CHAPTER-VI

CHALLENGES FACED BY REFUGEES IN INDIA

6.1 Introduction

The haunting pictures of the year 2015 were those of refugees taking a chance with their lives to escape to safety. As per the statistics released by the United Nations High Commissioner for Refugees towards the end of 2014, around 60 million individuals were persuasively uprooted. While news reports have concentrated generally on the refugees undertaking dangerous journeys over the Mediterranean attempting to achieve Europe, we in the Indian subcontinent are much nearer to the crisis than most of us realize. India as of now hosts 32,000 refugees escaping war, brutality and severe persecution in nations, for example, Afghanistan, Myanmar, Somalia, Iraq and so on. This is notwithstanding the 1,75,000 long staying refugees from Tibet and Sri Lanka who have been given asylum over decades. With clashes the world over having escalated, fresh landings of refugees are just anticipated that would increment. While India has verifiably been others conscious and liberal in its treatment of refugees, it involves shock that India is yet to enact a coherent and uniform law tending to the issue of refugees. In fact, the term refugee finds no notice under domestic law. This is not to say that the Indian Government does not have an approach on refugees; given that there is no enactment on the issue, this arrangement has generally been founded on a blend of adhoc official strategies and legal claims and hence does not have any formal structure. The process towards choosing who qualifies as a refugee is likewise hazy. While the Indian Government decides refugee status for asylum seekers from neighbouring areas like Tibet and Sri Lanka, asylum seekers from other regions approach the UNHCR office in New Delhi. This has offered ascend to a conflicting methodology towards distinctive nationalities and a refugee arrangement that all in all needs consistency.¹

There has been the increasing use of killing, assassination, calculated rape, mutilation and forcible starvation of civilians which constitute egregious violation

for human rights and humanitarian law. These conflicts have led to massive population displacements with number of refugees and internally displaced persons numbering about 50 million. The nature and scale of these conflicts are such that they could be referred to as 'complex emergencies' or 'humanitarian emergencies'.

Throughout history, states have tended to use the refugee issue for national advantage particularly when it serves their foreign policy interest. As Loescher points out, the small refugee outflows in the 19th and 20th century Europe, arising from a threat of persecution whenever new radical or revolutionary regimes assumed power, were willingly absorbed by various Western nations, in part because of their own dual need "for an increased labour force and for settlers to fill empty territories". These groups of refugees included Jewish asylum seekers fleeing Hitler's Germany during the war and postwar victims of communist regimes from Eastern Europe. Writers on refugee law pointed out that Indian's treatment of Bangladesh refugees in 1971, of Tibetan refugees since the 1950s and of Tamil refugees from Sri Lanka in the 1980s, were all cases where initially they were warmly welcomed because they served our political interests. By contrast, our recent policy on the inflow of Chakma tribal refugees into Arunachal Pradesh and Tripura from Bangladesh shows how easily humanitarian motives are forgotten when there is no foreign policy dividend to be derived from it. The Humanitarian Jurisprudence is now an International creed in time of peace and war. According to Jean Picket, an authority on Humanitarian Law, "It is based on two basic principles viz. necessity and humanity." The word Human Right is defined under Section 2(d) of the Protection of Human Rights Act, 1993 as: "Human Rights means the rights relating to the life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by the courts in India."

---

6.2 Problems of Non Mandate Refugees in India

India is no stranger to serving as a place of refuge to outcasts, from as far back as the first millennium, when the Hindu rulers of Gujarat conceded shelter to Parsi setters from earstwhile Persia. At present refugees in India hail from places, for example, Tibet, Sri Lanka, Afghanistan and even clash zones, for example, Iran, Somalia and Sudan. As indicated by the information gathered by UNHCR, India has near two lakh refugees living inside its domain with the number continually rising. Be that as it may, informal reports put the figure at above 4.5 lakh. At present, just legal choices controlling particular circumstances administer refugees in India. There are additionally adhoc regulatory advisories by the Ministry of Home Affairs managing particular circumstances imagining refugees, for example, the 2012 Advisory on Preventing and Combating Human Trafficking in India. Absence of institutionalized documentation for this class of persons and absence of legitimate acknowledgment has prompted troubles in their entrance to fundamental offices, for example, decent living conditions, employment, free or subsidised medical facilities and education.\(^5\)

6.2.1 Conditions of Tibetan Refugees in India

The basic principle underlying New Delhi's refugee policy is to view the problem strictly in a bilateral perspective. The refugees should return to their homeland once the situation improves there. Dealing specifically with the Tibetan refugees, Jawaharlal Nehru declared that India's policy on the subject was governed by three factors: i) India's desire to maintain friendly relations with the people's Republic of China ii) Protection of the security and territorial integrity of India and iii) India's deep sympathy for the people of Tibet.\(^6\) Ever since 1959, the Dalai Lama, and also a large number of Tibetans settled in India and other parts of the world. As a result of this influx, several resettlement camps were opened by the Government of India to rehabilitate the Tibetans. The Dalai Lama himself moved to and continues to stay at Dharamsala along with a number of refugees. This abrupt change from one kind of social milieu and ecological set up to a strikingly different one was a very


difficult experience for the Tibetans. Not only were they faced with drastic climatic change but their occupations, food habits, everything changed. Many lost families and relatives and reached India completely destitute, having no other support, except the hope of security of life and freedom of religion. India endeavoured to do its best in alleviating the sufferings and hardships of the Tibetan refugees. Consequently, soon after his Holiness, the Dalai Lama's escape to India in 1959, the Central Tibetan Administration (CTA) was established in 1960. The different departments constituting the 'CTA' function according to the 'Charter of Tibetans in Exile' which is, in effect, a constitution based on modern democratic principles and works towards the Tibetan people's struggle for independence and survival. For the Tibetan refugees, India pledged to provide all facilities. As such resettlement camps were established in different parts of India and refugees were provided accommodation and land along with bullocks, agricultural equipment, seeds and fertilizers. Tibetans need a Registration Certificate (RC) for residing in India which remains valid for a period of six months to one year. Having this certificate gives them right to travel domestically and also on its basis they can get Identity Certificate (IC) which allows them to travel outside India. If they travel to some foreign country then on their return to India their Identity Certificate must be stamped with No Objection to Return to India which is usually called as NORI stamp.

With respect to the Indian Constitution Parliament is empowered to regulate citizenship and naturalization. Parliament passed the Citizenship Act of 1955, which, as amended in 1986 and 2003, decides how citizenship can be gotten after the effective date of the Constitution. Section 3 regulates citizenship by birth and provides, inter alia, that each individual born in India between January 26, 1950 and July 1, 1987 "shall be a citizen of India by birth." Despite this provision, Tibetans born between those years are routinely denied citizenship and viewed as outcasts subject to the Foreigners Act of 1946 and the Registration of Foreigners Act of 1939. These two laws subject Tibetans to an extensive gathering of restrictions including limitations on freedom of movement, requirements that Tibetans report

---

8 Tibetan Justice Centre, Report: Tibet Stateless Nationals II: Tibetan Refugees in India, 48 (September 2011).
their proximity to supported forces at allocated breaks, report their advancements inside India, give check of identity to powers, submit to photographing and fingerprinting at relegated times, furthermore different additional headings. The powerlessness of Tibetans, even those born somewhere around 1950 and 1987, to secure citizenship has not changed despite two High Court’s decision holding that Tibetans born between those years are entitled for citizenship. The first of those two cases was brought by Namgyal Dolkar who cleared up that "She battled for her citizenship in light of the fact that as an outsider she was denied many open doors, for example, a lectureship in English literature. As a refugee, she was not qualified to take the exam. When she connected for an international ID, she was informed that applying for a travel permit was unlawful and she would be placed in jail in the event that she endured. She looked for the help of an attorney who recorded a request in the High Court of Delhi, which decided that she was for sure a national under the Constitution of India, which unequivocally gives that people born in India between January 26, 1950 and July 1, 1987 are citizens of India. The High Court requested the Government of India to pay her 5000 rupees within one month, in spite of the fact that it took five months for the installment to be made." It took a couple of more months for Ms. Dolkar to truly get the travel grant. Ms. Dolkar has reported that she routinely gets calls from Tibetans all over India who were born in India somewhere around 1950 and 1987 yet have been not been able to secure passports. They reported that when they apply for an ID, they are disregarded or denied despite of the fact that they have the most ideal records, particularly a birth endorsement showing their age and place of birth.9

The second High Court decision permitting a Tibetan citizenship included Tenzin Choephag Ling Rinpoche who was born in Dharamsala in 1985. He was denied a travel grant by the Regional Passport Office, which had counseled the Ministry of Home Affairs before issuing its repudiation. The Ministry's position was that Tibetans have not met all requirements for citizenship consistent with Section 3 of the Citizenship Act disregarding the way that they were born in India some place around 1950 and 1987. In August 2013, the Karnataka High Court ruled according to the Dolkar case, holding that anyone born in India between the January 26, 1950

---

and July 1, 1987 are residents as per the Citizenship Act. Regardless of these two High Court decisions, the on-the-ground reality for Tibetans searching for citizenship has not changed. Tibetans born between the relegated years are still routinely denied passports and it makes the feeling that the most ideal approach to actualize the acquirements of the Citizenship Act is to get a legitimate counselor (for around 100,000 rupees) to challenge the denial in the High Court. This is not a reasonable choice for by far most of Tibetans. Regardless of the possibility that the Ministry of Home Affairs were to guide the regional offices to issue travel papers to Tibetans born in India inside 1950 and 1987, citizenship would even now be unavailable for all other Tibetan refugees - the individuals who were born in Tibet and the individuals who were born in India after 1987 (unless a parent was an Indian subject).  

In August 2013 the Karnataka High Court decided in favour of Tibetan refugees. The High Court held that the Tibetans born somewhere around 1950 and 1987 in India should be qualified for citizenship. A Tibetan who was born at McLeodganj on November 11, 1985 had moved to the Karnataka High Court after he was denied an Indian passport by the regional passport office, Koramangala. The identification was professedly denied in interview with the Ministry of Home Affairs. The High Court guided the visa powers to consider the solicitation of the applicant for a travel permit as speedily as could be expected under the circumstances. The court likewise requested that the procedure ought not take over two months from the date of accommodation of every single important record by the candidate. With the Karnataka High Court deciding for a Tibetan refugee born in McLeodganj, numerous Tibetans born in India can now apply for Indian citizenship. The choice is prone to have implications for Himachal Pradesh that has a large number of Tibetans staying there as refugees.

As foreigners, Tibetans are ineligible to vote in Indian elections. However, on February 7, 2014, the Election Commission of India issued a directive to the states to enroll Tibetans born between January 26, 1950 and July 1, 1987. This directive followed the Karnataka High Court decision described above which held

10 Id. at p.11.
that, pursuant to Section 3 of the Citizenship Act, Tibetans born between 1950 and 1987 are citizens of India. The directive states “As per Section 3(1)(a) of the Citizenship Act, 1955, the children born to Tibetan Refugees in India shall be treated as Indian citizens based on their birth in India, on or after 26th January, 1950 and before 1st July, 1987. Hence, notwithstanding anything contained in Union Home Ministry letter number 26027/08/1994 -CS-I dated 26th August, 2011 conveyed to all CEOs vide ECI letter dated 27th September, 2011, the Commission clarifies that the EROs concerned should not deny enrolment to the children of Tibetan refugees where they are satisfied that (1) the applicant was born in India, (2) he/she was born on or after 26th January, 1950 but before 1st July, 1987, and (3) he/she is ordinarily resident in the constituency in which the application for enrolment has been made.”

One week after the Election Commission order, the Home Ministry declared that it was challenging the Election Commission's order since Tibetans are foreign nationals and accordingly are ineligible to vote. The Home Ministry's choice to challenge the request was allegedly taking into account "imperative vital and security contemplations," most prominently the effect of the request on diplomatic ties with China. As a consequence of the Election Commission request, around 200 Tibetans in Kangra area, which incorporates Dharamsala, voted. Far less Tibetans voted somewhere else, to some degree on the grounds that different states opposed executing the Election Commission order, depending on the Home Ministry's proclamation that the Election Commission did not have the power to change Indian policy.12

On October 20, 2014, the Ministry of Home, Government of India has formalised the much awaited “Tibetan Rehabilitation Policy 2014” which was presented to Mrs. Gyari Dolma, who heads the exile Tibetan Administration’s Home Department. The Tibetan Rehabilitation Policy is the result of number of meetings held between and among the authorities of the Home Ministry, Ministry of External Affairs, concerned State Government and the appointment of the Central Tibetan Administration. India's Home Ministry has exhorted all state governments to permit and allow Tibetans living in the nation to attempt whatever financial exercises they may craving to, incorporating taking occupations in the fields of nursing, educating,

12 Ibid.
chartered accountancy, medication, and engineering. The rules look to set out a uniform strategy in every one of the states in the recovery and procurement of welfare facilities to the Tibetans living in the country.\textsuperscript{13}

### 6.2.2 Conditions of Sri Lankan Refugees in India

Despite the fact that India does not have an organized legal structure to deal with refugees, there has been an organized administrative mechanism set up for Sri Lankan refugees. The Government of India and Tamil Nadu made certain administrative decisions to facilitate the procedure. The Directorate of Rehabilitation is in charge of managing the refugees. The Home Department in close coordination with the External Affairs Ministry deals with the incoming refugees. The External Affairs Ministry is involved because the refugees are covered under the Foreigners Act. The Home Department is headed by a Secretary of the Government of India, who holds the rank of the Chief Secretary of a State Government. He is assisted by a Joint Secretary, two Department Secretaries, one Desk officer and a team of assistants to deal with refugees coming to India. The Sri Lankan refugees in India are broadly categorized into camp refugees and non camps. The categorization is based on the socio economic differences between these two groups of asylum seekers.\textsuperscript{14}

According to the records of January 2015 there were all out 1,02,055 refugees belonging to 34,524 families in Tamil Nadu. There are in totality five categories of asylum seekers who qualify as Sri Lankan refugees. The first and foremost category consists of those who live in government run camps in Tamil Nadu. The second class comprises of the individuals who don't live in the camps yet they have a refugee certificate which they got from District Collectorate and they are enrolled with the nearest police headquarters. Close around 30,000 individuals fall under this category. The following category is of those Sri Lankan individuals who have substantial travel archives yet are in India even after their visa has terminated and other people who use India as a travel indicate on their way Europe. The fourth classification is of the previous Tamil militants who have been given shelter in


special camps. And the last category includes the refugees who have arrived in Tamil Nadu recently with the help of the Sri Lankan armed forces.\footnote{Arun Janardhanan, “Explained: The Sri Lankan Refugee Question”, \textit{The Indian Express}, Jan.31, 2015 available at: <http://indianexpress.com/> (Visited on 1 January, 2016 at 3.30pm).}

According to the report in the Indian Express the Government of Tamil Nadu gives Rs. 1000 consistently to the head of refugee family, Rs. 750 to each adult and Rs. 400 to every child. Not just the fiscal advantage alone the Government additionally gives 20kg of rice each month to every refugee family and they have likewise been issued ration cards. To talk about education refugee children are permitted to study upto class XII for free and they additionally get the advantages which are given to Indian students which incorporates free course readings, uniforms, bicycles, noon meals, transport passes and tablets. Be that as it may, notwithstanding of every one of these facilities provided by government to the refugees the life is not a luxurious situation for them particularly who are living in the refugee camps. In November 2014, somewhere in the range of twenty refugees attempted to kill themselves in a camp close Trichy as they were disappointed because of the moderate advancement of their offer to get repatriated. They whined that life at the camp was more terrible than the one that they had fled. Because of this episode the National Human Rights Commission has venture up to guarantee fundamental rights for refugees. Refugees have a grievance that on the off chance that they are not allowed the citizenship of India, they should at least have the right of free movement in the country.\footnote{Ibid.}

The Sri Lankan refugees have a consistent demand of citizenship from the Government of India. In spite of living here in India for half of their lives the Sri Lankan refugees do not enjoy the privilege of citizenship. A public interest litigation was filed by advocate B. Arulmozhimaran under the watchful eye of the Madras High Court as he has asked the hon'ble court to acknowledge the application for citizenship of the Sri Lankan Tamil refugees. It was contended that these individuals who had spent almost three decades of their lives in India couldn't be denied citizenship as it would disregard their right to life as is ensured by Article 21 of the
Indian Constitution. A study carried out by K. Arockiam, Head Department of Human Resource Management, St. Joseph's College has stated in his study that "Although the State Government has been providing them with temporary housing, free medical care and education up to secondary level, cash doles, subsidised rice, clothing material and utensils, for their survival, employability remains a problem in the absence of social integration and they face an uncertain future without citizenship."

Under the 2009 amendment to Sri Lanka's Grant of Citizenship to Stateless Persons (Special Provisions) Act, 1988, any individual who was a permanent resident of Sri Lanka with Indian origin as on October 30, 1964, was constrained to leave the island country because of circumstances outside the ability to control of such individual and later lived in India, would have the status of a citizen of Sri Lanka. The date October 30, 1964 accept significance as it was on that date that the Governments of Sri Lanka and India consented to a two-sided arrangement, prevalently named after the then Prime Ministers Sirimavo Bandaranaike and Lal Bahadur Shastri, to settle the issue of stateless persons living in Sri Lanka then. One more understanding was marked in January 1974 between the two nations when Sirimavo Bandaranaike and Indira Gandhi were Prime Ministers. Be that as it may, as the Chennai-based Organization for Eelam Refugees Rehabilitation (OfERR) Director-Advocacy M. Sakkariyas says, these 28,500 individuals can't come back to Sri Lanka because of the dubious conditions winning in the neighboring country. They were initially from the hilly region of Sri Lanka. He additionally brings up that after the 1977 ethnic viciousness, a substantial segment of individuals in the hilly region relocated to areas in the Northern Province, for example, Vavuniya, Killinochchi and Mullaitivu and when the 1983 clash broke out, they had likewise fled to India.

---

Totally, there are around 68,600 persons living in the camps for Sri Lankan Tamils. Of the aggregate populace, around 60 percent, an unpleasant appraisal uncovers, have been born here. The individuals who were born and raised in the camps can be given Indian citizenship, subject to their readiness. A comparable alternative ought to be made accessible to others. Pointing out that in the case of children born to the refugees, their parents have to register the births at the office of Sri Lankan Deputy High Commission, Chennai. Prof. Suryanarayan says this necessity would help the children to look for Sri Lankan citizenship on the off chance that they or their parents come back to Sri Lanka. Be that as it may, relatively few tail this procedure. In respect of those born to refugee-local couples, the existing legal framework does not completely support them. Many of them are stateless persons. An amendment in 2003 (which came into power in December 2004) to the Citizenship Act, 1995 stipulates that either of the parents of the applicant ought not be an illegal migrant at the time of his or her birth and the other is a citizen of India. Before this amendment, the applicable procurement (which was in power since July 1, 1987) did not allude to the part of "illegal migrant." The least the Center could do is to offer citizenship to the individuals who were born somewhere around 1987 and 2004. Even though the refugee status has been granted to those who fled Sri Lanka in the wake of the ethnic conflict, they are all regarded as illegal migrants. It is on the grounds that they did not come with valid travel documents, given the unprecedented conditions under which they reached the Tamil Nadu shores.

Prof. Suryanarayan wonders what the justification is in treating them like illegal transients when they are given refugee status. Calling attention to that India has not confirmed the 1951 U.N. Convention and 1967 U.N. Protocol on Refugees, he says that the Center ought to draw out an extensive law, delineating the position on the privileges of refugees to life, education, livelihood and form associations. Such a law would give them assurance of their stay and better security. Aside from the compassionate edge, the proposed law could address security worries of the nation. Prof. Suryanarayan adds that the Center's choice to make the legitimate procurements on citizenship very stringent may have more to do with illegal migration from Bangladesh than Sri Lanka. The built up position of New Delhi on
refugees is that once normally returns in their individual home nations, such persons ought to retreat.

As per People’s Union of Civil Liberties (PUCL), an organization which is constantly working for refugees rights for over twenty years has stated that the Sri Lankan refugees stay in general camps and special camps in Tamil Nadu who are under constant watch. According to PUCL, there are at least 1,20,000 refugees in Tamil Nadu’s camps, the detritus of the civil war the Sri Lankan Government itself says ended five years ago. In India, that war has, strangely enough, been kept alive. Most of them are under surveillance in Tamil Nadu in exchange for basic survival in general camps. The number of people who have been in ‘special camps’ for over three years, and without legal representation, is not known. A Department of Rehabilitation Handbook of the Tamil Nadu Government, available online, rolls out a series of commandments: “Any individual refugee/repatriate information should not be disseminated; intelligence (criminal proceedings against the refugees) information should not be disseminated; whereabouts of the groups of refugees should not be disseminated; information about the repatriated persons to Sri Lanka should not be disseminated.” The general camps are open camps with the restriction of movement. Individuals can go out for work after three levels of police leeway. Special camp inmates don’t have the facilities that prisoners in regular jails do like parole, remissions, visits of relatives and friends, work with wages and access to a library. It is not obscure for state police to settle scores with Sri Lankan Tamils by embroiling them in false cases and afterward utilize that as a reason to place them in special camps. Their case that the inmates are deadly LTTE cadres is false. PUCL has been requesting that these special camps be shut as they constitute a tremendous human rights misuse. When they were locked in the special camps, these prisoners had no criminal cases against them. At times, when they were discharged through legal requests whether by method for exoneration or securing bail, the Tamil Nadu police conjured the Foreigners Act to detain them. This Act allows the state and the central government to lock up foreigners in these high-security jails, indirectly called special camps and to discard the key and overlook them. Nearly 80 per cent of the criminal cases against the inmates end up in acquittals but by that time they have
already spent about four years in special camps that are actually like concentration camps.\(^{20}\)

### 6.2.3 Conditions of Pakistani Hindu Refugees in India

As per the Report published by the Hindu American Foundation on March 31, 2013 (Victims of History: the Untold Story of Pakistan Hindu Refugees in India) the Pakistani Hindu displaced people need to take asylum in India because of consistent badgering, instability and constrained changes there in Pakistan. The Rajasthan in India have the biggest deluge of Pakistani Hindu displaced people and to be more particular it is in Jodhpur. The report draws out the predicament of these displaced people by highlighting that the evacuees were living in a regrettable condition. The Government of India has not furnished the evacuees with any appropriate help whether it is in connection of nourishment, power, clean drinking water or legitimate lodging. Because of absence of citizenship the evacuees were ineligible for profiting any administration advantages. Another test is with respect to training as their youngsters wander entire day in the camps however don't go to the schools. The outcasts were always stressed over their young kids. The report revealed that the study led in the three camps of exiles have watched that the most widely recognized issue was psychosomatic in nature. Since lion's share of displaced people did not have Indian citizenship due to which they were blocked from getting Below Poverty Line (BPL) cards or even the ration cards which Indian natives do have. The vast majority of these displaced people were having temporary visas to stay inside the breaking points of the city. They have limitation on their development as they are not permitted to move out of the city.

The report has likewise pin pointed that none of the Pakistani Hindu has been authoritatively perceived as refugees by the Indian Government or by UNHCR. These persons have not been given refugee status in spite of that they met the universal criteria set out in 1951 Convention Relating to the Status of Refugees or its 1967 Protocol. UNHCR additionally has not implored any dynamic part on account of these outcasts extraordinarily during the process of Refugee Status Determination.

---

However, one thing which needs to highlight here is that India has obeyed the rule of non refoulement in context of these refugees. India has not constrained any Pakistani Hindu exile to leave India which is in consonance with the standards of international law.

Mulling over the difficulties confronted by the Hindu refugees the Modi Government in June 2015 conceded citizenship to adjacent 4300 outcasts in one year from the states of Pakistan and Afghanistan. These displaced people are either Sikhs or Hindus who have their roots in India. To discuss the administration of UPA - II just 1,023 exiles were given citizenship amid their entire tenure. The activity was taken by the Home Minister Mr. Rajanath Singh who took after BJP approach that "India is a natural home for persecuted Hindus" who will be welcome to look for asylum. Amid the elections PM Modi has clearly expressed that the Pakistani and Bangladeshi Hindu outcasts will be dealt in the same manner as any other national of India. According to the reports about 19,000 refugees in Madhya Pradesh, 11000 in Rajasthan and 4000 in Gujarat have been given long term visas subsequent to May 2014. An online framework has additionally been begun for applying long term visas application remembering the troubles confronted by Hindus and Sikhs minorities of Pakistan, Bangladesh and Afghanistan.21

Not just this the present government is likewise working towards to bring an ordinance to change the Citizenship Act in order to concede citizenship to the Hindu displaced people who have originated from Pakistan, Bangladesh and Afghanistan. The prime object of the ordinance is to incorporate Hindu migrants from Bangladesh who have traversed into Assam and West Bengal in large numbers.22

Proceeding further the next important point to be discussed here is about 183rd Report on Problems Being Faced by Refugees and Displaced Persons in Jammu & Kashmir State. The report has mentioned five categories who have migrated to India on various occasions since 1947 which are as under:


The Committee communicates its serious concern that the West Pakistani Refugees, who are particularly subjects of India and qualified for voting in Parliamentary decisions don't have right to vote in the State Legislative Assembly races on the guise that they are not permanent inhabitants of the State as far as the J&K Constitution. The Committee feels that however they are living there for over 60 years, they are not driving the life of free residents in spite of having voting rights for Parliament. This privilege has not earned them any unique advantages. The Committee firmly prescribes that the Central Government must urge the State Government to think about, as a one time measure, the interest of West Pakistani Refugees to concede them the status of permanent occupants of the State thoughtfully so they can live as state subject dignifiedly, with every single legitimate right incorporating right to vote in State Legislative Assembly. The Committee feels that once the perpetual inhabitant right is allowed to West Pakistani Refugees, every single auxiliary advantage would consequently take after empowering them to lead respectable life. The Committee, in this way, suggests J&K Constitution might be amended for giving the status of State Subject on the WPRs at the earliest. These individuals have as of now languished over 60 years and the issue streams no deferral. The Committee likewise suggests that pending official conclusion in the matter, a temporary waiver might be made for affirmation of the children in the professional establishments.

The Committee is of the perspective that since the State Government has concurred, on a basic level, to join the procurement of reservation for the wards of WPRs in employments, the State Government ought not defer in preparing the matter. State Government ought to respect the proposal of the Supreme Court for issuing suitable official request to make WPRs qualified for affirmation in State proficient/specialized colleges as it is not connected to the permanent resident status.

---

of these persons. The Committee additionally craves that the matter of issuance of SC and OBC Certificates to qualified WPRs ought to be speed up. The Committee likewise observes the confirmation given by the Home Secretary for admission to the wards of WPRs in engineering and medical colleges in J&K. The Committee has officially made a different proposal to address the issue of permanent resident certificate so that the children may get confirmation in engineering and medical colleges in J&K. Other than that, as guaranteed by the Home Secretary, a component might be investigated to give reservation to the wards of WPRs in engineering and medical and other related foundations of advanced education across the nation. The Committee additionally suggests that, if essential, the base benchmark required for affirmation in such establishments may be relaxed for those wards due to their lower educational standard.24

The Committee is of the considered perspective that subjects of India must have the privilege to choose and get elected in all illustrative bodies to upgrade the quality of vote based system. WPRs ought to get permanent resident status sooner to foster complete confidence in democratic system. The Committee suggests that the Ministry of Home Affairs may seek after with the State Government to inspect the issue of reservation of seats in the Legislative Assembly and Legislative Council of the State for WPRs, and if vital, may move for fundamental amendment to J&K Constitution. The Committee is of the considered perspective that there ought not be any more postpone in figuring substantive proposition for one time pay for DPs of 1965 and 1971 (camp) and (non-camp). The Committee covets that the procurements of the proposition must be far reaching, tending to all issues and requests of DPs of 1965 and 1971 (camp) and (noncamp), keeping in perspective the affliction of the uprooted persons, for guaranteeing them respectable and honorable lives.25

Being concerned about the circumstance of Pakistani displaced people a parliamentary board has communicated their worries over the limited voting privileges of West Pakistan exiles. The board is of the perspective that these exiles must be given the privilege to vote and even the privilege to get chose in all the

---

24 Ibid.
25 Ibid.
delegate bodies with a specific end goal to reinforce the bases of majority rules system. Indeed, even the Parliamentary Standing Committee on Home Affairs have give its suggestion that the Ministry may continue to talk with J&K government to inspect the issue of reservation of seats in the Assembly and Legislative Council for West Pakistani Refugees (WPR) and can even thought for amending the state Constitution. Since they are not changeless inhabitants of the state regarding J&K Constitution they are not qualified for voting Parliament elections and even don't have the privilege to vote in State Assembly elections. The Committee expressed "However WPR's have been living in the state for more than 60 years, they are not driving the life of free subjects notwithstanding having voting rights for parliament and this rights has not earned them any uncommon advantages. WPRs ought to get permanent resident status sooner to foster complete confidence in democracy."26

6.3 Challenges Faced by Mandate Refugees in India

The Parliamentarian Shashi Tharoor in his book India Shastra has stated "Tibet and Sri Lanka are linked to India by peculiar historical connections and circumstances which permit those refugees to enjoy a position. But those who come from countries like Myanmar, Afghanistan, Iran or Somalia have had to bear serious disadvantages owing to technical and legal issues. Refugees registered with the UNHCR are given a card that protects them from forced deportation or detention. The card also gives them access to education in government schools and free medical care at government hospitals. But as the pressure of India's domestic population on basic amenities such as transport, health, education etc. means that refugees must also join the queue and hope to get lucky."27 The following paragraphs shall have a detailed description about the problems faced by refugees as narrated by themselves depicted in various sources.

Manohar Singh Taneja, the president of Khalsa Diwan (an organisation dedicated to help Hindu and Sikh refugees who come from Afghanistan) described

---

the problems faced by Afghan refugees in the following words: "In all these years, the Indian Government has not helped us with even a single paisa. All we want is our identity. In 2009, the Indian Government rolled out specific improvements in the law because of which the citizenship procedure halted. One of the fundamental conditions for this was the candidate's current visa ought to be renewed. What's more, the Afghani government office has its own tenets. The powers hassle us. They ask all of us young children, old and sick individuals to come to their respective office.” Kuldip Kumar another Hindu refugee from Afghanistan depicted that “If there were no religious persecution after the approach of the Taliban on the scene, he swears, they could never have left their country. We had expansive business there. A few of us exchanged dry natural products other maintained an apparel business or medical shops. At a certain point of time, Hindu and Sikhs were in charge of 50 percent of Afghanistan's development. We had places of approximately 5000 yards that were triple in size of the houses here. We exited cash in our financial balances and fled. We simply needed to spare our lives. We have not experienced anything near the great life we had in Jalalabad. We have been in India for so long, yet we don't have any records to demonstrate that we are Indians subjects." Not just this however both refugees have griped that they have confronted religious discrimination from the hands of UNHCR. They were of the perspective that Muslim refugees were repatriated to some third nation where as Hindus and Afghans are advised to stay in India as their precursors once have a place with India.28

Thin Thin Khaing, a Burmese refugee stated that "The most concerning issue we face is discrimination regarding our wages and work timings. They are paid much lower compensation, made to work for more hours and are made to work harder. Because of our low wages, huge numbers of us need to battle to try and pay our rent on time. The average cost for basic items is getting high day by day. Surviving is extreme. Dialect hindrance and distinct physical features has made the group easy targets for monetary abuse. Many Chin refugee women have been ambushed and attacked in their bathrooms by Indian neighbours. The police often side with the local Indians. They decline to record FIR for us and won't come in the

event that we call. Despite the fact that it is hard to sum up, our general involvement with the police has been awful.”

Burmese refugees have echoed their sentiments in the following words as stated by Mang Doi Tial: “Room rent is extremely costly. On top of that the neighbourhood landowners don't care for Burmese individuals since we have an alternate society and diverse sustenance. For instance, when we cook pork, there is a little odor. In any case, we need to eat our conventional food, yet they don't permit us to. It might be extremely insignificant, however it can be a problem...we need to stay in huge gatherings and once in a while the landowner expels us. They treat us like creatures, at whatever point their inclination is bad, they yell at us. At work, neighbourhood [peoples'] salary is more than our own in light of the fact that we are exiles, yet we are doing likewise. I gain Rs. 6,700, which completes in the wake of paying for room rent and nourishment and to deal with my more youthful sixteen year old sibling. It is hard to keep up our way of life since we have distinctive looks and dress. In the event that we wear our social dress, there will be some awkwardness with nearby individuals, so we need to adjust in some cases.”

Maw Maw, Member, Zotung Women Development Network stated “When my children play outside, local children throw stones and pebbles at them. Once one of my sons was seriously injured and a Chin elderly brought him home. It’s worse than Burma here, I do not feel safe.” Thin Thing Aung, Presidium Board Member, Women’s League of Burma and Mizzima News has also depicted the plight of Burmese women in the following words: “Majority of them are villagers from Chin state- uneducated, unskilled, no abilities, so to conform to day by day life in a city is so troublesome. Also they don't have cash, they can't talk the dialect so they can't discuss well with the nearby individuals. So consistently, they confront issues – they are pounded, sexually manhandled at working environments, at the night markets, assaulted by neighbours. They additionally have no entrance to the Indian legitimate framework. Drinking and abusive behaviour at home are likewise significant issues,

the anxieties of life are taken out on ladies. The UNHCR likewise issues refugee certificates on a family premise which makes divorce cases exceptionally chaotic. Women associations need to work with SLIC to determine these cases. There are likewise numerous young lady outcasts who are unaccompanied by relatives. They likewise confront numerous issues when they share settlement and an absence of privacy is additionally not great.\textsuperscript{31}

\textit{Falak Ram, Hindu Refugee From Pakistan} stated on 2nd January, 2015 his plight, "I got married in August 2001. I have a school going daughter. My four sisters and siblings who accompany me are married and settled here. We now need citizenship rights. In the event that citizenship can be conceded to Pakistani vocalist Adnan Sami then why not us?" \textit{Kala Ram, another migrant from Pakistan} stated "We applied for citizenship yet the Union Government declined to acknowledge our terminated travel permits. To get the travel papers restored we have to go to Pakistan. In any case, we are anxious we won't be permitted to return on our entry there. We could be rebuffed as well in spite of being Hindus, we have not been conceded Indian citizenship where as the legislature has obliged Adnan Sami. My kids are currently in secondary school. We have built our home here and have been given gas and power connections. We have presented our reports to the Union Government yet nothing has materialised as such. Without citizenship these Hindu displaced people can't purchase land or property. Likewise they are not permitted to vote. Our youngsters were born here and are natural citizens of India. Yet, they confront a few issues. They are not eligible for a government job."\textsuperscript{32}

\textit{Kohinoor, a stateless Rohingya Muslim refugee} stated his plight in these words “We were chased out of Burma. We were chased out of Bangladesh. Now we are here in India, the people here tell us that India is not our country. So where will we go? We don’t have any land of our own. Our children don’t go to the government schools as they refuse us admission. When we go to the hospital, they don't admit people from our community.” \textit{Abdul Sukur} another Rohingya refugee stated “Our home is Myanmar but they pursued us out. Here also we don't belong. People abuse us for living on the streets and say we are making the spot filthy. We need to move

\textsuperscript{31} Id. at p. 8.
\textsuperscript{32} Sarbjit Dhaliwal, “Hindus from Pak Want Citizenship Too”, \textit{The Tribune}, Jan 2, 2016.
constantly. We need permanent land in India where we can settle and have proper identity documents which we can show.” All these personal experiences by refugees depict how refugees have to suffer in India. The challenges faced by them show the ground realities of their living here in India.

6.4 Issues of Refugees in Rajya Sabha

The special report on “Refugees in India: Guests of Destiny” on Rajya Sabha TV is an eye-opener regarding refugees in India and how Delhi is a place of solace for them as they are eagerly waiting to return their homes but are helpless as the situation in their countries are not fit to go back. The report described that how a refugee has to comprise with his personal dignity, family pride and right to move freely in the world. The refugees are so much worried about their future and specially of their children. The refugees told their heart melting stories how they used to live in lavish houses and have a good earning in their hometown but alas they have to leave everything because of one reason or the other as there was threat to their lives. They are in India now but life here is also not easy for them as they have no means to earn and most of times the refugees return bare handed. Their lives are full of hardships and uncertainties because of the refugee tag attached with them. The report disclosed how at late hours the refugees collect left out vegetables from the market and due to late hours women refugees face physical abuse and sometimes even being raped. The refugees were of the view that they do not want any big demands from Indian Government but only wish that the government should provide them basic amenities. The refugees appreciate that India has provided security to them, they are safe here but their lives are full of sufferings. Because of no law for them they have to face problems at every step. Life becomes tough for them at every step. They have lost everything in order to be alive. As stated by Wael Sheikh Awwad, South Asia Chief, SANA "It is a pain. If you live as a refugee, you will understand. It is a very painful procedure. You build up all your hopes into to make your future for yourself, your children and then at the end of the day you came up that nothing left for you and you are only in the street and no one is looking only except you with a pity ... why?"

As per the report the developed nations meddling in the affairs of third world countries is a major reason behind the increase in the global refugees. Wars are imposed on the third world nations for one reason or the other. These wars force people to flee from their states and to take shelter in other states. But when it comes to the issue of burden sharing the developed states do not come forward with open arms. Even they have strict asylum policies due to which the refugees have to move towards developing nations. Since developing countries have no adequate resources therefore either they return the refugees back to their countries or accept them and leave them with their sufferings.

The report posed a question which proves the hypothesis of the study that lack of legal framework in India is the major cause behind refugee’s sufferings and their pitiable conditions. The report has mentioned that India is among top twenty countries who host refugees. As per the records in Jan 2014, India had 27000 refugees registered with UNHCR along with already 1,88,400 refugees enrolled in India. India has ignored the topic of refugees while making new laws or amending the old ones. Refugees are covered under Foreigners Act which does not recognize the rights of refugees and which does not define who is a refugee. The refugees therefore have to suffer because of lack of legal framework in India.

The close analysis of the self narrated stories of refugees shows the ground realities in which they survive. Altogether the researcher cannot come to the conclusion that India is not doing its responsibility well or all together ignoring the refugees. It is a fact accepted by refugees also that India has given them shelter and has saved their lives. They are alive today because India has accepted them with open heart. They know that they can't expect or demand too much from the Indian Government. But the problem arises when their basic rights are not protected. The Indian Government does discrimination giving facilities to some categories of refugees and ignoring others. The way India has treated Tibetans and Sri Lankan refugees is not hidden from anyone. They are recognized by the Indian Government where as the other categories are even not recognized by the government. The recent decision of the Modi Government to exempt minorities from Pakistan and Bangladesh to stay in India who have entered India on or before December 31, 2014 even without proper papers and documents or even if their relevant documents have
expired has faced criticism from other categories of refugees who feel that they are discriminated. Moreover when India has no domestic law that defines who is a refugee then where is the yardstick against which decision can be taken? This decision has raised several questions like how the government will assure that those who have come from Pakistan and Bangladesh have faced persecution there? Why the decision is only for minorities which cover Sikhs, Christians, Jains, Parsis and Buddhists in these two countries? What about the Chins and Rohingyas refugees? Does this mean Indian Government has no concern for them or there is no persecution of minorities in Myanmar? The Government needs to ponder seriously over the refugee issue when the world is facing this problem at such a fast track. The refugees have urged the Indian Government to consider them as humans also who are the sufferers only, firstly at their home town and then where they took asylum. The problems of harassment, discrimination, abuse is so common for refugees. This is the violation of their basic human rights. If India is accepting them then it must also set up a legal framework for protecting their rights. The arbitrary detention of the refugees specially the Rohingyas as they are stateless persons clearly violates the principles of the international law. Giving benefits to some categories of refugees and denying others are the issues which Government must reconsider.

The story of Abu Alam, a Rohingya Muslim Refugee is another painful depiction of the conditions of refugees. He has to free from his country in 2010 due to atrocities by radical Buddhist groups in Myanmar. Since he entered India illegally without having a passport he was detained by authorities alongwith two other refugees named Mohammad Salim and Mohammad Farooq. The Session Court in Jammu in 2011 sentenced the trio to two years imprisonment since they have entered illegally therefore they were charged under section 3 of the Passport Act, 1920 and also under section 14-A of the Foreigners Act, 1946. The court ordered that they were sent to District Jail, Kathua in which they have already been for one year because no one came forward to offer bail, the amount of which was Rs. 20,000 each. After they completed their sentence in November 2012, the Ministry of Home Affairs ordered for their deportation. But the problems for these refugees did not end here as they could not be deported because they were stateless as Myanmar Government has refused to recognize Rohingya Refugees as the nationals of their
country. Ministry of Home Affairs did not get any response from the Myanmar embassy in New Delhi regarding these three refugees, reason being they were de jure stateless persons. And as per the Foreigners Act, a person is held in detention until he is deported to his own country. And because of this paradoxical situation when no state is ready to accept them they were detained for a further period of 15 months and 18 days in Kathua Jail.\footnote{Meher Ali, “An Uncertain Refugee: The Fate of the Rohingyas in India”, \textit{The Wire}, Nov. 15, 2015, available at: \texttt{<http://www.thewire.in/>} (Visited on Jan 5, 2016 at 4:00pm).}

But on March 2014, Abu Alanis uncle filed a writ of habeas corpus in the High Court of Jammu and prayed that it was the constitutional obligation of the state to release them as they have completed their sentence. Due to this writ the J & K Home Department formalised their detention five months later by an order under the Public Safety Act (PSA), 1978. Under this Act, any person including a foreigner can be detained for the period of two years. When their detention under the PSA ended in 2015 the authorities were ready to send them to New Delhi from where they would be deported to Myanmar. Due to the repeated requests of their relatives and interference by UNHCR, the Ministry of Home Affairs stopped their deportation but the saddened part is that they continued to remain in detention and no order of release was made. The High Court in this case stated that the three would be released once they will get refugee cards.\footnote{Ibid.}

The issues regarding refugees have been raised several times in the upper house of the Parliament i.e. Rajya Sabha. On May 13, 2015 Mr. Avinash Rai Khanna has posed certain questions to the Ministry of Home Affairs regarding the number of refugees from West Pakistan who are currently residing in Jammu and their details thereof, how their rights are different from the residents of J & K and also regarding the plan of Government to recruit these youths from West Pakistan in para military forces. Mr. Kiren Rijiju (Ministry of State in the Ministry of Home Affairs) has answered the questions posed by Mr. A.R. Khanna. As per his statement there were about 5764 families who are currently residing in Jammu, Kathua and Rajouri districts of Jammu as they have migrated from West Pakistan. These refugees have been given the right of vote in Parliamentary Elections. But as per the Constitution of J & K they are not considered as the permanent residents of the state.
and because of this they do not have voting rights to the State Assembly and Local Bodies. To be the permanent residents it depends on the conferment given by amending the constitution of J & K only by means of which they are enable to get jobs under state government or can acquire right to purchase or acquire any immovable property in J & K. In response to the last question Mr. Rijiju made it clear that at present there was no separate proposal under consideration of the government by which they could recruit the children of these refugees. But these children have been allowed to be recruited in Central Armed Police Forces despite of not having domicile certificate from the Government of J & K.

On 29th April, 2015 Sh. Kiren Rijiju (Minister of State in the Ministry of Home Affairs) answered certain questions related to Tibetan refugees asked by Dr. Chandan Mitra in the Rajya Sabha. The questions were in regard to the population of Tibetans and their state wise total number of settlements in India, the benefits given to the Tibetans under the Tibetans Rehabilitation Policy, any decision of the Government of India to extend benefits of Tibetans of the various programmes sponsored by the Government and also various steps taken by Indian Government for rehabilitation of the refugees. Mrs. Rijiju answered these questions in the Rajya Sabha firstly by disclosing that the total number of Tibetans in India is 1,10,095 as per 2009 figure. Tibetans in India have concentrated mainly in the states of Karnataka where the figure is 44,468, Arunachal Pradesh the number there is 7,530, Himachal Pradesh the figure is 21980, Uttarakhand, West Bengal and Jammu & Kashmir where the numbers are 8,545, 5,785 and 6920 respectively. Further answering the question it was stated that the then Ministry of Rehabilitation had undertaken a number of measures and steps for rehabilitating the Tibetan refugees in different states of India. The State Governments have also provided to the Tibetans the agricultural land on lease. Not only this the other measures like setting up of the Handicraft centres in Dalhousie, Dharamshala, Shimla, Kullu, Darjeeling and Rajpura have been taken. Since there was no uniformity in the facilities provided by various state governments, the Government of India took a favourable step in this direction by framing the Tibetan Rehabilitation Policy, 2014 which provides uniform guidelines for providing facilities to the Tibetan refugees living within the
jurisdiction of each State Government. The detail of these benefits given to the Tibetan refugees by respective State Governments is as under:-

- The land which is occupied by the Tibetan Refugees as to that a lease report should be essentially marked by the concerned State Governments. The duration of these lease documents is for a time of 20 years or till it is repudiated/wiped out.

- The concerned State Governments are required to issue Rent Tenancy Certificates to the refugees.

- The State Governments are coordinated not to bother the terrains under the control of Tibetan Refugees.

- The State Governments have been advised to extend the advantages with respect to the separate State Government Schemes furthermore the Centrally supported plans such as Mahatma Gandhi National Rural Employment Guarantee Scheme (MNREGS), Targeted Public Distribution System (TPDS) and National Food Security Act (NFSA), Indira Awas Yojana (IAY), National Rural Livelihood Mission (NRLM), Rajiv Awas Yojna (RAY), National Rural Health Mission (NRHM) etc.

- To give the infrastructural offices and essential civilities like roads, electrification, drinking water plans in or around the Tibetan Settlements.

- The State Governments to take start in expertise up-degree and preparing programmes for the Tibetan Refugees.

- In order to assist the trading process the State Governments have been asked for to permit the Tibetan Refugees to run Tibetan Bazars to trade in Tibetan Artifacts, handlooms and handicrafts.

- The flood/famine relief which is reached out to the Indian Citizens, the Tibetans ought to be entitled for the same.

---


37 Ibid.
➢ To open the avenues for qualified Tibetan professionals so as they may be allowed to seek after occupations in private and non-government segments in any field for which they are professionally qualified.

➢ As per the desire of Tibetans to undertake economic activities of their choice the State Governments have been encouraged to permit them to do likewise and to that degree exchange licenses/authorization.38

On August 6, 2014 Sh. Anil Madhav Dave has posed a very serious and important question in relation to the enactment of law for refugees by the Government in coming future and if no then reasons to be stated. But if the answer is to be considered then as per the researcher it was not a satisfactory one as the reasons for not enacting the refugee law was not disclosed. It was simply stated that since there is no law on refugees in India therefore the Indian Government has opted a standard operating procedure to deal with foreign nationals who claim to be refugees and has circulated this procedure to all the State Governments and Union Territories on December 29, 2011. The Standing Operating Procedure specifies those cases which are primarily justified on the grounds of a well founded fear of persecution on account of race, religion, sex, nationality, ethnic identity, membership of a particular social group or political opinion. Such cases can be recommended by the State Government or Union Territory Administration to the Ministry of Home Affairs for grant of Long Term Visa (LTV) after due security verification. A foreigner to whom LTV is permitted by the Ministry of Home Affairs will be allowed to take up any employment in the private sector or to undertake studies in any academic institution.39

6.5 The Asylum Bill, 2015: An Analysis

On 18 December 2015, Shashi Tharoor (Member Parliament) introduced The Asylum Bill, 2015 in the Rajya Sabha. The following paragraphs shall have a detailed discussion about the features of the bill. The Asylum Bill consists of ten chapters. The Bill expects to accommodate the foundation of a framework which should be successful in order to give assurance to the refugees and asylum seekers

38 Ibid.
by method for a suitable lawful system which would decide and ensure their rights. Since the Constitution of India certifies equivalent and reasonable assurance to all hence the need is to consolidate and streamline the different strategies and practices identified with outcasts and asylum seekers in India. Section 2 of Chapter I deals with definitions of various terms like chairperson, applicant, dependent, foreigners, mass influx, nationality, persons with special needs etc. which have not been defined under the Model Law for Refugees in India.

Chapter II of the present bill deals with the persons who are qualified to be refugees as per the provisions of this act. Section 4 states that “If a person is outside his country of origin and is unable or unwilling to return to or avail himself of the protection of that country because of a well-founded fear of persecution on account of race, religion, sex, nationality, ethnicity, membership of a particular social group or political opinion; or has left his country owing to serious and indiscriminate threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order” shall be qualified to be a refugee. Not only this but even the dependants of a refugee also be deemed to be refugees. Section 5 of the present bill takes into consideration of the national security interests and has excluded few persons from category of refugee like the one who has either committed a crime against peace, a war crime or a crime against principles of humanity, a serious non-political crime outside India prior, inhuman or poses a serious threat to the public order or national security of India. But the exclusion of applicant does not automatically apply on his dependants.

Section 6 states the reasons when a person shall cease to be a refugee under this act. The reasons are as following: “

(a) If he can no longer refuse to avail himself of the protection of the country of his citizenship, because the circumstances in respect to which he was recognized as a refugee have ceased to exist; or

(b) He voluntarily re-avails himself of the protection of his country of origin; or

(c) He has acquired the citizenship of India; or
(d) He has acquired the citizenship of some other country and enjoys the protection of that country; or

(e) He has voluntarily re-established himself in the country which he left, or outside which he remained owing to fear of persecution; or

(f) He has voluntarily regained the citizenship that he had been deprived of; or

(g) He having been stateless, is able to return to the country of former ordinary residence as the circumstances in respect to which he was recognized as a refugee no longer apply.”

Section 7 is unique component of this bill which manages the cancellation and repudiation of refugee status. The areas specifies that if a man himself or whatever other for his sake has distorted or covered realities that were material for deciding the status of evacuees with or even without fraudulent intention his refugee status can be cancelled and furthermore on the off chance that he is blameworthy of misconduct, including threat or bribery or if there was a mistake of fact or law while giving the status; or on account of wrongdoing or regulatory blunder at any phase in the hearing. What's more, the administration has additionally the ability to deny his refugee status if his behavior falls in the ambit of the exclusion criteria under section 5. The principle of non refoulement has been maintained by section 8 of the present bill.

Section 9 expresses that an appropriate method is to be followed before making any order of evacuation of the refugee or asylum seeker. The principles of natural justice are to be followed and reasonable opportunity to be given to the individual being removed. Section III of the bill manages the system to apply for refuge. Section 10 of the bill gives right to each asylum seeker to make an application for asylum to the Commission in a recommended structure. The area likewise gives that the authorities or the police officials who catches a non native who is making an entry into India and who need shelter then in such cases the authorities need to guide them the methodology of taking asylum in India and such persons ought to be given sensible time for making his application to the Commission. The noteworthy procurement of this segment is that it precludes the powers from keeping any haven seeker or to force punishment on him as his
entrance was illicit till the time his application for shelter is as yet pending with the authorities. This procurement at present is missing because of which the asylum seekers are confined and even punishments are forced upon them. Another essential protection has been given to the asylum seekers as it is specified under Section 10 (6) that once an application is moved by the asylum seeker to the authorities then amid the pendency of the choice of acknowledgment and dismissal of use a registered document should be issued by the Commission expressing the character of the individual which might stay substantial for the time of six months and after the issuance of the said archive the shelter seeker is qualified for stay in India pending the determination of the application for refuge. Sections 11, 12, 13 and 14 depict the method to be followed while taking up the application of the asylum seeker. A reasonable opportunity must be given to the candidate alongside the procurement of having an equipped translator and adequate chance must be given to deliver proof in backing of his case. On the off chance that the choice conflicts with the candidate they have plentiful chance to make an appeal to the appellant board. The Board can make a further inquiry and may in the wake of giving sensible opportunity either affirm the choice of the Commission or may alter or put aside it too. This as well as the candidate has the privilege to look for help of a legitimate professional of his decision. Further moving Sections 16 to 29 manage constitution, powers and functions of authorities.

India has already faced the situation of mass influx. Keeping in mind the situation, Section 30 of Chapter V of the present bill deals with the provision of mass influx. As per the provisions of this section the Central Government is empowered to impose reasonable restrictions on the movements of mass influx refugees and also if any refugee is found violating the restrictions then the government has power to order for his detention. Further Section 31 is about the voluntary repatriation which provides that if a refugee wants to voluntary repatriate only then he must be deported. The principle of non refoulement has been protected under this section. The order of repatriation of the Central Government is not final as it has to be approved by the Commission. It means the Central Government cannot act arbitrarily as its decision of deportation is further inquired by Commission before giving finality to it.
Sections 35, 36 and 37 describes in detail about the rights and duties of the asylum seekers. The following are the rights provided by the bill:

- A refugee is qualified for a formal composed acknowledgment of asylum in such frame and way as might be endorsed under section 11 and section 12.
- An identity and a travel document of the nature depicted in section 37.
- Right to apply for a habitation grant and other government documents.
- Freedom from discrimination on the premise of race, religion, sex, nationality, ethnicity, place of birth or any of them.
- Right to have a reasonable and just treatment as per due procedure and strategy set up by law.
- Right to choose his place of habitation and move within the territory of India, subject to any sensible confinements that might be imposed in general interest.
- Right to look for and enter work in the private segment.
- To have same medicinal services, rights and administrations that apply to Indian nationals.
- Right to free and compulsory primary education.
- Right to move courts by suitable procedures for the implementation of rights presented by this demonstration and Part III of the Constitution.
- Right to have a lawfully enforceable document of identity issued by the Central Government which should specify the identity number of the holder, his legitimate status in India, sex, date of birth, and place or nation where he was born; the nation of which the holders is a subject, and a recent photo of the holder.

The duty imposed on refugees and asylum seekers is in regard to be bound by the laws of India conferred by this act.

These are some of the important provisions of this bill. An effort has been made to make it a comprehensive act. A bundle of rights have been enumerated under this bill but the right to move the courts for enforcement of rights mentioned in Part III of the Indian Constitution is not a sound provision. Part III has extensive rights and to make asylum seekers at par with citizens in each and every respect does
not seem to be practical. Whereas other provisions like giving identity documents to
the asylum seekers till their application is pending and giving them ample time to
prove their case and if their application is rejected then to give them another chance
for having a say in their case are some of the commendable provisions. Other
noteworthy provisions are restraining the authorities from detaining the asylum
seekers due to their illegal entry and not to impose penalty on them. It has to be
understood by the government and authorities that once a person flees from his
nation in order to save his life and has entered into the land of other nation then
atleast he must not be confined and punished for entering without having requisite
documents.

Not only these but the bill also gives in a detailed manner the powers and
functions of the Commission and Appellate Board. The powers are not absolute and
the principle of check and balances has been adopted. Even in the case of voluntary
repatriation the decision of the Central Government is not final because it is felt that
in the name of voluntary repatriation the government may violate the principle of
non refoulement. Because of this the Commission has been empowered to give
finality to the order of Central Government. The time has come that the government
must seriously think over to enact a law not only to protect the rights of refugees but
also taking into consideration the national interest.

6.6 Case Study I

Report of PILSARC on Lampur Detention Centre for Refugees

As stated earlier in Chapter V of the present research work, Public Interest
Legal Support and Research Centre (PILSARC) in association with UNHCR works
for the refugees in India. It works for protecting the rights of refugees and is
cconcerned regarding any human rights violations taking place in respect of refugees.
The few facts need to be mentioned here regarding the report. PILSARC prepared a
report titled “Does India Treat its Refugees Well” in which the condition of Lampur
Detention Centre, Delhi was highlighted. This detention centre is used for detaining
refugees and PILSARC has always been concerned regarding the working of the
above mentioned centre. The report prepared by PILSARC in regard to conditions of
refugees in Lampur detention centre was submitted to UNHCR along with NHRC. PILSARC observed:

1) That the refugees were the sufferers at the hands of the authorities. They were ill-treated and harassed by the concerned authorities of the detention centre.

2) The prima facie cases of beatings were established by PILSARC and also it was found that the refugees were considered and treated as criminals. The environment created by the authorities was none the less is that of a jail.

3) The refugees were threatened that they would be deported if they took the resort of court and because of this threat they were languishing in the detention centre for months and even for years.

4) The refugees were mistreated and they were denied access in regard to their papers, legal advice and contact with UNHCR.

5) A prison like ambience has been created there where the movement of refugees has been restricted to their blocks of barracks.

6) The refugees themselves narrated the incidents of harassment and physical abuse at the hands of the authorities. They also stated that sometimes they have to work like domestic servant for the officers. And if any refugee refused to do such kind of menial works then they are threatened and harassed by the concerned authorities.

7) The refugees further stated that even for doing the minor deeds they have to take permission from the authorities of the centre. Also the refugees were not allowed to make use of the cooking facilities at the premises and therefore the food distributed to them was insufficient and most of the time they had to depend on the cold food from outside.

8) Not only the refugees were suffering from the problem related to food but there is also the problem of sanitation and cleanliness in the premises and the refugees were not allowed to report these incidents and if any attempt is made in this respect then they have to face the abuse and harassment at the hands of authorities.

The allegations levelled by the refugees against the authorities were refuted by them. They denied that there was no physical abuse or harassment by them.
instead they have cooperated with refugees. But on making a surprise visit by the PILSARC members they have found truth in the assertions of the refugees. However the security personnel accepted that there were no clear directions from FRRO about the treatment of refugees and moreover there were lack of adequate resources to provide better facilities to refugees.

6.7  Case Study II

This case study shall deal with the study of “Chin Refugees in Delhi: Realities and Challenges” conducted by Jesuit Refugee Service (JRS), South Asia. As per the study of JRS, Chin refugees were living a life of economic insecurity and of non recognition here in India.

As per a report of 2011 which was released in Washington, “Seeking Refuge: The Chin People in Mizoram State, India”, it was stated that the Chin people live a life of “out of sight and out of mind”, in India. The Urban Refugee Programme of UNHCR deals with Chin refugees in Delhi. UNHCR provides assistance to refugees in the following matters like health, education, employment, providing legal assistance, psychological and social support etc. It also provides various services to the Chin refugees which include: Subsistence Allowance Programme (SA), Employment and skill Training Assistance, Health Service, Legal Assistance and Education. The Chin refugees are provided a subsistence allowance of Rs. 3100 on monthly basis and the dependant receives a sum of Rs. 950 for a period of three to six months and this is subject to periodic review. Generally subsistence allowance is given to disabled or extremely vulnerable refugees or those who have become incapable of doing work due to physical or mental disablement. Unaccompanied minors and senior citizens also get the benefit of this allowance.

Chin refugees face work issue since they are from a rural foundation and therefore they do not have any professional aptitudes. In light of this Don BOSCO has assumed this liability of improving their abilities in the field of tailoring, knitting and adornments making and so forth. In the health sector UNHCR has tied up with DDU which is an administration healing facility. The prescriptions are given free of cost to these refugees. Coming to the education sector these refugee students who faced difficulty in coping with the education system are given tuition classes organized by Don BOSCO. Through "Open School/Bridge Program" Don BOSCO
gives instructing to those youngsters who have missed prime years of their lives in education because of relocation to India from Myanmar.

The study has revealed that the Chin outcasts confront an issue in acquiring a refugee card as it includes a lot of time and travel cost. Indeed, even in the wake of getting the Refugee Status Determination card the issues of Chin exiles don't end here for getting the Residential Permit they need to approach FRRO i.e. Foreign Regional Registration Office. But the residential permit also does not provide a work permit for the employment. The Chin refugees have stated that to get a residential permit is a tedious task. It involves a lot of paper work. As stated in the report: “A lot of documentation is involved in obtaining a residential permit. The FRRO insists on submission of electricity bill/water bill, sometimes voter identity card of the house owner and a proof of residence from the house owner.” The Chins experience procedural hassles in this regard. At times the house owners are not supportive and understanding and they do not provide these documents and also hesitate to give letters to this effect. Despite fulfilling these procedures, the residential permit is valid only for one year.”

The applicant has to resubmit all the documents again to review the permit. Report has also disclosed that Chins were not satisfied with UNHCR process of resettlement as the latter has strict rules for resettlement. There is a serious gap in understanding between UNHCR and Chin refugees. Because of this many refugees were unhappy have become depressed and were also not taking any fruitful efforts to improve their lives in India.

Discussing further about the report the education perspective shall be dealt with. The report has disclosed that many problems and challenges are being faced by Chin refugees in getting education in India. The reasons are as follows like meagre financial resources of the family, migration from native country to the asylum country, discriminating attitude towards refugee children in the school, instances of physical abuse and harassment in the school, medium and way of instruction in the school is quite different which is difficult for the students to cope up with, lack of specific teachers in the schools who can deal patiently and humanitarianly with Chin students who have already undergone so such of pain and trauma. Chin refugees were also not satisfied with the training centers run by UNHCR in collaboration with its implementing partners. There is a complaint by Chin refugees that student teacher
ratio is worst as one person has been given the authority to manage huge number of students and also students of various age groups are allowed to sit together in one class which creates hindrance in way of effective learning.

Moving further towards the health it is heartening to disclose that the Chin refugees live in deplorable condition and in shabby environments. The lack of access to basic amenities like clean water has taken a toll on their health. Since the Chin refugees are having agriculture background they lack skills and therefore do not earn good income. Whatever they earn it goes into their other household chores and electricity bill. There is lack of awareness regarding health in Chin refugees. In order to survive Chin refugees go to night bazaars to purchase discarded vegetable as it is available at a cheaper price. Lack of basic facilities, non nutritional food and vegetables, having constant fear and worry has led some of the refugees to face psychological problem. Due to the lack of proper treatment many Chin refugees suffer from serious diseases and have even lost their lives. The refugees have no other option except to move to government hospitals as private hospital charges they cannot afford and nor UNHCR insure them. But the situation is no longer good even here in DDU hospital. The report has mentioned one of the instance which is as follows that when a man was beaten by the locals and was taken to the hospital the doctors asked about the cause of the action. On telling the doctor about the incident it was the reply of the doctor that he must admit that he has hurt himself and should not blame others. And if he would do so then there would be no treatment.

The report further states that the medicines provided to the refugees are sometimes out of expiry. Pregnant women also suffer a lot as they have to wait for long hours. And since male interpreters were not allowed inside the maternity room the women lack communication skills and thus find it difficult to converse with hospital staff. Sometimes lack of communication leads to misinterpretation which results in miscommunication between doctor and patient and as a result sometimes wrong medicines are prescribed.

Moving further towards the employment, skill development and income status of the Chin refugees the study reveals that Chins could not work in the formal sector as the Indian government does not grant work permits to the refugees. Because of these restrictions Chin refugees have to work in informal sector and have to face lot of challenges and hardships. Chins are generally employed in the work of
tailoring, knitting or as waiters in the night parties at Delhi’s elite farm house parties. There are various factors responsible for generating low income for Chin refugees. As per the study Chin refugees find it difficult to get job because the local people do not trust them. Since the youth prefers to work at night parties in order to earn more money they get exposed to alcoholism, abuse and harassment. Another factor responsible for this is that Chin refugees prefer to work in their surrounding area due to safety and security reasons and due to this they remain unemployed. Women also face harassment and insecurity at the work place. Chin women have stated that they were molested and at times raped at the work place. As told by a Mizo woman “As her machine was not good she could not complete the job assigned to her on time. She was working in a tailoring centre. Moreover, she also suffered from back pain due to uncomfortable seating arrangement in the centre. Hence he decided to quit the job after nine days. When she went to the employer to ask for her salary, he gave her Rs. 70. She felt very anger and upset but could not do anything about it. She then got a job in another place. Here she was unloading contents. As this was heavy work she could do the work only for a month. When she asked for her salary, her employer gave her Rs. 500 for the entire month. As she was not in a position to argue she accepted the meagre amount. She then worked in a factory alongwith other Burmese women.”

The next part of the study has focused on the housing conditions of the Chin refugees which depicts their plight and helps to understand the problems faced by them. Being refugees they cannot own their house and thus they live on rent. As per the study the majority of Chin refugees are living in one room house. They also have to share the kitchen with other families and use common toilet facility. The toilets were in very bad conditions and since they are next to the quarters it causes serious health hazards to the refugees. To find a rented house is a huge task for Chin refugees. They have to pay hefty amount of rent also to the landlords. The condition of the rooms in which they live is also not satisfactory. As per the report the size of the house is generally of 10ft.×13ft. without having any proper ventilation. There is very limited space in the house in which they have to mange everything. The surrounding area was also dirty, unclean and full of flies. The biggest challenge faced by the Chin refugees is regarding rent. Since there is no rent agreement, the landlords puts their own terms and conditions and exploit the refugees.
Summary of the Challenges faced by Chin Refugees as per the Report:

- Chin Refugees face harassment from their landlords, neighbours and also from the local people.
- Chin Refugees are vulnerable to physical and sexual abuse.
- Because of having distinct physical features they are easily recognized and hence they have to face harassment and differentiation at the hands of local residents.
- Due to constant harassment and abuse Chin refugees are living a life of fear, worry, stress and depression.
- Women Chin refugees have been asked for sexual favours by their house owners.
- Problem of eve teasing by the local youth is quite common.

Source: <http://jrssa.org/> (Visited on Jan.6, 2015 at 6:45pm).

Chin refugee women and children become constant victims of sexual abuse and gender based violence. Living in New Delhi is a testing undertaking for them as they have a bleak future here. Chin ladies and kids are frequently ambushed in their
own particular homes or nearby, by neighbourhood Indian men known to the victims. The superseding worry of Chin displaced people survivors is their immediate safety. Great monetary hardship implies that survivors can't move to a safer place away from the perpetrators. UNHCR and its executing accomplices the Socio Legal Information Center and Don BOSCO Ashalayam face various impediments as to accessible subsidizing furthermore in their ability to lead outreach with the most helpless families. Money related hardship is a noteworthy hindrance to seeking after a formal police complaint and legal case which requires budgetary assets past the restricted method for the poorest families. Tragically, failings in administration procurement by UNHCR and its actualizing accomplices and in addition an obvious society of dissent and casualty accusing inside those associations, delegates of winning demeanors inside Indian culture has brought about a common absence of trust between those organizations and the Chin displaced person group. This has turned into an extra hindrance to effective redress.  

One of the incidents as stated by a Chin refugee woman is regarding the sexual assault of her daughter by a local Indian. When she went to Women Protection Clinic to take help in this matter there the security guard did not permit her to go inside. At that point she took her little girl to DDU hospital which has tie up with UNHCR. Be that as it may, there likewise she needs to face such a great amount of disillusionment as the specialist didn't demonstrate any sensitivity for her rather reprimanded her for telling a falsehood. Furthermore, no proper medical examination was finished. Following day she went to Socio Legal Information Center (SLIC) who at first did not trust her but when the medical examination was done it was affirmed that the child was sexually attacked. Inspite of doing any assistance to her the staff of SLIC advised her to be watchful in future and take care of her girl. No legitimate help was given to her. The miserable part is that it is not a solitary case rather a characteristic of difficulties confronted by Chin refugees in India.  

---

41 Ibid.
There is another report “Doke Kha Bon” prepared by the Pann Nu Foundation in collaboration with Burma Centre Delhi. The report includes twenty case studies of chin minority women majority of whom are widows and single mothers. They have to leave the place where they grew up because of risk to their lives however life is by all accounts discourteous with them here in India too. The study highlights that each chin refugee has a story to tell which is loaded with battle and despondency. They were sufferers on account of military in Burma. They were sexually mishandled by the military and the young ladies were constrained to serve the military faculty. The report uncovers that in India the circumstance has not changed much for them. In Burma the chin ladies were helpless before military and here in India they carry on with an existence of consistent apprehension as the nearby individuals treat them gravely. Segregation by local people, attack, sexual misuse are the difficulties confronted by the chin ladies be it their work environment or leased apartments. The report states: "Because of their intense neediness, the displaced people stay not able to use the general wellbeing and legitimate administrations. They don't report rapes because of a paranoid fear of social defamation and disgrace. Indeed, even those cases that are accounted for to the local police stations are either not registered or result in the victim being pressured to abandon prosecution in exchange for cash.”

It has been urged to the Indian Government that its foreign policy needs a review and to take into consideration women refugees who are seeking asylum in the country.

6.8 Case Study III

*Urban Profiling of Refugee Situations in Delhi; Refugees from Myanmar, Afghanistan and Somalia and their Indian Neighbours: A Comparative Study* is a report prepared in September 2013 in collaboration between the joint IDP Profiling Service, the Feinstein International Centre and UNHCR. This study was funded by the US Department of State's Bureau of Population, Refugees and Migration. The Development and Justice Initiative (DAJI) in Delhi one of the implementing partners of UNHCR has also collaborated closely in this study. This work has spotlighted the challenges faced by refugees in India. The study focuses on the key components like

---

their living conditions, employment, physical, social and economic security in India. The aim of the study was to present a picture of living conditions of different refugee groups and to draw out a comparison between the experiences of various refugee groups and of Indian citizens living in the same neighbourhood. The study has focused on three categories of refugees namely Afghans, Somalis and refugees from Myanmar. To be more specific the study has excluded Hindu, Sikh Afghans as majority of them have been integrated into Delhi in comparison to non Hindu Sikh Afghans.

The study has pointed out that since India does not have a specific law for refugees therefore the Foreigners Act (1946) is applicable on them. This act does not consider refugees a special class of people and treats refugees in the same way as other migrants. Indian Government in the absence of refugee specific legislation has decided to grant long term visas and work permits to those refugees who have been registered with UNHCR. This initiative on the part of Indian Government gives certain benefits to refugees like access to formal job market and also access to higher education. UNHCR in collaboration with NGO’s, various community based organizations and service providers focus on the requirements of refugees with specific needs. They are working in the direction of providing employment opportunities for the refugees, child care and to generate income opportunities specially for the refugees who are suffering from mental and physical disabilities.

**Findings of the study on Employment security**

1. There is variety of the quantity of family unit wage workers on the premise of group and sex. All things considered premise the Indians and Myanmarese families falls under the class of most noteworthy number of pay workers. According to the concentrate more than half of the reviewed families had one income earner where as more than 30% had two salary workers. In contrast with this the Afghans and Somalis has less number of income earners. The study expressed that 40% of Afghan family units and 28% Somali had no salary workers. As to Indians and Myanmarese the case is far under 5%. Except Somalis, every single other group headed by females don't have any wage earners.
2. More than 54% of Myanmarese were in salaried employment where as just 3% were searching for occupations. In any case, the position of Afghan outcasts is bad in this connection. The 35% Afghan family heads were unemployed and were looking for Job. The cause behind their unemployment was absence of records like legitimate visas. They confront dismissal at the occupations because of absence of legitimate visas. Somalis has a dreary picture in the matter of unemployment. 17% of the family unit heads were unemployed and what's more, just 15% were in job. The study has uncovered that in contrast with refugees 77% of Indians were working. Just 2% of the Indian families were searching for jobs.

3. About 25% of the Indians maintain a little business and others filled in as employees in different divisions. While 33% of Myanmarese worked in production lines and 26% in shops, eateries, magnificence salons, call centres night parties and so forth. Just 7% of Myanmarese exiles were independently employed or they have begun their own business. Afghans procure their occupation either by going about as interpreter, working in shops/eateries or pay creating exercises in the UNHCR refugee centres. They are likewise utilized as drivers, tailors or in administrative employments.

4. Talking about the working conditions, Myanmarese and Somali evacuees expressed that the conditions are not in the slightest degree safe. According to the study 32% Myanmarese and 22% of Somali who work have reported that they feel physically unsafe at work where as half Myanmarese and 46% Somali refugees reported that they feel perilous while going to work or returning there from. At the point when the same inquiries were asked to Afghans the number was under 10% and for Indians it was under 40%.

5. Harassment at working environment is entirely obvious and normal as reported by Myanmarese. They have shared their experience of not having been paid or having been terminated from the occupation. Discrimination at working environment is another issue shared by the Myanmarese women. Because of the anxiety of provocation and segregation now and then they need to stay at home, the consequence of which is loss of salary. Regardless of the fact that the episodes of discrimination and harassment have been accounted for to police yet nothing positive has been accomplished for them.
Findings of the Study on Housing Security

1. As per the study 90% Myanmar refugees and 81% Somalia refugees are living in only one room. The Afghan refugees condition is fairly better as half of Afghans live in set of two rooms. At the point when an examination was drawn out it was discovered that most of the refugees need to share their homes with non family members though the study uncovers that only one Indian respondent need to do as such.

2. In respect of toilets and kitchen the circumstance is bad. Where two third of Myanmarese need to share toilets and kitchen to non members, the Somalis are more than half in this admiration. Be that as it may, for Afghans the number is not more. Just 10% Afghan refugees need to share their homes and 11% share toilets and kitchen with non family members.

3. 51% of the Indian respondents in the study have their own residence however no refugee has his own particular home. All of the refugees were living in the leased house without having composed rent agreements in the vast majority of the cases. The rent is expanded by 10-20% once per year or at different times twice per year. Removal of the outcasts is a typical scene. The report delineated that 80% of Myanmarese and 62% of Somalis have endured ousting via landowners. The explanations behind expulsion are: non-payment of rent, big families, guests and in simplification discrimination and will of landowner. In contrast with this under 5% of Indians and Afghans have expressed that they have been evicted.

4. Payment of rent is the most difficult undertaking for refugees. Paying rent later or if not paid frequently prompts the expulsion of outcasts. The Myanmar refugees need to pay normal rent of Rs. 2000-3000 every month where as Afghan displaced people need to pay Rs. 10000 for two rooms. Then again the Somali outcasts were reliant on UNHCR subsistence stipend for paying the rent. Here and there the ousted persons need to live in parks or in mosque until they found another residence for themselves. The report expressed that paying of rent is a need for exiles as they have an apprehension that on the off chance that they won't pay the rent then the proprietors would toss them out of their homes. With a specific end goal to
spare cash for the rent once in a while they need to pick vegetables from the refuse and at different times they don't eat by any stretch of the imagination. This they need to do keeping in mind the end goal to spare cash with the motive that they could pay rent on time.

Findings of the Study on Physical Safety

1. Perception of security relies on the relationship amongst refugees and the Indians. Myanmarese and Somali refugees face discrimination and harassment because of neighbourhood individuals because of their diverse physical appearance. According to the study 6% of Afghan displaced people have encountered robbery or theft though 13% have encountered physical ambush. In any case, the circumstance is troubling in connection of Myanmar refugees. 54% of Myanmarese have griped with respect to been sufferers of robbery or theft and 80% have expressed that they had encountered physical attack. 19% Somalis have additionally complained of robbery or theft though 37% have encountered physical ambush.

2. Talking about physical safety from neighbourhood the circumstance resemble this where 92% Myanmar refugees and 76% Somali refugees have a solid observation that their neighbourhood is unsafe in contrast with 6% of Indians and 17% Afghan outcasts. The reason of more badgering and discrimination confronted by Myanmar refugees is that they have distinctive physical appearance. They are discriminated at work place and even their youngsters need to face segregation at school where neighbourhood kids beat them and in this way the displaced people are left with no other alternative however not to send their kids to the school. At working environment as well as at their residence likewise they need to face harassment on account of proprietor who in some cases overcharge the bill and did not permit guests which is a part of their way of culture.

3. The high level of discrimination is being confronted by Somali refugees and this is the reason they abstain from taking occupation advertises rather have utilized themselves in the pay producing exercises of the UNHCR and its executing accomplices.
4. Talking about Myanmarese evacuees who likewise confront high level of discrimination at different spots whether it is at work, school, at neighbourhood or by landlords. Yet at the same time they work in the casual area where they work under unequal conditions and constantly under the apprehension of being let go from the occupation and lewd behavior confronted by the women. They don't feel to report it to police as they probably are aware no justice would be given to them.

**Findings on Legal Status and Documentation**

1. Government of India has decided that those refugees who are enlisted with UNHCR are permitted to apply for long term visas and work permits. Refugees have unveiled in the study that ID cards gave by UNHCR were not perceived and acknowledged as substantial records neither by the police nor by their managers. The absence of legitimate visa is a greatest obstruction in getting to house, work or even in acquiring a sim card for mobile phones.

2. Afghan refugees have pushed on the issue that UNHCR refugee's cards can't go about as a swap for legitimate visa. In any case, the issue is not of greatly worried to Myanmar refugees. Since they work in casual segment where the businesses are less made a big deal about the archives and since they have tendency to live respectively in a range where the landowner acknowledges their refugee cards as issued by UNHCR.

3. Due to absence of legitimate records the refugees face issue while getting to schools and universities.

**Findings on Education and Language**

1. In respect to education the study pinpoints that most minimal level of training was among Somali outcasts as 35% of them have no education. Then again 69% Myanmar exiles had some basic education while 21% had no education. Afghan refugees introduce a decent picture in the matter of education. 41% of Afghan exiles have completed their secondary education and 17% have completed a university degree. The study has additionally highlighted that the female refugees were less educated or even have no training when compared with male refugees.
2. Language goes about as a boundary for a few refugees in India. Hindi and English are the working dialects in Delhi. Exiles have expressed that keeping in mind the end goal to get job both Hindi and English dialects are the necessity. As expressed by Myanmarese that absence of Hindi talking abilities frequently bring about misunderstanding with the employer and subsequently many a times need to get less salary.

3. They keep up a distance from the neighbourhood individuals in order to evade any sort of conflict. They have such mentality because of their day by day experience of discrimination which they confront at each spot be it school, neighbourhood, market, at hospital and so forth. They from time to time report such occurrences to the police as they probably are aware justice could never be done and they might be made up for lost time in new issue.

4. Somali refugees highlighted that their group confronts discrimination and badgering a great deal on account of neighbourhood individuals. Local people ridicule their dressing style and hair. They are even attacked by the neighbourhood individuals. Somalis have communicated their craving that discrimination and harassment could be finished to some degree if UNHCR tries endeavors to conduct meetings amongst them and local people. As opposed to this Afghan refugees have encounter less separation. The reason is that they are better educated and they can convey in nearby dialect too.

**Findings of the Study on Education Challenges for Refugee Children**

1. As per the study 41% Myanmarese children have not taken admission in any school. The main reason for not sending the youngsters to class is the money related limitations and the other reason is the hindrance of dialect. Myanmarese young girls wanted to do work instead of going to school. The reasons were same that they confront harassment and discrimination even at school from their colleagues and from educators too.

2. Afghan refugees like to send their children to school yet they have this regret that absence of required records go about as a major obstacle in their admission to school. Another big challenge confronted by them is that there is absence of mindfulness about the courses accessible in India. The Afghan refugees didn't know about the DAFI scholarship and even some Afghan
refugees don't have a clue about the procedure of taking admission in schools.

3. The Somalis and Myanmarese refugees have reported that they frequently need to face discrimination at the governmental schools. Sometimes the refugee children need to sit in a class without seats and at alternate times they were made to sit at the back of classroom. They even need to confront verbal and physical abuse by their classmates and instructors moreover. The report has likewise revealed that the outcasts have protest that at exceptionally times their children get back home with wounds from school. It was their demand that UNHCR ought to make efforts to keep up a separate school just for refugees.

6.9 Analysis of the Case Studies

To begin with the report of PILSARC which was in relation to the Lampur Detention Centre where the refugees were detained the researcher comes to the conclusion that in the absence of any specific law for refugees the authorities are unable to make difference between a refugee and any other person due to lack of clarity on this issue the refugees were treated as criminals. The detention centre has become a jail for the refugees. The denial of basic amenities to refugees, physical and mental harassment at the hands of authorities, threat, lack of cleanliness in the premises, restriction in regard to their movement etc clearly violates the human rights of these refugees. It is the duty of the Government and concerned authorities that when they have given asylum to some persons then at least their minimum requirements got fulfilled. When the Government knows that the refugees were kept in detention camps then there must be a provision that some check must be kept on the working of the authorities so that they won't act arbitrarily.

The refugees have already been the sufferers who leave their country and took refuge in alien land with a hope that their basic human rights will be protected. But to detain them and then to mistreat and not allow them to have any legal advice or contact UNHCR which is the biggest hope for the mandate refugees in India is a gross violation to international humanitarian principles. To threat the refugees that they would be deported if they disclose anything is purely a case of arbitrary
behaviour on the part of authorities. The tragedy is that if they want to disclose anything then they would languish in the detention centre for months or even for years. The Delhi High Court has once stated that it is concerned over the way the foreigners are languishing in the detention centres and this is the unlawful manner of taking away the rights of the individuals. Lampur detention centre is one where the foreigners are kept who have overstayed or these who have committed any offence are detained during the pendency of their deportation. It means no differentiation is done between a foreigner and a refugee which is the root cause of the sufferings of the latter. Putting the whole blame on the officials of Lampur detention centre will not be correct here as they lack any guidance and instructions in this respect. For them the refugees and other foreign nationals are at par as they have no proper instructions on how to treat refugees. The researcher is of the view that in the absence of any specific law for refugees the government must make an effort to issue proper instructions to the concerned officials and authorities in regard to the treatment of refugees. Moreover the authorities must make it sure that legal rights of the refugees are not violated at any cost. Access to UNHCR is like their fundamental right and the officials must make every possible effort that the refugees could have access to UNHCR which is their biggest support in an alien land. The researcher firmly believes that civil and legal rights of refugees need protection and preservation and it is possible only if there is an effective administration and legal mechanism. To uphold the dignity of the Indian Constitution which protects the rights of refugees as well via Article 21, strong and effective steps need to be taken to safeguard the human rights of the refugees.

The second case study dealt by the researcher is of Chin refugees. For their survival in India they are totally dependent on the mercy of UNHCR. From subsistence allowance to employment, education, medical facilities, legal assistance etc. everything is taken care of by UNHCR and the organisations working with it. But despite of doing this much by UNHCR the problems of Chin refugees do not end here. Chin refugees have to face a lot of problems in the employment sector. The continuous harassment at the work places and meager wages have made their survival difficult. Moreover they have limited opportunity of work as they are not granted work permits by the Indian Government. The major problem faced by Chin
women is of physical abuse and harassment. Not only at the workplace but even in their rented houses they do not feel safe as usually they are asked for sexual favours by the house owners. The Indian Government should take immediate steps in this direction that at least women have this much security that she feels safety at home and at workplace. The guidelines issued in the Vishakha case must be implemented at ground level not only in the formal sector but also in the informal sector. Life for Chin refugees in Delhi is a challenging task as they have to survive in the limited sources. Their large part of income goes out in paying of rent. The authorities in India have to work out in this respect as the house owners impose unnecessary conditions and take hefty amount as rent. The Government is very well aware that refugees have no good source of income. Most of them are living under extreme conditions and when they get exploited more in one way or the other they feel as they are not humans. The Government must work out a plan for the refugees that they do not have to pay hefty rents. The need is of some regulation authority that would have check and central over such exploitative tendencies of the house owners.

The Chin refugees have to face integration challenge in India due to difference in their language, culture, religion, ethnicity etc. As they do not have work permit therefore they are allowed to work only in informal sector where they to work for long hours and but paid less and have to face exploitative practices.

The local integration of Chin refugees is also a challenging task and because of this the Chin refugees do not enjoy a healthy relationship with the local population. And since they are refugees they bear additional hardships at all levels. The biggest problem of Chin refugees is in regard to those who have taken asylum in Mizoram state of India. Many of these Chin refugees have not contacted UNHCR and thus are without any certificate or document of UNHCR which further enhances their problem of detention, exploitation, harassment and even have to pay fines as they are foreigners. They live a life in fear or to say in limbo.

As stated by Chin Human Rights Organisation, a NGO which came into existence in 1995 that "Chin refugees in India fleeing persecution in Burma are left to fend for themselves as the UNHCR and local organisations tasked with protecting
them fell prey to a culture of denial and victim blaming.”

The plight of the Chin refugees in Mizoram state is much more exposed to threat as UNHCR is not allowed to access UNHCR. The Chin refugee women and children are much more exposed to violent attacks and sexual assaults. And since UNHCR does not have a law enforcement mechanism thus it cannot take action against the violators of law. And by approaching the local police the victims do not get any relief rather doubt is put on the victims and they are looked upon as with a suspicious eye. Because of having no legal status the refugees always live under fear that they could be deported anytime. Moreover, different physical identity and distinct language makes them easy prone to abuse and discrimination. In context of education the refugee children also face challenges. The biggest obstacle is the lack of financial resources because of which the children do not get schooling. Thus the researcher is of the view that Chin refugees in India suffer from various challenges and difficulties. Lack of legal status and non recognition by Indian government have let their problems to go unabated.

Coming to last case study which covers the three categories i.e. Refugees from Myanmar, Afghanistan and Somalia the researcher is of the view that the comparative study has disclosed that the position of Afghan refugees is much better as compared to Somali and refugees from Myanmar. The challenges faced by Chin Refugees in the previous discussed case study are similar to a greater extent of these categories of refugees also. The challenges of harassment, discrimination at the workplace or even at home by the neighbours and the landlords have put their lives on a hardened track. The problems of evictions, heavy rents, less housing space are other challenges for these refugees. The researcher is of the view that UNHCR must interfere in such matters and find out viable solutions for refugees especially in the matter of house rents. The refugees who used to live a dignified lives in their own countries and some even were used to live a lavish lifestyle have to face problem of housing here in India. They have to pay heavy rents as they do not have any other option else they would be evicted. Not only this the local people does discrimination with them due to their distinct culture, language and physical appearance. In the matter of education there are no less challenges. Due to lack of

---

legal documents these refugee's children have to face lot of hurdles as they cannot go for higher studies. Despite of having talent sometimes they cannot go to school because of financial restraints. Lack of valid documents acts as a obstacle for these refugees in getting job due to which they have less income and further it enhances challenges for them. To conclude the researcher is of the view that sincere efforts on the part of Government, UNHCR and various organisations have become the need of the hour. These case studies were an eye opener as they have dealt with the ground realities of the refugees and have brought into limelight the key challenges faced by refugees.

6.10 Conclusion

A big challenge before the first government of independent India was to overcome calamities caused by the partition of the country. These calamities were in the form of communal riots and a pathetic and horrible human tragedy called refugee problem.\textsuperscript{44} Started since 1947 till date India has been a refugee receiving country. Refugees are always the sufferers from both angles. Firstly they are out of their countries, have to leave their homes and have to take shelter in other land. Secondly when they take asylum in other country they become vulnerable group there who live in a constant fear of exploitation, abuse, discrimination etc. To save the refugees from the menace of human rights violations there is 1951 Convention of which India is not a party. Nor does it has a domestic law which defines who is a refugee. But all this does not mean that India is inhuman towards refugee. India has a humanistic approach towards refugees and has welcomed them with open arms when their own countries have become miserably failed in giving them protection.

But it is also true that lack of legal obligation make the authorities to act arbitrarily. The Government of India uses its discretion and recognizes only few categories of refugees and leave the responsibility of rest on the shoulders of UNHCR. The amenities provided to Tibetans and Sri Lankan refugees are not available to other categories of refugees since they are not recognized by Indian Government. Absence of refugee law has resulted in a unstable refugee policy with wide discrimination of rights and services. Various case studies analysed by the

researcher has exposed the ground realities of the refugees. The biggest challenge faced by the refugees is to adopt themselves in an unfamiliar culture where everyone looks them with a suspicious eye. The self narrated versions of the refugees depict their daily struggles and challenges faced by them in India. To do work in formal sector is not possible for refugees as they lack legal documents and therefore they are ready to opt menial jobs. Moreover they are victims of discrimination and exploitation not only at workplace but everywhere. Women refugees in India have been victimized. At numerous times they have suffered physical abuse, assault and even rape. Security of women is a serious issue to be pondered upon.

In India, very little protection is afforded to the refugees and they do not have the legal right to work also. Further, unemployment rates are very high; as a result, employment opportunities are scarce and a large proportion of refugees take up work in the informal or unorganized sector. The lack of regulation in the informal sector exposes refugees to exploitation, abuse and in the case of women refugees, sexual and gender-based violence. In fact, their vulnerability might make them the targets of exploitative and unscrupulous employers. Refugees are unlikely to report such mistreatment out of fear of arrest, deportation or harassment by the authorities. Further, lack of employment opportunities may relegate refugees to “negative coping mechanisms” such as begging, thievery, child labour, prostitution, etc. Xenophobia and different forms of hostility toward refugees from the local population also serve to impede the refugees’ process of integration into the society.45

While UNHCR and its implementing partners have started many programmes for refugees but still due to financial constraints and lack of access of other parts in India have tied their hands. Lack of legal domain for refugees acts as an obstacle in the way in which refugees have to survive with their insecure status in India. The national legislation can at least provide them a legal status and even the administrative authorities can have a framework in front of them as to how to deal with refugees. Lack of guidance on their part have let them to opt the same attitude for refugees as they do for other migrants as foreigners. The need at present is that

---

Government must adopt innovative policies for refugees keeping in mind their daily struggle and hardships. The effort of Mr. Shashi Tharoor is also commendable as he has done a positive step by introducing private member bill for asylum seekers. The bill has been introduced keeping in mind the national security also which must not be compromised at any cost. But only introduction of bill won't solve any problem. Further vigorous efforts need to be done in this regard.

South Asian Governments have preferred to deal with refugees on an adhoc basis because it provides them flexibility without which they could not find solutions to sensitive refugee problems affecting regional stability and national security. Generally speaking there has been little movement to develop a legal framework because accession to human rights instruments and constitutional guarantees, combined with a generous asylum policy and a lenient attitude of the judiciary have provided some protection to refugees and created a good humanitarian record for the region. However, experience has shown that the protection of refugees has been precarious in the absence of legal principles. Moreover the failure of the law to distinguish between refugees and other foreigners has also led to in some cases inconsistent treatment among refugee groups and sometimes detention and even deportation and refoulement of refugees. Due to complex mix of refugees, economic migrants, displaced and stateless persons criteria need to be developed to distinguish the different groups.46

---