



LEGAL STATUS OF REFUGEES IN INDIA AND AROUND THE GLOBE

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Abstract:

Migration exists since there are people on Earth. Ever since, a part of those people not satisfied with their opportunities or who had to flee from war or persecution tried to find a better life somewhere else, if the circumstances allowed it. Today, global migration has reached a dimension that was considered unimaginable just a few years ago. In the current world order, democratic states, most of which have affirmed various international law instruments such as covenants, conventions, declarations, resolutions and so on, have responsibility towards refugees.

Further, states that include the principle of universal human rights as part of their municipal legal framework have responsibility towards refugees. Obviously, many states fit in both categories. However, problems arise with an increase in the magnitude of refugee movement, when a large number of refugees enter a state's territory and ask for their entitlements as per international law instruments or municipal laws or both. In this kind of situation the state may apply its sovereign right over its territory and close its border, but, on the other hand, the state is bound by responsibilities arising from the norms of universal human rights.

The question, then, is whether democratic states have any obligation to protect refugees, and if so, what are those obligations?

Refugee Law, International Refugee Law, Asylum Seekers, Refugee Rights, Refugee Protection, Legal Status of Refugees, Human Rights and Refugees, Indian Immigration Law and Refugees, India and UNHCR

Introduction

In the last six decades, refugee law, a new branch of law, has developed both in the field of international law and of municipal law. There is an interrelation between the two, as municipal laws and regulations are frequently designed to implement treaties to which the states concerned are parties. The main feature of refugee status is that refugees do not enjoy the protection of any government, either because they are, as stateless persons, unable or, having a nationality, unwilling for political reasons to avail themselves of the protection of their country of origin.

Research objective

The main aim and objective of this paper titled: NO ROADS LEAD TO HOME: LEGAL STATUS OF REFUGEES IN INDIA AND AROUND THE GLOBE is to critically analyze and perform a comparative study on the topic of refugee laws all around the world with special reference to Indian take. All the discussions will take place from a legal point of view with plethora of real world happenings and legal responses to them

Research methodology

The research paper is analytical in nature. It deals with the crucial aspects of refugee law in respect with the position of refugees and human rights surrounding them. Both primary and secondary sources of information were used while writing this research paper.

Mode of Citation

A uniform mode of citation has been followed throughout the paper.

Research scheme

The research paper has been written in the form of chapters starting with introduction part and the summary of the conclusion will follow after entire discussion

Refugee Law:

The link of nationality is either non-existent or is ineffective. Although one speaks of de jure and de facto stateless persons, it would be more correct to speak of de jure and de facto unprotected persons.

In customary international law, nationality provides the principal link between the individual and the law of nations¹. Refugees are commonly understood to be persons who have been compelled to leave their homes on account of natural catastrophes or because of political events; they may be inside or outside their country of origin. The United Nations Refugee Agency (UNHCR) estimates that there are 51 million people who have been displaced from their homes. Within this group, there are four different distinctions to the “refugee umbrella” that the UNCHR uses. These include refugees, internally displaced persons (IDPs), asylum-seekers, and stateless people. It is important to understand the differences in these definitions because it changes how the crisis is addressed.

Refugee:

A refugee is someone who must escape one's current state of living and seek sanctuary in another country. Refugees often flee in large numbers across international waters or into neighboring countries to find safety. These situations are hard to manage because the sudden surge in population is hard for the receiving countries to take on and it puts a stress on their resources, and sometimes they do not have adequate resources to make it any safer.

Unlike other migrants, however, these groups are only considered true refugees when they fit within this definition provided by the UNHCR:

"A refugee is someone who has been forced to flee his or her country because of persecution, war, or violence. A refugee has a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership in a particular social group. Most likely, they cannot return home or are afraid to do so. War and ethnic, tribal and religious violence are leading causes of refugees fleeing their countries."

¹ Ph.D. (London) , Dr. Jr.(Vienna), honorary professor of the University of Vienna, former Director of the Legal Division of the Office of the United Nations High Commissioner for Refugees, former lecturer in law of the University of Zurich, Commander of the Order of the British Empire.

The refugee concept under International law²

Under international law, refugees are persons outside their countries of origin who are in need of international protection because of a serious threat to their life, physical integrity or freedom in their country of origin as a result of persecution, armed conflict, violence or serious public disorder³.

The need for international protection arises because they are unable to avail themselves of the protection of their own country against these threats.

International refugee law derives from a range of treaties (universal and regional), rules of customary international law, general principles of law, and national laws and standards. The 1951 Convention relating to the Status of Refugees⁴ and its 1967 Protocol⁵ laid the foundation upon which subsequent regional instruments have built, including the 1969 OAU conventions⁶, the 1984 Cartagena Declaration,⁷ the EU Qualification Directive⁸ and other relevant instruments of the EU asylum *acquis communautaire*, and the 1966 Bangkok Principles.⁹ Collectively, this body of law, complemented by international human rights law, makes up the international refugee protection regime under which UNHCR exercises its mandate responsibilities.¹⁰

More specifically, and for the sake of clarity, individuals fleeing across borders for the following reasons would be refugees according to the 1951 Convention definition:

- Persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion;¹¹
- Armed conflict, which may be rooted in and/or conducted along lines of race, ethnicity, religion, politics, gender or social group divides;¹²

² 2 The refugee concept under international law Global compact for safe, orderly and regular migration (New York, 12-15 March 2018).

³ 3 UN General Assembly, Note on International Protection, 7 September 1994, A/AC.96/830, UNHCR's refugee protection mandate, per Article 6A(ii) of its Statute, originally covered '[a]ny person who ... owing to wellfounded fear of being persecuted for reasons of race, religion, nationality or political opinion, is outside the country of his nationality [or habitual residence, for those without nationality] and is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to avail himself of the protection of that country.' For subsequent General Assembly resolutions extending the High Commissioner's competence, see e.g. GA res 3143 (XXVIII), 14 Dec 1973; GA res 1673 (XVI), 18 Dec 1961; GA res 2294 (XXII), 11 Dec 1967; ECOSOC res 2011(LXI), 2 Aug 1976, endorsed by GA res 31/35 of 30 Nov 1976; GA res 36/125, 14 Dec 1981; GA res 44/150, 15 Dec 1988; GA res 48/118, 20 Dec 1993

⁴ 4 Convention Relating to the Status of Refugees (28 July 1951) 189 UNTS 137, (1951 Convention).

⁵ 5 Protocol Relating to the Status of Refugees (31 January 1967) 606 UNTS 267.

⁶ 6 The 1969 OAU Convention refugee definition set out at Article I covers, in addition to those included in the 1951 Convention definition, 'every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.' Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa (10 September 1969) 1001 UNTS 45.

⁷ 7 Conclusion III(3) of the Cartagena Declaration recommends a refugee definition that covers, in addition to those included in the 1951 Convention definition, 'persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.' Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, 22 November 1984.

⁸ 8 Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), 20 December 2011, OJ L 337

⁹ 9 Asian-African Legal Consultative Organization (AALCO), Bangkok Principles on the Status and Treatment of Refugees, 31 December 1966 (final text adopted 24 June 2001).

¹⁰ 10 UN General Assembly, Statute of the Office of the United Nations High Commissioner for Refugees, 14 December 1950, A/RES/428. UNHCR, Note on the Mandate of the High Commissioner for Refugees and his Office, October 2013.

¹¹ 11 Article 1A of the 1951 Convention

¹² 12 UNHCR, Guidelines on International Protection No. 12: Claims for refugee status related to situations of armed conflict and violence under Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees and the regional refugee definitions, 2 December 2016, HCR/GIP/16/12.

- Violence perpetrated by organized gangs,¹³ traffickers,¹⁴ and other non-State actors, against which the State is unable or unwilling to protect;
- Persecution on the basis of sexual orientation or gender identity;¹⁵
- Disasters (including drought or famine) where they are linked to situations of persecution or armed conflict rooted in racial, ethnic, religious, or political divides, or disproportionately affects particular groups.¹⁶

Additional grounds can be found in regional instruments, such as being outside the country due to 'events seriously disturbing public order'. The circumstances that underlie these grounds in a particular situation may equally give rise to refugee status under the 1951 Convention.

Laws (International)

The human society was built around the idea of understanding, acceptance and harmony, so the basis indirectly was to safeguard other person's right. In the simple words we can say that human right was the basis of civilization.

All the legislations which are made to protect the rights of individuals impose the duty on society at large. So was the case with refugees. Apart from the international treaties, conventions and agreement, the complete sense of refugee rights will come in force only when domestic legislations run parallel to international law.

Many countries around the world have their own domestic refugee laws. In India there are no separate legislation which deals with refugees and asylum seekers. Despite of this, India is the home for millions of refugees. Let's take look of some of the legislations related with this topic around the globe.

In United States of America:

The United States Refugee Act of 1980 (Public Law 96-212) is an amendment to the earlier Immigration and Nationality Act of 1965 and the Migration and Refugee Assistance Act of 1962, and was created to provide a permanent and systematic procedure for the admission to the United States of refugees of special humanitarian concern to the U.S., and to provide comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted.¹⁷

The act was completed on March 3, 1980, was signed by President Jimmy Carter on March 17, 1980, and became effective on April 1, 1980. This was the first comprehensive amendment of U.S. general immigration laws designed to face up to the realities of modern refugee situations by stating a clear-cut national policy and providing a flexible mechanism to meet the rapidly shifting developments of today's world policy.¹⁸ The main objectives of the act were to create a new definition of refugee based on the one created at the UN Convention and Protocol on the Status of Refugees, raise the limitation from 17,400 to 50,000 refugees admitted each fiscal year, provide emergency procedures for when that number exceeds 50,000, requiring annual consultation between Congress and the President on refugee admissions, and to establish the Office of U.S. Coordinator for Refugee Affairs and the Office of Refugee Resettlement. Most importantly, it established explicit procedures on how to deal with refugees in the U.S. by creating a uniform and effective resettlement and absorption policy.

¹³ Conflict and Violence Guidelines, above n 10, as well as UNHCR, Guidance Note on Refugee Claims Relating to Victims of Organized Gangs, 31 March 2010.

¹⁴ UNHCR, Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked, 7 April 2006, HCR/GIP/06/07

¹⁵ UNHCR, Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, 23 October 2012, HCR/GIP/12/01.

¹⁶ UNHCR, Legal considerations on refugee protection for people fleeing conflict and famine affected countries, 5 April 2017.

¹⁷ Deborah E. Anker, M. H. (1981). The Forty Year Crisis: A Legislative History of the *Refugee Act of 1980. The San Diego Law Review, 9-89.

¹⁸ Kennedy, E. M. (1981). Refugee Act of 1980. Refugees Today, 141-156.

Purpose of the act: The Act recognizes that it has been the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands and to provide assistance, asylum, and resettlement opportunities to admitted refugees. The goal of the Refugee Act was to create a uniform procedure with which to provide these opportunities to refugees.

Salient features of the act:

- The Act created the position of U.S. Coordinator for Refugee Affairs who was now responsible to the president for the development of overall US refugee admission and resettlement policy.
- Title IV of the Immigration and Nationality Act was amended here when the Act created the Office of Refugee Resettlement, which is responsible for funding and administering federal programs for domestic resettlement and assistance to refugees. The office must make available resources for employment training and placement for refugees to be economically self-sufficient, provide opportunities for English language training, ensure cash assistance, and guarantee gender equality in all training and instruction. The Office must also create grants for these projects, consult with state and local governments about sponsorship and distribution of refugees, and develop a system to monitor the use of government funds using evaluations, auditing and data collection. To receive assistance for programs, the States must first explain how they plan to accomplish the goals of these programs, meet the director's standards, and submit a report at the end of each fiscal year.

In Europe:

The European Union is an area of protection for people fleeing persecution or serious harm in their country of origin.

Asylum is a fundamental right and an international obligation for countries, as recognised in the 1951 Geneva Convention on the protection of refugees. In the EU, an area of open borders and freedom of movement, member countries share the same fundamental values and joint approach to guarantee high standards of protection for refugees.

EU countries have a shared responsibility to welcome asylum seekers in a dignified manner, ensuring that they are treated fairly and their case is examined following uniform standards. This ensures that, no matter where an applicant applies, the outcome will be similar. Procedures must be fair, effective throughout the EU, and impervious to abuse.

However, asylum flows are not constant, nor are they evenly distributed across the EU. They have, for example, varied from over 1.8 million in 2015 to around 142,000 in 2019, a decrease of 92%.

With this in mind, since 1999, the EU has established a Common European Asylum System (CEAS). In 2020, the European Commission proposed to reform the system through a comprehensive approach to migration and asylum policy based on three main pillars

- : • efficient asylum and return procedures,
- solidarity and fair share of responsibility and
 - strengthened partnerships with third countries.

INDIAN APPROACH (LAWS AND CASES)

Legal conditions of refugees in India:

The influx of refugees to India is not only a recent phenomenon. Refugees started flowing into India during the partition in 1947.¹⁹ Though India is not a party to the 1951 Convention Relating to the Status of Refugees (hereinafter 1951 Refugee Convention) and its 1967 Protocol, in the past the Indian Government has always tried to provide prompt relief and rehabilitation to refugees entering India.²⁰ The relief and rehabilitation process for refugees during the partition of India was based on a very holistic approach and was organized at the highest levels of the Indian Government. Thereafter, refugees started coming to independent India from various neighboring countries as well as the Middle East and Africa. However, the assistance that was provided to refugees during partition, and the protection and rehabilitation extended to the first refugee group in India after independence (namely Tibetans), was not available to the refugees who came later, including those arriving today. It was expected that a country influenced by a rich religious and cultural tradition of hospitality (Atithi Devo Bhava), and governed by the rule of law, would be more proactive in ensuring the rights and protection of refugees in this evolving world of international human rights and protection of vulnerable people.

The United Nations High Commissioner for Refugees (UNHCR) estimates the number of refugees currently present in India at around 205,764, of whom only 30,000 are registered with the UNHCR in New Delhi.²¹ India chooses to deal with refugee protection through discriminative administrative measures coupled with strict laws dealing with the expulsion of foreigners. At the same time, there are several constitutional provisions which affirm the rights of non-citizens in the country, along with India's obligation to uphold international law through various conventions, protocols, resolutions, declarations and so forth. The following sections of this chapter reflect upon the constitutional provisions, national laws and administrative measures, and international obligations pertaining to refugees in India.

Constitutional Provisions Dealing with Rights of Non-Citizens:

In the fundamental rights chapter of the Indian Constitution, there are listed several rights available to all persons on Indian soil irrespective of nationality. These rights are: equality before the law (Article 14), protection in respect of conviction for offences (Article 20), protection of life and personal liberty (Article 21), the right to education (Article 21A), protection against arrest and detention in certain cases (Article 22), prohibition of traffic in human beings and forced labor (Article 23), prohibition of employment of children in factories (24), freedom of religious practice and so on (Articles 25–28). It is important to note that only Article 14²² and Article 21²³ from the above list have been emphasized in the protection of the rights of refugees in India by the Supreme Court of India in various cases.

In the matter of refugee rights, “it can be argued that Article 21 encompasses the principle of non-refoulement which requires that a State shall not expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”²⁴

The Laws Dealing with Foreigners:

There are several pieces of legislation dealing with entry, stay and exit (or removal) of foreigners in India. As there is no specific legislation that defines the term refugee or establishes provisions for dealing with refugee protection, India relies on laws dealing with foreigners to deal with refugees.

¹⁹ B.S. Chimni (ed), *International Refugee Law: A Reader* (SAGE, New Delhi 2000) 462

²⁰ *Ibid.* 463; see generally Kanti B Pakrasi, *The Uprooted: A Sociological Study of the Refugees of West Bengal, India* (Indian Statistical Institute, Calcutta 1971) 1.

²¹ UNHCR Subregional Operations Profile—South Asia (2015).

²² Equality before law: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India

²³ Protection of life and personal liberty: No person shall be deprived of his life or personal liberty except according to procedure established by law.

²⁴ B.S. Chimni, 'The Legal Condition of Refugees in India' [SAGE, 1994] 7 *Journal of Refugee Studies* 378, 380.

The first piece of legislation that should be mentioned is the **Passport (Entry into India) Act, 1920**. This Act mandates that every individual entering India by water, land or air shall be in possession of a valid passport. In case of contravention of the rules made under this Act, there will be punishment of imprisonment—which may extend to three months—a fine or both. Under this Act, any police officer not below the rank of sub-inspector or any customs officer empowered with the general or specific order of the Central Government can arrest without warrant any person who has violated the rules or orders made, or of whom a reasonable suspicion exists. The Central Government also has exclusive power to make special or general orders to remove any person from the territory of India in case of violation of the rules.

To deal with the provisions of this Act, the government also enacted the Passport (Entry into India) Rules, 1950, which extend to the whole of India, requiring a proper visa in addition to a valid passport to enter India.

The Registration of Foreigners Act, 1939 was enacted to provide for the registration of foreigners entering, staying in and departing from India. In this Act, for the first time a foreigner is defined as a person who is not a citizen of India.

To operationalize the provisions of the Act, the government further enacted the **Registration of Foreigners Rules, 1939** and further restructured it in 1992. In general, this Act and the Rules require every foreigner who enters and stays in India for more than 180 days to register as per the prescribed format and in time with the Foreigners Registration Officer (FRO) of that jurisdiction, and each time they change address or leave India, they must receive authorization from the FRO. In case of contravention or attempts to contravene, or failure to comply with the provisions and rules of this Act, there shall be punishment in the form of imprisonment for a term of up to one year, a fine of up to one thousand rupees or both.

Another piece of legislation widely used in dealing with foreigners is the Foreigners Act, 1946. Under this Act, the Central Government is vested with the power to make rules and order the prohibition, regulation or restriction of the entry, stay and departure of any foreigner or class of foreigner in India. With the power granted **under Section 3 of this Act**, the Central Government enacted the Foreigners Order, 1948. In this Act, for the second time, a foreigner was defined as any person who is not a citizen of India.

The most important provisions affecting the life and liberty of any refugee or stateless person under this Act are those related to the determination of nationality. Under this Act, if any question arises about the nationality of a foreigner, the determination of nationality depends on the decision of the concerned authority as to which country the foreigner is connected with, and that decision cannot be challenged in any court of law. The penal provision of this Act is much stricter than that of the other two Acts mentioned above, as any contravention of the provisions, rules or order made under this Act is punishable by imprisonment of up to five years.

Another provision that makes this Act central to the regime of entry, stay and departure (or removal) of any foreigner in India is that the provisions of this Act or the rules made under this Act shall be in operation along with the provisions of the Passport (Entry into India) Act, 1920 and the Registration of Foreigners Act, 1939.

Considering the inner meaning of the restrictive provisions of the laws dealing with foreigners in India mentioned above, it is clear that the legal provisions that apply to every foreign national should not apply to a person who is entering India as a refugee or asylum seeker, as these laws at the first instance treat that person as a violator of the laws and rules discussed above. As a consequence, the refugee or asylum seeker is detained and prosecuted prima facie without the chance to put forward his or her claim to refugee status.

International Obligations:

The protection of refugees in India is at times very generous and based on compassion, but ultimately it is discriminatory on the basis of refugees' country of origin, date of admission, place of entry and so forth.²⁵ Though India is not a signatory to the 1951 Refugee Convention, it has entered into various international human rights law agreements that put some constraints on unequal treatment of non-citizens and refugees. There is a significant body of international law that has elaborated the principle of non-discrimination as a non-derogable norm that prohibits discrimination on the basis of race, ethnicity and other related criteria.

²⁵ Emphasis could be laid down on the policy towards Tibetans, Sri Lankans (before the assassination of Prime Minister Rajiv Gandhi), and Bangladeshis during the 1971 war and the present policy towards the minorities of Pakistan and Bangladesh.

India's accession to the International Covenant on Civil and Political Rights (ICCPR),²⁶ the International Covenant on Economic, Social and Cultural Rights (ICESCR)²⁷ and the Convention on the Rights of the Child (CRC),²⁸ and its ratification of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)²⁹ and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),³⁰ have excelled the quantum of protection from the idea of compassion to rights.

Response of judiciary towards refugees in India: Decisions of High Courts and the Development of Precedence

There are over one thousand cases initiated by refugees or related to refugees present in India that have come in front of various High Courts of India. It is important to note that with the exception of some sixty cases, all were against decisions of state or other parties under the Acts which were enacted for rehabilitation of displaced persons during the partition of India.³¹ There are very few cases concerning refugees that have come to various High Courts of India under the Acts which were enacted under Entries 14, 17, 18 and 19 of List One of Schedule 7.³² The matters covered under these cases include rights of refugees against deportation and detention, resettlement, repatriation, right of compensation, right to livelihood, acquisition of citizenship and so forth. After careful analysis of the judgments of these cases, some are discussed in the following paragraphs under different categories. These cases reflect the protection of refugees in India and show the extent of protection under humanitarian considerations and international developments by defining the government's power to deal with foreigners exclusively under various central laws.

Settlement/Compensation:

In the case of *Khudiram Chakma v. Union Territory of Arunachal Pradesh and Ors*,³³ the petitioner explained that he along with fifty-six Chakma families migrated from East Pakistan (presently Bangladesh) on March 30, 1964 due to ethnic disturbances. They were first given shelter in a government camp in Assam, thereafter taken to Bettiah of Bihar and finally taken to Abhayapur Block, Tirap District, Arunachal Pradesh in 1966. These families were able to negotiate with the local Raja about their situation, and the Raja gave them some land to cultivate. In 1984 the Chakmas received an order from the state government to move from Joypur village to the vacant lands of two other villages.

On the first issue of this case, the court, after analyzing the provisions of the Constitution of India and the Citizenship Act, 1955, came to the conclusion that the Chakmas are not citizens of India, so they are foreigners.³⁴ The second issue, of the state government directing the Chakmas to move to another place, was also upheld by the court in connection with the Foreigners Act, 1946 and the Foreigners Order, 1948. In this regard the court also relied on Regulation 5 of 1873, Scheduled District Act 1974, that no person other than

²⁶ International Covenant on Civil and Political Rights (adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI) of December 16, 1966, entry into force March 23, 1976, in accordance with Article 49). India acceded to the Convention on April 10, 1979.

²⁷ International Covenant on Economic, Social and Cultural Rights (adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI) of December 16, 1966 entry into force January 3, 1976, in accordance with Article 27). India acceded to the convention on April 10, 1979.

²⁸ Convention on the Rights of the Child (adopted and opened for signature, ratification and accession by General Assembly Resolution 44 (XXV) of November 20, 1989 entry into force September 2, 1990, in accordance with Article 49). India acceded to the convention on December 11, 1992.

²⁹ International Convention on the Elimination of All Forms of Racial Discrimination (adopted and opened for signature and ratification by General Assembly Resolution 2106 (XX) of December 21, 1965 entry into force January 4, 1969, in accordance with Article 19). India signed the convention on March 2, 1967 and ratified the convention on December 3, 1968

³⁰ Convention on the Elimination of All Forms of Discrimination against Women (adopted and opened for signature, ratification and accession by General Assembly Resolution 34/180 of December 18, 1979 entry into force September 3, 1981, in accordance with Article 27(1)). India signed the convention on July 30, 1980 and ratified it on July 9, 1993 with reservations

³¹ Constitution of India, 1950, Concurrent List, Entry 27: Relief and rehabilitation of persons displaced from their original place of residence by reason of the setting up of the Dominions of India and Pakistan

³² Constitution of India, 1950, Union List, Entry 14: Entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries; Entry 17: Citizenship, naturalization and aliens; Entry 18: Extradition, Entry 19: Admission into, and emigration and expulsion and passports and visas.

³³ High Court of Gauhati, AIR 1992 Gau 105, Decided on: April 30, 1992.

³⁴ Ibid. Para.16-18.

a native has any right to acquire land or the product of land within the inner line.³⁵ On the third issue, the Court decided that the decision taken by the government was in conformity with the provisions of the Constitution of India and other laws dealing with foreigners.³⁶ However, on humanitarian grounds the court ordered the state government to compensate the Chakmas for the land they had prepared for cultivation. The government also ordered that all arrangements be made for the construction of housing and a water facility before shifting the Chakmas to the new place.

However, this decision was challenged in the Supreme Court of India, which generated additional litigation and finally resulted in the landmark judgment on refugee protection by the Supreme Court of India.

Detention:

The case of *Ramsingh v. State of Rajasthan* is a revision petition before the Court.³⁷ The petitioner is a Pakistani citizen who came to India during the 1971 war and stayed at a refugee camp. It is alleged by the state that the petitioner crossed the border back into Pakistan in 1972 and then re-entered Indian Territory in 1973, and thus he was charged under Section 14 of the Foreigners Act, 1946 and Rule 3 of the Passports (Entry into India) Rules, 1950. The petitioner was convicted and sentenced to rigorous imprisonment by the Chief Judicial Magistrate, which decision was further affirmed by the Sessions Judge in 1977. In this case the court, after careful examination of the records of the lower court, found no evidence to prove the petitioner had left India in 1972. Finally the court held that the petitioner was entitled to the benefit of the doubt and acquitted him of the charges.

SUGGESTIONS AND CONCLUSION

Despite the achievements of resolving displacement over the years, the numbers of refugees continue to increase day by day. Due to which the refugee situation of the world is still incurable. Today's refugee problem is fundamentally different from before. Besides the traditional reasons for the refugee problem, many new causes have increased in forced displacement, such as wars between nations, internal wars of armies, environmental change, poverty, geographic degradation, and governments emphasizing their sovereignty lead to creating the refugee problem. Since the consequences of the causes related to the contemporary refugee crisis, it has been strongly felt that the diagnosis of refugee issues and other problems has to be explored in an integrated manner. There should be a detailed action plan that includes the country of origin of the refugee and the host country of the refugee, and prevention, protection, and solution should be included in their periphery and supplemented by regional efforts. Along with international participation, the following tasks are also mandatory.

- Do Agreement on the obligations to the first refugee country whose ultimate goal is to establish common areas for asylum on humanitarian reasons.
- Initiative to initiate mediation and reconciliation in case of conservative conflict, thereby preventing it.
- The principle of burden-sharing to follow by all developed and developing nations.
- Encourage all nations to use the durable solutions by UNHCR.

³⁵ Ibid. Para.19–22.

³⁶ Ibid. Para.23–31

³⁷ High Court of Rajasthan, 1978 WLN (UC) 90, Decided on: March 15, 1978.