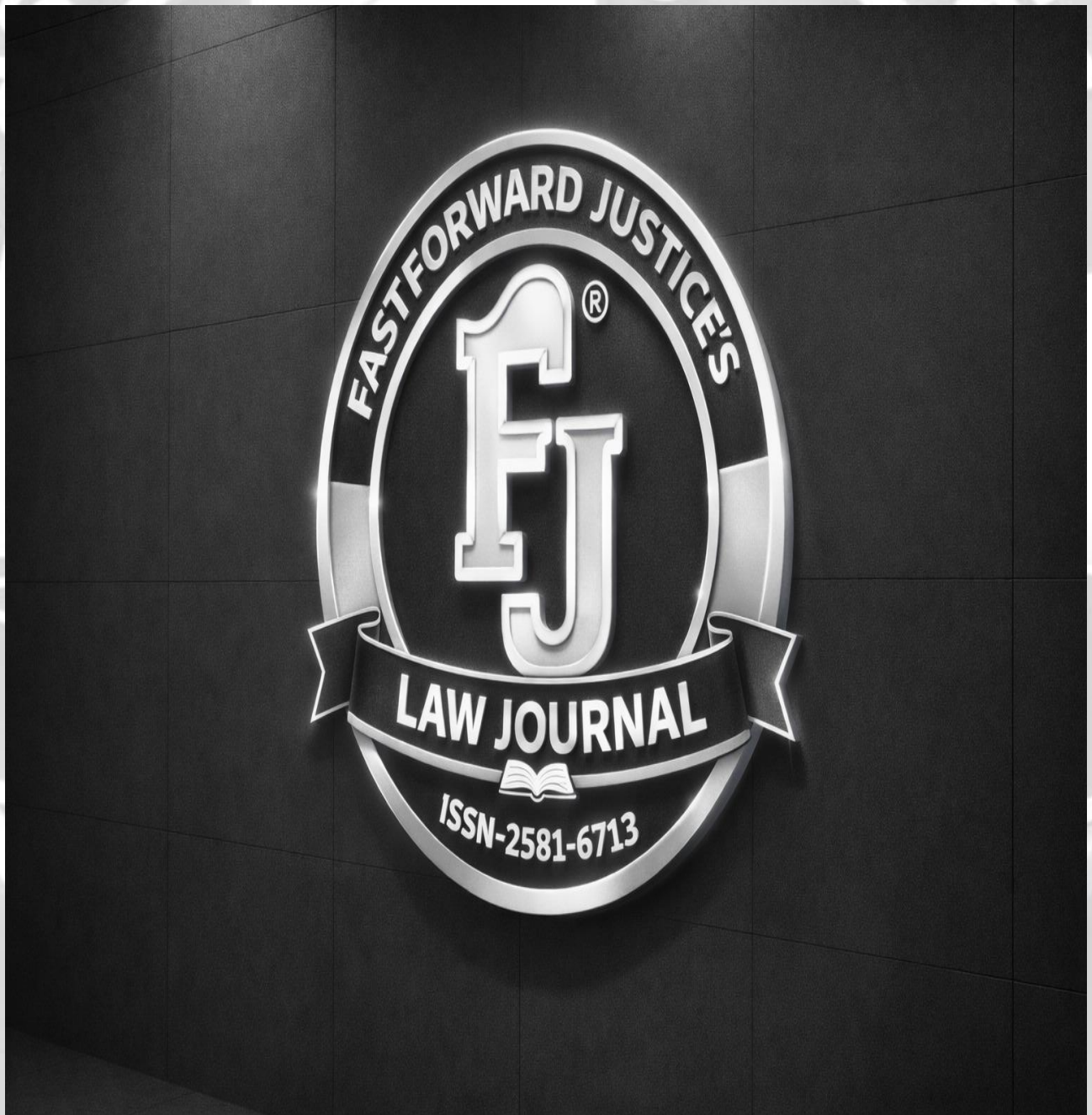


Legal Deserts and Displaced Persons: Curating An Exhaustive Mechanism for Asylum Seekers in Host States **Authored By : Nabihah Imran & Co-Authored By: Shambhawi Sinha, Available at [Link](#)**



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Abstract

This paper deliberates the idea of “legal deserts”, which are geographical and institutional areas where asylum seekers are deprived of effective access to legal representation. States with hostile and deterrence-driven asylum policies not only impede the legal entitlements but also exploit core principles of human rights. Displaced persons are compelled to flee their habitual residence to foreign states in consequence of armed conflicts, generalised violence, human rights violations or disasters. Marginalisation and procedural injustice are caused by strict immigration laws, a lack of legal aid, and deliberate bureaucratic barriers influenced by political, economic, and spatial contexts. Asylum seekers frequently face violations of their fundamental rights, including the right to a fair trial, the right to be free from torture and inhuman treatment, and the right to family life, while they wait for approval for legal recognition and then refugee status.

Using a doctrinal case study and independent research methodology, the paper aims to intersect geography, political policy and justice in asylum processes, studying how their seclusion in rural or remote detention centres with policies which curtail legal aid funding, leading to a systematic legal discourse. Case studies from the United Kingdom, United States, Australia and India, along with international frameworks like the Refugee Convention of 1951 and ICCPR's role in bridging (or failing to bridge) these justice gaps, shall be examined to curate a suggested mechanism by the authors that not only accommodates human rights but also integrates structural, logistical, and political conditions that can manifest it into real practice.

Keywords: Asylum Seekers, Legal Deserts, Displaced Persons, Human Rights, Refugee Convention, ICCPR, Exhaustive Mechanism(s).

1. Introduction

Legal Deserts are those geographical or institutional areas where people facing critical legal issues struggle to find proper legal representation and advice that they are legally entitled to. The United Nations High Commissioner for Refugees (UNHCR) defines asylum seekers as “An asylum-seeker is someone who intends to seek or is awaiting a decision on their request for international protection. In some countries, it is used as a legal term for a person who has applied for refugee status and has not yet received a final decision on their claim.” Displaced persons described by the United Nations Educational, Scientific and Cultural Organization (UNESCO) are “Persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters. This definition covers both internal and cross-border displacement.” The right to seek asylum is recognised by the Universal Declaration of Human Rights (UDHR) under Article 14. While it gives the right international recognition, it does not make it a customary practice under international law. However, the principle of non-refoulement, which prohibits the return of a person to a country where they may face dangers of violence, human rights violations, torture or their life, is extensively relied upon as it is accepted as a customary international law.

This paper shall use a doctrinal case study and independent research methodology to navigate through the international frameworks and corresponding policies adopted by countries like the United Kingdom, the United States, Australia and India, focusing on the legal deserts created via bureaucratic and political means by host states. The paper seeks to highlight the

human rights violations faced by asylum seekers as a result of legal deserts, proposing an effective mechanism to curtail the same.

2. Conceptual Foundations

2.1 Legal Deserts

The lack of proper legal assistance in civil and criminal matters in areas that lack attorneys and other legal professionals contributes to increasing legal deserts. Oftentimes, asylum seekers may also be dropped by their legal aid lawyers with no explanations and struggle to find new ones, as reported in the UK. UK government statistics also discovered that legal aid was notably lacking in the North East and Cumbria, and in areas like Durham and Carlisle. Many asylum seekers were moved to hotels in Carlisle without a single legal aid lawyer in the city, with the North East housing most of the UK's asylum seekers as of December 2023.

2.2 Asylum Seekers

The UNHCR data suggests that in mid-2024, about 122.6 million people were forcibly displaced, with about 7,998,000 of them being asylum seekers and seeking protection from the UNHCR. These individuals were forced to flee their homes due to fears of being persecuted based on race, religion, nationality, political opinion, or membership in a particular social group. Other causes for displacement may include armed conflicts, generalised violence, human rights violations or disasters. A new country brings new legal challenges and procedures that they must navigate to ensure they are not deported or returned

to their country of origin. Challenges to accessing legal assistance may include language barriers, lack of legal knowledge, limited resources, trauma and vulnerability leading to their exploitation.

3. Host States and Deterrence-Driven Asylum Policies

3.1 Hostility in Asylum Systems

While the 1948 Universal Declaration of Human Rights famously provides that “everyone has the right to seek and enjoy asylum from persecution in other countries” (article 14), the right to seek asylum is not binding as per any instrument. It is argued that states have a right to grant asylum, not a duty, resulting in policies that aim to prevent and not protect asylum seekers. The laws of the host country bind asylum seekers, and transgressions can lead to exclusion or expulsion from the state. Some states may also detain them for prolonged periods, leading to irreparable harm both physically and psychologically. The US Immigration Justice Campaign, along with the American Immigration Council and the American Immigration Lawyers Association, has been strongly advocating in the US and proposing the implementation of Alternatives to Detention (ATDs). These vulnerable individuals are marginalised and are consistently seen as the least deserving of social welfare, variously labelled as workshy, freeloading from a benefits system to which they have not contributed, or as culturally threatening by people of the host country.

3.2 Procedural Injustice and Marginalisation

The 'hostile environment' created by countries like the UK and Australia doesn't stop at discrimination, poverty, violence, minimising healthcare and racism but also extends to depriving these asylum seekers of basic legal aid funding, which could help them represent themselves. Third-sector organisations like the Refugee Council (UK), RAICES (US), Asylum Seeker Resource Centre (Australia), and Bosco Organisation (India) seek to mitigate the structural violence of asylum regimes in diverse countries by aiding these displaced persons by providing clothing, shelter, healthcare, and practical and legal services. However, government spending cuts, complex administrative policies, arbitrary detention and politically motivated measures lead to a reduction in resources, further depriving them of basic amenities.

4. Human Rights Violations in Legal Deserts

Fundamental rights like the right to a fair trial, the right to be free from torture and inhuman treatment, and the right to family life are often systematically curtailed by host states through deterrent policies. The US's mass detention, denial of due process, abusive and discriminatory policing, labour exploitation, and suppression of civic space were highlighted in the Robert F. Kennedy Human Rights Report and the UK's unlawful detention of asylum seekers for prolonged periods came to light in 2024, with people describing it as "slow death every day" and "hell on Earth". Human Rights First reported over 1,300 reports of torture, kidnapping, rape, extortion, and other violent attacks on asylum seekers and migrants stranded in Mexico in 2023. After fleeing war-torn countries where their homes and families have been destroyed, asylum seekers are subjected to torture and made to perform labour-intensive and menial tasks in their new countries. Many asylum seekers are treated as

“criminals” despite never being convicted of a crime, facing social stigma. Inadequate legal representation infringes human rights, taking away their chances to be seen or heard.

5. International Frameworks

5.1 Refugee Convention, 1951

The 1951 Refugee Convention protects refugees through non-refoulement restrictions (Article 33) alongside provisions for basic rights, including education and work access (Articles 22-24). The 1951 Refugee Convention faces drawbacks in contemporary legal wastelands because it lacks practical enforcement tools that permit nations, including Australia and the United Kingdom, to conduct offshore detention, which violates refugee protections. The Convention does not cover contemporary issues regarding protracted detention, so host states develop systematic obstacles preventing asylum access. The Convention serves as the base of refugee law, yet its effectiveness is limited by states' voluntary compliance, through which legal deserts persist due to asylum seekers losing real access to these legal guarantees .

5.2 International Covenant on Civil and Political Rights (ICCPR)

The ICCPR protects essential rights of asylum seekers through Article 14 regarding fair trials, Article 7 against torture and Article 9 concerning liberty. These legal protections from the ICCPR are consistently disregarded in areas without proper legal representation. The United States practices expedited removals without legal representation against detained migrants,

and Australia maintains indefinite detention beyond Article 9's permissible detention limits. The UN Human Rights Committee issues formal rulings against deliberate rights violations, yet these decisions remain voluntarily enforceable. States opt to emphasise deterrence strategies above compliance efforts, which weakens the ICCPR into a symbolic instrument instead of serving as an enforceable defence against rights violations within asylum systems.

6. Case Studies

6.1 United Kingdom

Many human rights organisations would label the current state of the United Kingdom's asylum policies as a “hostile environment 2.0,” systematically obstructing access to legal protection while raising serious ethical concerns. The Illegal Migration Act 2023 establishes a policy that requires mandatory detention procedures followed by deportation for everyone who seeks asylum without authorised entry, including the debated plan to transport migrants to Rwanda.

The UK Supreme Court found the Rwanda policy unlawful because of concern about refoulement risks in *R (AAA) v Secretary of State for the Home Department* (2023) , yet the government advanced with the plan through new treaty arrangements despite criticism that these actions disregard judicial authority and international law. The implementation of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 created legal deserts throughout the country through legal aid cuts, which resulted in 46% of immigration legal aid providers disappearing from practice, specifically in remote detention centres such as Brook House and Yarl's Wood, where detainee access to legal representation dropped to 30% . A

severe backlog in the asylum system resulted in over 175,000 pending cases in early 2024 while forcing applicants to stay in temporary accommodation without access to employment, thereby becoming reliant on public funds for their survival.

Under the Rwanda scheme and asylum system, the United Kingdom faces annual expenses totalling £3.6 billion and ULARR 01.8 million for each person deported (Home Office, 2024). Multiple inspections have revealed deplorable conditions in detention centres, and professionals have identified extensive psychological damage among detainees . The Pending 63 judicial reviews against the Illegal Migration Act and UNHCR criticism have made the UK vulnerable to widespread condemnation for its stance against non-refoulement principles and legal integrity.

6.2 United States

The United States government has established multiple escalating barriers through new asylum regulations, which make it difficult for asylum seekers to reach safety. The Biden administration eliminated several Trump-era policies but sustained Title 42 expulsions beyond their initial expiration date while restoring the "Circumvention of Lawful Pathways" policy that deems asylum ineligibility for migrants who pass through multiple countries before applying for asylum. The implementation of these new restrictions brought back the transit ban from the previous administration; thus, advocates call it an "asylum ban by another name". Asylum seekers face a fundamental barrier in obtaining legal support since the United States does not offer free representation, and only one in seven detained immigrants can secure legal aid. Migrants placed in distant rural detention facilities

experience heightened alone time because they lose essential support from lawyers and community connections. An astounding 3 million immigration cases currently fill the court backlog, with each case requiring a 4.3-year waiting period for resolution, and stringent work authorisation standards force immigrants into jurisdictional and financial uncertainties extending over years.

The detention centres continue to maintain deplorable conditions, including severe crowding, insufficient medical care and physical mistreatment primarily at border processing stations, even though official separation policies exist, but public agencies fail to prevent them effectively. The UN and other international organisations strongly criticise the U.S. asylum system because it fails to respect key protections in the 1951 Refugee Convention and the ICCPR, particularly regarding non-refoulement and due process guarantees. Strategic challenges against the United States' asylum system have added to its existing funding constraints while making its services more difficult to access.

6.3 Australia

The Australian government operates one of the strictest migration protection systems globally through offshore detention combined with compulsory immigration centres and pushback strategies under Operation Sovereign Borders (2013). Offshore asylum seeker numbers decreased, but the “life ban” for boat arrivals remains active since 2016, as it prevents any visa access to nationals who were turned away at sea, even if they received refugee status . International organisations criticise the substandard healthcare, together with dangerous facilities and psychological emergency rates that target trauma victims among children in

Nauru and PNG . The government continues to defend offshore deterrence measures even though these practices violate the 1951 Refugee Convention and Convention Against Torture (CAT) and Convention on the Rights of the Child (CRC). The government asserts that these methods reduce maritime crossings and protect lives. Most refugees who entered Australia for medical care have not received permanent residency and continue living under community detention or temporary visas, which provide no pathway to permanence. Other refugees have gained resettlement opportunities in the U.S. and New Zealand . Most air arrivals encounter extensive delays and a severe backlog in their onshore application system. Offshore processing has consumed \$10 billion in public funds during its operation since 2013, and the requirement for detention facilities continues to use substantial public money. The court ruling in *NZYQ v. Minister for Immigration* (2023) determined indefinite detention unlawful, yet structural problems with asylum policy have led to only minor policy changes. Australia has constructed an asylum framework that focuses on deterrence rather than protection, which results in violations of refugee rights and international agreements .

6.4 India

The absence of formal refugee protection mechanisms in India creates a fragmented and unstable approach to asylum seekers because the country has not ratified the 1951 Refugee Convention and its 1967 Protocol. Consequently, India manages asylum seekers through general immigration laws, including the Foreigners Act of 1946, which allows non-citizen deportations without a refugee-irregular migrant distinction . The absence of legal protection creates highly variable refugee treatment based on political factors instead of humanitarian needs. The Tibetan and Sri Lankan Tamil refugees have obtained minimal protection through

administrative arrangements, but Rohingya Muslims face exclusion and deportation threats despite showing genuine persecution fears. The Afghan refugee community, including Taliban evacuees, does not have legal recognition and cannot access essential public services. The absence of formal recognition makes it difficult for asylum seekers to receive education or healthcare or find employment, while many asylum seekers who register with the UNHCR still experience routine harassment. The immigration detention facilities have inadequate conditions because they face persistent problems of overcrowding, poor sanitation and insufficient medical care. The Citizenship Amendment Act (CAA) from 2019 became operational in 2024 to establish a streamlined citizenship pathway for migrants from neighbouring countries who are not Muslim, which violates the international legal principle of non-refoulement while creating further discrimination. These court-ordered deportation halts face inconsistent implementation because India lacks statutory refugee protections. Civil society groups and legal advocates keep fighting for a national asylum law even though political obstacles block their path.

7. Recommendations

Based on their doctrinal and case study approach, the co-authors have identified that the main challenges regarding legal deserts for asylum seekers are a result of hostile state policies, geographic isolation in detention and defunded legal aid programmes. The core problem identified is the lack of binding values in the prevalent mechanisms for asylum seekers, allowing for the violation of their fundamental rights. Hence, a threefold solution is proposed to include:

A. Procedural Reforms

A mandatory procedure is recommended for all states to follow, which encompasses guaranteed legal aid at all stages for asylum seekers following the principles of natural justice, i.e., audi alteram partem (right to fair hearing) and nemo judex in causa sua (rule against bias). Independent detention monitoring through NGOs or human rights bodies for detainees should be compulsory to prevent and address torture, ill-treatment, and other human rights violations.

B. Structural Interventions

A fast-track approach should be adopted through digital records and easy access to mobile legal clinics, even in remote areas. Governments should adopt multilateral funding schemes to fund legal assistance instead of opting for spending cuts due to a lack of resources. The deportation and detention process should not be made arbitrarily, and all countries should adopt a structured approach.

C. Accountability Measures

Pilot programmes of the proposed mechanism should be implemented by countries harbouring populations of asylum seekers before it becomes a mandatory international norm. Compliance with frameworks like ICCPR and the Refugee Convention should be monitored for strict execution. Fast-track tribunals can ensure an efficient adjudication mechanism that holds host states accountable for following their obligations and guarantees human rights.

8. Conclusion

The worldwide asylum system shows clear signs of failure through the rising emergence of legal deserts. Our study across the UK, US, Australia and India demonstrates how states prevent refugees from accessing justice through restrictive policies, along with detention facilities in remote areas, and reductions in legal assistance benefits. The enforced measures violate both international laws and fundamental human rights, which leaves refugee populations without adequate defence. Action must begin immediately with three essential components: providing access to legal representatives, independent oversight systems, and full-spectrum mobile legal services. The specified practical methods will establish fair asylum procedures that protect state authority. The growing refugee displacement trend worldwide demands alternative measures drawing from justice instead of deterrence-based strategies. A fundamental question arises between human rights protection and the complete breakdown of refugee protection systems. We stand at a critical juncture where substantial reform needs immediate attention.