The treaty outlining who is a refugee and how refugees ought to be protected first arose in the aftermath of the Second World War; since then 148 countries have bound themselves to apply its provisions.

**What is the Refugee Convention?**

The 1951 Convention relating to the Status of Refugees (commonly known as the Refugee Convention) is the main international treaty concerning refugee protection. It was adopted in July 1951 and was initially drafted to meet the needs of European refugees in the aftermath of World War II. It applied only to people who had been displaced as a result of events occurring before 1 January 1951. It was supplemented by the 1967 Protocol relating to the Status of Refugees (1967 Protocol), which removed the temporal and geographical limitations of the Refugee Convention, making it applicable to refugees all over the world. Countries that have ratified the Protocol agree to apply the provisions of the Convention as well. There are currently 148 States Parties to one or both of the Convention and the Protocol.

The 1951 Refugee Convention and 1967 Protocol are international legal instruments that countries voluntarily agree to be bound by. Through an act of ratification or accession, countries become a party to a treaty. The treaty obligations do not necessarily become part of domestic law, though. For instance, in Australia, the Parliament must first pass legislation to incorporate the terms of a treaty into national law.

**What obligations do countries have under the Refugee Convention?**

The Refugee Convention imposes several obligations on countries relating to the treatment and protection of asylum seekers and refugees. The principle of non-refoulement is one of the most important principles in the Refugee Convention. It requires that countries do not send refugees to a place where they will be at risk of persecution, nor to another other country that might then send them to such a place.

**Is Australia bound by the Refugee Convention?**

Yes, Australia voluntarily acceded to the Refugee Convention and Protocol and is therefore bound by the standards for refugee protection outlined within them. Australia further
incorporated some of its obligations to protect refugees into its domestic legislation, the *Migration Act 1958 (Cth).*

**Under the Refugee Convention, who is a refugee?**

Article 1A(2) of the Refugee Convention sets out the international legal definition of a refugee. It defines a refugee as a person who:

(a) has a ‘well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion’;
(b) ‘is outside the country of [their] nationality’; and
(c) ‘is unable or, owing to such fear, is unwilling to avail [themselves] of the protection of that country’.

The idea of ‘persecution’ is not defined in the Refugee Convention, but it has been understood as involving such things as threats to life or freedom, and other serious violations of human rights. It may also include social, political or economic discrimination, and can be the result of a single incident or cumulative incidents and conditions.

**What rights and responsibilities do refugees have under the Refugee Convention?**

Refugees are given a special status in international law in recognition of the fact that they have lost the protection of their own country. According to the Refugee Convention, refugees ought to be afforded a range of rights as soon as they arrive in a country seeking asylum. These rights include, but are not limited to, the right to non-discrimination (article 3), the right to work (article 17), freedom of religion (article 4), the right to housing (article 21), the right to not be penalised for illegal entry (article 31), the right not to be expelled from a country unless the refugee poses a threat to national security or public order (article 32), and the right not to be sent back to a country where their life or freedom would be threatened (i.e. the principle of non-refoulement) (article 33).

Conversely, article 2 of the Refugee Convention requires that refugees abide by the law in the country that grants them protection.

**Who keeps countries accountable for their compliance with the Refugee Convention?**

There is no specialist international refugee court or tribunal that is responsible for monitoring whether or not countries comply with or violate the Refugee Convention. However, the United Nations High Commissioner for Refugees (UNHCR) supervises how countries apply the provisions of the Refugee Convention. This includes monitoring the situation of refugees and engaging with governments in relation to issues of concern.

See also our factsheet on The 1967 Protocol.