

# Before 1951, Outside Europe

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*The 1951 Refugee Convention and the UNHCR had a longer pre-history drawing on experiences influencing its further developments. A critical predecessor in this regard was the UN's International Refugee Organization (IRO), established in 1946 to deal with Europe's displaced. While mainly focusing on Europe, the IRO was also active in Africa and Asia, but it only cared for European refugees there, while non-Europeans were excluded from its mandate. This text takes a closer look into this overseen history and the lasting effects of this discrepancy.*

The 1951 Geneva Refugee Convention is widely known and criticized as Eurocentric (see [Krause](#), [Mayblin](#), [White](#)). Its drafters and initial signatories had Europe's remaining World War II refugees in mind and established the UNHCR to deal with them ([UNHCR's original mandate ran until the end of 1953](#)). In its beginning, non-European refugees were not a concern of the Convention or the UNHCR. Gradually [expanding its activities beyond Europe throughout the 1950s and 1960s](#), only with the 1967 Protocol did the UNHCR get a legal basis with global reach.

However, it is less known that some refugees in Africa and Asia did indeed come under the Convention's refugee definition in 1951. These refugees were Europeans who had earlier escaped from Europe to safer places outside the continent. They did not fall under the general refugee definition of the famous second paragraph of Article 1A but under its lesser-known first paragraph, covering refugees protected by earlier international arrangements. Zooming in on this overlooked paragraph offers an avenue into the pre-history of the 1951 convention. It furthermore shows that the Eurocentrism of the post-war refugee regime was not a geographical limitation to the continent. Instead, it was an origin-based Eurocentrism limited to European refugees, no matter where they had found refuge in the world. Or to put it bluntly: In 1951, refugees could fall under the Convention's mandate anywhere in the world – as long as they had come from Europe.

Let us first dive into the legal and institutional pre-history of the Convention before we conclude with the example of some Polish refugees in India and Africa and what this has to do with India's non-ratification of the Convention until today.

## **Article 1A, Paragraph 1 or, the importance of the IRO for the Geneva Convention**

Seen from today, the year 1951 might seem to be the starting point of the international refugee regime, but the Convention and the UNHCR did not start from scratch. Both had essential predecessors, shaping its policies, practice, institutions, and the Convention's text. According to the first paragraph of the Convention's refugee definition, a refugee is someone who

(1) *Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization*

The first two Arrangements were concluded under the League of Nations' High Commissioner Fridtjof Nansen and covered stateless [Armenian and Russian refugees](#). Mentioned 1933 Convention expanded this group only slightly but [introduced the concept of "nonrefoulement" into international law](#) for the first time. The last two dates refer to conventions covering refugees from Nazi Germany (1938) and annexed Austria (1939). However, we want to focus on the last part here: The International Refugee Organization (IRO; 1946-52). The IRO was the United Nations' first specialized agency and the UNHCR's most important direct predecessor. The IRO developed the "durable solutions," introduced [the sharp distinction between "refugee" and "migrant,"](#) and [IRO officials were instrumental in drafting the Convention](#). The IRO set the scene for the international refugee regime we know today, so it is worthwhile to take a closer look at this short-lived institution.

Looking into [the IRO constitution](#), we see some formulations reappearing in the 1951 Convention. However, it had a more explicit focus on specific groups, mainly the victims of Nazi, fascist or collaborating regimes and persons who had been considered refugees before World War II "for reasons of race, religion, nationality or political opinion." The IRO's deputy executive secretary [Arthur Rucker summed up the organization's mandate in 1948](#):

*We were set up for a quite specific task ... the IRO is concerned with the non-Germanic refugees who were left at the end of 1945 in Germany, in Austria, and in Italy, with certain groups of pre-war refugees, the Spanish refugees, the so-called Nansen refugees, Russians, Armenians, etc., and with groups of both Europeans and Chinese refugees in China.*

Except for some ten thousand overseas Chinese, these were exclusively European refugees. Rucker was aware that there were millions of more refugees in the world at that time, conceding it was "not the task of the IRO to deal with more than a fraction of that problem." The IRO assistance for repatriation of the Chinese was partly ["a bargaining chip"](#) that allowed the organization to continue assisting European refugees in China. The IRO made substantial [efforts to assist 29,000 Europeans after the communist revolution in October 1949](#) and resettled nearly twenty thousand of them. Some other refugee groups scattered around the globe did come under the IRO mandate due to earlier arrangements, but again, all of them were of European origin. We will come back to them later.

Apart from the exact legal definitions, [Claudena Skran](#) reminds us, concerning the interwar refugee regime, that refugee legislation (like human rights more broadly) is highly "aspirational." It does not define legislation that states follow to the letter, but it sets a standard, which national policies and legislation shall aspire to fulfill. The aspirational character of refugee definitions thus shows us the ideal these very definitions are referring to. While the circumscribed group definitions covered only explicitly named groups, the general definition of the 1951 Convention had

a temporal limit (“before 1 January 1951”) and partly a geographic limitation (“in Europe or elsewhere”). It was a product of the World Wars experiences and the massive displacement and de-nationalization in Europe. The aspirational ideal was a (Western) world of nation-states open to (*de jure* or *de facto*) stateless European refugees. Colonized subjects stood outside the citizen-refugee dichotomy.

However, if we look from a global perspective, we see that Europe was but one area of massive population displacement at that time. Millions were displaced in China (first from Japanese occupation, then Civil War) and South Asia (following India and Pakistan’s partition). However, they did not come under the IRO or the 1951 Convention. Palestinian refugees came under a special agreement and institution (UNRWA, est. 1949) and Koreans under another UN institution (UNKRA, 1950-58). People fleeing within or from colonies in Africa were considered interior affairs to be dealt with by the ruling imperial authorities. At the same time, there were some internationally recognized “refugees” outside Europe: [Poles in India](#), [Russians in the Philippines](#), and [Poles](#) and [Greek](#) in several African countries. The one aspect all these diverse refugee groups had in common was their European origin.

### **The IRO, Polish refugees, and India’s refusal to ratify the Refugee Convention**

The simultaneous inclusion of Europeans and exclusion of non-Europeans became most glaringly apparent in South Asia. Until today, India, Pakistan, and Bangladesh are not part of the Geneva Convention leading to a [precarious legal situation for refugees](#) in the region. While the UNHCR operates in India since the 1970s, its government did never sign the Convention. While there are many reasons for this, it might also have something to do with the postwar era and the IRO (and subsequently UNHCR) refusal to take care of the partition refugees in 1947. At the time of independence from Britain, [millions of people had to flee following India and Pakistan’s partition in June 1947](#). Nevertheless, the IRO was active in India at the same time. Starting in July 1947, 4,250 Polish refugees in India received care and maintenance from the IRO. The Poles had come to India in 1942 when the country was still a colony, and British strategists had an interest in getting these Polish civilians into safety and out of the way.

Both, South Asian and IRO officials were well aware of the discrepancy between the two refugee groups. Maurice Lush, the IRO chief representative for the region, noted that the Indian government took the line “[either come here in force and deal with our seven million Indian refugees or remove your few thousand Europeans](#).” The IRO chose the latter and evacuated the Poles. When the British troops withdrew from India in February 1948, the IRO had resettled most Poles elsewhere and shipped [the last seven hundred to Uganda](#). The newly independent South Asian states had to cope with the partition refugees by themselves. Two years later, in December 1950, disappointed by the developments leading up to the Refugee Convention, the Indian UN delegate said: “[The United Nations should try to help not only special sections of the world’s population but all afflicted people everywhere. Suffering knew no racial or political boundaries; it was the same for all](#).” The prevailing impression in South Asia was that the UNHCR was, like its predecessor, an institution for Europeans.

In East Africa, the Poles joined some fourteen thousand compatriots living in refugee camps in the British colonies. They were the remains [of nearly twenty thousand Polish refugees who had been evacuated in 1942 to what is today Tanzania, Uganda, Zambia, Zimbabwe, Kenya, and South Africa](#). Like the Poles remaining in India, these refugees had been forcefully deported in 1940 from Eastern Poland to the Soviet interior, released in 1941, and evacuated with thousands of Polish soldiers to Iran. While the soldiers joined the British army in the fight against Germany, the civilians were [transferred to the British colonial empire](#). After the war, most of them refused to return to Poland under Soviet domination, but the colonial administrators wanted to get rid of them.

The British were eager to include the Poles under the IRO mandate (and its predecessor organization UNRRA). The IRO took over the financial responsibility and organized their resettlement. The organization succeeded in closing all Polish refugee camps in Africa and finding “durable solutions” for the remaining refugees. In the end, Britain accepted most, some were resettled to [Australia](#), and some few were allowed to stay with permanent residency in Africa. In 1951, these refugees could have come – through the Convention’s first paragraph – under the Refugee Convention’s mandate. In the same year, however, the last Polish refugee camps in Tanganyika and Uganda were closed.

### **UNHCR’s “Good Office” Refugees and the “Myth of Difference”**

When Rwandan refugees started arriving in these very same countries in 1959 – just eight years after the Poles had left – the British colonial government’s response was quite different. In contrast to the Poles, the British were not eager to get the Rwandans under an international refugee mandate. In December 1961, the Commonwealth Relations Office in London explained in a confidential telegram:

*Present mandate of [UN] High Commissioner is limited broadly speaking to operations in Europe which are still incomplete. To operate elsewhere High Commissioner would require new mandate from General Assembly and additional funds. There are many refugee problems in the world today —Tibetans, Angolans, Cubans, etc. High Commissioner’s resources are very limited and sufficient only for existing commitments.*

According to British officials, the best way to assist refugees in Africa was through UNHCR’s “good offices.” The High Commissioner would collect and channel funds for refugee assistance but would not recognize them as “mandate” refugees. From 1957 onwards, the [“good office” formula was a way for UNHCR to assist non-European refugees](#) without granting them fundamental rights or offending the imperial powers involved. The UNHCR had established this formula in 1957 to assist Chinese refugees in British Hong Kong and refugees from French Algeria. It was essential for the global expansion of UNHCR activities until the 1967 Protocol was signed. However, the distinction between European “mandate” refugees and non-European “good office” refugees established a differentiation that lived on in what Bhupinder Chimni has termed the [“myth of difference.”](#) By distinguishing European from non-European refugees, policies of containing the latter were legitimized. As we have seen here, this differentiation started before 1951. As Chimni and others have

shown, it is still relevant in current refugee policies, even after the 1967 Protocol led to a legal universalization of refugee rights.

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