CONCLUSION
AND
SUGGESTIONS
"CONCLUSION AND SUGGESTIONS"

A few conclusions and suggestions arising out of this study have already been made at appropriate places; however, in this chapter many of them have been collected together. The displacement of people from their own land and their assimilation elsewhere has been an unending feature of the story of mankind. Such displaced persons are called refugees. They are, in fact, the uprooted, homeless persons lacking national protection and status, having left their countries of origin, nationality, membership of a particular social group or political opinion and seek refuge or asylum in another country. Their problem is international in character because the phenomenon involves the movement across international borders and it cannot be solved without international co-operation. The refugee crisis which is now prevalent in all parts of the world has its own causes and explanation. The most important factor that is behind the crisis is precaution or fear of persecution that one suffers in his own country. Persecution means denial of human rights. When persecution becomes intolerable the outcome is the outflow from one’s homeland.1 The refugee’s problem is a serious international issue with diverse and complex socio-political, economic and religious reasons contributing to it.

Main issue regarding refugees is the respect for their human rights. The global community has shown due concern for the refugee’s rights. But it is not sufficient to make provisions for human rights; there should be a mechanism for their proper implementation. Human rights are those rights which an individual has because of his being a human being. It is one of the primary obligations of the state and the international community to protect and make possible due enjoyment of such rights.2 The refugee issue with its sheer numbers and intensity

2. Id. at p. 203.
merits serious concern and attention of the international community. It is inextricably intertwined with the human rights violation of which causes the painful plight of the refugees in the form of exodus from their usual habitats. It has been found that human rights violation are a major factor in causing the flight of people as well as an obstacle to their safe and voluntary return to their home.

The first chapter of this study highlighted the concept of human rights and refugee along with the importance of human rights of refugees at international level. An overview of the refugees in India is also taken into consideration along with the law pertaining to their rights. A brief description of Tibetan refugees is also given in this chapter.

Human rights are understood as those inherent rights of an individual which are essential for the development of human dignity and personality. Because of their immense significance to human beings, human rights are also called "fundamental rights" or 'Natural Rights' or Basic Rights.

Today 'human rights' as understood generally refer to those rights possessed by human beings because they are human being. The human rights are the birth rights of people the world over. They are inherent, inalienable and universal. So the term 'human rights' covers in its ambit those essential rights, defined or undefined which lead and contribute to the balanced development of human beings, irrespective of their caste, creed, religion, sex and nationality, etc. This means that all human beings are in possession of human

3. Ibid
rights and so the practice of human rights has to basically involve equal treatment of all by all.

The global movement of human rights is founded on and inspired by the United Nations Charter. The immense work has done by the United Nations in the area of human rights in the past is a proof of United Nation's concern for human rights. In the language of United Nations Centre for Human Rights, "Human rights could be generally defined those rights which are inherent in our nature and without which we cannot live as a human being."

The Universal Declaration of Human Rights under article I say: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in the spirit of brotherhood." Further the World Conference on Human Rights in 1993 in Vienna stated that, "All human rights are derived from the dignity and worth inherent in the human person, and that the human person is the central subject of human rights and fundamental freedom." In India, the Protection of Human Rights Act, 1993 has defined the term Human Rights under section 2(d) as: "Human rights means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution or embodied in the international covenant and enforceable by the courts in India." Above all, human rights are fundamental in one's nature and in the absence of these rights one cannot live as human being.

Further in this chapter, the term refugee is defined. Broadly speaking, a refugee is a person or an alien, who finds himself outside his country of origin or habitual residence for reason of persecution or

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8. Ibid
10. Supra n. 5.
violation of human rights or due to disaster natural or manmade.  

So a refugee can be a man, a woman or a child who has been forced to leave his or her home and country because of well founded fear of persecution on the ground of race, religion, nationality, sex, membership of a particular social group or political opinion. Refugees and displaced persons are among the most tragic victim of social disintegration which uprooted people. Further discussion in the chapter reveals that the main issue regarding refugees is the respect for their human rights. The global community has shown due concern for refugee’s right, which is evident from the existing international legal frame work on refugees. Which recognize a variety of basic human rights to refugees. Further the humanitarian assistance of International Organizations is very helpful to solve the problem of refugees to some extent. Although there are international institutions for the protection of refugees, still ultimately the protection of refugees depends on individual states that have to follow their respective national legislation. States have the responsibility to protect refugees by reason of their accession to international instrument. But if these states are not parties to the Conventional international law, they should protect the fundamental human rights of refugees under customary international law.

The Conventions or international treaties that the United Nations had adopted are legally binding on all the signatory nations. The primary standard of refugees’ status today is derived from the 1951 Convention relating to the status refugees. It must be stressed that

16. Id., at 120.
basic Conventional law concerning refugee hark back to the 1948 Universal Declaration of Human Rights. In this context, refugee law is essentially human rights based and is without question the international community's single most effective mechanism of human rights protection. The Conventions and Protocol at international as well as at regional level gave immense rights to the people who are living in other countries as asylum seekers.

Further this chapter narrates the condition of refugees in India and law pertaining to their human rights. Since India gained independence, India has hosted some of the largest refugee movement in history, including the massive flows between India and Pakistan in 1947 during partition, when more than 10 million refugees came in the country after the partition and million left the country to establish themselves in newly established state of Pakistan. India had faced another refugee influx in 1959 of Tibetan refugees with takeover of Tibet by China. Apart from these refugees in India, there are refugees like Sri Lankan, Afghans, Chakmas, Iranian, Burmese and Sudanese etc. India has given humanitarian assistance and protection to millions of refugees who came to India. But in present scenario the movement of refugees and displaced persons have seriously affected India and the issue of protection, preservation and promotion of their human rights on 22 April 1954, in accordance with Article 43 text: United Nations treaty Series No. 2545, Vo. 189, p. 137.

18. Supra n. 5, at 725.
19. The different conventions and treaties that deals with the humans rights of refugees at international as well as regional level are given below:
   i) Universal Declaration of Human Rights.
   iv) Human Rights of Refugees Under Regional Arrangement:
      a) The Organization of African Unity (OAU)
      b) The Organization of American States (OAS)
      c) The Council of Europe (COE)
20. Supra n. 15 at 104.
becomes a stupendous and unwieldy task for India. It is well known that India is not signatory to the 1951 Convention relating to the status of Refugees, and the Protocol of 1967 and did not formally recognize the presence of the United Nations High Commissioner for Refugees (UNHCR) on its territory. There is still date no domestic law or procedure governing the protection of refugees in India. However, India has acceded to other international instruments whose provisions are relevant to the rights of refugees, for this reason India cannot refuse asylum to bonafide seeker's of shelter from other countries, consistent with India's commitment to human rights.22 In India refugees are treated under the law applicable to aliens.23 Almost all human rights of the refugees are recognized by the Indian Constitution, i.e. *equality before law or equal protection of law*,24 *right to life and personal liberty, etc.*,25 *protection against arrest and detention*,26 *rights against traffic in human beings*,27 *Religious freedom*28 and *right to constitutional remedies*,29 etc.

Judiciary has also played a constructive role in protecting the interests of the refugees and has sought to fulfill the void created by the absence of domestic legislation by its land mark judgments in the area of refugee protection.30 The Constitution of India really enables the Indian courts to accord due recognition to human rights.

23. The Principle Indian Law relevant to refugees are: Forigners Act, 1946 (Section 3, 3A, 7, 14); Registration of Foreigners Act, 1939 (Section 3,6); Passport (Entry into India) Act, 1920; Passport Act, 1967; Extradition Act, 1962; The Protection of Human Rights Act, 1993.
25. Article 21 of Indian Constitution.
26. Article 22 of Indian Constitution.
27. Article 23 of Indian Constitution.
28. Article 25 of Indian Constitution.
29. Article 32 and 226 of Indian Constitution.
Study further focus on the human rights of Tibetan refugees in India in general and specifically in Dharamshala settlement. Tibetan refugees were the first recognized stream of international refugees in India after independence. They were granted official refugee status by the Government of India and thus legally permitted to stay in India and are often considered to be in more advantageous position than other refugees in India.\textsuperscript{31} Today the support from the government of India has resulted in self-sufficient Tibetan refugees in India and they are by and large content and well settled in 37 settlements in India.\textsuperscript{32}

Tibetan refugees were granted asylum by the Government of India under the principle of non-refoulement. Tibetans were issued "Indian Registration Certificate" in a prima facie basis under executive decision. This certificate serves as an identity document and a residential permit. Registration Certificates have not been issued to Tibetans who arrived in second and third waves of mass influxes.\textsuperscript{33} In recent years the increasing population of Tibetan has become problem to India, in addition to the increasing number of birth in exile, there is constant flow of new Tibetans refugees from Tibet. Even then India is providing the basic need to Tibetans, mainly shelter and opportunity for an economic livelihood.

In this study it was observed that Tibetan refugees in India are generally able to lead productive and peaceful lives and government of India does not harass or mistreat Tibetans, nor does it threaten to return Tibetans to Tibet. Almost all the basic human rights are available to the Tibetans refugees despite there is no legislation in India dealing exclusively with the status and rights of refugees. They are quite contented and happy with the rights provided to them in India.

\textsuperscript{32} Supra n. 15 at 153.
\textsuperscript{33} Satish Kanitkar, Refugees Problem in south Asia, 2000, p. 234.
In the second chapter discussion reveals the evolution of the human rights in different periods with the development of refugee problem worldwide. The factors responsible for refugee problem are also discussed in detail. It also gives the historical background of Tibetan refugees and the causes of their migration to India. The historical development of Tibetan settlement at Dharamshala is also discussed.

Human rights are a concept that has been constantly evolving throughout human history. They were termed as 'jus naturale' for Romans, 'lex naturalis' for medieval Christian’s thinkers, 'Rita' and 'Dharma' for ancient Hindus, and in christened as 'Natural law' by modern jurists. Looking at the concept of human rights from a historical perspective, it would be seen that human rights are there in different religions all over the world, but the position of men was not good. In the middle ages a small number of Acts were enacted to show the superiority of natural law and natural rights. But the most influential commitment of this kind was in English Magna Carta of 1215 A.D. followed by petition of rights (1628) and the English Bill of Rights (1689), The American Declaration of Independence (1776), The Virginia Declaration of Rights (1776), The American Bill of Rights (1791) and French Declaration of the Rights of Man of 1789 led other European countries to include the provisions in their laws for the protection of human rights. The Russian Revolution of 1917, The Mexican Constitution of Republic of 1917, The Constitution of the Republic of Spain of 1931 covered the area of civil rights in which human rights at least were noted on paper, though they remained abstract. It cannot, however, be denied that during this period many attempts were made to promote and universalize human rights.

35. It has been claimed that the history of human rights began with the Magna Carta on 1215 A.D., (The original Carta was in Latin Consisted of 70 clauses).
It was in 1919, initiative was taken by the 'League of Nations' for the promotion of human rights, when the wide-spread destruction caused by the World War II gave impetus to a new move for the establishment of respect for human rights. Finally it was the San Francisco Conference held in which the charter of the United Nations had emerged with the provisions for promoting and encouraging respect for human rights and fundamental freedoms for all without distinction to race, sex, language or religion. It was on 10 December 1948, when United Nations adopted Universal Declaration of Human Rights (UDHR) "as a common standard of achievement for all people and all nations.

In Indian context, it can be stated that there was a rich jurisprudence of human rights in ancient India. The basis of human rights was 'Dharama', which was totally concerned with humanity. From the time immemorial Indians have a rich 'human culture' it was from this holy land that the highest ideal of human rights was echoed: "^\textsuperscript{38}Los\textsubscript{2} HkoUrq lqf[ku\%*:*}" that let all people be happy." During the middle ages, because of political upheavals and dynastic clashes the concept of human rights got lost and no respect was paid to the rights of people. So the concept of human rights got lost on its way, in the dark and narrow alleys of the middle ages. It was in the late medieval period, the principles of human rights and humanitarian ideas and policy emerged. But the modern version of human rights jurisprudence has taken birth at time of British rule. It was in 1895, when the first explicit demand for fundamental rights appeared in the Constitution of India Bill. A glimpse of human rights in the form of fundamental rights and

\[37. \text{Supra n. 5 at 649.}
\[40. \text{Id. at 143 & 149.} \]
Directive Principles may be found in the bill itself. India became independent in 1947 and adopted its Constitution on 26th January 1950. The framers of the Constitution of India incorporated a number of rights which are now well known as "Human Rights" in the Constitution itself. Further, the judiciary and National Human Rights Commission (NHRC) also played a role in the protection of human rights. The Protection of Human Rights Act, 1993 created an atmosphere for the promotion of human rights in society and it raised the respect for human rights throughout the nation. Further, it is indeed commendable that India being a developing country has become a party to a number of human rights Conventions and is to be in the forefront of the worldwide human rights movements.

This chapter further focuses on the historical development of refugee problem. It is impossible to provide a comprehensive historical overview of refugee problem. Even then, the historical background of the refugee problem in different parts of the world can give us an idea about migration of people. Historically, most refugee problems were caused by racial or religious or political conflicts which developed into threats to life and liberty, of the people compelling them to be refugees. In medieval times and especially since the reformation, religious refugees have constituted significant number. But there was no refugee problem till the emergence of fixed and closed frontiers in the late nineteenth century. But in the late twentieth century with the rise of communism and fascism and the occurrence of two World Wars, which led to massive amounts of forced migration, refugee problem emerged again.

That is why twentieth century is known as the "Century of the Homeless Man", but it is also marked as the period in which numbers of

44. Id. at 64.
successful attempts were made to define the situation of the homeless man: to define the right to asylum, and to make Conventions and covenants guaranteeing refugee status and the right of asylum. \(^\text{46}\)

Over the past nearly five decades the world has faced a series of refugee crisis rather different from those, which followed in the wake of the Second World War. They have differed in scale involving millions of persons and they have generally affected many Asian, African, Middle East and Central American Countries which even at the best of times found it difficult to cope with the problems of their own. \(^\text{47}\) By the end of 2006, there were estimated 9.9 million refugees. One year later, the global figure of refugees stood at 11.4 million, including 1.7 million people considered by UNHCR to be in a refugee like situation. At the end of 2007, roughly one third of all refugees were residing in countries in the Asia and Pacific region. \(^\text{48}\)

In India, the moral and philosophical basis of refugee regime was present in Ancient Indian thought. Our ancient culture and heritage has been '\textit{Attihi Devo Bhawa}, means 'Guests are Gods.' Throughout our 5000 years old known history we have always welcomed refugees with open arms and given them a place of honour and dignity in our society. \(^\text{49}\) So the history of India has witnessed a large scale of migration of people from other countries and continents. The traumatic birth of Modern India resulted in large scale population movements. More than 10 million refugees came to India after the division of this country and million left the country to go to the newly established state of Pakistan. \(^\text{50}\) India had faced another refugee influx in 1959 of Tibetan refugees. After

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\(^\text{47}\) Supra n. 13 at 331.
\(^\text{50}\) Supra n. 33 at 9.
that, another massive influx in 1971 when more than 10 million refugees from the erstwhile East Pakistan which emerged as the independence state of Bangladesh, reached India as refugees. Then again India was once again severely affected by the influx of thousands of refugees from Sri Lanka, Afghanistan and Bangladesh since, 1983 and 1986 respectively.\(^{51}\) The riots of 1983 in Sri Lanka created a huge problem, 1, 34,035 Sri Lankan arrived in India as refugees. Most of them sought asylum in State of Tamil Nadu in South India. In 1986, over 70,000 tribal have fled their habitats of Chittagong Hill of Bangladesh and took refuge in the neighbouring Indian states of Tripura and Mizoram.\(^{52}\) Beside these refugees in India, there are also refugees like Vietnamese, Ethiopian, Somalian, and Indo-Chinese, Sudanese and many others in small numbers who are as looked after by the United Nations High Commissioner for Refugees (UNHCR).\(^{53}\)

If one analyzes the Indian approach to refugees, it has been a very positive one inspite of the domestic constraints in terms of societal imbalances and economic resources. As India has not acceded to the 1951 Convention relating to the status of refugees or the 1967 Protocol, even then India has done positive work so far for the refugees and in fact continue to do so. In this regard, the pre-constitutional laws like the Foreigner's Act, 1939 and the Registration of Foreigners Act, 1946, the Passport (Entry into India) Act, 1920 are being still relied upon by the Government of India in the treatment of refugees.\(^{54}\)

Study in this chapter further reveals the causes behind the mass exodus of persons i.e. refugees. It comes out from the study that people flee their countries for a variety of reasons and usually as a result of a combination of factors rather than a single one. Factors identified as

51. Supra n. 15 at 169.
52. Ibid
54. V. Vijay Kumar, "The Need for a National Legislation on Refugees", in Round Table Workshop on Refugees in the SAARC Region: National Legislation on Refugees, 30 April 1998, New Delhi, p. 30.
being responsible for creating refugee problem are: Anti – colonial wars and self – determination movements, International conflicts, Revolutions, coups and Regime Changes, Ethnic and Tribal Conflicts, Partition of States, Violation of Human Rights, Economic Situation, Expulsion of Minority Groups and Population Transfer.\textsuperscript{55}

Further chapter discuss in detail historical background of Tibet and asylum of Tibetan refugees in India. Tibet is a land in South – Central Asia. It is called the roof of the world because of its snow – covered mountains. Tibetan Highlands cover an area of about 900,000 square miles. But its area in 1950 was about 5, 00,000 square miles.\textsuperscript{56} Religion had been the keynote of Tibetan culture. The majority of Tibetans professes Mahayana Buddhism and is followers of Lamaism.\textsuperscript{57} The culture of Tibet is greatly influenced by India. Tibetans art, paintings, sculptures, philosophy to a large extent is a continuation of Indian traditions.\textsuperscript{58} Politically, Tibetans were ruled by an unusual form of feudal theocracy\textsuperscript{59} that was both centralized and decentralized.\textsuperscript{60} At the time of its invasions by the people’s Liberation army of China in 1949, Tibet was an independent country. By the end of 1950, the Chinese attacked Tibet and within year they achieved what they called “liberation of Tibet”: Tibet lost its independence. China’s continue occupation of Tibet with the help of Troops, represents an on – going violation of international law and human rights of the Tibetan people.\textsuperscript{61} Since 1959, along with Dalia Lama a large number of Tibetans fled from Tibet and they were settled in India and also other countries of the South Asia.

\textsuperscript{55} Supra n. 53 at 13 – 19.
\textsuperscript{56} Helmut Hoffmann, Tibet – A Hand Book, 1975, p. 1.
\textsuperscript{57} Rajesh Kharat, Tibetan Refugees in India, 2003, p. 14 also see, T.N. Giri, Refugee Problem in Asia and Africa: Role of UNHCR, 2003, p. 201.
\textsuperscript{58} Id. at 15.
\textsuperscript{59} Theocracy – means a religious kingdom.
\textsuperscript{60} H.E. Richardson, Tibet and its History, 1969, p. 18 also see, Dr. Hari Bansh Jha, Tibetans in Nepal, 1992, p. 10.
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The analysis of the Study reveals the reasons for Tibetans exodus to India were as follows: denial of professing and practicing Buddhism and maintaining their way of life; and atrocities committed by the Chinese in Lhasa; obstructing endogamous marriage among the Tibetans; to avoid humiliation and indignities in front of own people, insecurity over the future;\(^6\) and denial of education. Thus all the reasons mentioned created a sense of insecurity and led to their migration.

Tibetan displacement has been noted in two phases. The first was the displacement in 1959, and the second was the exodus in the early eighties. The first batch of Tibetan crossed over the India on March 1959, when 85,000 Tibetans with their spiritual and temporal leader, the Dalia Lama, took asylum in India. The second exodus started in the early eighties, when Tibet was open to trade and to tourism. During 1986 - 1996, 25,000 Tibetans arrived in India.\(^6\) Till date Tibetans are continuously coming from Tibet. Influx of a large number of Tibetan refugees created problem for India. However Government of India provides relief to the thousands of Tibetans who were crossing the border.

Tibetans are probably the only refugee community who do not live in refugee camps but in settlements. Tibetans in India live in 37 settlements and 70 scattered communities. These settlements are established on land granted by the Government of India in Himachal Pradesh, Ladakh (J&K), Arunachal Pradesh, Karanatka, Uttar Pradesh, Madhya Pradesh, South Sikkim, West Bengal, Maharashtra and Orissa. There are three types of Tibetan refugees settlements i.e. agriculture based, agro – industry based and handicraft based settlements. The scattered communities consist of smaller group of Tibetans outside the

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\(^6\) Supra n. 53 at 197 – 198.
\(^6\) M.G. Chitkara, Human Rights: Commitment and Betrayal, 1996, pp. 97 – 98.
official settlements. In the process of dispersal of the Tibetans to several places in India, Dharamshala, in district Kangra, Himachal Pradesh, in North India was one of the places selected for the purpose and is one of the largest settlements of Tibetan refugees in North India. It is also the residence of His Holiness the Dalai Lama. When His Holiness the Dalai Lama, fleeing persecution in his homeland and took asylum in India, he made it home in exile and moved the Central Government in exile from Mussoorie to Dharamshala in 1960. Majority of Tibetan communities lives in upper Dharamshala. Now there are more than 8000 Tibetans living here. This covers the whole of Dharamshala and Kangra District. In McLeod Gunj alone there are about 5000 Tibetans. It is no wonder that Dharamshala the one of the largest settlement of Tibetans and headquarter of the Dalai Lama is known as "The Little Lhasa."

Today, streams of Tibetan refugees from all over the world flock to McLeod Gunj to receive blessing and teachings from His Holiness the Dalai Lama. In the Light of all this, it is clear that India has quietly shown its support for Tibetans human rights and has given humanitarian assistance and protection to them.

The third chapter explains the refugee status and its allied concept in various international instruments relating to refugees. Refugee law is not about facilitating migration. Its goal is to deliver safety for the duration of a serious risk, to ensure a life in dignity for refugee until and unless they can safely return to their homes. So, the international refugee law should be understood as a system of human rights protection of persons, who are compelled to leave their own country. The refugee law is based on the principle declared in the preamble of the United Nations Charter which reaffirms "faith in fundamental human rights, in the dignity and worth of the human

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64. Supra n. 57 at 54 – 55.
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person... to promote social progress and better standard of life in larger freedom.”

Refugee status is defined in various international instruments relating to refugees. The early international instruments defined refugees by categories, according to their national or ethnic origin. Refugee status is also defined in regional instruments, and also in the constitution or in the ordinary legislation of a number of countries. Although there is no single definition of refugee that is suitable to all, but all refugees have common characteristics; they are uprooted, they are homeless and they lack national protection and status.

Therefore, a ‘refugee’ is usually thought of a “person compelled to flee his state of origin or residence due to political troubles, persecution, feminine or natural disaster.”

It was in 1951, when the Convention on the status of refugee, for the first time, offered a general definition of refugees, and by the 1967 Protocol, extended its protection to such persons irrespective of nationality or geographical location. The Convention affirms “The Principle that human beings shall enjoy fundamental rights and freedom without discrimination.” But due to the absence of any effective international agency for the protection of refugees in different regions worldwide, it is felt that there is need for the existence of regional arrangement for refugee protection. Thus some regional groups have enacted standards of refugee protection that extend the Convention definition of refugees to meet the peculiar regional conditions. The four

66. Supra n. 15 at xii.
67. Id. at 23.
68. The Refugee is perceived as a person who has been forced to leave their country or home because there is a war or for political, religious or social reasons, oxford Advanced Learner’s Dictionary (sixth ed.) 2009, p. 1068.
regional Conventions are: The organization of African Unity (OAU), The Organization of American States (OAS), Council of Europe (COE), and Principles concerning Treatment of Refugees (1966 Bangkok Principle).

Apart from the international instruments and regional arrangements, the refugee is also defined by international agencies to look after the issues of refugee protection. They are mainly International Refugee organization (IRO) and United Nations High Commissioner for Refugees (UNHCR). United Nations High Commissioner for Refugees includes a very similar definition of 'refugee' as the 1951 Convention. However, over the time UNHCR's mandate has been expanded by the UN General Assembly to cover other groups in "refugee like" situation, that normally not fall within the office's competence (including some internally displaced persons).

The Conventional obligation to protect refugees is undertaken by a large number of countries. The definition of refugee in


71. In 1980, the outbreak of civil strife in Central America resulted in massive exoduses of million people to neighbouring countries in search of protection and assistance. Responding to the demands created by this unprecedented situation, the countries concerned initiated a process of identification and implementation of humanitarian measures for the protection and assistance of the refugees, which was resulted in the form of Cartagena Declaration on Refugees, in November 1984, which contains a set of Principles and criteria for the protection of assistance of refugees; as cited in Manik Chakrabarty, Human Rights and Refugees: Problems Laws and Practices, (2001), p. 34.

72. The council of Europe (COE) expressed its concern in regard to the situation of "de facto refugees", that is, persons who either have not been formally recognized as convention refugees, or who are unable or unwilling for other valid reasons to return to their countries of origin; as cited in T.N. Giri, Refugee problems in Asia and Africa: Role of UNHCR, (2003), p. 28.

73. In March 1964, the Government of the Arab Republic of Egypt by a reference made to the Asian – African Legal Consultative Committee (AALCC) under mandatory provisions of its Statutes, requested it to consider the question of status and treatment of refugees and make its recommendations thereon. The immediate objective behind that reference was primarily to be advised on the appropriate standard of treatment for a large number of Palestinian refugees who had sought and been given asylum on Egypt Soil. The issues before the committee were however broadened to those in Asia and Africa, at the initiative of the United Nations High Commissioner for Refugees which has led to the adoption of a set of recommendation known as the "Bangkok Principles, 1966". As cited in B. Sen, "Protection of Refugees: Bangkok Principles and After", Vol. 34, No. 2., Journal of the Indian Law Institute,1992, p. 187.

the 1951 Convention and Protocol has been incorporated into the domestic laws by some countries.

For the refugee protection the determination of the refugee status is essential. The determination of refugee status will depend on the instrument under which the process of determination is conducted. The 1951 Convention or 1967 Protocol along with the definition of 'refugee' also provided an established criteria and procedure for the determination of refugee status. The important criterion in the definition is that a person claiming refugee status should be outside the country of his origin owing to well founded fear of being persecuted for certain reasons. So the fear of persecution and lack of protection remains the two main factors for determining the criteria for refugee status.\textsuperscript{75}

Further the statute of UNHCR mentions that a person attains a refugee status generally when he flee his home country or declares himself a refugee surplace\textsuperscript{76} or cease to be subject to a suspension clause.\textsuperscript{77} The refugee status of a person is terminated when:

\begin{itemize}
  \item [a)] \textit{He voluntarily re-availed himself of the protection of the country of his nationality,}\textsuperscript{78} or \\
  \item [b)] \textit{He voluntarily re-acquired the nationality which was previously lost by him}\textsuperscript{79}, or \\
  \item [c)] \textit{He has acquired a new nationality and enjoy the protection of the country of his new nationality,}\textsuperscript{80} or \\
  \item [d)] \textit{He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution,}\textsuperscript{81} or \\
\end{itemize}

\begin{itemize}
\item \textsuperscript{75} \textit{Supra} n. 15 at 39.
\item \textsuperscript{76} A person who was not a refugee when he left his country, but becomes a refugee at a later is called a refugee "Surplace."
\item \textsuperscript{77} \textit{Supra} n. 75.
\item \textsuperscript{78} 1951 Convention of Refugee Status, Article IC (1).
\item \textsuperscript{79} \textit{Id.}, Article IC (2)
\item \textsuperscript{80} \textit{Id.}, Article IC (3)
\item \textsuperscript{81} \textit{Id.}, Article IC (4)
\end{itemize}
e) when the circumstances due to which he / she has been recognized as a refugee have ceased to exist\textsuperscript{82}, or

f) When he is able to return to the country of his former habitual residence after the circumstances in connection with which he has been recognized as a refugee have ceased to exist.\textsuperscript{83}

A person is excluded from refugee status, when:

a) \textit{He or she is receiving protection or assistance from organs or agencies of the United Nations other than United Nations High Commissioner for Refugee,}\textsuperscript{84}

b) \textit{He or she having rights and obligations similar to the national;}\textsuperscript{85}

c) \textit{He or she found guilty of serious crimes.}\textsuperscript{86}

Further in detail the international refugee protection regime and rights of refugees under International Humanitarian Law have been discussed. Since the adoption of the United Nations Charter in 1945, many international laws, and treaties on refugee’s human rights have developed. The international legal regime for the protection of refugees incorporated a number of rights for refugees who were further widely incorporated into regional instruments and domestic legislation.\textsuperscript{87} The different Conventions and treaties that deals with the human rights of refugees are: Universal Declaration of Human Rights 1948,\textsuperscript{88} 1951 Convention relating to the Status of Refugees and its 1967 Protocol,\textsuperscript{89}

\begin{itemize}
\item \textsuperscript{82} \textit{Id., Article IC (5)}
\item \textsuperscript{83} \textit{Id., Article IC (6)}
\item \textsuperscript{84} \textit{Id., Article ID}
\item \textsuperscript{85} \textit{Id., Article IE}
\item \textsuperscript{86} \textit{Id., Article IF}
\item \textsuperscript{87} Supra n. 69 at 5.
\item \textsuperscript{88} Universal Declaration of Human Rights – adopted and proclaimed by the United Nations General Assembly Resolution 217 (A (iii)) of 10 December 1948.
\end{itemize}
International Covenant on Civil and Political Rights, 1966\textsuperscript{90} and 
International Covenant on Economic, Social and Cultural Rights 1966.\textsuperscript{91} 
Other international human rights instruments contain rights of refugees 
are: The 1984 Convention against Torture and other cruel, inhuman or 
Degrading Treatment or Punishment.\textsuperscript{92} The 1989 
Convention on the 
Rights of the Child,\textsuperscript{93} The 1965 Convention on the Elimination of Racial 
Discrimination,\textsuperscript{94} The 1979 Convention on Elimination of 
Discrimination Against Women.\textsuperscript{95} So many rights found in the 
international refugee instruments are in one form or another enshrined 
in international human rights treaties mentioned above.

Further the regional arrangements have enacted standard of 
refugee protection and their human rights within the international legal 
regime relating to refugees. These regional Convention and instruments 
not only enriched meaning of international legal regime relating to 
refugee but also serves the purpose of implementation of international 
refugee regime in a more meaningful and effective manner and provide a 
number of rights to refugees.

The study further revealed that refugees being deprived of the 
support and protection of their home country are required to be given 
the needed protection. In this respect the response of international 

\textsuperscript{90} International covenant on civil and Political Rights adopted and opened for signature, ratification 
and accession by the United Nations General Assembly Resolution 2200 A (xxi) of 16 December 

\textsuperscript{91} International Covenant on Economic, Social and Cultural Rights adopted and opened for 
signature, ratification and accession by the United Nations General Assembly Resolution 2200 
(xxii) of 16 December 1966 and (entered into force: 3 January 1976).

\textsuperscript{92} Convention against Torture and other Cruel, Inhuman or Degrading, Treatment or Punishment, 
adopted and opened for signature, ratification and accession by General Assembly Resolution 

\textsuperscript{93} Convention on the Rights of the Child adopted and opened for signature, ratification and 
accession by General Assembly Resolution 44/25 of 20 November 1989 and entered into force 2 
September 1990.

\textsuperscript{94} Convention on the Elimination of Racial Discrimination adopted and opened for signature, 
ratification and accession by General Assembly Resolution of 21 December 1965 and entered 
into force on January 4, 1969.

\textsuperscript{95} Convention on the Elimination of all form of Discrimination against women, adopted and opened 
for signature, ratification and accession by General Assembly Resolution 34/180 of 18 December 
1976 and entered into force on 3 September 1981.
community is remarkable. Prior to 1921, humanitarian assistance and efforts to cope with refugee needs were undertaken mainly by private organization or voluntary agencies to provide relief for disorganized masses. To tackle this problem number of refugee organizations were established to provide relief and rehabilitation, such as the United Nations Relief and Rehabilitation Administration (UNRRA) and the Inter-Governmental Committee for Refugee (IGCR). United Nations Relief and Rehabilitation Administration was the first major operating agency for refugees and displaced persons in liberated Europe. It spent over $3.6 million to provide material assistance to refugees. While, the Intergenerational Committee for refugees (IGCR) facilitated the migration of refugees from Germany and Austria, Subsequently it includes all European refugees.

Further International Refugee Organization (IRO) established by the United Nations, performed the function of repatriation of the refugee and displaced persons with the resettlement and rehabilitation of those refugees who for valid or good reasons did not return to their country of origin. The United Nations Relief and Work Agency for Palestine Refugees in the Near East (UNRWA) was established to provide assistance to a population of 4.5 million Palestinian refugees. Presently the United Nations High Commissioner for Refugees (UNHCR) which established in 1950 together with 1951 Convention relating to the status of Refugees, for the first time provided a formal structure for responding to the needs of refugee and laid down standard for the

96. supra n. 53 at 29.
97. Peter Macalister smith, International humanitarian Assistance: Disaster Relief Actions in International Law and Organizations, (1985) p. 35, also see, supra n. 15 at p. 57, supra n. 53 at p. 35.
99. Id. at 242.
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protection of refugee under international law.\textsuperscript{101} UNHCR's primary purpose is to safeguard the rights and well being of refugee. It is the primary operating agency, with responsibility for co-coordinating relief activities and ensuring that all refugees received the basic, minimal level of assistance. That is why; the UNHCR is viewed as the humanitarian arm of the united nation. UNHCR has a major role in coordinating aid to refugees and its material assistance activities are conducted through national or local authorities of the country concerned, other organizations of the United Nations and Non - Governmental Organizations.\textsuperscript{102}

Traditionally, three major durable solutions have been promoted by the United Nations High Commissioner for Refugees (UNHCR), "Voluntary repatriation, Integration on the spot or local settlement and third country settlement".\textsuperscript{103} Since the activities of the UNHCR has increased and diversified, it constantly seeking the help of all specialized agencies of the United Nations.

Lastly discussion affirms the hypothesis of the study that the human rights of 'refugee' have progressively emerged as the new rules of customary international law.

It comes out from the study that the various treaties and instruments of refugee law have made a modest contribution to the improvement of refugees' position. The existing international legal framework of refugee law recognized a variety of basic human rights to them. With the passage of time, some of these rights have become a part of customary international law i.e. right to non – discrimination (racial discrimination – e.g. apartheid), right to non – refoulement right against

\textsuperscript{102} Supra n. 53 at 66.
\textsuperscript{103} Statute of the office of the United Nations High Commissioner for Refugees, paragraph – 9.
genocide, torture, arbitrary detention etc.\textsuperscript{104} It is high time when the human rights of refugees should be recognized by all states in the world whether signatory to the Conventions or Protocol for refugees or not. It seems to be possible that in future refugee’s human rights regime will be accepted as part of customary international law and all state will respect the basic rights of refugees as essential for every person to lives as a human being.

Chapter IV of the study exclusively deals with the legal status and rights of refugees in India. This chapter is an attempt to discuss the human rights protection mechanisms in India in detail with constitutional as well as statutory provisions. Finally an attempt has been made to address the need of a national refugee law in India.

India mostly plays host to refugees from its neighbouring countries who are either forced to leave their countries of origin due to internal or external conflicts, political persecution or human rights infringements. The statistics indicates that India has one of the largest refugee population in the world, it is estimated that India hosted approximately 4, 56,000 refugees in 2008.\textsuperscript{105} In India there is no national legislation concerning refugees, legal status and rights. So the India’s refugee policy is governed by certain administrative regulations. There are three sets of laws that deal with foreigners in India. They are: the Registration of Foreigners act, 1939, dealing with the foreigners, the Foreigners Act, 1946, empowering the state to regulate the entry, the presence and departure of aliens in India and the Foreigners order 1948.\textsuperscript{106}

\begin{thebibliography}{9}
\end{thebibliography}
As India does not have on its statute book a specific and separate law to govern refugees. The legal status of refugees in India can be examined with reference to constraints imposed by international legal obligations, in particular the obligation to observe the principle of non-refoulement, and the constitution and laws of the country. The obligation to observe the customary international law principle of non-refoulement is strengthened by the fact that India is signatory to number of international Convention.\textsuperscript{107} Further, study explores the reasons that India has advanced to not accede to the 1951 Convention or the 1967 Protocol. India’s reluctance to sign the Convention stems from its position that it is Eurocentric, tailored to fit the refugee movement after World War II and has not responded well to mass migration. Another reason of not signing the UN Convention protecting refugees is that the signing Conventions meant to be obliged to accept massive flows of refugees from politically unstable neighbours.\textsuperscript{108} As India has a huge population over a billion people with at least six hundred million living in poverty. Thus India can barely meet the needs of its own citizen. Signing Convention implies taking on the obligation provide employment, food, housing, medical care, education etc.\textsuperscript{109} Further it is argued that India’s record in giving assistance and protection to refugees is satisfactory and there is no need for it to accede to the 1951 Convention.

Even though India is not a signatory to the 1951 Convention on Refugees and also the 1967 Protocol, India is a signatory to a number of international human rights Conventions. Taking this into account it is clear, that India respect international treaties regarding treatment of

\textsuperscript{108} Id. at 444.
refugees residing within its territory. Further India has a three pronged Strategy to deal with refugee problem - The Home Ministry deals with the formulation of polices of rehabilitation and settlement of refugees, The Ministry of External Affairs is empowered with the responsibility of bilateral negotiation and to deal with the issue internationally and the State governments are entrusted with the responsibility of protection and maintenance of the refugee camps at the local level. On the other hand, National Human Rights Commission (NHRC), Minority Commission and State Human Rights Commission etc. are entrusted for ensuring overall human rights, fundamental freedom and equal opportunity to all.

Study further highlighted that the Constitution of India provides following fundamental human rights and fundamental freedoms to refugee legally admitted to India and so as long as he is permitted by the government to remain in this country:

i) *Equality before the law or equal protection of the law.*

ii) *Right to Life and personal liberty, etc.*

a) *Right to live with human dignity.*

b) *Right to livelihood.*

c) *Right to shelter.*

d) *Right to education.*

e) *Right to social security and protection of the family.*

f) *Right to health and medical assistance.*


111. Supra n. 104 at 21.

112. Article 14 of the Indian Constitution.


118. Calcutta Electricity Supply corporation (India) Limited (CESE Limited) Vs. Subhas Chandra Bose, AIR 1992 SC 573

g) Right to privacy.\textsuperscript{120}

h) Right to free legal aid and right to speedy trial.\textsuperscript{121}

i) Right against inhuman treatment.\textsuperscript{122}

iii) Protection against Arrest and Detention.\textsuperscript{123}

iv) Protection in respect of Conviction for offences.\textsuperscript{124}

v) Right against exploitation.\textsuperscript{125}

vi) Prohibition of “Traffic in Human Beings and Forced Labour”.\textsuperscript{126}

vii) Prohibition of employment of children.\textsuperscript{127}

viii) Right to Religious freedom.\textsuperscript{128}

ix) Right to Constitutional Remedies.\textsuperscript{129}

As mentioned above, all the basic human rights of refugees has got constitutional recognition in India, in spite of that the person who granted asylum in India get some more rights and special treatment as long as they remain in the territory\textsuperscript{130} i.e.

j) Right to Employment or profession

k) Freedom of movement and residence

l) Right to form Association.

Further refugees in India get special treatment in respect of:

i) Exemption from penalties

ii) Identity and travel documents.

\textsuperscript{120} R. Rajagopal Vs. State of Tamil Nadu, AIR 1995 SC 26; Mr ‘X’ Vs. Hospital ‘Z’ AIR 1999 SC 495.

\textsuperscript{121} Pratap Singh Vs State of Jharkhand, 2005(3) SCC 551.

\textsuperscript{122} Rama Murty Vs. State of Karnataka, AIR 1997 SC 1739.

\textsuperscript{123} Article 22 of the Constitution.

\textsuperscript{124} Article 20 of the Constitution of India.

\textsuperscript{125} Article 23 and 24 of the constitution of India.

\textsuperscript{126} Article 23 (1) and 23 (2) of the constitution of India.

\textsuperscript{127} Article 24 of the constitution of India.

\textsuperscript{128} Article 25 (1) of the constitution of India.

\textsuperscript{129} Article 32 and 226 of the constitution of India.

\textsuperscript{130} \textit{Supra} n. 15 at 131 – 135.
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Part IV of the Constitution relates to the Directive Principles of State Policy. Under Part IV, Article 51 (a) requires that "The state shall endeavour to promote international peace and security" which stipulated that government had a fundamental duty to show compassion which is important for the recognition of refugees as human beings.\textsuperscript{131} So even without being a party to the 1951 Convention relating to the status of refugees or the 1967 Protocol, in India, the rights of refugees are protected by the provisions made in Constitution and other measures. The statutory provision which are applicable to refugees are as under:

i) The Foreigners Act, 1946.\textsuperscript{132}

ii) The Passport (Entry into India) Act, 1920.\textsuperscript{133}

iii) The Passport Act, 1967.\textsuperscript{134}

iv) The Registration of Foreigners Act, 1939.\textsuperscript{135}

v) The Extradition Act, 1962.\textsuperscript{136}

vi) The Protection of Human Rights Act, 1993.\textsuperscript{137}

The study reveals that in Indian Constitution the law enforcement provisions ensure the full protection of the rights of refugees. So any person, refugee or asylum seekers cannot be discriminated against because of their, non – citizens status. A person whose rights have been violated has right to directly approach the High Courts and the Supreme Court for the enforcement of fundamental rights.\textsuperscript{138}

\textsuperscript{131} Narender Kumar, \textit{Constitutional Law of India}, 2007, p. 447.
\textsuperscript{132} Act No. 31 of 1946, received assent on 23\textsuperscript{rd} November 1946, relevant sections of this Act, applicable to refugees are: section 3, 3A, 7 and A.
\textsuperscript{133} Act No. 34 of 1920, received assent on 9\textsuperscript{th} September, 1920, published in Gazette of India, Pt. V., p. 54, relevant section of this Act, applicable to refugees are: Section 3 and 5.
\textsuperscript{135} Act No. 16 of 1939, received assent on the 8\textsuperscript{th} April 1939, published in Gazette of India, 1939, extra, p. 59, the relevant section of this Act, applicable to refugees are: Section 3 and 6.
\textsuperscript{136} Act. No. 34 of 1962, received assent on 15\textsuperscript{th} September, 1962, Published in Gazette of India, 19.06.1962, pt. II, S. 2 Extra p. 418.
\textsuperscript{137} Act No. 10 of 1994, received assent on 8\textsuperscript{th} January 1994, Published in gazette of India, Part III, Sec., I, dated 10\textsuperscript{th} January, 1994, pp. 1-6.
As mentioned earlier, the various aspects of human rights are deeply ingrained in the Constitution of India. But the credit goes to the Supreme Court of India to enforcing the human rights norms and makes basic human rights meaningful to the deprived and vulnerable sections of the community.\textsuperscript{139} In a landmark judgment in "National Human Rights commission Vs State of Arunachal Pradesh,\textsuperscript{140} The Supreme court has held that state is bound to protect the life and liberty of every human being whether he is a citizen or non–citizen.

The Government has also constituted a statutory National Human Right commission (NHRC) which acts like a watch dog for any complaints of Human Rights violation, under the protection of Human Rights Act, 1993. It acts suo moto also for the protection of Human Rights. The study briefly considers the role that the NHRC has played in securing the rights of refugees. The National Human Rights Commission is fully an autonomous body and has the authority to deal with the legal matters concerning the human rights cause.

The National Human Rights Commission (NHRC) provides sharp focus on allegation of violation of human rights and seeks to provide quicker redressal. It has earned the World – Wide reputation of being an effective and independent institution in implementing human rights, and has been actively considering the problems of refugees.\textsuperscript{141} The commission is of the view that it is essential that India develops a national policy and possibly a national law for refugees but with an Indo–centric nature and content.\textsuperscript{142} Thus in the absence of a specific statute, the role played by the superior courts and the Human Rights Commission in protecting refugees rights has been exemplary.

Further in India, the United Nations High Commissioner for

\begin{itemize}
  \item \textsuperscript{139} Sanjay Joshi, “The Right to Equality, Life and Liberty Under the Constitution of India”, (ed.) Abdulrahim P. Vijapur, Suresh Kumar, Perspectives on Human Rights, 1999, p. 96.
  \item \textsuperscript{140} (1996) 1 SCC 742.
\end{itemize}
Refugees is very active, playing one of two rules, depending on the refugee population in question. The Indian Government has undertaken to assist the refugees of Tibet and Sri Lanka under its own auspices with respect to these population then, the UNHCR plays only a ‘watch-dog’ role monitoring conditions and ensuring that when refugees return to their home country, their repatriation is voluntary. UNHCR deals exclusively with the remaining refugee population in India, comprising displaced nationals of Afghanistan, Ethiopia, Iraq, Iran, Liberia, Myanmar, Somalia and Sudan. With respect to these populations, UNHCR determines the refugee status in addition to providing medical, educational, vocational and financial assistance to those recognized as refugees.  

UNHCR’s main role in India is to make sure that refugees are not forced to return to the countries they have fled in order to escape persecution and danger and to provide humanitarian assistance and protection to refugees in India.

Further the study in detail discusses that in the absence of specific law on refugee; the Indian judiciary has played a very constructive role in protecting the interest of the refugees. Courts orders have filled legislative gaps and in many cases have provided a humanitarian solution to the problems of refugees.

Moreover, Indian courts have allowed refugees and intervening non-governmental organizations to file cases before them. The courts have interpreted provisions of the Indian Constitution, existing laws and in the absence of municipal law, provisions of international law to offer protection to refugees and asylum seekers. The judicial opinion is that rules of international law and municipal law should be provided harmonious interpretation and only when there is an inevitable conflict between these two the municipal law should prevail over international

The Indian judiciary has consistently recognized the importance of human rights and had been giving effect to the provisions of the Universal Declaration of Human Rights, 1948, International Covenant on Civil and Political Rights, 1966, International Covenant on Economic, Social and Cultural Rights, 1966, The Convention on the Rights of the Child, 1989, The Convention on the elimination of all form of discrimination against women, 1981, etc., which Government of India has ratified, in addition, the Indian judiciary has generally giving effect to principles of international law. So judiciary in India has played a commendable role in the protection of human rights generally and rights of refugees in particularly and will continue to do favour of protecting the rights and interest of refugees in the absence of refugee specific laws in India.

Further a review of foregoing discussion in this chapter makes it amply clear that India's past efforts in dealing with mass influxes has been commendable. However, in the absence of a specific municipal law, the courts have to read the provisions of the international human right instruments into the provisions of Article 14, 21 & 25 of the Constitution to protect the rights of refugees. The zeal of the court to protect the rights of refugees, though commendable, has its limitations. The danger of judge-centric solutions are that in many cases the outcome of the case would depend on the outlook of a particular judge to the issue before him. There indeed cannot be any certainty or uniformity in judicial activism. There is thus, an urgent need for a legal framework to provide the protection, rehabilitation and repatriation of refugees. No doubt, judicial creativity has, to some extent, minimized

147. Supra n. 22 at 2.
the rigorous of the refugees but legislation alone will provide an effective and permanent solution.\textsuperscript{148}

The uniform treatment of refugees is a must as long as India continues to accept asylum seekers across its porous borders. It is time now to provide for an appropriate legal framework to process matters in respect of determination of refugee status, protection from refoulement, and treatment during their stay as refugees in India.

Chapter V of the study narrates the role of the Government of India in promotion and protection of Human Rights of Tibetan refugees. An attempt is made to discuss the legal status of Tibetan refugees in India. The study further highlighted the humanitarian assistance provided to Tibetan refugees by national as well as international agencies.

On the humanitarian ground, the Tibetan refugees were granted asylum by the government of India and the principle of non-refoulement (i.e. protection against compulsion to return to home country), has been strictly adhered to.\textsuperscript{149} The study reveals that Tibetan live in India with a stay permit which is processed through a document called Registration Certificate. It is renewed every year. In some areas it is renewed every six month. Every Tibetan refugee above age of 16 must register for the stay permit.\textsuperscript{150} Tibetans who arrived in India in the first wave were accorded official refugee status by the Indian Government. However, the post – 1980’s period, with an increasing number of Tibetan refugees coming into India, the Government of India decides not to grant legal status to these refugees.\textsuperscript{151} This resulted in the large number of unregistered Tibetans refugees which is a cause of worry to the local administration, as the Tibetan government reportedly hiding the

\textsuperscript{148} \textit{Ibid}


\textsuperscript{150} Tibet sun, \url{http://www.tibetansun.com} visited on 17.11.2009.

\textsuperscript{151} Supra n. 31 at 302.
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Another issue related to their legal status is the fake registration. There is an increasing number of Tibetans settling down in Kangra district with no authentic documents which they managed to get from Dharamshala, Palampur and Manali. Number of Tibetan settled down in India without valid papers.\(^{153}\) The study reveals that Tibetans, who arrived in India between 30.10.2002 to 30.05.2003, are classified in a separate category of long term stay (LTS) and issued LTS /RCs.\(^ {154}\) Tibetans who come for education purpose and in refugee categories are being registered and long term stay (LTS) permit are being issued.\(^ {155}\) While those Tibetans who entered in India after 30.05.2003, only Special Entry Permit (SEP) be accepted as basis of the purpose of registration. The Special Entry Permit (SEP) is issued under the categories of either for pilgrimage or education or others and the duration of stay for education is normally for a year. The validity for Special Entry Permit, (SEP) for Pilgrimage is normally for one month.\(^ {156}\) Many Tibetans take the longer Special Entry Permit (SEP) and then apply for a registration certificate. A special drive has been launched by the Ministry of Home Affairs and it has been decided that all categories of Tibetan will be finalized by 31.12.2009. After this period any Tibetan will be found without valid registration certificate or travel documents etc., the action will be taken as per the provision of law.\(^ {157}\) Hence all Tibetan refugee recognized in India is provided with Identification Certificate showing their refugee status. Although the freedom of movement is enjoyed in limited sense by Tibetan refugees, it is important to note that it is not a right guaranteed to refugees as foreigners in India. Tibetans are able to

\(^{152}\) The Indian Express, Chandigarh, Sunday, December 21, 1997.

\(^{153}\) The Indian Express, Chandigarh, Monday, October 26, 1998.

\(^{154}\) Statistical Record from Foreigners Regional Registration Office at Dharamshala, District Kangra, H.P.

\(^{155}\) Ibid

\(^{156}\) Ibid

\(^{157}\) Ibid
travel within India but they must carry their registration certificate (RC). For travelling abroad, the Government of India, issues another document called yellow Book, which is an identity certificate. Without Registration Certificate (RC) Yellow Book cannot be processed. The Identity Certificate is valid for two years and renewable. In order to return to India, the document must bear a “no objection to return to India Stamp”, (NORI).

Initially the Tibetan refugee problem was considered as a temporary one and hoped that they could be repatriated. But on the request of the Dalia Lama, India under took some long term rehabilitation programmes with the assistance of the State Governments. To rehabilitate these Tibetan refugees, the government of India created a series of permanent settlement. Tibetan refugee community in India has been rehabilitated mainly in three sectors in order to make them self sufficient during their period of exile, namely.

a) **Land based agricultural sector** i.e. the resettlement in agricultural, horticulture or animal husbandry;

b) **Agro – industry based sector** i.e. the creation of small industries to be run by Tibetans; and

c) **Handicraft based sector** i.e. establishment of centers for training refugees in the production and scale of Tibetan handicrafts and carpet – weaving.

The Tibetan refugees who are living in scattered camps are very much involved in street – marketing, selling woolen sweaters, seasonal goods, running small petty shops and restaurants.

Today with the assistance of Government of India, State Government, foreign donor agencies and with hard work, faith and

159. Ibid
160. Ibid
161. Supra n. 53 at 201, also see Rajesh Kharat, *Tibetan Refugees in India*, 2003, p. 56.
162. Ibid
tenacity of Tibetan refugees themselves, 37 refugee settlements have been successfully established in the state of Jammu and Kashmir (J&K), Himachal Pradesh (H.P.), Uttar Pradesh (U.P.), Sikkim, West Bengal (W.B.), Orissa, Madhya Pradesh (M.P.), Karnataka and Arunachal Pradesh. These settlements differ greatly in location and circumstances.\(^{163}\)

Overall 50 percent of refugees belong to the agricultural settlements, most of which are located in south and Central India, Viz, Karnataka, Maharashtra and Madhya Pradesh.\(^{164}\) Agro-industrial based settlements were created to accommodate the remaining refugees in India. The carpet - weaving and handicrafts is the third sector as a part of rehabilitation programmes. This is the sector in which a maximum number of Tibetan refugees have been rehabilitated and proved to be most successful in comparison with the other two sectors.\(^{165}\) The success of the Tibetan refugees’ community is attributed to its hard work, spirit of independence and adaptability. The study reveals that this has enabled the Tibetan refugees to make the best use of humanitarian assistance received from government and people of India as well as from international aid organizations. Many national and international voluntary agencies had provided and became concerned with relief efforts.\(^{166}\) After the Indian government, the major sources of funds were the western countries, through both governmental and private channels. In the early years, organizations such as CARE, the International Red Cross, The Young men Christian Association, (YMCA), Catholic Relief, Church World Service, The International Rescue Committee, and Save the Children Fund, all these organizations

\(^{163}\) Supra n. 15 at 147.
\(^{164}\) Supra n. 57 at 57.
\(^{165}\) Id. at 59 – 60.
\(^{166}\) Supra n. 53 at 202.
participated. In addition, the Swiss and American Government also contributed to refugee assistance. 167

Further study highlighted the Role of United Nations High Commissioner for Refugees (UNHCR) in providing humanitarian assistance to Tibetan refugees. The UNCHR provided assistance to Tibetans in India from 1964 – 73, even though it did not formally established a presence in India till 1969.168 By the mid – 1980s other agencies such as United Nations Children’s Fund (UNICEF) and United nations Development Programmes (UNDP) also stopped assisting Tibetan refugees as the need for external assistance for them was reduced.169 Presently, the UNHCR has been instrumental in helping the refugees’ secure safe passage from Nepal to India.

The study in this Chapter further describes the rights that are only available to Tibetan refugees in India. These are the rights which are generally not provided to refugees in India. In India, no foreigner has a right to a wage – earning employment, self – employment or profession, he can do that with the permission of the Government of India exception to this are Tibetans who are allowed to engage themselves in wage – earning employment.170 Further, in India the freedom of movement and residence is available to all refugees, subject to the restrictions necessary for safety of India (National Security or Public Order) or international relations. That’s why Chakmas’s and Sri Lankan Tamil refugees’ rights to freedom of movement and residence is hampered by the fact that they are totally dependent on the Government and confined to camps. Tibetans are exceptions to this; they are able to travel within India as long as they obtain permission. They are also

167. Supra n. 15 at 66-67.
168. Supra n. 31 at 296.
169. Ibid.
170. Supra n. 15 at 131 – 132.
allowed for international travel.\(^{171}\) No foreigner can own property in India, but the Indian government provided a land and housing to establish Tibetan farming settlement in different parts of India on lease.\(^{172}\)

It has been found during the study that though the Government of India received the Dalia Lama and the Tibetan refugees warmly but did not accord recognition to his Government in Exile. His Holiness the Dalia Lama, however, established a Central Tibetan Administration (CTA) which for all practical purposes functions as the Tibetan Government – in – exile. The Tibetan people both inside and outside, consider their government in exile based in Dharamshala, North India, to be the sole legitimate government of Tibet.\(^ {173}\) Further education being high on the priority, the Dalia Lama requested the Government of India for assistance in the education of the Tibetan refugee children. Since then many schools for Tibetan refugee children were built. Today 28,000 students in 71 schools in India are availing education facilities. It is estimated that 80 percent of Tibetan children attend Tibetan Schools.\(^ {174}\) The educational system created in exile has succeeded in educating sectors of the population who would have been illiterate in traditional Tibetan Society.\(^ {175}\)

Tibetan refugees also preserve their cultural identity and religious institutions successfully in India. Tibetan constructs numerous monasteries of a remarkably high architectural standard and their success in developing viable monastic communities similar to those of Tibet is one of the miracles of the twentieth century.\(^ {176}\) In Dharamshala,

\(^{171}\) Id. at 133.

\(^{172}\) Ibid.


\(^{174}\) Education in Exile: Building our future through education”, Department of Education. Publication, 2000, p. 5.


\(^{176}\) Supra n. 57 at 79.
at upper McLeod Gunj as well as in lower McLeod Ganj the building of the Tibetan Parliament in exile, Library of Tibetan works and Archives are marked with detailed paintings of Tibetan art and architectural features. A Separate institution has been set up to train young Tibetans in different fields of traditional culture, known as Norbulingka Institute for Tibetan Culture at Sidhpur in Dharamshala. So the Tibetan culture is very much protected by the government of India while rehabilitating the Tibetan refugees.

Further study discusses the issue of Indian Citizenship in respect to Tibetan refugees. Section 3 of the Citizenship Act of 1955 outline the conditions necessary to gain citizenship. There is no legal impediment for Tibetans who wish to apply for citizenship. But the Dalia Lama Government (DLG) discourages Tibetan refugees from taking up Indian citizenship due to various reasons i.e.

a) by taking of Indian Citizenship by for – taking the refugee status jeopardizes the very purpose of fleeing Tibet;

b) by taking citizenship the Tibetans might get separated from their roots and assimilated within the Indian mainstream,

c) by taking citizenship, loss of refugee status might further affect foreign funding and development aid and assistance from donors, individual as well as institutional,

d) by taking citizenship, there is a fear of diminishing sympathy for Tibetan freedom struggle.

Although Tibetan government – in – exile is strongly opposed the idea of the refugees accepting Indian citizenship, but many Tibetan refugees are willing to avail it. These are mostly from the second – generation of refugees born and brought up in Indian and who have not seen Tibet. Even the field study conducted in Dharamshala settlement reveals that

177. Supra n. 31 at 309.
179. Supra n. 31 at 304.
number of refugees who are willing to take up Indian citizenship is increasing day by day. Majority of young generation want to take up citizenship.\textsuperscript{180}

Finally study under this chapter also discussed the relationship between host population and Tibetan refugees in India. It has been found that the relation of Tibetan with the local population has been harmonious and reciprocal. However in some areas the local population is getting adverse. The major grievance is regarding Tibetan's economic prosperity. This makes the local population inferior in economic status, in comparison to Tibetan refugees.\textsuperscript{181}

Overall it comes out from the study of this chapter that becoming a Tibetan refugee in India is beneficial to the individual. India is providing the basic needs to Tibetans mainly shelter and opportunity for an economic livelihood. Hence, the Tibetan refugees are satisfied with the rights provided to them in India.

A review of chapter VI showed that the human rights of Tibetan refugees have been well protected in the settlement. From the empirical survey of the Tibetan refugees' settlement at Dharamshala, the overall picture that emerges is as under:

The Tibetan refugees are generally happy and satisfied in India. It has been found that the reasons behind their migration were political repression, religious persecution, torture, imprisonment; barriers to endogamous marriages by the Chinese government and willingness to follow Dalai Lama. Beside these reasons, one more reason for seeking asylum in India is the hope to get Tibetan education in India in Tibetan schools that were opened for them. During an interview it was accepted by the Director of Tibetan Reception Centre at Dharamshala that in recent years, the maximum number of refugees who came from Tibet are

\begin{footnotes}
\footnotetext[180]{Researcher's personal observation during the field study in the Dharamshala Settlement.}
\footnotetext[181]{Supra n. 31 at 300.}
\end{footnotes}
young children and youth between age group of 14-25 years. Who came with a hope to get enrolled in Tibetan schools, to receive broad based education along with their Tibetan culture and tradition. Some of them have been monks and nuns. Study reveals that Tibetan refugees learnt Hindi and English as they felt, these are necessary languages to communicate with Indians as well as with foreigners and other people in the world.

“Right to education is a fundamental right” under Article 21 of the Constitution. Further Article 26 of the Universal Declaration of Human Rights, 1948 states that “Everyone has the rights to education”. The survey reveals that India is fulfilling its international as well as national commitment by providing and facilitating the education for the Tibetan refugee children in India. The support and the favourable policies of the Indian Government towards the Tibetan had helped in improving the education of the Tibetan refugee children. The survey reveals that 93.4 percent Tibetan refugees are satisfied with the education facilities provided to them. Further it has been found that the education standard of Tibetan refugees is good enough. Only 8.4 percent of Tibetan refugees have been found totally illiterate and rest 91.6 percent are educated. There education varies between 5th standard to post-graduation. Few of them are professionally qualified.

Right to work is not available to the foreigners in India. Tibetan refugees are to some extent provided with limited right to work. With the support of Indian Government Tibetan are able to work for their livelihood. This is supported by the field survey, where it has been found that 37.8 percent of Tibetan refugees are involved in trading or business, 14.8 percent in

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183. No foreigner has a right to wage-earning employment, self-employment or profession in India. Usually refugees are not allowed to undertake any work since India has a large population of unemployed citizens.
manufacturing activities,\textsuperscript{184} 30.8 percent in service sector\textsuperscript{185} and 11.0 percent in other works of life.\textsuperscript{186} However, 5.6 percent of them are getting stipend by the Tibetan Welfare Office. It has been found that Tibetan refugees are able to earn sufficient income for fulfillment of their basic needs of life which is supported by the survey in the settlement where 52.2 percent Tibetan refugees are satisfied with their income to fulfill basic needs of life.

Though generally refugees are not provided with the loan facilities in India but Tibetan refugees are exception to this. They are allowed to avail loan facilities from financial institutions in India for establishment of business or self-employment, etc. It has been found in the study that 24.2 percent Tibetan had availed themselves of loan from financial institutions like State Bank of India (SBI), Punjab National Bank (PNB), ICICI, HDFC, UCO, and Jammu and Kashmir Bank (J&K Bank), etc.

"The right to medical facility is a human right", and Article 21 of the Constitution includes within its ambit the right to health and medical care. It is not merely right enshrined under Article 21 but an obligation on the State to provide this both under Article 21 and under Article 47 of the Constitution. The study indicates that Tibetan refugees are provided with medical facilities by Government of India as well as by Tibetan Government in exile. The health centre's run by the State Government and subsidized by the Indian Health Ministry provided free health care to Tibetan refugees with the citizens of India. 97.4 percent Tibetan refugees have been found satisfied with the medical facilities provided by the Government of India.

\textsuperscript{184} Carpet weaving, handicraft, handmade paper, metal carving, making of Thangka paintings, greeting cards, etc.
\textsuperscript{185} working for the Tibetan Government-in-exile, as school teachers, health workers, cooperative employees, working in different departments of Central Tibetan Administration as well as engaged in private sector such as in hotels, shops and restaurant.
\textsuperscript{186} Such as a sales man or sales woman, tailoring clothes, working as a helper, street vendor or in seasonal petty business etc.
It was hypothesized that human rights of Tibetan refugees are satisfactorily protected in India. The researcher has found an affirmative answers for this. It has been found during the study that Government of India is respecting and enforcing the basic human rights. Majority of Tibetan refugees are aware of human rights. In Dharamshala Settlement Tibetan Centre for Human Rights and Democracy (TCHRD) has started human rights awareness programmes. Further appreciable efforts were made by Kangra Police, which conducted the programmes from time to time to provide Tibetan the information about their human rights, their legal rights in India, about the registration process and about transfer from one settlement to other. 82.4 percent Tibetan refugees were aware of human rights. The study indicates that almost all the basic human rights are available to the Tibetan refugees despite non existence of specific legislation on refugees. 79.4 percent Tibetan refugees were aware of human rights under Indian Constitution. During interview it has been found that some of aged and illiterate Tibetan knew that they have right to religious freedom and right to life in India which was denied to them in their home land Tibet.

In Indian Constitution the law enforcement provisions ensure the full protection of the rights of refuges. The survey indicates that there are no human rights abuses against Tibetans in India. 83.6 percent of the Tibetan refugees stated that there is no violation of human rights of Tibetan refugees. They are satisfied with the rights provided to them in exile. However, some of them are of the view that subtle discrimination is visible. Further, survey shows that in case of any violation of human rights of Tibetans, they have effective judicial remedies with effective redressal machinery. 63.8 percent Tibetans are found aware about the redressal machinery out of which 80.8 percent are satisfied with its

187. Tibetan Centre for Human Rights and Democracy (TCHRD) facilitate seminars, conduct workshops in schools and go to people in the settlement to make Tibetan aware of human rights.
working; only small number of Tibetans i.e. 19.1 percent is not satisfied. They feel that there are judicial delays, biased attitude and discriminatory attitude of the police for Tibetan refugees. Further 82.6 percent Tibetan refugees have been found satisfied with the existing legal framework governing the human rights of refugees in India. Tibetan administrative authorities are also satisfied with Indian judicial system. They are of the view that India does not need a separate legislation for refugees. They are satisfied with the present legislative set-up. The study indicates that more than half of Tibetan refugees are aware of human rights mentioned in the 1951 Convention on the status of refugees and some of them even mentioned some of the rights in Convention i.e. Right to non discrimination in respect of race, religion or country of origin, Right to live with human dignity, Right to profess and practice their religion, Right to travel, Right to education, Right to medical facility, Right to shelter, etc.

Further during the survey it has been found that 54.6 percent Tibetans are of the view that their status in India is excellent, however 42.0 percent are of the view that their status in India is satisfactorily. They feel like being refugees, they are well off in terms of social, cultural and economical aspects in comparison to other refugee communities in India. During interviews Tibetan administrative authorities admitted that India give preferential treatment to Tibetan refugees as a result of which, Tibetan are able to establish the democratic administration in exile at Dharamshala. Further Tibetan established their schools following a moderate secular education in Tibetan language, literature, culture and religion. Centers for preservation and perpetuation of Tibetan culture and tradition are also established. So it is observed from the survey that Tibetan refugees are most satisfied refugee community in India. They are indeed well off in terms of every field. Most of Tibetans refugees are willing to go back to their home land Tibet. The survey indicates their percentage to the extent of 89.4 percent. They believe
that there will be soon an independence day for Tibet. But the new
generation of Tibetan refugees, born and brought up in India is least
interested in going back to Tibet. China’s political dominance over the
Tibet created beam the hope of young generation to go back to Tibet. So
they want citizenship of India. It is observed from the survey that
attraction of Tibetan youth to western world is also a reason of their
unwillingness to return to Tibet. The study under this chapter
establishes that human rights of Tibetan refugees are well protected in
India. The survey also reveals that majority feels that India's record in
the protection of human rights is excellent; some feel that it is
satisfactory but none of them feels that they are deprived of their human
rights.
SUGGESTION

Keeping in view the objectives of the present study following suggestions are made for the effective protection & promotion of human rights of refugees.

1. Since today's refugee problem is global in nature and concerns not only individuals in their relations with states but also states in their relations with one another, so the need of hour is to have a law which is not only a law relating to the legal status and protection of refugees but also encompasses the refugee problem as a whole. A law which is solution oriented and imposes collective responsibility on all states is the need of hour.

2. Since human rights of refugees have become a part of customary international law, every state should be under duty to implement these through their own laws.

3. There should be close contact between the policy making authorities and implementing authorities for the proper and effective implementation of the programmes for refugees. The programming should be people, region and situation specific.

4. Though there are sufficient legal provisions for refugee protection at international as well as national level in different states but to make them reality at the ground level there is an urgent need of sound mechanism for their implementation. The success of implementation machinery further depends on the degree of cooperation given by the governments and the ability to ensure justice. The procedure of implementation should be non-political in character and free from political pressure. Machinery of implementation of the refugee laws must be within easy reach of the refugees.
5. There is need to improve and reform in national legal system so as to bring it in conformity with the international standards. The enforcement of human rights at national level is not difficult. The simple requirement is that there should be a guarantee of human rights and adequate machinery to give effect to it.

6. Refugee law regime is in a need of rejuvenation and revitalization by giving a proper place to the interest of refugee receiving states and refugees by making some provisions for the liabilities of refugee producing countries.

7. Human rights groups, humanitarian organizations, the UNHCR, Governments and United Nations Human Rights Agencies should re-examine their respective roles and make coordinated efforts for elimination of human rights abuses.

8. Voluntary repatriation is considered to be the most desirable, and the least disruptive and expensive solution. Affords should be made to address the root causes of refugee problem. So that refugees can go back to their own country. But in the absence of this possibility the third country settlement could not be overlooked.

9. The international community should have to emphasis on the provisions of humanitarian assistance, protection and creation of conditions which could contribute to the early solutions of the refugee problem in the countries of origin.

10. UNHCR is allocated only one – tenth of the global amount to care millions of people worldwide. If more resources are made available to the agency for frontline work, this could help to relieve the strain on national asylum structures and eventually reduce the pressure on their asylum system.

11. The Conventional definition of refugees needs to be expanded to include the people who are really in need of protection.
Because the narrow Conventional definition combined with the lack of international institutional control over the application of the refugee law instruments, provides a possible basis for states to restrict their own obligations.

12. International organizations can greatly help in ascertaining whether any particular asylum seeker is migrant or genuinely persecuted. International organizations through their branch offices can obtain information of any movement of any group of people easily and hence the veracity of asylum seekers can be ascertained.

13. Several international legal instruments contain useful principles and rights that contribute to the protection of human rights of refugees. These provisions are often ignored by the governments even if they sign and ratify these international treaties because such states are not obliged to pass national laws to implement them. There is an urgent need of implementation of the international Conventions pertaining to refugees.

14. There is need to improve and reform in the national legal system so as to bring it in conformity with the international standards. The enforcement of human rights at national level is not difficult. The simple requirement is that there should be a guarantee of human rights and adequate machinery to give effect to it.

15. The media (through new papers, radio, T.V. and internet etc.,) can play an important role in enhancing awareness of human rights and refugee problems worldwide. It can play vital role in ensuring the protection in human rights and to develop an atmosphere for the protection of these homeless people.

16. In a changing world, the concept of human rights must be re-examined and expanded. In this regard it is of the utmost
importance that domestic and international jurists and human rights activists who are often the only links to refugees must be redefine their role as human rights advocates.

17. In order to be at all effective, the attempt to solve the world refugee problem must be made at the level of international cooperation. Piecemeal measures are simply not enough. “No single action, however, generous, will suffice the crisis demand coherent and closely coordinated action of the international community if further lives are not to be suffered.

18. India presently shelters one of the largest refugee populations in the world. The need for a refugee law is immediate in India because:

   a) The uniform treatment of refugees is must as long as India continues to accept asylum seekers across its porous border. The restrictions and unequal treatment imposed on the refugee population by Indian government is discriminatory and tarnishes its human rights record.

   b) There is an urgent need for India to incorporate its various treaty obligations in the domestic law of the land to make their obedience by the executive enforceable directly.

   c) The legislation can be specifically designed keeping in view national interest.

   d) Till date, the problems of refugees are dealt with on an ad–hoc basis. However, there are issues that cannot be addressed on ad–hoc basis in this way e.g. do the refugees have the right to work? Do they have freedom of association? So the refugee law would help to provide a measure of certainty in the state, dealing with the problem of refugees.
e) A national law dealing with the status of refugees will allow the Government to distinguish between an illegal migrant and refugee.

f) In the absence of any law, it is not clear as to what shall be the legal status of refugees and what rights shall accrue to them. Also, it is not clear that how refugee shall be properly identified.

g) The single comprehensive law will be convenient to the administrative authorities to determine the status of refugees, further it will covers the rights and duties of the refugees.

h) In the absence of a national law on the subject, there is no guideline as to when refugee status comes to an end. The law could provide for the circumstances under which refugee status comes to an end.

i) The law could provide for the conditions of eligibility of getting benefits as refugees be made more rational and humane.

j) To provide uniform treatment to all refugee communities or groups in India. The national law could include in this regard a simple provision that prohibits discriminatory between refugees on the grounds of race, nationality or membership of a particular social group or political opinion.

So the need for a legal framework is necessary as, it make possible to tackle the problems of different refugees. The adoption of a national law on refugee would not only serve to codify India's international legal obligations for refugees, but it would help in establishing transparency, fairness and predictability in the law and procedures governing refugees.

19. India's reasoning for not signing the Refugee Convention is the fear of indefinite legal responsibility for the vast number of
persons seeking shelter. But signing the Convention, however, would allow for substantial international assistance from the United Nations Organisations for thousands of refugees in India. It would allow UNHCR to provide greater assistance to the refugee population, relieving India of the burden.

20. A law on the status of refugees will help India avoid certain diplomatic problems and difficulties. This, for example, when India gave refuge to the Karmapa Lama in the year, 2000, it was alleged that it amounted to interference in the internal affairs of China. In the presence of a law obliging the government to give asylum such argument would cut little ice.

21. The Seminar, Conferences and workshop on refugees are required to be organized every year to make people aware of refugee problems because this problem is increasing day by day due to migration of asylum seekers.

22. At present a draft “Refugee and Asylum Seekers Protection Act, 2000”, in the line of SAARC Model law on Refugees, 1997 is before the government of India for consideration. There is hardly any mechanism at present to deal with the problem of refugees. The government of India must have to take speedy step to enact the refugee specific legislation.

23. Tibetan refugees are here in India for the last fifty years. They are being dealt in India under the provisions of the Registration of Foreigner’s Act 1939 and the Foreigner’s Act, 1946 which have lost relevance now. There is need to reframe legal process to deal with Tibetan refugees in India.

24. Commendable efforts have been made by the Government of India to provide all basic human rights to Tibetan refugees but in the absence of legal mechanism in country, they are not obliged to have any duty toward host country. There should be provisions in present legal regime to inform Tibetan refugees
about their rights as well as their duties towards the host country (India).

25. Tibetan refugees when enjoying the human rights in India, they should also respect the law of the land and should not take undue advantage of the benevolent attitude of the Government of India.

26. There are 37 settlements of Tibetan refugees in different states of India. Till date there is no specific record of Tibetan refugees' population in India. In order to keep the records of their entry, stay and exit, every state should have a separate department/cell to deal with these refugees. It would help in establishing the consistency and predictability in handling Tibetan refugees.

All these suggestions if implemented will be helpful for the cause of the protection of Human Rights of refugees in general at international and national level respectively.