CHAPTER I

CONFLICT, ETHNICITY AND THE AFRICAN REFUGEE PROBLEM: CONCEPTUAL FRAMEWORK
INTRODUCTION

Conflict in various manifestations has been a recurrent feature of human society. The history of mankind and the rise and fall of civilisations has been witness to a saga of conflicts. Conflict is also inherent to human nature. Differences of interest often crop up between humans; a tendency to restrain others from attaining their goals. These, consequently lead to conflicts in society, which at times escalate to a violent one. This chapter attempts to address those conflicts, which take on a violent character and tenor.

Violent conflict inflicts deep wounds and scars on the society that endures it. Apart from the deaths and destruction it causes, it fragments the social structure and fabric. Growth and development of the society is stunted and the impact on the economy is enormous. Some societies are so severely destabilised by violence that they take many generations to recover from its trauma. Human attitude towards the prevalence of conflict and violence in society have varied from zestful enjoyment of conflict, considered as a test of personal strength and courage on the one hand, to an anguished yearning to be free from conflict and pacifism on the other.

The endeavour of this chapter is to understand how violent conflicts occur, and its dynamics and solution. Thus, we begin with a discussion on how conflict has been understood by different scholars. Thereafter follows a discussion on how to solve violent conflicts. As the focus of the study is on conflicts that have their genesis in ethnicity, an effort has been made to develop a model to understand ethnic aggregation and assertion. Lastly, we undertake a detailed discussion on the refugee

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1 Montegue cites evidence of 41,500 wars during the last 5,600 years of recorded history, i.e. only 10 of the 185 generations were fortunate to enjoy uninterrupted peace. Similarly, Burk points out that there has been only 268 years of peace during the last 3,400 years of history. Peace thus comprises 8 percent of the entire recorded history. R. Paul Shaw and Yuwa Wong, Genetic Seeds of Warfare: Evolution, Nationalism, Patriotism (Boston: Unwin Hyman, 1989) p.3. Likewise, Richardson has calculated that in the 126 years between 1820 and 1945, a total of 59 million people died fighting each other implying that a man killed another once every 68 seconds. L.F. Richardson, Statistics of Deadly Quarrels (Pittsburgh: Boxwood, 1960) p. 5
problem, since the purpose of the study is to understand the problem of refugees and ways to alleviate it.

POTENCY OF VIOLENCE AND CONFLICT

It has been argued by some scholars that the inherent animalistic instinct in human beings is responsible for aggressive behaviour and conflict among men. Any conflicts of interest between people tend to be resolved through some form of violent behaviour.

As the human society developed it faced multifarious forms of challenges to its prosperity and survival. In such a situation people soon learnt the importance and the potency of being aggressive and violent. This salient and practical of use of violence for survival continues to play a significant role in day-to-day decision making.

Another function of violence is the creation and sustenance of a hierarchy in society. In small groups and societies due to special benefits, accruing to the dominant male there is a stiff competition for the coveted position. To maintain his dominance the leading male often resorts to violence against challengers. As a result, he has to be both physically, and more importantly, psychologically prepared to use violence.

This use of violence generally helps maintain the status quo, but sometimes disruptive conditions overwhelm the old order and force it to adapt to the new situation or at times even leads to the collapse of the old order. This results in the creation of a new equilibrium. Hence, there is a perpetual struggle in the society to sustain, create or change the equilibrium. Groups and States use violence as a means to maintain or form new equilibrium.

Divergences and differences in society, for Hegel 4, are undesirable that consequently must be replaced by unity and coherence. This can only be achieved through the negation of the ‘other’, who causes disunity by being different. A society can achieve complete unity only by the complete negation of the ‘other’, as its very presence is enough for the disruption of unity. Hence, coherence can only be achieved through the dynamics of negation, and violence is one of the potent tools to achieve this negation.

During peace time, the individual aspires for his own personal needs rather than work for the larger good. To end this complacency, it is essential to create conditions where the individuals will overlook their narrow interests and work for the common good. These centrifugal forces in the civil society are a risk to the State and order, as they may exceed the State’s capacity to contain them and result in chaos and fragmentation in the society. Another negative tendency that emerges in peace, is the stratification of the society into various smaller rigid groups, each working for their sectarian interests and against the common good. This in the long-term stunts the growth of societies, which would grow if all the resources are marshalled in a unified and collective manner.

To overcome these negative tendencies in society, conflict and war are considered effective and suitable means. In a state of war, individuals become aware of their membership to the larger community. In this perspective war is not a reprehensible and negative feature of the modern State, rather it is one of the most important building or creative force. It is through war that the competing forces of civil society are contained and the modern structures of civil society established.

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Through violence, the State replaces and coalesces the disparate different identities into one unified national identity.

In addition to the above, violence as social action is unique in comparison to other social actions. This is because the very use and character of violence has been considered to be illegitimate while on the other hand it is highly visible and effective. The use of violence to an even moderate degree of effectiveness requires relatively little resource. Modern societies abound in soft targets which can easily be targeted with meagre resource. Hence, even groups with limited resources can highlight their cause effectively by adopting violent means and draw world and international media attention.

Despite its advantages violence has also severe repercussions for the parties involved, and on the society. Hence, there is an urgent need to study and understand the phenomenon of violent conflict.

**WHY STUDY CONFLICT?**

"The study of conflict has two main concerns, the first is the explanation of conflict and violence and the second is to find the nature of a constructive approach to it." Efforts to understand and control conflict have resulted in a multitude of scholarly works. Causes of violence and how it can be controlled have been the focus of many major works. The idea of conflict has always been the dominant issue in intellectual history. The entire fabric of political thought has evolved around the problem of conflict between individuals and groups in society. These issues however continue to confront scholars and accordingly needs to be addressed.

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Resort to violence is a common method of resolving disputes and conflicts. The literature of political theory is replete with arguments justifying, explaining, analysing, defending, and rejecting the use of force and violence.

Unlike other social phenomena, repercussions of violent conflict cannot be ignored. The impact of violence on individuals, groups and society at large are such that one can not possibly remain indifferent or apathetic to the crisis and challenge of violence. Instead, there is an urgent need for action and developing alternative paths to contain and solve it. For this, it is essential to study and understand the phenomenon so that effective responses could be evolved.

Dissatisfied with the existing state of knowledge about war and its determinants, Qunicy Wright tried to apply scientific method of analysis to the study of war. The effort was to broaden the understanding of ways through which different forms of behaviour can be controlled. Motivated by humanitarian concerns he commented: “the problem of war has become more exigent and more difficult to solve...a solution must be found.” It was reasoned that science is primarily a generalising activity. A scientific analysis of the determinants of war should study and find the conditions uniformly associated with war. Wright coded war in terms of: (a) opening and termination date of the war, (b) the treaty which brought the war to an end, (c) nations which participated in the war and when they entered it, and (d) nations that were involved as initiators and defenders. Based on the above, categories and typologies were developed.

The phenomenon of violence cannot be understood through a superficial and limited study. Violence has to be studied and analysed across various cultural settings.

and across time and space. In addition, it is imperative to understand the deeper context of these societies in order to get a better insight into the phenomenon and ascertain its root causes. The need, however, is not just to study and understand conflict but also to make a concerted effort to develop alternatives and solutions.

DIFFERENT PARADIGMS FOR UNDERSTANDING CONFLICT

The earlier generation of scholars theorised that violence was a social pathology that needed treatment to return the society to normalcy. This understanding has been discarded as most scholars now, "think of group violence as more or less predictable congruence of real grievances over underlying social, economic and political issues."8 Similarly, the possibility of human genes being responsible for violent behaviour has been ruled out.9 Human behaviour is not like animal behaviour subject to the complete control of instincts and genes. Rather human imagination and behaviour is moulded by the constraints of social structure and culture.

Brute force, for Freud10, was the factor that determined the ownership in early communities. With the passage of time intellect began to replace brute force, but the object and purpose of conflict remained the same. Force is used either to constrain the opponents or impair their strength in order to compel them to retract their claim. This end is achieved most effectively by eliminating the opponent, which not only minimises any chances of the renewal of hostilities, but also acts as a strong deterrent for others. However, the possibility of using the enemy for servile tasks can act as a reason for not eliminating one's foes. In this case, violence takes the form of subjugation and continued exploitation of the vanquished.

9 David Rich, n. 5, preface
10 Sigmund Freud, n. 2, pp. 203-205
Rummul, on the other hand, opines that conflict manifests between individuals or groups, as a trial and error adaptation to attain equilibrium.\textsuperscript{11} It establishes a balance of power between what the people want, can get, and strive to pursue. Through confrontations and violence man builds his social balance and ensures co-operation from others. This understanding of conflict and violence is referred to as the 'balance of power' theory.

'Human needs' theorists like, John Burton\textsuperscript{12} consider that authorities in an effort to hide their shortcomings and that of institutions or its policies, blame personal malevolence for conflict and violence. Thereby implying that the perpetrators must be punished or constrained for better control and deterrence in society. Further and most crucially, they argue that humans have certain needs and requirements that are fundamental and non-malleable. These needs must be satisfied for individual's development and result in their conforming social behaviour. If such needs are left unfulfilled they lead to violent and non-conforming behaviour.

The Structuralists like Galtung assume that violence rather than being random, is structured and conditioned by external circumstances. These conditions can be manipulated to solve violence. Besides, there are different types of violence. Apart from direct physical violence there is violence incorporated into the societal structures. This indirect societal violence requires attention for any lasting solution to conflicts.

These theories need elaboration and further analysis for developing a better and deeper understanding of the conflicts, for only then appropriate solutions can be developed.

\textsuperscript{12} Burton, n. 7, p. 4
BALANCE OF POWER THEORY

In every society, there are different sections or groups, each desiring to corner maximum values and privileges and trying to restrain others from obtaining them. This results in a balancing of different groups. This balance of different powers need not necessarily be stable. If, for example, the purpose of the union of majority is vanquishing the overbearing individual then the alliance will most likely dissolve after attaining success. Thereafter others could unleash the same hegemony and the rule of violence. Thus, this union of people must enact rules to ensure checks and balances in order to pre-empt revolt and acts of violence.

Every State appears to have two contradictory forces that cause constant instability. First, is the attempt by the members of the ruling class to set themselves above the law. Second, there is a constant struggle by those ruled to extend their rights and replace legal disabilities. In some cases, law adjusts to the changing conditions, but more often, the ruling class resists change and the consequent result is violence.

Once again the environment in which humans live, is in a constant flux where they have to perpetually respond to new challenges for their own survival. This leads to an atmosphere of conflict in which the expectations and rewards of people tend to diverge leading to stress and tension. These tensions and hostilities may aggregate, triggering violent behaviour on the simplest pretexts. However, the existence of tension and hostilities is not a sufficient condition for collective group violence. “Violence may not become large-scale collective violence or internal war unless the

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13 For example the superiority and hegemony of a strong man can be overcome by an alliance of many weaklings
society is polarised. Therefore, it is argued that the existence of violence cannot be avoided in human society. However, common needs and habits of humans favour a speedy redressal of such conflict, increasing the possibility of peace.

In addition, conflict and co-operation are complementary phases in the development of a society not necessarily antithetical or cyclic. If the social conditions remain constant, then the relationship between conflict and co-operation forms a helix and the society grows to higher levels.

**HUMAN NEEDS THEORY**

For Burton polarisation of the society or the existence of deprivation are not sufficient reasons for the existence of conflict. According to him it is the unbridled human desires and drives that pushes them to violence. No amount of external socialisation, threat or coercion can suppress these drives. Though socialisation can try to inculcate a different set of values and aspirations, non-fulfilment of these needs leads to frustration. These frustrations accumulate to burst into violent, non-conforming behaviour.

Human needs like recognition, autonomy, dignity, and bonding are not malleable to the socialisation process. Any restrictions on these needs tend to unleash violent behaviour. Some of these motivations are necessary for the development of human beings. While there are some other motivations that relate to the cultural mooring of the person. The remaining motivations are transitory. These are termed as needs, values and interests.

14 Rummel, n. 11, p.17
15 Burton, n. 7, pp. 32-40
Needs are universal motivations and is an integral part of the human consciousness and being. These include elementary necessities like food, clothing and shelter. Apart from them, there are some other needs essential for the growth and development of the individual. These needs are pursued using all available means and resources. However, if these needs are not met within the social norms of the society, then they often lead to violent and non-conforming behaviour.

Values are those ideas, habits, custom and beliefs that are characteristic of a particular community. These include linguistic, religious, class, ethnic, or other features that separate one group, its culture and identity from the 'other'. Under oppressive circumstances, the defence of these values becomes pertinent to a group’s identity. This leads to the formation of group's identity, which assert themselves for getting their needs fulfilled. Other groups resist their assertion and conflict ensues. This, according to Burton, is the cause of contemporary domestic and international conflicts.16

Interests, on the other hand refer to occupational, social, political and economic aspirations of different individuals and groups. They are competitive in nature and have a high win-lose component in them. Its distinguishing and interesting feature is that they are negotiable and compromises could be arrived at, where as, needs and values are not traded in a similar manner.

STRUCTURAL UNDERSTANDING OF CONFLICT

Any study and understanding of conflict, it is argued, must aim at the eventual promotion of peace. It is not enough to understand conflicts but there must be an

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16 Ethnic conflicts in 60 or so countries where boundaries had been drawn as a result of colonialism or conquest. Wrongly assuming that individual can be coerced to accept majority rules, which denies ethnic and cultural identity. Burton, n. 7, pp. 32-40
effort to create peace. Simultaneously, peace studies can not be detached from meaning or interpretation, for "the idea of no meaning, no truth, no light at all is also incompatible with peace studies."17 Detached empirical findings with no normative content hardly ever help in efforts to develop a solution to conflicts.

Towards this end, Galtung argues that, there is a need for not only studying what constitutes violence but also what constitutes peace so that their conditions are found. Only after finding out the conditions of both peace and violence an effort can be made to solve conflicts and attain peace.

First, to analyse any problem an effort must be made to develop good systematics,18 so that the phenomenon can be divided, studied, and understood better. This division should satisfy the criteria of a good classification by being reasonably mutually exclusive, exhaustive and based on fundamentum divisionis.

Conflict should also be studied in a multi-disciplinary perspective keeping all the conditions and contexts in mind. Otherwise the analysis will be severely handicapped leading to gross miscalculation and mistakes in the effort to solve them. As Galtung says: "the peace researcher must look for causes, conditions, and context in various spaces, Nature, Human, Social, World, Time, Culture." 19

Structuralists assume that violence does not occur at random; conditions for its presence or its absence can be defined. Besides, violence is neither innate nor inherent in humans but conditioned by external circumstances, that could be manipulated. This implicitly means that humans do not have an innate propensity for violence,

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18 Good systematics should serve four purposes, be a map of the field, and serve as a guide for data-collection and theory formation and for organising research reports in an easily retrievable way.
19 Galtung, n. 17, p. 1
regardless of changes in external circumstances, which tempers and mediates their actions. It is externally structured at times.\textsuperscript{20}

According to Galtung what underlies conflict is a pattern of human interaction and social order that is so pervasive that it seems to be present as an archetype. In its pure form, it is always vertical. As soon as one thinks that a horizontal and a "more egalitarian structure of interaction has emerged, the old hierarchy comes through the back door."\textsuperscript{21} Thus it is this vertical hierarchical social order that stifes people from developing to their full potential and constitutes structural violence.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{feudalStructure.png}
\caption{The Feudal Structure}
\end{figure}

There are four different aspects of a conflict namely political, economic, military and culture. However, it is the cultural ethos that plays the critical role of legitimising actions.\textsuperscript{22}

It is the power of culture, which convinces a person that his actions are legitimate and justified. To hurt another person the perpetrator should be able to justify the act to oneself. This crucial role is played by culture that not only triggers a conflict but also sustains conflict. Cultural idioms prompt people to rise to the situation and offer sacrifices of both men and material in the course of conflict.

\textsuperscript{20} As violence is structured, a model can be developed where the dependent variable is the violent activity of the person and the independent variables are the conditions of violence. The latter being mediated through a set of intervening variable located within the person, viz., motivations or frustrations.
\textsuperscript{21} Galtung, n.l7, p.18
\textsuperscript{22} There are four types of power or discourses: cultural, economic, military and political. They stand for four realms of power and four types of violence and by implication for four types of peace. Galtung, ibid, p. 2
sub-consciously held beliefs which reflect the cultural ethos of a people needs to be unravelled. It is important to find out the deep cultural beliefs that may not be clear from the manifest cultural practices but play a crucial role in defining the culture and the civilisation.

The most common factor responsible for direct violence is frustration or the blocking of goal realisation. Frustration is a necessary condition for aggression. This frustration can be directed towards 'other agents' or 'one-self', or even against 'non-human' factors and these causes could either be real or imagined. Exploitation is another major cause of discontentment. Inequality and difference in the terms of exchange lead to the exploitation of one to the benefit of the other. This discontent finds outlet in violence with the exploited seeking to change the terms of exchange and the exploiters trying to retain them.

Though culture is the factor, which legitimises violence, but it can similarly be used as major asset for the creation of peace. The challenge is to create cultural conditions, which delegitimise the use of violence and legitimise peace.

**TYPES OF VIOLENCE**

Violence can be divided into three different types namely, direct, structural and cultural violence. Direct violence is an intended act (physical or verbal) by individuals acting either singly or in a group. While structural or indirect violence is built into the structure of interactions in a given society. Structural violence can be further divided into political repression and economic exploitation.

Negative peace is achieved by ensuring that there is an absence of direct violence, i.e. ensuring that no acts of direct violence occur. This is achieved through appropriate means of control. While direct po
availability of all the basic requirements of survival and well being of a person along with freedom and identity, i.e. living a quality life with freedom and dignity. The characteristics of structural positive peace are freedom, equality, integration and participation. In contrast, the characteristics of structural violence are repression and exploitation, segmentation and marginalisation of a section of the population.

The third type of violence is cultural violence. Cultural violence is the cultural ethos and mores, which legitimises the implementation and continuation of structural violence. The attempt in cultural positive peace is to substitute the legitimacy of violence with the legitimacy of peace. This substitution has to be done in different social spheres like religion, ideology, language and art, to attain peace.

Violence begets violence. Once an act of violence is perpetrated, as a vicious cycle of offence and revenge ensues, leading to a heightening of violent activities. Usually direct violence is unleashed initially to build structural violence into the structures of social interaction. Once structures of exploitation are established, they then replicate themselves through cloning and consolidation. A reaction to this form of violence is the growth of revolutionary direct violence and the resultant counter-revolutionary violence. The challenge is to canalise conflict energy into constructive and productive purpose. Thus, instead of causing destruction and disruption it promotes peace.

Galtung defines conflict as a property of a system of action where there are incompatible goals and the realisation of one goal excludes wholly or partly the realisation of the other. There can be instances where the existence of conflict may not be perceived. Also the goals of the actors may be objective or subjective. In other

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words, a conflict system may be defined as a triangle where the corners represent 'Attitude', 'Behaviour' and 'Conflict'. Any study of only a particular corner will result in a skewed understanding of the conflict system. Even the particular corner analysed may be incorrectly understood.

**Figure 2: Conflict Triangle**

![Conflict Triangle Diagram]

Participant in a conflict system exhibit observable behaviour or behavioural manifestations (denoted corner B) while both corners A and C are latent and can be theoretically inferred. The three together form the conflict triangle. This triangle can be used to analyse and trace conflict flows in six different directions, starting from a corner and moving towards the other. As violence breeds more violence, this triangle effectively becomes the projection of a spiral. Based on the conflict triangle eight different combinations and permutation of conflict situations are possible. There could be A, B, and C centric approaches to understand or analyse conflict. The following are the eight possibilities:

- **A=0, B=0, C=0**: total non-conflict, the state of death
- **A, B=0, C=0**: attitudes/assumptions prepared for conflict
- **A=0, B, C=0**: behavioural/patterns prepared for conflict
- **A, B, C=0**: attitude/assumptions/behaviour prepared for conflict
- **A=0, B=0, C**: contradiction is there and nothing else
- **A, B=0, C**: the subconscious level fully prepared for conflict
- **A=0, B, C**: ritualistic conflict behaviour
- **A, B, C**: a fully articulated conflict
The first task in understanding a conflict is to clarify the latent by making it manifest, and this is achieved through 'conscientization'. This process is fundamental, as parties cannot consciously transform themselves unless they are conscious subjects. Yet 'conscientization' is only a necessary but not a sufficient condition in solving conflicts. However, complete and appropriate solution to a conflict is not possible unless it is understood correctly in its totality.

To understand the conflict correctly different tools, which are available, should be used. Like in the case of structural conflicts, neither A nor C is manifest but is embedded in the sub-conscious. Prying these conditions from the individual's sub-consciousness is a difficult and painful process, which at times is even impossible. However, such contradictions remain latent but can become violent any moment.

**CENTRALITY OF THE STATE**

Violence is also one of the means adopted by challenging groups, making demands on the political and economic elite. Tactics of threat and violence are used as a part of their repertoire of actions to achieve desired goals. The perception is that other groups and circumstances are preventing the realisation of the group’s aspirations. This is one of the necessary conditions for political protest and rebellion.

Historically one of the major reasons for collective violence has been the central political process. People trying to realign the levers of power have used collective violence as a potent tool of their struggle. Any great shift in the

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24 Galtung, n. 17, p. 75
25 Charles Tally, "Collective Violence in European Perspective" in Gurr, n. 8, p. 62
arrangement of power has been produced by and resulted in great amounts of collective violence.

The very formation and establishment of the nation-states has always been a violent process. One of the major reasons for this, is the economic inequality that the State tries to establish and sustain. As some social groups get and appropriate more value and privileges the deprived groups struggle to alter this disadvantageous arrangement.

It was assumed that individual/group identities would over a period of time disintegrate and fuse, as one national identity would emerge. But historical evidence belies such an assumption. Theories that assumed that economic modernisation would lead to the assimilation of minority groups, have not been substantiated by historical experience. To the contrary, in societies where there is large economic disparity, the chances of violence is far greater than in more economically balanced societies. Also the struggle to end the economic inequality has always been considered to be a legitimate cause and sufficient reason for rebellion.

The repressiveness of the ‘regime’ is another crucial factor in the aggregation of dissent against it and the ensuing conflict. Similarly the strength and response of the State plays an important role in the initiation of violent conflict. If people perceive the State to be weak, the likelihood of conflict is more than otherwise in a stronger State. Likewise, depending on the response of the State and its coercive apparatus, conflicts may take a violent or non-violent form.

Thus, it is the simultaneous combination of economic inequality and political opportunity that cause and often influence violent political conflict. However, there are other factors, like the cultural ethos and the international environment, which also influences and affects the emergence of conflict.

TRENDS IN CONFLICTS IN THE POST-COLD WAR ERA

The dramatic changes in the international environment after the collapse of Soviet Union led to the manifestation of new types of violent conflicts. The end of the super power confrontation has given way to what Rupesinghe calls "violent internal conflicts with diverse inter-linked and overlapping causes."27 One of the features of these new conflicts is the end of State's monopoly over means of coercion and violence, and the easy availability of massive quantities of small arms to the opposition groups.

The State is ideally expected to play a mediatory role in a society replete with conflict of interests. Contrary to this the State sustains the imbalances prevalent in the society, albeit in a subtle way while trying to maintain its legitimacy. However, in many contemporary conflicts the State has dropped its veneer of impartiality and instead begun to play a direct role.

The most useful unit of analysis in protracted social conflicts is the identity of groups, based on racial, religious, ethnic or cultural lines. There are situations where these identities may be a much more powerful and relevant unit of analysis, than the nation-state. Conflicts, which are based on an assertion of identity, tend to be more

long drawn and intractable than other types of conflicts. However, the role, identity plays is a crucial and gives the conflict a different character.

The entire gamut of conflict, from the beginning to cessation, consists of the following stages: formation, escalation, endurance and stagnation, and termination and renewal. In addition, conflicts do not have a linear path, instead they follow a complex and non-linear path. Unless this factor is kept in mind, it is not possible to develop an effective understanding and an appropriate solution to conflicts.

Violent conflict leaves profound and deep impact on the society, fragmenting and polarising it. There is a breakdown of communications between different segments of society, increasing widespread disenchantment, and often resulting in increased flows of refugee and internally displaced people.

Conflict also leads to the creation of stereotypes about the 'other' who is posited with all negative qualities in them, demonised, and dehumanised which legitimises violent punishment and retribution. Thereby, justifying the elimination of the 'other' by using violent means.

Another characteristic of violent internal conflict is the brutalisation of the civilian population. The civilian population tends to either become passive observer or at times even actively participate in violence. This causes the fragile institutions of governance being undermined. In some extreme cases, there is a complete breakdown of law and order or any semblance of governance.

CONFLICTS IN AFRICA

In Africa, almost all the current conflicts are of internal nature, thus making it difficult for the United Nations and others to intervene. However, their consequences
invariably spread beyond the particular State’s borders. The security of the region is undermined. The spill over effects include refugee flows and disruption of trade.

The reasons cited for these conflict ranges from the impact of European imperialism and colonialism to the role played by super powers. European imperialism created artificial borders and undermined indigenous development patterns. Some of these conflicts have also been attributed to slavery and the resulting social structures. Another factor for the internal conflicts is the emergence of the principle of self-determination. Groups hitherto living with one another were confronted with a modern ideology, which propounded during the colonial rule that they ought to live among themselves and ruled by their own kind.

Contemporary African states or nations are passing through a phase of development where the heterogeneous population with its different identities is in the process of developing one national homogenous identity. The prototype presented to African states was the fully evolved Western nation-state.

The national identity in Europe and elsewhere is a social construction requiring immense resources. A State must create the sense of citizenship. It must ensure that all its subjects feel part of the national community. To create this sense, the State must have command over several kinds of resources all of which are scarce in most countries of sub-Saharan Africa. It is also assumed that Western nation-state was created without violating the rights of individuals or groups. However, most Western nation-states came into being through massive use of violence and violation of rights. Nation-builders in Europe created nationalities by forcing everyone to speak the same language or worship the same saints.

A State must also build such institutions that are conducive to its unification. This includes the emergence of a national elite who are able to rise to the aspirations
of different group and sections. The elite must be composed of representatives from all ethno-linguistic groups and must be more loyal to each other than to their own sub-groups. The reason for the inability to create such a national, homogenising elite in Africa is that the State does not have the necessary economic benefits to ensure their loyalty.

Conflicts in Africa are not different in terms of causes and factors “rather, they are different types of conflicts rooted in ‘ordinary’ causes.” 28 Hence, conflict in Africa could be studied using the above developed model.

SOLVING CONFLICTS

Based on the above discussions there are different ways in which conflicts could be solved. Traditionally, conflicts were ascribed to the malignant behaviour of humans, thereby implying that there is an urgent need for punishing the perpetrators. However, to put a stop to conflict, this has now been negated by many. Other methods of solving conflict include, recourse to actions like genocide 29 or forced mass transfers. However, genocide is rarely able to terminate internal conflicts and achieve the desired homogeneity in society. Instead, it always creates bitterness and fear amongst the descendants of victims. Genocide is likely to occur when a State it is being carved out. It is used as a tool or deliberate policy of land acquisition and mass terrorisation, or controlling a rebellious population. Genocide is also perpetrated when a totalitarian

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29 Genocide, literally is the killing of a race or kind. Article II of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide defines it as acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such. It includes (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately and in a calculated manner, subjecting any group to conditions aimed at its physical destruction wholly or in part; (d) imposing measures intended to prevent births within the group; (e) forcibly transferring children of the group to another group. See: John McGarry and Brendan O’Leary, “The Political Regulation of National and Ethnic Conflict”, Parliamentary Affairs (New Jersey), vol. 47(1), January 1994, p. 94
State is established with a hegemonic ideology that demonises and targets a section of the population.

A critical factor essential for causing genocide is the existence of a non-universalistic conception of humanity. As the victims are not considered humans therefore they are deemed as deserving no compassion. These cultural or belief systems are more important and central than technological capacities for managing mass killings. It is the psychological strength and endurance of the killers that is more vital than their weapons. This is the reason that accounts for the massive scale of genocide.

Forced mass transfer of population similarly does not serve the purpose of resolving conflicts in society; artificially created homogeneity often is used as a policy to control rebellions or vanquished groups. A community is compelled to leave its home as the terms like ‘ethnic cleansing’ imply. The targeted communities could be evicted from the State’s territory or transferred internally. Ironically, at times these expulsions help consolidation of different cleavages in the expelled community and results in sustained rebellion by them.

However the use of violent forms to solve conflict does not end the problem nor does it produce desirable outcome. Invariably, it only ensures the continuation and perpetuation of violence and a continued lose of life and property. Hence, efforts must be made to evolve non-violent solutions to conflicts.

CONFLICT MANAGEMENT

Among the different non-violent forms of solving conflicts, conflict management is one such tool. It relates to the effort to do something earnestly concretely about the conflict in any of the corners A, B and/or C of the conflict triangle (Figure1). Conflict
management can be differentiated according to its focus, which could be either on
the latent or on the manifest aspects of conflict.

The classical approach was to keep the antagonists away from each other. Distance was ensured by threat of considerable punishment if someone transgressed. Along with this, other social measures such as mutual prejudice and geographic separation were also enforced. At times a third party could be invited to perform peacekeeping operations like patrolling the borders to separate the warring factions. However, one of the demerits of separation method is that it escalates the conflict by providing space to the antagonist parties to regroup. Though it can de-escalate conflict by reducing contact surface, at times even to zero, it is not sufficient to end the manifestation of conflict. Another demerit of separation theory is that it leads to arming of the antagonists. Moreover, it is not possible to keep groups physically apart for a long time even with external military intervention.

Consequently, this approach is dangerous. Instead, an effort should be made to reduce the distance between the parties and bring about integration. However, this integration cannot be imposed from outside, although third parties can act as facilitators. In addition, such a method should be tried prior to conflicts assuming violent form or after a period when due to sustained and protracted state of conflict people become tired or weary of strife.

Managing to contain violence using mono-linear or superficial means cannot solve conflicts. The need is to solve the underlying causes and bring about changes in the attitude and perception of parties to the conflict, so that violence does not recur.
CONFLICT TRANSFORMATION

As conflicts are often multi-dimensional, any solution for them must also be multi-sectoral. It also necessitates the active role of an agency, usually external, for transforming the conflict. Not only different dimensions have to be addressed but the different actors, especially local actors, must be involved so that they could help in strengthening and deepening the process of creating peace.

The third party intervention has sought different aims using different methods. It may aim at arbitration, bargaining and negotiation or leveraged mediation. The aim of these intervention(s) may be the partial settlement of specific issues, or integrative resolution of a conflict. However, the number of collapses of cease fires and peace initiative points to the fragility and transient nature of the solution sought to be implemented, by such external interventions.

On the other hand, conflict transformation encompasses “openness to change, flexibility, the ability to peacefully modify approaches and learn from processes.”30 Ultimately, only definite and appropriate change in attitudes and social structures in conflict-ridden societies can bring about any meaningful transformation and cessation of conflict. Moreover, new institutions have to be created in the society to address these issues and sustain peace even after the ending of intervention.

The first effort in solving a conflict must be to create a space for dialogue, and thereafter try to build on it. Long-term conflict transformation and the growth of peace requires the development of peace constituencies, effective civil institutions and a culture of tolerance and negotiation.

30 Rupeshinghe, n. 27, p. 77
Linear approaches most often are not able to untangle complex conflicts where the society is fragmented and there is mistrust and lack of communication amongst different sections. Thus, there is a need to develop alternatives that use many different actors and institutions at different levels. Each phase in a conflict may necessitate a different type of intervention by different actors or different combinations of actors.

Humans, however, cannot be forced into conforming behaviour without addressing their inner contradictions. And it is not possible to resolve conflicts unless these inner contradictions, which are causing the conflict, are addressed.

Another cause for poor results is that serious intervention only begins after the often sporadic and uncoordinated attempts at peace making have failed and the conflict has become a serious dispute involving violence.

**HUMAN NEEDS THEORY AND PROBLEM SOLVING**

Burton argues that individuals cannot be socialised into conforming behaviour that is not in consonance with their basic needs and growth, hence, conflicts will erupt eventually. Disputes are defined as those situations in which the issues are negotiable and compromises hammered out. While conflict implies the presence of such issues that harms the long-term development of the individuals and groups. On such basic issues, the individual will not compromise.

Resolution of a conflict differs from, settlement, where the conflict is merely contained without addressing the basic contradictions and the issue of fulfilment of human needs. Eventually such settlements break down and conflict is renewed.

In problem-solving process, first the parties to the conflict are made to define the conflict according to their perception. Thereafter information regarding general
conflict processes as well as those related to the particular conflict is collected and distributed amongst the parties. Based on this, alternatives to the conflict are developed. If need arises, fact-finding efforts are conducted for collecting more information. Then attempts are made to resolve the conflict from the range of options that are available. The parties to the conflict are brought to the negotiation table and made to understand the cost of their actions. Then an effort is made to make them trade-off their interests, reach a compromise and accept the alternatives. It also includes structural changes needed to remove conflict and to promote conditions that create co-operative relationships in the society.

Conflict resolution is primarily a costing process. The individual will try to avoid violence if he realises its implications. The need is to address the human needs and remove any hindrances in fulfilling them.

The above approach also has serious handicaps while coping with the asymmetrical power balances in conflicts. A lack of common cultural ground on the part of actors also serves as a hindrance. Furthermore, “problem-solving workshops can work among those who share a common language, but tend to be difficult when applied to parties who do not share similar value frames. At other times, problem-solving workshops are not conducted with the active parties to a conflict, or those who can influence the political process.”

PEACE-MAKING

When conflict disturbs a status quo, effort usually is to re-establish the status quo ante. However, before embarking on this it should be analysed whether the status quo

31 Conflict resolution process has two elements. First is defining the conflict and the other is costing its repercussions. Based on an accurate definition and understanding of a conflict by the parties efforts for lasting solutions are made to achieve lasting solution for social good.

32 Rupeshinghe, n. 27, p. 75
ante is worth reclaiming. This condition may be inferior to the violent conflict as structural violence may be built into the society.

Peace-making assumes that conflict can be resolved only if the source of tension, i.e. the underlying conflict or contradiction is resolved. Once this is achieved, it is argued that the system would to take care of itself and the armed groups and the paraphernalia of violence would wither away. However, such a causal relation cannot be taken for granted or assumed.

There is violence frozen or built into structures of the society and to solve such conflicts the involved parties also need to be transformed. Apart from a new architecture of relationship, the parties need to change. They have to be transformed in such a manner that conflict is not reproduced.

Foremost, some of the issues to consider in a conflict system are: 'whether the parties involved in conflict can return to a peaceful state with or without external intervention?' 'Is the system capable of adequate 'self-restoration' to return to a peaceful state or not?' 'If it cannot attain peaceful state then what type of external intervention will be appropriate?' Also intervention from the outside is not always a therapy. Instead, such intervention may worsen the system and the conflict become more intractable.

There are two different issues related to solving a conflict: reducing violence, and avoiding its occurrence. As Galtung says: "creating peace obviously has to do with reducing violence (cure) and avoiding violence (prevention)."33 Thus, there is a need to develop an alternative by which conflict would not recur in future.

33 Galtung, n. 17, p.2
For peace studies, the world is not neutral or devoid of normative content. It is a gradient from violence to peace or from death to life. Peace study is an applied science similar to medical studies or health science. Where in the triangle diagnosis–prognosis–therapy can be applied.

- Diagnosis : states of violence
- Prognosis : processes of violence; increase, same, decrease
- Therapy : processes of violence reduction (negative peace)
- Processes of life enhancement (positive peace)

Deep inside every conflict lies a contradiction; something standing in the way of something else. This classical situation is the most elementary conflict formations or conflict atoms. Unresolved conflicts lead to frustration, which causes aggression that often turns violent. Eventually converting the whole society into a conflict-ridden society.

In addition, conflict does not begin with the manifestation of conflict in terms of attitude and behaviour. Hence, to attack conflict by regulating attitudes and behaviours is like curing the symptoms instead of healing the real cause. Therefore, creative conflict resolution has to be adopted so that the treatment results in positive permanent peace, where there is an all-round development.

However, among the different types of conflict, the one owing its genesis to identity assertion tend to be more enduring, intractable, and difficult to solve. Hence, it is essential to understand how identity or ethnic identity formation takes place and how it is engineered for assertion and employed during conflict. The solution to such conflicts must incorporate the peculiarity of conflict as they are based on ethnic

34 Galtung, ibid, p. 30
assertion. Therefore, a study of the assemblage of ethnic identity and its aggregation follows.

ETHNICITY

A major tool used for mobilising people for aggressive behaviour is ethnicity. The term ethnicity derives from the Greek term *ethnos*. In French, the term got transformed to *ethnie* with the associated adjective *ethnique*. The adjective exists in English as ethnic with a suffix added to produce the word ethnicity.

Until about the middle of 19th century the term was used in English to mean pagan people. Thereafter it began to be used for a ‘group of people with shared characteristics’. Though the original term *ethnos* is by itself not in use, but its various derivatives, like ethnology, ethnography, ethno-centric, ethnic, and ethnicity are used. In English there was no need felt for the term *ethnos* as all these words related to the study of ‘race’, where race meant not just the biological, but also a social, cultural and linguistic classification of people. The use of 'race' was replaced with 'ethnic' after the term was discredited due to the Nazi Racial Doctrine of the 1930s and 1940s. The word ethnic has had a long and chequered history and has been used to describe groups of people who in some way are strange or different. However, the controversy about its usage and definition is far from settled. This study will look at the definitional arguments put forth by scholars from different perspectives before defining a model for analysis.

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35 The etymology of this word the earliest recorded use was as *ethnos* in Homer. It was used to describe a large undifferentiated group of animals or warriors. Aeschylus uses *ethnos* to describe the Furies (*Eumnerades*) and the Persians (*Persai*). Sophocles uses it for wild animals (*Philoctetes, Antigone*). Pinder employed the term to describe groups of like people, but again people whose location or conduct put them outside the sphere of Greek social normality (*Pythianodes*). Aristotle uses it for foreign or barbarous people as opposed to Helens (*Politics*). Romans writing in Greek, under the empire, use the term to describe a province-area that was not Roman. In the New Testament, Greek *ethnos* was to mean non-Christians and non-Jews. The adjective *ethnikos* was nearly synonymous with barbarous. See: Elizabeth Tokin, Maryon McDonald and Malcom Chapman (eds.), *History and Ethnicity* (London: Routledge, 1989) pp. 12-14.
In their analysis, Glazer and Moynihan,\textsuperscript{36} define ‘ethnicity’ as a social group, which within a large cultural and social system, claims or is accorded special status in terms of a complex of traits (ethnic) which it exhibits or is believed to exhibit. The definition implies that the term does not refer to a sub-group but to all the groups of a society characterised by a distinct sense of difference owing to culture and descent.

The origin and causes of ethnic demands and conflicts are not new but the extent, scale, and intensity are. They suggest two related reasons for this trend: (a) the strategic efficacy of ethnicity in making legitimate claims on the resources of the modern State, (b) the social dynamics that lead to the formulation of such a claim. The latter depends on the nature of inequity prevalent in the society. Aggregation according to them occurs in combination of the existence of ethnic identity and the nature of inequality.

Anthony Smith\textsuperscript{37} opined ethnic identity and ethnicity is articulated at two levels - individual and collective. His focus is on the collective, social and cultural properties of ethnic communities. A collective cultural unit or an \textit{ethnics}, claim common ancestry, share common memories and symbols, and feel a sense of wider kinship with a super-family that extends outward in space and down different generations in time. Their codes, symbols and myths and the associated historical memories of common past experiences, \textit{albeit} selectively remembered, are the main features of collective cultural identity. This serves to differentiate a ethnic community from other types of human groupings. Thus an ethnic community for him, is a human group claiming a homeland, sharing a myth of common ancestry, historical memories,


and a distinct culture. To survive, the communities create myths based on which patterns of survival can be traced. Smith calls it the 'myth of ethnic election'. The creation and dissemination by specialists of the belief, that 'we are the chosen people' has been crucial for ensuring long-term survival. He enumerates the following patterns:

**Imperial-dynastic**: the myth of election is attached to the ruling dynasty, from which the community tends to take its main symbol and culture, with which it is traditionally associated.

**Communal-demotic**: this ascribes the myth directly to the people in their sacred land. In this case the community usually has been conquered and is struggling to preserve its former rights and way of life.

**Emigrant-colonist**: this myth is attached to a people on the move, bent on building a new community in their new homeland. They carry with them their values and memories.

**Diaspora-restoration**: here the myth is attached to a community on the move, but the move is back towards their old homeland.

Armstrong, on the other hand argues that ethnic issues far from being exhausted or diminished have continually recurred in history. They persist as the group defines its boundaries and uses myths, symbols, and communication rather than material factors to sustain it. However, more importantly, myths are altered to maintain the group's exclusivity from others.

In sharp contrast to the above arguments, Paul R Brass argues from an 'instrumental' perspective. According to him ethnicity and nationalism are not considered as 'givens' but are 'socio-political' constructs. It has also been argued that ethnicity and nationalism are modern phenomena inseparably connected with the activities of the modern centralising State. Besides, there is no fixed plural segment in multi-ethnic societies and ethnic identities are always in a flux. The solution is to keep

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the system open, and in a state of flux, while attempting to decentralise the over-centralised State. Brass' principal argument is the variability of ethnic identities and its transformation into nationalism. Political differentiation between people coupled with elite competition is the basic dynamics, which hastens ethnic conflict under specific conditions. In other words, conflict arises from the broader political and economic environment rather than past cultural values of ethnic groups.

The second factor is, the critical role of the relationship between the elite and the State. In particular the role played by the collaborators and as well as the opponents of the State. Thirdly, political leadership plays an important independent role. The State is constrained to intervene in the process of ethnic identity formation, as it has repercussions for the existence of the State. Also the process of identity formation decides the composition of the ethnic group and its persistence. The cultural forms, values, practices of the ethnic group and other symbols become political resources for competing elites.

In the process of transforming cultural forms into political symbols, competing elites strive to enhance or break the solidarity of groups. It is further argued that the ethnic identity formation and its transformation into a cohesive group - which is able to make claims on the State - is a reversible process. An ethnic group uses cultural symbols in such a way, that a subjective self-conscious community with criteria for inclusion and exclusion from the group emerges.

The situational context of the ethnic group reflects the manner in which it responds to the larger social milieu. Migration, conquest, conversion, perception and the policy's of the 'dominant' group, have implications for the ethnic group identity. Hence, a continuous process of fission and fusion marks the ethnic identity formation and consolidation.
Recognition of the ethnic group and the notion of ethnicity, is the summation of impulses and motives of power. It is therefore the device as well as focus of group mobilisation by its leadership through selective use of ethnic symbols for social, cultural, political and economic purposes.

The preconditions for ethnic conflict are: (a) a socially mobilised population, (b) the existence of a pool of symbol connoting distinctiveness, (c) the selection, standardisation and transmission of such ‘symbol-pool’ to the community by the leadership, and (d) a reference group in relation to which a sense of relative deprivation (real/imagined) is aggregated.

The critical issue in identity formation are the stakes – material as well as emotional – of the ethnic group in the political system. Related to the issue of access and stakes in the system, is the nature of demand articulation and aggregation by the leadership of the ethnic group. Besides, the international context is also very important, in which the assertion is made. Depending on the international opinion, the ethnic group and the government get aid and support and suitable policies are adopted.

The repercussion of violence on the society and the resulting disruption it generates takes different forms. Apart from the human loses in terms of dead and wounded inclusive of casualties and suffering due to different disease and epidemics, there is also economic lose in terms of actual damages to property, lose of production and more importantly loss to the overall economy due to the destruction of infrastructure, migration of skilled work force, loss of work and markets. Besides, there is a societal cost as well; the social fabric is destroyed, mistrust and hatred become widespread. These need a long time to recoup and heal.
Another aspect of violent conflicts is the problem of refugees which is a human tragedy. Its nature and magnitude cannot be buried by reducing refugees to mere statistics. Each number signifies a human life jarred and disrupted from leading a stable and normal fulfilling life. It is also evident that the problem far from diminishing is growing at an alarming pace. If suitable efforts are not made to solve them, then the entire international order is under the threat of being overwhelmed by the deluge created by this crisis. Refugee generating conditions have to be negated and conducive conditions created so that various refugee problems can be solved and the plight of millions of humans is over. This study shall analyse the specific problems of refugees and attempt to evolve possible solutions.

**REFUGEE PROBLEM**

The term refugee comes from the ancient Jewish practise of 'the city of refuge'. The term refuge entered religious legislation through the *Torah*. The *arei miklat* or "cities-of-refuge" as an institution did not survive but the second form of internal asylum did – refuge at the sanctuary altar. Thereafter select groups of migrating people have been called 'refugees'. Like the term was applied to the French Huguenots who fled to England after the edict of Nantes was revoked in 1685.

Linkage between internal conflict and refugee flows is evident from the fact a major source of refugees are countries subject to violent conflicts and strife. It is estimated that about half million people had applied for asylum in various industrial

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40 The chapter 35 of the Book of Numbers provides that a person who killed unintentionally could find security from the blood avenger in one of six designated cities, "cities-of-refuge". A trial was held if malice was not established, he was sent back to the city of refuge. He lived there until the death of the reigning High Priest when he could return home. Sec: W Gunter Plaut, "Jewish Ethics and International Migration", *International Migration Review* (New York), vol. 30(1), pp. 22-23

41 *UNHCR Statistical Year Book 2002*
countries and the world-wide total of externally displaced people had touched the staggering mark of about 20 million.

The factors, which often cause refugee flows, are socio-political conflicts in combination with other factors like famine, economic disruption, etc. However, the critical and defining factor is always violent conflict emanating from either political or social crisis. The other push factors such as economic dislocation, famine, or environmental destruction often coexists. However, if political violence or 'well founded fears' is absent then such outflows are not defined as refugees, and are treated differently. In this sense, violence is the precipitating and defining factor in refugee flows.

**TRENDS IN REFUGEE PROBLEM**

A new trend emerged in the 1970s when it became apparent that some refugee problems were going to last long or indefinitely. Conditions in the homeland of the refugees did not permit repatriation as the regime from which they had fled became entrenched. The prospects of permanent presence caused major difficulties for the hosts. The economic strain mounted on these countries, which were already facing economic hardships due to other factors. Even the developed countries began to deny refuge to the refugees. This led to tension and strife in host countries and large-scale denial of protection to refugees by many countries.

In response to this crisis, a debate began within the United Nations system on the root causes of refugee flows. The Western States claimed that these mass

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42 A refugee, according to the 1967 Geneva Protocol on the status of refugees, is 'any person who is outside the country of his nationality... because he has or had well founded fears of prosecution by reason of his race, religion, nationality, membership of a particular social group or political opinion and is unable or because of such fears unwilling to avail himself of the protection of the country of his nationality'.

43 Based upon the Special Rapporteur's study on Human Rights and Mass Exoduses in December 1981, the United Nations General Assembly at its 37th and 38th sessions adopted resolutions on the subjects. The special Rapporteur's Study identified among the complex and multiple causes of mass exoduses certain push factors including ideological and cultural conflict, development problems in developing countries, economic disparities, and natural disasters. While pull factors include assistance and aid by the international community to refugees, the attraction of the standard of living in the industrialised countries and expectations of humane treatment of asylum-seekers there.
outflows were caused by totalitarian regimes in the countries of origin, which violated human rights. Socialist and many developing countries responded by citing colonialism as a cause of socio-political disruption. Global economic inequality and apartheid were also cited as the underlying causes for social conflict and the consequent refugee outflow.

The conflicts in the developing world during this period producing refugee flows generally fall into two categories: (a) conflicts for State formation and (b) conflicts over the social order. Conflicts arising because of the process of State formation are connected to the issues of nationality and self-determination. Conflicts over the principles of the social order in the developing countries typically focused on the unequal distribution of power the consequent economic inequity. Historically, conflicts over social order have generated large and irreversible refugee flows. Such flows still occur, as fundamental struggles over the social order are yet not settled. Demographic pressure, rapid urbanisation and falling real income have only added to the aggregation of discontent. In the foreseeable future there are prospects of increased and larger flows. However, in 1980s international context emerged as a crucial factor in emergence and sustenance of violent conflicts.

During the Cold War years, the situation became worse, due to the tendency to internationalise and exacerbate internal struggles. On both side of the East-West divide, client States or regimes with minimal legitimacy could count on economic aid,

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The study urged an updating of refugee, nationality and labour laws as well as a reappraisal of the prevalent asylum practices in the context of the promotion of a New International Humanitarian Order. It called upon the international community to provide effective development assistance, to standardise the international aid criteria to co-ordinate humanitarian and development assistance and to better integrate multilateral and bilateral aid. In focusing upon voluntary repatriation as an important solution to the refugee problem, it called for effective co-ordination between countries of origin and countries of asylum.

A monitoring and assessing mechanism, an early warning system should be introduced based on impartial information gathering and data collection concerning mass exodus situations. Improved methods to determine the number of affected people be used and a trigger mechanism be introduced to generate immediate and timely responses to crisis and a corps of humanitarian observers be established. The study also proposed that the United Nations Secretary General appoint a special representative for humanitarian question.
diplomatic support, and supplies of conventional and sophisticated weapons from the patron States.

In the 1990s, the collapse of the erstwhile Soviet Union and the end of Cold War provided both new challenges and opportunity to the prevalent international refugee regime. The exceptional speed of transition overwhelmed both United Nations’ mechanisms and regional peace-making organisations. As the old order disappeared, new types of conflicts emerged in the developing world, which produced new types of refugee flows. The commonest form of refugee-producing violence in this period was the phenomenon of the reversal of the State formation or State disintegration. “States whose governing capacity had been closely tied to the competitive bipolarity simply disintegrated or imploded.”44 This happened in the case of Liberia.

CONDITION OF BEING A REFUGEE

Each refugee experience is a unique product of a particular context and circumstance. Nevertheless, there is a common underlying experience that is universally shared by all refugees. The profoundness of the refugee experience is the feeling of emptiness. The lives of refugees become dull and empty as there is no permanent home, no regular work, no decisions to take, and they have little purpose, except to survive on a daily basis. There is only a lingering hope that perhaps, one day, they will be able to rebuild their lives and fill this void. Being a refugee also means that all notions of a person as a political agency are emptied. “Refugees are silent — or rather, silenced — because they do not possess the proper political subjectivity (i.e. citizenship) through 44 Astri Suhrke, “A Crisis Diminished: Refugee in the Developing World” International Journal, vol. 48, Spring, 1993, p. 226
which they can be heard."45 Thus the problem refugees face is not merely geographical displacement but also the denial of access to political space. A space that would allow for a meaningful political presence and action. They are not only deprived of their human rights and freedom but also of right of action and the right of opinion. "Once they had left their State they become stateless; once they had been deprived of their human rights they are right less, the scum of the earth."46

Refugees live their lives in a terrible state of homelessness. Forced to flee their country of origin due to variety of reasons, they are adrift usually without money or possessions and frequently without the skills to find work quickly in a new nation. The condition of those who are forced to relocate within the boundaries of their own country because of war or other turbulence is also similar.

The refugee cannot stake any claim on the host country, neither is the host country bound to accept them in case they are staked. The host governments owe them no fundamental duty and have the power, within international norms, to treat them accordingly. Often there are hardly any governmental authority from whom the refugees could seek either assistance from the country of their origin or the recipient State or any other States. They have few options besides fleeing to escape continued oppression or in continued search for succour. This is why refugees are often pushed back and forth across international borders or between outlying areas with no State willing to take responsibility for their care and safety.

45 Nyers, n. 4, p. 20
46 Henna Arand, quoted in ibid, p. 12
ETHICAL AND HISTORICAL UNDERSTANDING OF REFUGEES

Mass migrations are an historical phenomenon. Across ages, people have been forced to move from their habitat by natural disasters or violent conflicts. This was a natural phenomenon, and “it is not surprising, therefore, that traditional ethical systems had very little to say about this phenomenon because migrations and wars were an accepted reality.” At the best people were encouraged to help the new comers in settling down and integrating into the new society. The traditional Jewish law code, the *Shulchan Arukh*, commands against taking advantage of the stranger, either physically or fiscally. However closed national borders is a new and recent phenomenon. It was not until the end of the nineteenth century that closed borders and migratory regulations for newcomers were enforced. Until then, borders were always open for small groups and individuals;

Traditional societies, like the Jewish societies, had mechanisms to integrate outsiders into their society. For instance, a *zar* or *nochri* was a stranger, equivalent of contemporary visitor or temporary resident. There were no restrictions to his admission or length of stay. The *zar* was however excluded from the religious practices of the community. When a stranger wanted to remain as a member of society, he became a *ger*. When he acknowledged God and gave up idolatry he became a *ger toshav* or resident alien.

Likewise in the Christian tradition, the Catholics considered refugees as *peregrine*, pilgrims like those from Egypt and Babylon fleeing persecution and

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47 Plaut, n. 40, p. 18
48 You shall not oppress a stranger, for you know the feelings of a stranger, having yourselves been strangers in the land of Egypt. *(Bible* Ex 23:9).
When a stranger resides with you in your land, you shall not wrong him. The stranger who resides with you shall be to you as one of your citizens; you shall love him as yourself, for you were strangers in the land of Egypt: I the Lord am your God. *(Bible* LV 19:33-34)
became *hominis viatores*, homeless wayfarers without permanent homes. The Holy family of Nazareth, fleeing into Egypt is the archetype of all refugees. The view is not limited to those fleeing due to fear but also encompasses all those fleeing due to want and hunger.

Similarly in the Islamic tradition too there were religious injunctions for protecting others and outsiders.\(^{50}\) Based on it, the jurists developed the institution of *aman*, pledge of security by virtue of which the *harbi* (national of *dar al-harb*) was entitled to protection during his stay in *dar-al-islam*. If an *harbi* stayed for more then a year than he would like any other resident, have to pay taxes and was entitled to enjoy all the privileges. This meant he became a *dhimmi* with the right of permanent residence in *dar-al-islam*\(^{51}\).

Though the Semitic religions prescribed helping strangers and the oppressed but the reality was very different. Usually they were not given the same rights and protection that native citizens enjoyed and were never integrated or allowed to integrate. For instance, though the Hebrew Bible, contains the oft-repeated command to treat strangers in one's midst kindly, the Christians chose to overlook it when it came to Jews. Muslims, on the other hand, were far more tolerant and hospitable.\(^{52}\)

**CONTEMPORARY ETHICAL DEBATE**

There is an increased ethical concern over the problem of contemporary global refugee flows. The persecution and violence that results in the forced displacement of

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50 "If any of the polytheists seeks your protection, then protect him so that he may hear the word of Allah and afterward convey him to his place of safety. That is because they are a people who know not. (Quran 9:6)."

51 The one of the reason for this attitude is that even the Prophet was a refugee and the local inhabitants gave him complete assistance to escape persecutions. Prophet, accompanied by his followers, left his native city Mecca in September 622 and went to Yathrib. This marks the beginning of the Islamic calendar, the era of Hegira or migration. Those who left for Medina were called *muhagirin* (the immigrants). Those who received them were called *ansar* (the supporters). See: Sami A. Aldeeb, "The Islamic Conception of Migration", *International Migration Review*, vol. 30(1), p. 42

52 Plaut, n. 40, p. 23
millions of people from their home, raises normative questions on the modern international system and its future.

It has been argued by some scholars that when a State is unable to provide the minimum standards of living and security to a section of its citizens then other States or organisations must intervene. Any delay is likely to jeopardise the stability of the entire international regime. Due to the prospect of international instability the subject of refugees and displaced people is high on the list of concerns. This is not only "because of its humanitarian significance, but also because of its impact on peace, security and stability. The world cannot reach a new order without effectively addressing the endemic problem of human displacement."53

This highlights the fundamental ambiguity that characterise, responses to the phenomenon of refugee flows. There is a contradiction in the relationship between a commitment to humanitarian action and to the principles of the international system of States. While the first commitment appeals to a common human identity, the second is directed at the maintenance of world order that insists upon citizenship as the authentic political identity. The contemporary refugee crisis confronts the limits of modern forms of political identity. Thus, the multilateral responses to refugee flows are inextricably linked to the struggle and debate concerning the nature of political community and identity.

States recognise the inherent goodness and desirability of pursuing universal principles of ethical obligations. However, this idealism is weighed down by a realistic appreciation of what a particular government can deliver and at what economic cost. The way governments respond to these massive exoduses reflect the

53 The former United Nations High Commissioner for Refugees, Sadako Ogata quoted in Nyers, n. 4, p. 3
extent to which a State is prepared to incorporate humanitarian or trans-national ethical dimension into action and practice.

INTERNAL CONCEPT OF SOVEREIGNTY

Internal concepts of political obligation focus on three postulates. First, the sovereign State is the legitimate basis of global political organisation. Second, morality pertinent to the conduct of foreign relations must differ from the State’s actions towards its own citizens. Lastly, that international co-operation can only be undertaken if it satisfies the State’s pragmatic considerations. Internal concept of political obligation considers that members of a State, “owe their most fundamental political obligation to the society into which they were born or to which they legally belong.”54 Underlying this is the contractual or trusteeship account of civil and political society. The primacy of obligations among fellow citizens is due to the voluntary contract made between autonomous agents in the state of nature. Since no contract was entered into with humanity in general, therefore citizens owe no political or moral obligation to those outside the State.

Only by being sovereign, States can exercise the degree of autonomy and permanence required to fulfil the trust reposed by the citizens. When the sovereignty of a State is suspect, the validity of the social contract of citizenship can be questioned and challenged. This institutionalises the distinction between citizens and non-citizens. The former is granted and can claim special status vis-à-vis the refugee.

Sovereignty and the concept of ascending political obligation also means that citizens should not appeal to a higher standard of moral authority to evaluate the

conduct of their State or refuse to obey it. Also the State cannot bind itself to higher international commitments which run contrary to the principles of serving the interests of its citizens. Consequently, a government can only enter into international obligations when they advance the interests of the State. Moreover, due to domestic political obligation, such international obligations cannot be permanent.

EXTERNAL CONCEPT OF SOVEREIGNTY

The external account of moral and political obligations, on the other hand, is based on the ethical conviction that there is a universal moral framework that extends beyond ones surrounding the State. It is bereft of pragmatic consideration toward relations with outsiders. They are confident of the human capacity to transcend social and cultural limits due to the principle of association. These proponents either nurture a Rousseauian emotionally expansive soul, or a Kantian global, cosmopolitan vision.

Irrespective of the solution to the causes of refugee flows, the State of refuge is expected to treat all refugees according to certain minimum standards. Asylum providing countries are required to provide the same civil and legal rights to displaced aliens - once their status as a refugee has been determined - that are extended to their own citizens. In addition, refugees must be given adequate material assistance and legal aid to sustain themselves physically, socially and psychologically. This ultimately is aimed at rendering them self-sufficient and restoring a sense of identity and self-respect amongst them.

It has been further argued that when weak States are incapable of effectively discharging their responsibilities towards their own citizens, other States need to take on their burden. As the internal concept of sovereignty/ political obligation can only have moral force only if all the people have a effective protector and advocate of their
own. By assisting those without a protector, Goodin\textsuperscript{55} argues intervening State or organisation serves to uphold the convent made by the citizens. Further, scholars argue that the State and its citizens have a definite duty, under certain circumstances, to externally assist non-citizens. The principle of mutual aid requires the State to render positive assistance to non-citizens if it is urgently needed, and if the risks and costs of providing such assistance are relatively low.\textsuperscript{56}

To deny protection to a refugee would inevitably deprive that person of his/her basic right to a safe and secure existence as enshrined under international human rights law. This is one of the few trans-national duties that binds all governments. As powerful institution States are obliged to ensure that no one, including citizens of other countries, are deprived of such a basic right. Acceptance of such a conception of those who deserve protection will result in an increase of eligible refugees that a host State must morally provide sustenance to. This would drastically increase the potential costs of admitting refugees for the host countries and there is a possibility that the incumbent costs are unlikely to be absorbed. In such an eventuality, the countries providing refuge will block their entry even if it means failure to discharge obligations under international humanitarian principles.

It is apparent that these ideals exist in tension with and compete against, the values of political sovereignty that underlies the present States system. Especially in times of economic recession, the notion that States and their citizens must cater to their own interests becomes imperative and overriding impulse. This is the main

\textsuperscript{55} Quoted in Chalk, ibid, p. 158
\textsuperscript{56} Excluding or expelling refugees is something that can be only morally justified under the following circumstances. If the persons seeking refugee status are not in genuine need and do not lack a specific protector or by accepting refugees, a heavy cost is likely to be imposed on the receiving State.
reason why international refugee law remains permissive instead of being obligatory in nature.

Under the present circumstances, it is apparent that, governments have taken inadequate steps for promoting the universal common good. Thus, "the moral order...demands that such a form of public authority be established."\(^{57}\) This public authority will fill the lacuna of an institution for promoting universal good and not be limited by pragmatic considerations of statecraft.

The evolution of alternative mechanisms for the need of refugees and potential refugees, it is argued, should make the right to seek asylum more a derivative or a residual right. Whenever States prove ineffective in fulfilling their duties, the right to asylum and the corresponding duty to provide safe haven should come into force. Different means should be used to protect the human rights of victimised populations, and if necessary the use of force should not be eschewed.

Consequently, the new refugee regime should be empowered to address effectively the political and social problems that result in refugee flows. Such a regime should also include, it is argued, automatic funding mechanisms to meet emergency needs. It should have the capacity to carry out preventive measures, conflict prevention and resolution measures with a standby protective force. There is also a need for the codification of the right of the international community to humanitarian intervention and a streamlining of decision-making process.

Finally, from the moral point of view, they argue, restrictions against the movement of refugees, who are fleeing for their lives, in pursuit of liberty, or even from economic oppression and destitution, can only be justified by the availability of

\(^{57}\) Drew, n. 49, p. 12
alternative structures for their protection and provision for a dignified way of life. If such structures are absent then efforts must be made to create them.

EMERGENCE OF REFUGEE RELIEF REGIME

As is clear from the above discussions, the ethical debate is divided on the basis of the universal or statist moral approach to international relations. The question of refugees is one of the most contentious issues, which highlight the contradiction in the practice of international relations. Before proceeding further it would be useful to trace the evolution of the present refugee relief regime.

The 1948 Universal Declaration of Human Rights states that “everyone has the right to seek and to enjoy in other countries asylum from persecution.” This proclamation assumes that refugees who are fleeing will be able to find and reach a recipient country for asylum. The possibilities for such an occurrence are low especially in remote and inaccessible areas where the refugees find themselves under trying circumstances but this however, is a continuation of position of early scholarship. These focused on the responsibilities of a host State to return accused criminals back to the State of origin. However, in the absence of any accusation of criminal conduct or where the host State was not on diplomatic terms with the State of origin, Grotius\(^{58}\) maintained that a permanent residence should not to be denied to foreigners. Those who are expelled from their homes and are seeking shelter, if they submit themselves to the established government and observe regulations, which are necessary to avoid strife, then they must be provided refuge. Similarly, Vattel believed that no nation without good reason should refuse even a perpetual residence.

to a man who has been driven from his country. However, he also maintains that, every nation has the right to refuse to admit an alien into its territory if doing so would expose it to danger or cause serious trouble.

These early principles created the framework for dealing with refugees that continues to exist even today. First, refugees are deemed to possess a right to seek asylum in other countries. Second, receiving States are under no legal obligation, other than for purely humanitarian reasons, to accept refugees and to provide them with a place of permanent sanctuary. Since these two principles are in conflict or contradiction, this framework naturally creates tension between the rights of asylum-seekers and the rights of recipient countries.

NON-REFOULEMENT

The United Nations High Commission for Refugees represents the legal interest of the international community. It has been given the mandate for protecting refugees and ensuring that international obligations are observed.

One important tenet of international refugee law is the principle of non-refoulement, which is enshrined in the Article 33 of the 1951 United Nations Convention on the Status of Refugees. It stipulates that, save in certain limited and exceptional cases, refugees must not be returned in any manner whatsoever to territories in which their lives or freedom might be endangered. The rule prohibits both rejection at the frontier and expulsion after entry. Moreover, it obliges States to provide sanctuary to anyone who arrives at their borders seeking asylum, at least until their applications for refuge have been processed and assessed. The principle of non-refoulement is the fundamental right of all persons to apply for asylum/protection from persecution and to demonstrate the political nature of their plight. However,
these obligations of a State for providing refuge extend only to those persons who meet the accepted international criteria for refugee status.

The definition of a refugee in both 1951 and 1967 Conventions, however, limits it to persons fleeing persecution while excluding those who leave their country of origin to escape other trying conditions such as economic hardship, natural disasters or famine. They also exclude those who are displaced within their own countries because of armed conflict, ethnic strife or forcible relocation by their own governments. These people do not come under the ambit of the definition of a refugee as they do not cross an international boundary.

Attempts, however, have been made to extend the refugee definition beyond the 1951/1967 United Nations standards. The Convention on Refugee Problem in 1964 in Africa (later adopted by Central American States in 1984), for instance widened its ambit to include under refugees those fleeing external aggression, internal civil strife, or events seriously disturbing the public order.

The definitional issue is a critical dimension of international refugee law. It differentiates those whom a State providing asylum is obliged to recognise and hence, protect and help, from others. However, States across the world do not want to expand the scope of the definition fearing increased pressures. Not only have the developing countries but also the developed countries are trying to limit their obligations. 59

59 The European Union has institutionalised this practice through the compilation of a common list of ‘persecution-free’ third countries from where applicants are rejected. Applications made by individuals who arrive from States considered to be ‘safe’ and free from persecution, even if these persons only transit through such countries, have been rejected. Developing States, too, have become increasingly reluctant to recognise refugees and grant them sanctuary. Rapidly rising populations, collapsing economy, limited political and social infrastructures, extreme ethnic and religious cleavages make them ill-suited to assume the added burden of accommodating refugees. This has led to a growing compassion fatigue, the repercussion of which is declining tolerance of refugees and incidence of violence against them.

Moreover, many developing States have not signed the 1951 Refugee Convention for fear of additional responsibilities with respect to refugee protection and assistance. As of April 2003, the only Asian States to have signed the basic instruments of the 1951 Convention and 1967 Protocol were Fiji, Iran, Japan, Kazakhstan, Kyrgyzstan, Laos, Malawi, Nepal, New Zealand, Indonesia, Malaysia, Philippines, Tajikistan, the People’s Democratic Republic of Korea, the People’s Republic of China, Turkmenistan, Turkey, Yemen.
A French proposal adopted by the members of the European Union at the Cannes Summit in 1995 has further restricted the opportunities for asylum. According to the proposal, persecution by non-State agents and/or membership of a persecuted group no longer constitute 'well-founded fear(s) of persecution' to claim refugee status.

International refugee law imposes certain obligations on States with respect to refugees, obligations that should be met irrespective of the implication on national interests. The UNCHR maintains that certain minimum standards of treatment – including observance of the principles of non-refoulement and temporary refuge – are rooted in fundamental international law, therefore obligatory on all States. Despite this, States that have not acceded to international asylum instruments are legally not bound by obligations other than those that are contained within their own local laws.

A number of governments limit the number of refugees entering their State by arguing that such claimants are not 'genuine' refugees according to international law. These _de facto_ refugees typically include those who have been forced to leave their country of origin for such 'non-persecutory' reasons as war, civil unrest, disease, natural disaster and famine. Though their exclusion as refugees has a legal basis, they are no less needy than those escaping due to political, religious or ideological oppression.

**DIFFERENT APPROACHES TO RESOLVING REFUGEE PROBLEM**

Traditional norms, international initiatives and domestic political imperatives determine the approach that countries adopt towards the management of different refugee problems. The cost of accepting refugees can prove substantial for the host country, both, monetarily and socially. States then tend either to shift this burden back
onto the refugees, who must then take care of themselves and find a new homeland.

In other cases they shift the burden onto other countries, which must accept responsibility for the care of the refugees group.

States faced with refugee inflows adopt one of the following five policies or approaches: (a) traditionalist, (b) universalist, (c) regionalist, (d) causalist, and (e) hybrid.

Traditionalist approach is based on three fundamental beliefs. First, no nation has an absolute duty to accept refugees, although it has the responsibility to see that refugees come to no harm. Second, a nation offering asylum to refugees is responsible for their maintenance. Third, a global refugee system will somehow regulate itself. The traditionalist approach thus protects the State from accepting responsibility for refugees. However, it does not offer a permanent solution to the plight of global refugees.

Universalist approach is based on a series of humanitarian principles. First, that refugee represents a global problem. Second, that international instruments form the foundation for applying human rights to refugees. Third, that the solution to refugees’ problem must come from the global system working in consonance to evolve a comprehensive solution. Hence, the pure universalist approach is supportive of the needs of refugees, with secondary concern for the domestic political and economic requirements of individual nations.

Regionalist approach considers it as a regional problem and responsibility. It lays the onus on the nations of each region to care for refugees in that region. Such an

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60 Cart, n. 58, p. 310
61 Their arguments are based on the Universal Declaration which states that: (a) everyone has the right to a nationality, (b) the right to seek and to enjoy in other countries asylum from persecution, and (c) the right to freedom of movement and residence within the borders of each State.
approach argues for excluding refugee problem from global commitments or agenda.\textsuperscript{62}

The causalist approach places the burden of refugees firmly on their country of origin. The United Nations has adopted such an approach and advocates voluntary repatriation as the preferred solution to refugee problem. Its relevance is underlined by the fact that often refugees long to return to their country of origin. However, the country of origin usually refuses to take the burden of the refugees. In some extreme cases, they threaten to kill the refugees if they return to their homeland. Causalists advocate and in some cases intervene in the countries of the refugees to force a change in the condition (civil war or hostilities) that prompted the migrations. After creating conducive conditions they encourage repatriation of the refugees.

The causalist approach, however, has severe limitations. While it is relatively simple to determine the culprit State responsible for the refugee problem. It is much more difficult to determine how the individual refugee should subsequently be treated.

The causalist, regionalist, universalist, and traditionalist approaches may prove effective in certain circumstances. However, none of these have the real potential to bring about a permanent solution to the present refugee migration problem.

The key to the hybrid approach, according to its proponents, is leadership and planning. Leadership could come from many quarters, like from the UNHCR. Planning means, a pre-determined programme focused on the refugees to accomplish specific goals within a specific timetable. Such a plan can draw from the other four approaches. First, is the temporary securing of regionalist assistance for refugees to protect them from immediate harm. Next, comes the creation of an international

\textsuperscript{62} Regionalism has worked well in areas such as Africa, where traditional norms of community have provided assistance to refugees forced to abandon their homelands. They have also helped in settling and integrating them.
coalition of nations based on universalist principles to secure more permanent solution or sanctuary for refugees.

THE TEMPORARINESS OF THE SOLUTIONS

Terms such as 'problem', 'crisis', 'complex emergency', 'challenge', and 'control' are commonly used in any discussion involving refugees and their movements. Refugee situation is by its very nature a crisis or emergency, and thus demand immediate action to provide the best possible form of protection and assistance to individuals and groups fleeing oppressive and dangerous regimes or situations. As a result studies on refugee similarly address it as an emergency situation requiring timely formulation of policy, relevant analysis and recommendations. However, as the discourse is labelled as 'emergency', long-term analysis and theorisation inevitably gets neglected.

Despite the enormity and perpetuity of the refugee problem, international organisations charged with protecting refugees have consistently conceived it merely in terms of crisis or emergency management. Consequently, the approach towards refugee crisis is practical and operational in nature, short-term and crisis-oriented and operating under the strict time limits. Critical questioning of unequal power relations and structural conflict, and desirability of this order are marginalised or ignored. Also de-emphasised is any attempt to question the purity and coherence of such key foundational concepts as citizenship and sovereignty.

63 The UNHCR defines a 'complex emergencies' as a 'large scale event, often triggered by a natural disaster, exacerbated by internal or international armed conflict with serious human rights violations and large scale suffering among the civilian population, resulting in large numbers of refugees and displaced persons.

64 The suddenness of mass refugee flows, the increasingly complex and varied conditions and circumstances causing flight and especially the increasing numbers seeking protection and asylum are all reasons for refugees being classified in crisis terms.
ROLE OF THE UNITED NATIONS IN AFRICA

The United Nations has been an active player in Africa since its inception and its role has grown over the years. There were twenty-five major conflicts in Africa in the 1990's. In fourteen of these twenty-five conflicts, the United Nations has played the role of peacemaker/peacekeeper. However, it was not the exclusive player, often it worked in partnership with others. The Organisation of African Unity (OAU) is an important partner in almost every case. The United Nations has also allied with sub-regional organisations such as ECOWAS. However, United Nations's relation with its partners has at times been strained. The United Nations has also worked, in Africa and elsewhere, with ad hoc coalition of governments. Sometimes these have included non-African governments. It has also collaborated with non-government organisations and individual statesman like Julius Nyerere or Jimmy Carter.

The United Nations has, however, been more active and more successful in providing relief to refugees and other civilian victims of conflicts than in efforts at peace-making. It has developed expertise in humanitarian operations, where it is very successful. However, in the political field it has faced serious difficulties and lack of co-ordination and success.


66 There are three main reasons for this. First, sub-regional organisations are dominated by a sub-regional power with interests and friends in the area. This makes it difficult to convince the parties in conflict that the sub-regional organisation will act with the neutrality and impartiality, qualities essential for successful peacemaking and peacemaking. Second, the disparity between the equipment and living conditions cultural differences of the United Nations and those of the sub-regional organisation troops leads to operational difficulties and effects the moral of the troops. Third, is the problem of status, Chapter VIII of the United Nations Charter gives the United Nations a primacy, but at times, the United Nations may be pushed around by a sub-regional organisation. See: Goulding, ibid.

67 Similarly France too has taken a number of independent initiatives in relation to conflicts in Africa. For instance as a mediator in the Central African Republic and between Eritrea and Yemen over the Hanish Islands or by Operation Turquoise in western Rwanda in the summer of 1994.
Almost all the conflicts in Africa since the end of the Cold War have been intra-State conflicts. These internal conflicts have proved in Africa, and elsewhere in the world, to be much harder than inter-State conflicts, for the United Nations and other international actors to prevent, manage and solve.

The United Nations Charter is very clear on the intervention into internal matter of States. Paragraph 7 of the Article 2 states that the United Nations may not “intervene in matters which are essentially within the domestic jurisdiction of any State.” This uncompromising assertion of State sovereignty makes it difficult for others to intervene to protect their interests. It also makes it very difficult for outside mediators to take suitable action to prevent internal conflicts. It is therefore not the lack of information that hampers the United Nations from preventing internal conflicts. Rather, it is the principle of sovereignty, which legitimises governments’ reluctance in allowing intervention into internal conflicts.

There are other factors as well that make intra-state conflicts more difficult and problematic than inter-State conflicts. First, the law and methodology of third party mediation has been established in the context of conflict between independent sovereign States. However, there are fewer such established rules for internal conflicts. Second, the issues, which lead to internal conflicts, are highly complex and politically sensitive. Third, one of the parties in the conflict often happens to be part

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68 No conflict is completely internal, even though its causes may be internal and the protagonists are nationals of the same State, the consequences invariably spread beyond the State’s borders. Usually regional security is undermined, displacements and refugee flows occur and there is disruption of trade and communications. Considerable environmental damage too is caused.

69 In the summer of 1996, United Nations was informed that Tutsi people of Rwandan origin called the Banyamulenge who had been living for two hundred years in the uplands to the west of Lake Tanganyika. The Banyamulenge were going to be deprived of their Zairian nationality. If that happened, the Banyamulenge would revolt. The United Nations sent out a fact-finding mission, which confirmed the facts. A second mission went to Kinshasa and Gbadolite to try to forestall the looming conflict as an effort in preventive diplomacy. However, the Government of Zaire curtly told all, that this was an internal matter and the United Nations had no role in it. Goulding, n. 65, p.
of an insurgent movement with ample supplies of arms and is obsessively secretive
due to operational imperatives. Such groups also tend to be inexperienced in
negotiation and lack transparent lines of authority. They are usually unfamiliar with
the norms of international behaviour and are prone to violence. Fourth, governments
tend to resent and resist the third party considering it and the insurgent movement at
par during the negotiation or equally to blame for the conflict. Finally, civilians suffer
more in internal conflicts than in inter-State conflicts. In such circumstances, it is
impossible for international agencies to respond to the humanitarian needs without
going drawn into the politics of the conflict. They also become pawns in the game
plan of warring factions.

The end of the Cold War provided many new opportunities and challenges for
the United Nations in the prevention, management and resolution of conflicts. There
were several new kinds of conflicts needing evolution of different types of
peacekeeping operations. Since the early 1990s, the United Nations led efforts at
peacemaking in fourteen conflicts but only succeeded in two. There are ostensibly
three reasons for this, the “lack of the sticks and carrots which are available to
governments, lack of resources, and a certain lack of professionalism.”

In Africa, also some peace settlements were negotiated. The implementation
of these settlements required new types of peace-keeping operations. The functions,
which United Nations was expected to play, were wider and more complicated than
traditional peace-keeping. They included not only monitoring of cease fires and the

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During the civil war in Liberia began in 1990, the Group of African States at the United Nations went to
Secretary-General Perez de Cuellar and demanded that he takes some action. To which, he replied that there
was nothing he could do. This is unlikely today. It has become a commonplace for the United Nations and
other mediators to intervene in internal conflict in Africa and elsewhere. The principle of sovereignty is the
bedrock of the current international system and it will take a considerable time before the recent evolutions in

70 In peacekeeping, however, the United Nations record in Africa is good, despite significant failures in Rwanda
and Somalia. The 13 operations deployed during the Cold War by the United Nations all of them were
traditional peacekeeping. These are operations deployed as a transitional measure to help create conducive
conditions for the negotiation of a lasting settlement. Their task was to monitor cease-fire, help to separate
forces, control buffer zones and verify compliance with provisional agreements. Such operations are still
required in some conflicts.

separation of forces but also the demobilisation of combatants and their re-entry into
civilian life, the supervision of the local administrations and police forces and the
promotion and verification of human rights. They also had to supervise and
sometimes conduct elections or referenda, and ensure the return and resettlement of
refugees. De-mining operations and economic reconstruction and rehabilitation
including the creation of jobs for demobilised combatants were also part of the role
United Nations was expected to play.

The initial spectacular series of United Nations successes created a kind
impression that the United Nations could not make a mistake. There was also pressure
on the Secretary General, Boutros Boutros-Ghali, for more peace-keeping in Africa.
As a consequence The “secretariat, was not rigorous enough in analysing whether the
conditions for successful peace-keeping existed.” The implications of new
operations in Africa were not studied before, recommending them to the Security
Council. Successful peacekeeping critically depends on the parties to the conflict
having respect for and confidence in the United Nations. The humiliation and
ineffectiveness of United Nations troops in Somali and in Bosnia undermined their
credibility in other theatres.

The idea that multinational forces should be mandated to protect humanitarian
activities in the middle of conflict is a post-cold war innovation in peace-keeping
theory. It is argued that as there is no peace or cease-fire and therefore the mandate

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72 Boutros Boutros-Ghali was the first African Secretary-General, with deep experience of Africa. This made him
sensitive to complaints that Africa was not getting its fair share of the United Nations’s new successes.
73 Goulding, n. 65, p. 163.
74 Rwanda did enormous damage to the United Nations’s credibility. The United Nations force, UNAMIR, had
been deployed to help the parties implement the Arusha Agreement, which provided for a cease-fire and the
first steps towards a political settlement of the conflict. It was expected to a case of classic traditional
peacekeeping. When the genocide began in April 1994, their governments withdrew two of the three main
contingents. The remaining force had neither the mandate nor the capacity to stop the killing. It was months
before the Security Council gave it a new mandate and governments provided the necessary troops. This delay
in response led to many killings. ibid p. 164.
must be extended to enforce or protect humanitarian efforts even with the use of force.

Though this appears to be reasonable role for the United Nations, but it is extremely difficult to implement. Especially, if the United Nations force have other duties in the conflict. The United Nations is unable to combine coercion with mediation. When there are alternatives courses of action and choices to be made, it is difficult for United Nations forces to take decisions. The protection of humanitarian activities is a form of coercion that may entail the threat and use of force. This task could be accomplished successfully only for short periods and only if, three conditions exist. The first is that the multinational force should have overwhelming military superiority and an evident political will to use it if necessary. The second is that the force should be scrupulously impartial, using force against any party that threatens humanitarian operations. It should not condone offences by one side, instead it should be met with force. Thirdly, the force should have no other impartiality-based mandate to the conflict concerned. This is because any force, which is obliged to shoot at one of the parties in order to defend humanitarian operations, is no longer going to be considered neutral or impartial at least by that party.

In internal conflict, the political, military and humanitarian aspects tend to get entangled. The relation between politico-military and humanitarian officials is tense and difficult. The humanitarian agencies also complain that there is a tendency on the part of governments to let humanitarian relief become a substitute for political programmes to resolve the conflict.75

75 It was evident the aftermath of the genocide in Rwanda in 1994 contained the seeds of future conflict. Two million Hutu refugees were in Zaire in camps close to the border. After the Tutsis seizure of Goma in 1996, the Secretary General and the High Commissioner drew attention to the terrible fate that awaited the Hutu civilian refugees who were forced to flee westwards into the heart of Zaire. These warnings were not heeded. Ibid.
AFRICAN REFUGEE CRISIS

The narrow European orientation of the international refugee regime changed in the early 1960s due to the African refugee crisis. Many large outflows of population occurred or resulted from the decolonisation struggles in Algeria, Zaire, Rwanda, and Portuguese Africa and internal conflict in Sudan. Although the people uprooted by wars of decolonisation and secession had a homeland to which they eventually could return, yet the interim demand\textsuperscript{76} for asylum and relief was considerable and created a sense of crisis in the international community concerning refugees.

In the 1970s, a new type of crisis erupted, arising from the huge refugee flows. These refugee movements posed a new and distinctive problem. These refugees were destined to remain indefinitely in camps as conditions in their homelands did not permit repatriation.

Another feature of African refugees is that many displaced persons do not fulfil the legal definition of a refugee as recognised by the UNHCR. As the number of people, needing assistance steadily increased, UNHCR expanded its mandate under the doctrine of good offices.\textsuperscript{77} The restricted definition of UNHCR does not pose a major problem for African refugees, due to the provisions contained in the 1969 African Refugee Convention\textsuperscript{78} and the 1981 African Charter. Thus, whether the

\textsuperscript{76} The adverse impact on some of the host countries was compounded of several factors. (1) The economic plight of these countries: (2) the continuing influx of refugees, caused by unstable economic and political conditions in parts of Africa, and (3) the nature of the refugee problem which in many instances is not a temporary phenomenon, but a long-lasting challenge. Ibid.

\textsuperscript{77} Since both international instruments define a refugee narrowly, the U.N. General Assembly has repeatedly called upon the High Commissioner to lend his good offices to assist displaced persons, returnees, and other migrants who do not necessarily fall within the terms of this definition. In 1959, the United Nations recognised the rights of de facto refugees and adopted a resolution authorising the UNHCR to use his good offices on the transmission of contributions designed to provide assistance to the refugees who do not come within the mandate of the Statute. UNHCR material assistance consists of immediate humanitarian relief assistance, which it provides on an emergency basis at the invitation of a concerned country in co-operation with voluntary or governmental agencies.

\textsuperscript{78} African Refugee Convention had in its efforts to grapple with refugee crisis further extended the definition of refugee. The Convention especially states that granting asylum shall not be regarded as an unfriendly act. Based on the African Charter an individual has the right to leave any country including one's own and to return to it. However, the individual must be lawfully within the State's borders before being protected. He may only be expelled from it by virtue of a decision taken in accordance with the law. The States are not to impose penalties on refugees illegally entering their territory, provided the refugees present themselves without delay to the authorities and show good cause for their illegal entry or presence. No restrictions are to apply to movements of such refugees.
African refugee is a returnee, a migrant, a humanitarian case, or an asylum-seeker, UNHCR assistance is likely to be accorded.

Traditionally, many African countries receiving refugees have been generous in offering their assistance and support. Their attitude toward refugees is also reflected by African leaders at the meetings of the Organisation of African Unity (OAU). In his report on these meetings, the United Nations High Commissioner for Refugees observed: “The African leaders strongly demonstrated that they appreciate the gravity of the problem and their responsibility to do all in their power to assist refugees. The people of the continent are offering their support, generously and with understanding”.79

CONCLUDING POINTS

However, the major concern is to find durable solutions, whether relating to voluntary repatriation, local settlement, or resettlement in third countries. During the past few years, international community has felt the need to examine the refugee problem in general and not merely in terms of an emergency or focusing providing emergency relief and humanitarian assistance. Rather there is a need to go beyond the emergency relief and attempt to study and solve the causal factors so conducive conditions for repatriation are created. This would imply the to design effective solution to the violent conflict which is causing refugee generating conditions. As the study is focused on those violent conflicts whose genesis is in ethnicity therefore any policy or solution will have to address the needs of different ethnic communities. The effort will have to be made to transform these groups in such a manner that conflict is not reproduced and fragmentation is replaced with integration, hierarchical social relations are replaced by egalitarian social relations.