CONCLUSION

"Ours is a battle, not for wealth or power. It is a battle for freedom. It is the battle of reclamation of Human Personality"

-Dr. B.R. Ambedkar-
India is a largest experiencing refugee-hood. During her liberation in 1947, an estimated 10 million people took refuge from neighboring countries. India has been hosting refugees for a long time, however it is not a state party to the UN Convention relating to the status of refugees 1951 or its Protocol of 1967. There is also no domestic legal framework to deal with the issue of asylum and refugees. Although there are few provisions in the Indian Constitution, which could be translated for the protection of refugees, however there is a lack of common understanding on those. In this backdrop, there is a point for India for accession to the UN Convention relating to the status of refugees 1951 and adoption of a normative legal framework. The Refugee Convention was adopted at a special UN conference on 28 July 1951. The Convention is the basic instrument of Refugee Laws that defines a refugee, and sets out the rights of them and the responsibilities of states that grant asylum.

The Convention also sets out which people do not qualify as refugees, such as war criminals or having involved on serious non-political crimes among others. Protection of refugees forms the core of all Human Rights Law and Humanitarian Law. However, since its inception there have been many objections to the provisions of the Convention. It is said that the Convention mandates protection for those whose civil and political rights are violated. However, it does not protect persons whose socio-economic rights are at risk. For example, the Convention is unable to cover the need of the IDP and the latest consequences of the global warming, the climate refugees. Apart from that, the Convention needs for further revisions due to increased complexities in the process of refugee generation, protection and due to advance in the field of refugee studies.

The Convention has been the point of contention for the developed and developing countries. While developed countries are bidding for a rights-based approach; developing countries on the other hand have been voicing their incomprehension as to why they would be expected to abide by the standards that the North no longer seems to accept. It is likely that now the Northern countries assume only a fraction of the responsibilities for refugees. It mainly finds four dilemmas in the Convention with regard to refugee for example; definition, material assistance,
shared responsibilities, and unraveling consensus in observing standards of international law. Developed countries have already developed and implemented the concept of 'third country protection' or 'offshore asylum system'. These types of initiatives are contradictory to the spirit of the Convention. Even senior officials of the UNHCR openly support modifications in the Convention. Ms. Carol Batchelor, Chief of Mission of UNHCR in India says,

"the Convention has to be looked into from different angles or perspectives considering the present scenario,"1

In this scenario, none of the South Asian Countries is a signatory to the Refugee Convention, few citing certain biases in the provisions of the Convention. B.S. Chimni feels that before acceding to the 1951 Convention or 1967 Protocol, South Asian States should go ahead for adoption of a rights-based national legal framework to deal with asylum and refugee issues. Enacting a comprehensive national legislation from the above discussion, it is clear that given the drawbacks in the Convention, it is very unlikely that South Asian Countries should sign the instrument in near future2.

Therefore, adoption of national legislation will be a more viable option for the countries including Bangladesh. The benefits of national legislation are manifold. These include dissolution of adoption of ad-hoc measures; permanent mechanisms for determination and treatment of refugees; ensuring judicious, fair and accountable procedures; enhancement of administrative control of the state; achieving concerted search for durable solution; co-ordination among concerned agencies; reducing frictions and conflicts among states. These hardly consider protection needs of an individual, especially in case of women and children. Again, due to lack of any explicit legal regime, asylum seekers and refugees are dealt under ad-hoc administrative arrangements, which by their very nature could be arbitrary and discriminatory, and do not accord any right to the refugees. Therefore, the government should be serious on the matter. It is a high time that Government of India adopts a comprehensive policy on Chakma refugee issues in particular and others in general with a view to resolve the problem through bilateral and multi-lateral means. It largely requires pro-active diplomacy. A rights-based approach as to

---

1 Former Head of agency's Stateless Unit in Geneva in an international workshop on Forced Migration in Kolkata, India last year. The writer was one of the participants of the workshop.
domestic legislation is to give weight within a framework that recognizes the distinctive essence of humanitarian problems and gives legal recognition to the fact that every person, alien or national, is of equal moral worth, and worthy of treatment that does not violate his/her dignity. The law should have provisions, among others, on the definition of refugees, asylum procedure, rights and obligation, status of mixed-mirages, cancellation and cessation processor of refugee status etc.

The Ministry of Home Affairs formulates the policies and programmes for relief and rehabilitation of people of Indian origin displaced from other countries. It has also been entrusted with the work of providing relief to the Tibetan and Srilankan refugees. Various relief and rehabilitation schemes are being implemented by the Ministry of Home Affairs through the State Governments and Union Territory Administrations. A wide range of measure was taken for resettlement of 'old migrants' during the period 1948 to 1961. These included agricultural schemes, vocational and technical training schemes and rehabilitation loans for small traders, businessmen and professionals and provision of housing, medical and educational facilities. Another measure was taken to resettled 'new migrants' who arrived between January 1, 1964 and March 25, 1971. All these migrants largely resettled in the eastern and northeastern states of India. The settlement wing functions as a Subordinate Office of the Rehabilitation Division of the Ministry of Home Affairs and deals with residuary matters of resettlement of displaced persons from former West Pakistan under the Displaced Persons Compensation and Rehabilitation Act, 1954 and the rules framed there under.

So far the India's refugee regime is concerned she should frame its refugee law and has to put her refugees in different categories, reason due to their historical divide and injustice. Chakmas are such a category who comes under it. Chakmas, who settled in 1964, is almost more than five decades from now, are reclaiming their basic human dignity which they were denied on various occasions by the State Government as well as civil society groups. My field work explored that the socio-economic and political conditions of the Chakmas in the settled districts of Papumpare, Lohit, and Changlang are very poor and no one is concerned about the problems of these people. The whole debates on the issue of Chakmas are largely related to the question of citizenship and survival with dignity.

Marshallian theory of citizenship focuses on interest groups and the states creation of citizenship rights. Cultural rights focuses on identity and are much more
concerned with the formation and operation of social movements, and skipping a level of globalization and national civil society. Along with the citizenship rights as being concentrated to the state, theories of civil society also need to be developed to provide the informal aspects of citizenship integrating both the public and private spheres. In the 1967 Protocol, there is no procedural mechanism for providing official protection or benefits to refugees living in India. UNHCR, however, does have a presence in India and continues to register, recognize and resettle Chakma refugees.

Arunachalees have the misconception that Chakmas look like Bengalis, since they were from Bangladesh so they are not tribals like them which is not true at all. The Chakmas were given land in Arunachal Pradesh by the Indian Government with the intention of permanently settling them. They thought that the Chakmas can again build their shattered life in the state. Chakmas were settled in the state on humanitarian basis. Also, the government thought that they will be comfortable living in the state as they were also tribal and Buddhist by religion. That was one of the reason they were settled near the Khamtis and Singphos, who were also Buddhist and tribals. From the time the Chakmas were settled in the state, they were given employment opportunities like in paramilitary forces. Some were also given government jobs. There were no problem and no question of citizenship as they were given equal opportunities like any other Indian citizen. There was no discrimination towards them since Arunachal Pradesh was union territory (NEFA) at that time. But the problem started after it was made a full fledge state.

Under the Chief Minister-ship of Gegong Apang, slowly all the facilities given to the Chakmas by the Union Government were withdrawn like ration cards, free books for the students, drinking water, electricity etc. After some time, the Circle Officer of Diyun gave a circular ordering the Chakmas to surrender their ration cards, which added more miseries to the life of the community. Since almost all the Chakmas were dependent on agriculture, even after toiling days after days they don’t get enough rice to sustain them throughout the year. So they depended on the PDS for rice and kerosene oil for lighting their home at night. Thus, snatching away of those facilities resulted in hunger among the community. This was not only a crime against the helpless Chakmas but also a crime against humanity. In order to add more miseries to the already piled mountain of miseries, the Arunachal Pradesh Government ordered the closure of most of the schools in Chakma areas. The Chakma children were also prevented from looking for admission in other nearby schools in
Chowkham. This inhumane step taken by the State Government had resulted to a generation of illiterate children among the Chakmas and till date the middle school is lying vacant to be re-opened.

The injustice was not only done to the Chakmas of Lohit but also to their fellows of Changlang and Papumpare districts. In Changlang district, the Chakma students were prevented to take admission in any of the government schools. Some of the students studying in Miao Senior Secondary School, Innao Senior Secondary School, Namsai Senior Secondary School, etc had to leave the school in the middle of the academic session rendering hundreds of students' school-less. Till now Chakma students are denied admission in any of the government run schools after primary. The only school open to the Chakmas in Changlang district is the Diyun secondary school where more than 150 students study in a single class room. In grade six, more than 250 students sit in a single class room. The pressure in grade six is more since the entire student from various villages comes to take admission in Diyun. Since there is no other school to accommodate the student, the Head Master is bound to give admission to the entire student. Also all the schools in Chakma areas were dying from lack of teacher, proper school building. Only one teacher is allotted for a primary school which is very difficult for a single teacher to maintain discipline in five classes at the same time. Such is the pathetic condition of the Chakma students only because they are born in Chakma community of Arunachal Pradesh they have to go through this ordeal.

Present Arunachal Pradesh Chief Minister Dorjee Khandu requested the Prime Minister Manmohan Singh to constitute a high-level committee to solve the Chakma problems in the state. It is really difficult to understand whether the committee will be made from the Centre or from the State Assembly. As already a high power committee had been constituted in the state few months back with Setong Sena as the Chairman. The problem can only to be solved if the willingness comes from the politician as it is a political problem. Only constituting high level committee will take the problem to nowhere.

The question that is persisting in the minds of all those who believe in humanity is that being born and brought up in India, according to the Citizenship Act, 1955 and also the Citizenship (Amendment) Act, 2003 of section 3-1(a) every person born in India on or after the 26th day of January, 1950, but before the 1st day of July, 1987, shall be citizen of India by birth. Then, why is this not applicable to the
Chakmas of Arunachal Pradesh? Why they have to go through the trauma of leveling them as refugees? Also according to International Convention a person should not be denied a citizenship on the basis of caste, community, religion. But then why the Arunachalees Chakmas are denied nationality? It's been almost five decades and still Chakmas in Arunachal Pradesh living with a doubt, that whether they are Indian or refugees. Ironically, all other Chakmas who were settled in other parts of India are leading a normal life like any other Indian citizen. Then, why is injustice being done to the Arunachalees Chakmas? Because of this injustice the future of thousands of Chakma children is hanging in balance. They are not getting education. The youth are not getting any jobs. But one thing is clear that "For every action, there is an equal and opposite reaction". This is not only Newton Third law motion but it is equally applicable to our daily life.

Chakmas don't have any source of employment, as the Arunachal Pradesh Government stops providing employment to the Chakma. It is also difficult to find job outside the state. Chakmas are frustrated when they see their friends from other communities when they get jobs just after passing Class 10 or 12; they are unemployed even after doing graduation. Is not this pure 'discrimination'? Despite being more educated and qualified they are being ignored in job opportunities even in their place of birth. The state government should find a solution to the Chakma citizenship issue as soon as possible otherwise; the situation may go out of control. Nobody wants Arunachal Pradesh to be another Manipur. It is important to remember that the educated militants are more dangerous than the uneducated ones. The Chakma society as a whole is a non-violent society. Also they are Buddhist by religion. Nobody supports any type of violence, because once any community take up arms, that society is bound to be doomed, unless any good leader is there to guide the whole community. Look at the example of Pakistan; they are violent society, now Pakistan is almost a failed state. The Chakma youth who joined those militant groups must have done without the consent of their parents and society and they must have done out of their frustration in life. So, it is the responsibility of both the society and the state government to bring them into the mainstream. The State Government should start giving employment opportunities to all the youth without discrimination base on community, caste, religion, tradition, sex, ethnicity, nationality etc.

Now a day there are lots of talks about the issue of development in Arunachal Pradesh. Chief Minister Dorjee Khandu has taken the oath to root out corruption,
streamlining of the PDS, time-bound accelerated implementation of power projects and other critical on-going schemes related to developmental activities which have direct bearing on the life of rural poor of the state. Now, people got very high expectation from Dorjee’s regime and changes are expected to be seen very soon. But, what ever developmental activities and project are going on are mainly centered in western and central part of the state. There are no development projects slated for Changlang, and Lohit districts and not realizing that the development of the three districts is as equally important as any other districts. And this is so because Chakmas are largely concentrated in these districts.

Indian’s refugee regime represents a particularly salient case for exploring the role of interconnections between issue-areas as an independent variable in cooperation. This is because the absence of a binding normative framework on burden-sharing, and the fact that states have few interests in contributing to burden-sharing for its own sake, mean that the prospects for international cooperation have been determined largely by the ability of UNHCR to use linkages to connect refugee protection to states’ interests in issue-areas outside the immediate scope of the regime.

Two conceptual conclusions of particular relevance for the role of complexity emerge from this case study. Firstly, structural interconnections between issue-areas play a role in cooperation because they enable and constrain the ability of actors to appeal to linked interests within bargaining. Secondly, institutional interconnections (such as nesting, parallel and overlapping institutions) are but one special case of structural interconnections.

It is surprising that the India’s refugee regime has not been given greater prominence in international relations. There was a fundamental contradiction between the principles of sovereignty and human rights, but argued that this conspiracy is mitigated by the practice of granting rights of asylum to foreign political refugees? Refugees actually buttressed a territoriality-based conception of sovereignty because states could allow unwanted populations to flee without taking more extreme actions, and the international community could assist refugees without direct intervention. Refugees were, in essence, a necessary relief valve for the system of sovereign states.

The plight of the refugees irrespective of whether they are looked after either by the UNHCR or the Government of India is abominable to say the least. The condition of the refugees who are not recognized either by UNHCR or the Government of India is the worst. The lack of legal mechanisms and policies on
refugees is one of the fundamental flaws of refugee protection in India. But the courts in India have awarded judgments to abide by international principles on refugee protection including non-refoulement.

However, the cardinal problem arises when both the UNHCR and the Government of India violate their own standards and principles. While it is possible to bring the Government of India under the scrutiny of the quasi-judicial bodies like the NHRC and judiciary, there is no such mechanism to scrutinize the UNHCR in New Delhi. Official rules and procedures have become an excuse to raise the 'veil of secrecy' and to resort to arbitrariness at the expense of the refugees. It is a well known fact that none of the regions of South Asia including India, Bhutan, Maldives, Nepal, Myanmar, Sri Lanka and Bangladesh is a party to the 1951 convention or to its 1967 protocol as stated before. It is also true, that there are no national refugee legislations and administrative provisions related to the protection of refugees. Despite the positive example set by India’s generous naturalization of Afghan refugees of Sikh or Hindu ethnic background in 2007 and 2008. For those countries hosting refugees, local integration continues to remain a very limited option.

The ratification of 1951 Convention relating to the status of refugees is a statement of intent unless it is enforceable in domestic courts. Since, the Government of India is not even considering the ratification of the 1951 Refugee Convention, its enforcement in domestic legislation or development of a refugee legal regime is a far cry. A consistent legal framework is vital to the prevention of political ad-hocism, which often translates into forcible repatriation for refugees. The issue is not only development of domestic legislation but how to ensure that both the UNHCR and the Government of India strictly abide by their own standards and principles. For the refugees, the latter remains the immediate concern and the UNHCR has manifestly failed to address the issue of protection.

As voluntary repatriation still remains elusive in these situations, UNHCR will continue, as in 2007 and 2008 to promote resettlement as a durable solution for most of the refugee camp population in Bangladesh, Thailand and Nepal. Within the context of strategic resettlement, special attention is also given to the protracted refugee situation in Malaysia and India. UNHCR also hopes that in 2009 resettlement countries will provide support to address the protracted situation of Afghan refugees

---

in Iran and Pakistan, the two countries hosting the largest number of refugee's worldwide. It is hoped that considerable progress in strategic resettlement of these caseloads will open new opportunities for increased asylum space.

The basic findings of the research suggest that there should be right to life with dignity and access to uniform treatment to all the refugees so far settled in India over a period of time. Civil societies need to work independently without any pressure. India required immediate implementation of national migration and refugee laws and policies with the support of NHRC and International Organizations. What ever the case may be, so far as my understanding is concerned I have a firm belief that in coming days India's refugee regime would be more loyal towards the refugees who settled in India in general and Chakmas in particular. It also plays more important role in the entire South Asia and bring some of the very effective policies and laws to minimize the gap of denial of the refugee rights. So far my hypothesis is concerned it has been proved through my field work that India's refugee regime is yet to evolve a transparent framework linking rights, laws and policies and results in great prevarication between policies and practices. The treatment of refugees by the refugee regime widely differs in India from state to state and is subject to much pressure from civil society groups.

So far migration is concerned, to my mind, it is in human nature and every one has to migrate. The only thing is who comes first, settle and claims to be the original settler. The Chakma problem is nothing but the political and policy problem in Arunachal Pradesh in particular and northeast in general. This can only be solved once both the state and center sit together and think over it deeply in a sense to solve the problem without doing any politics over it. My extensive field work resulted that the Chakmas are the legal migrants particularly the second and third generation is concerned. Chakmas fall on the ambit of the citizenship rights acts of the constitution of India. They should be given citizenship rights as well as Scheduled Tribes status so that they should live with dignity. The refugee regime of India should also keep in mind that the solution should be democratic which not only satisfy the Chakmas but also the tribals of Arunachal Pradesh so that the situation like conflict should not arise in future.