PREFACE

The problem of migration has always been witnessed throughout the globe. History is full of instances where people have migrated from one place to another for one reason or the other. But the problem of migration becomes altogether change when people have to cross the borders due to reason of violation of their basic rights and they feel themselves so much insecure on their land that they choose better to become refugees rather than to lose their lives. Refugee problem which the present world is facing today is not the new one. It is a crucial problem that international community has faced since long time back and currently also the situation is grim. Whenever the world is torn by war and internal conflicts and human rights are gone under eclipse then certainly the refugee problem will arise. At international level the efforts were made to deal with the refugee issue which took the shape of 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. The term refugee was defined under this Convention along with certain obligations of the states who accept refugees have been inserted in it. The 1951 Convention is usually known as “Magna Carta” for refugees which lays down certain minimum standards to be complied with while dealing with the refugees.

India has never been aloof from the refugee problem. It has always accepted refugees with open heart. Talking from the era of 1947 till date India has accepted thousands of refugees and has given them shelter when their own states have failed to give them protection. It has handled mass influx of refugees like Tibetans, Sri Lankan and refugees from West Pakistan. The generosity on part of India is no doubt there when it has given shelter to various refugees but the paradoxical situation exists here as there is no refugee specific legislation and because of this the laws which are applicable on foreigners are also applied on refugees. India has preferred to deal with refugees on bilateral basis rather than adopting a national law for them. Neither India has been signatory to the 1951 Convention Relating to the Status of Refugees nor its 1967 Protocol. Therefore everything depends upon the executive decision here in India when it comes to the matter of refugees. But India has shown its commitment in upholding the human rights of refugees by becoming party to various human rights treaties and conventions. India’s refugee policy needs
more transparency as differential treatment is meted out to various groups of refugees. The role of judiciary in India becomes very prominent in context of protecting rights of refugees via creative interpretation of Article 21 of the Indian Constitution.

The present study is an attempt to discuss and highlight the position of refugees in India in the absence of refugee specific legislation. When India has acted as a safe haven for refugees and has always accepted refugees then why it has shirked its responsibility by not enacting a refugee law taking into consideration the rights of the refugees and the security concerns of the nation. The adhocism and political centric approach towards refugees in India leads to discrimination among various categories of refugees and also cause of violation of their rights. The study is an attempt to highlight the challenges being faced by refugees in India especially of those who are not recognized by the Government of India. The issues that are faced by refugees in India in the absence of refugee legislation and different treatment accorded to them have been explored in the present research work. It is acceptable that India has been supporter of the theory of human rights and has always been its promoter but peeping deep into the lives of refugees in India bring forth their daily challenges and struggles which need attention of the Government of India. The issues of refugees have never been so much in limelight and the reason being refugees do not serve the vote banks of the politicians. The present research being a comprehensive piece of work shall cover the India’s policy towards refugees and protection of their basic rights in the absence of national law for them highlighting the basic provisions of the 1951 Convention Relating to the Status of Refugees.