PREFACE

Poverty, environmental degradation, human rights violations and wars affect more people than any other reasons, ever before, leading to increased pressure for migration and to the mounting flow of refugees and displaced persons worldwide. Whatever the reasons for flight, the flow of refugee across international borders and the coerced displacement of persons within states now pose an almost insuperable challenges to states as well as international organizations to respond to and to uphold human dignity.

The refugee problem is not a recent phenomenon, but it has been faced by the world from many centuries. Many welfare declarations and covenants have been passed to make basic human rights meaningful to refugees. But from practical point of view nothing worthwhile seems to visible, yet there is long way to go.

In the first half of the last century, the refugee problem was localized within Europe and the numbers involved were modest. Over the past nearly five decades, the world had faced a series of refugee crisis rather different from those, which followed in the wake of Second World War. They have differed in scale and affected many Asian, African and Central American countries which even at the best of times find it difficult to cope with problems of their own.

Human rights violations are a major factor in causing the flight of these people as well as an obstacle to their safe and voluntary return home. The impact of this problem is felt worldwide and its influence on international scenario is increasingly becoming more pronounced. There is little doubt that the refugee crisis is one of the most dramatic concerns of the contemporary world.
The 1951 Convention on the status of Refugees spelt out policies and action required by states in dealing with the refugee problem. The Principle of 'non-refoulement' protected the refugees from being sent back to the country of origin in which they might face persecution or danger of life and freedom. The subsequent development witnessed the emergence of regional organizations focusing on the right of asylum and their integration in the countries to which they went or were sent. Further the judicial decisions of the courts in different countries reflect the trends in refugee law. But still there is absence of an adequate legal regime to ensure the rights of refugees, who as aliens are often the most vulnerable members of society. Having lost the protection of their home country, refugees often lack legal recourse in host countries to claim their human rights.

The present study is an investigation of the human rights of Tibetan refugees in India with special reference to the Tibetan refugees in Dharamshala Settlement. The study on the human rights of Tibetan refugees in India is important because this study exhibit how India assisted Tibetan refugees despite being a non-party to refugee convention of 1951 and without having legislation on refugees for the last fifty years. India is home to one of the largest refugee populations in the world. According to the World Refugee Survey 2009 by the U.S. Committee for Refugees and Immigrants, there are some 4,11000 refugees and asylum seekers in India, many of whom were deprived of their basic human rights in their home countries i.e. Sri Lanka, Bhutan, Tibet and Myanmar etc. Tibetan refugees constitute the maximum number of refugees in India. The Government of India has accepted the Tibetans as refugees basically on humanitarian concerns. As mentioned earlier, the Government of India has neither signed the Refugee Convention of 1951 nor is its 1967 Protocol. Thus all foreigners in India and Tibetan refugees are governed by the Foreigners Act and Rules of 1946. When one examines the binding force of International refugee law on India and its relations with Indian Municipal law, one can conclude that
as long as international refugee law does not come in conflict with the Indian legislations or policies on the protection of refugees, international refugee law is a part of municipal law.

For the most of the part, India's treatment of Tibetan refugees has been generous like providing them with political exile as well as shelter and opportunity to secure an economic livelihood. The study is an attempt to evaluate the basic human rights provided to Tibetan refugee for the last fifty years even without having specific refugee law.

The first chapter provides the context in which the study is set, the focus and objectives of the study and its significance. The chapter one is basically introductory in nature and lays emphasis on the term human – rights, refugees and Tibetan refugees in India.

The chapter second deals with the evolution of the concept of human rights and refugees problem in different periods worldwide. The genesis of human rights and refugee problem in India is separately discussed. The root causes of this problem have also been analyzed. A brief historical background of Tibetan refugees is also discussed in the chapter.

The chapter three deals with the concept of refugee laws and explain the criteria of determining the refugee status as explained in different international covenants, treaties, conventions and documents. The chapter also explains the human rights of refugees as mentioned indifferent international treaties, covenants, documents etc. Here one can get idea about the human rights of refugees recognized by the international community.

The chapter four of this work narrates the legal status of refugees in Indian with the rights being availed by refugees in India. It also explains the approach of the judiciary of the country in promoting and protecting these
rights. Chapter also explains why India needs a separate legislation for refugees in India.

The Chapter five of this study exclusively deals with the Tibetan refugees in India. Chapter discussed the legal status of Tibetans in India, Tibetan refugee’s settlements in India and the Humanitarian assistance provided to Tibetan refugees in India. Chapter also narrates the human rights provided to Tibetan refugees in India.

In chapter six of this work is based on the empirical study carried out in Tibetan refugee settlement at Dharamshala. An endeavour has been made to know the status of Tibetan refugees and human rights availed by them as a refugees in India.

The last chapter sum – up the entire study and lays down the emphasis on the conclusion drawn on the basis of present study and suggestions have been made for better protection of the human rights of the refugees.