CHAPTER-I

INTRODUCTION:-

Throughout the globe over the centuries, societies have welcomed frightened, weary strangers, the victims of persecution and violence. Yet even as people continue to flee from threats to their lives and freedom, Governments are, for many reasons, finding it increasingly difficult to reconcile their humanitarian impulses and obligations with their domestic needs and political realities. At the start of the 21st century, protecting refugees means maintaining solidarity with the world's most threatened, while finding answers to the challenges confronting the international system that was created to do just that. An increasing number of countries around the world have invited refugees to settle permanently on their territories. By offering naturalization, providing land and or permitting legal employment, Governments of both asylum countries' and resettlement countries have offered a lasting solution to the problems of those refugees who could not be assured protection in their home countries or in their country of first asylum. The legal framework that supports the international refugee protection regime was built by States. The objective of the study seeks to analyse the rehabilitation of the refugees in particular and the interests of the ICRC in the rehabilitation process. The attempt would be show how refugees have been rehabilitated in the post conflict situations in the war torn countries.

The study would endeavour to establish the links between nation states and their cooperation in rehabilitating the refugees and the internally displaced persons and how the ICRC acts as liaison between the states and the refugees. The study would examine the policy of the ICRC towards refugees in the rehabilitation process. The study would enquire as how the states have been in cooperation in terms of the economic and political support in the process of rehabilitation. Based on the findings, the study will attempt to offer some policy measures and suggestions on how best to explore the potential of rehabilitations of the refugees in the said four countries of the study.

Through the years, States have acknowledged their commitment to protecting refugees by acceding to the 1951 Convention relating to the Status of Refugees, the cornerstone document of refugee protection. The Convention, which was developed and drafted by States, enumerates the rights and responsibilities of refugees and the obligations of States that are parties to it. As of September 2001, 141 States had acceded to the Convention and/or its Protocol\(^1\). In addition as

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\(^1\) ICRC. 1 Dec 2009 Key Data for ICRC Emergency and Headquarters Appeals 2010. www.icrc.org
members of UNHCR's Executive Committee, 57 Governments help shape the organization's protection policies and assistance activities. Protection under threat while the international community has generally responded swiftly and generously to refugee crises over the past half century, in recent years, some worrying trends have begun to emerge. Countries that once generously opened their doors to refugees have been tempted to shut those doors for fear of assuming open-ended responsibilities, of abetting uncontrolled migration and people-smuggling, or of jeopardizing national security. Real and perceived abuses of asylum systems as well as irregular movements, have also made some countries more wary of refugee claimants, and concerned that resources are not being sufficiently focused on those in greatest need. Refugees have been refused admission to safety or have been expelled from asylum countries. Those who have reached a potential country of asylum have sometimes been turned away or sent back without being able to apply for asylum. Refugees have been the targets of violent attacks and threats. Largely because they were perceived as "different" from the communities in which they had temporarily settled.

Tensions between refugees and local populations have erupted when refugees were seen as competitors for natural and economic resources. Armed combatants have been allowed to mingle freely with-and intimidate with seeming impunity-the civilians who sought safety in refugee camps and settlements. And, increasingly, Governments have resorted to detention of illegal entrants, including women and children, many of whom are seeking asylum. Some have done so to discourage or to dissuade those who have already arrived; from applying for refugee status. Some regard detention as an effective way of managing illegal entrants regardless of their asylum status while identity, national security and the elements on which the claim to refugee status or asylum is based are explored, and that it facilitates removal of those who have no grounds to stay. Some asylum countries around the world have become increasingly concerned about the economic and social costs of asylum and are moving to harmonize their refugee determination systems in part to address inequities which may result from different levels of entitlements. Some donor Governments are struggling with the costs of their own domestic systems for receiving refugees and determining their claims, while also supporting large numbers of refugees over long periods of time in other, less wealthy, nations.

Developing countries argue that the burdens of asylum are not shared equally: while they host thousands, and sometimes millions, of refugees, wealthier countries are restricting access to their own territories and reducing support to the countries of first asylum. The UNHCR is facing
budgetary shortfalls and has been forced to cut back on staff and programs. The creation of the Red Cross, an international agency concerned with the alleviation of human suffering, is exemplary of the humanitarian spirit that prevailed during the time. Its founder, the Swiss philanthropist Henri Dunant (1828-1910)², horrified by the suffering he saw at the Battle of Solferino (Italy), proposed the formation of voluntary aid societies for the relief of war victims. In 1863 the International Committee of the Red Cross (ICRC) was established and in the following year twelve Governments signed the Geneva Convention. Its conventions have now been ratified by almost 150 nations. The ICRC’s mandate is to protect and assist victims of war and internal violence. Today, the ICRC operates worldwide, helping the victims of war, acting as a neutral mediator in cases of conflict and promoting knowledge and respect for humanitarian law. There has been a profound transition in the present era resulting in increasing connectivity of Human rights and ways of across the world. Those people, who are forced to flee their homes due to persecution weather on an individual basis or as part of a mass exodus due to political, religious, military or other problems, are known as refugees.

Scope of the research study:

The scope of this research study is limited to understanding the concept of Refugees Rehabilitation and how it has emerged under the garb of humanitarian laws and spread over to various countries. The Endeavour has been to analyze the impact of International committee of the Red Cross and Refugees Rehabilitation. Refugees across the world have been denied rights in terms of the citizenship and right to live, they have been undermined due to various discriminations and being physically displaced internally and externally due to drought, famine, war, environmental changes and pollution growth, they have been forced to leave their origin country and are forced to seek asylum in another country, for which the international community need to interfere for a serious rehabilitation on humanitarian grounds. The research win analyze four countries i.e. Srilanka, Afghanistan, Iraq and Lebanon as the countries have a major impact of the refugees on migration and physical displacement of persons which mainly due to internal war, ethical and religious disturbances, and there is a need for better humanitarian laws, which can regulate the community in order to have better civilization for the refugees. Only certain

² IRC, Memory of Solferino by Henry Dunant, ICRC publication 1986, pp 32
important treaties, covenants, conventions and agreements etc., covering areas of Refugees concerns have been studied.

**Justification of the study:**

Though there have been numerous books and articles on refugees in general and ICRC in particular, in this case the prevalence of both conflict and the refugee influx in Asia and its implications for refugees and the impact on rehabilitation have attracted my attention to this study. It is also worth noting that although refugee issues have been long under study, more emphasis has not been made on the ICRC and its role in the welfare of refugees, both burden and benefit, as the case may be, that they exert on the host communities. This study aims to make a modest contribution to the existing body of knowledge on refugees in Asia and their rehabilitation by the ICRC. Also recommendations and suggestions to the problems of the situation when completed would further communicate the knowledge gained in this regard to Governmental agencies as well as the United Nations High Commissioner for Refugees (UNHCR) and other bodies like the NGOs that may constitute a suitable working tool to help developing policies about the plight of the rehabilitation process by the ICRC in the Asian continent.

**Objectives of the study:**

Main objectives of the present study are as follows:

I. To study the form of Humanitarian Laws and how the same has become significant in the area of Refugee Rehabilitation. The study was mainly focused on the ICRC. International Organization for humanitarian service in the field of refugee Rehabilitation.

II. To study the process of the rehabilitation and the implementation of the Humanitarian Laws envisaged in the ICRC. The Asian and the African continents have been liberated from the colonial masters, and are emerging democracies for which the political systems in these continents lack political stability and stable leaders. They have also have been facing racial and ethical discriminations and are facing serious inter and intra regional conflicts resulting to migration, Displacement and Refugee seeking and these issues needs a serious study for which the International Organization like the ICRC has a major role to play.

III. To study the implications of Governments on interpretation of the Humanitarian laws through the ICRC. There is lack of legal interpretations of the International Organization for the
regulation of refugees problems, many countries in Asia and Africa failed to meet purposes they have come into being, resulting in their being described as a failed states. This is an issue which needs to be analyzed and understood in detail.

IV. To draw conclusion on the basis of case study and to suggest measures to address core concerns that are identified in the research study.

Hypotheses

The researcher for the purpose of the present research has formulated following hypotheses.

I. Higher the level of refugees lower is the level of political management by the states resulting in law and order and survival problems.

II. International Organization, like the ICRC are playing a major role in the management of refugee problems; but for its existence refugee management would have faced far greater problems.

III. The success or otherwise of the ICRC depends on the level of Co-operation received by the refugee affected countries.

Methodology

This study is carried out largely with the help of descriptive- analytical method. The methodology adopted by the researcher in the present work is also empirical. The researcher has relied on various sources, both primary and secondary, of information. The researcher has adopted the case study method to analyze the implications of the ICRC and Refugees Rehabilitation. The Primary and Secondary source of materials such as the documents and yearly reports of ICRC, UNHCR Refugee Reports and Documents. Secondary source material like working papers, writings, books, articles, journals, news papers and magazines, are also extensively used.

Emphasis has been on informal interviewing and observation. During this period, the research related to the questions that seemed important to my topic. Relying on qualitative approaches to data collection such as participant observation and interviews and focused discussion were continued for data collection. Data was collected through the electronic mails from the regional directors in Afghanistan, Iraq, Srilanka, Lebanon and Delhi. The sources were available in the ICRC regional office in New Delhi and also though discussions with the regional
field officers in Delhi. Interviews were conducted in the ICRC regional office period of three month (May – July 2010).

REVIEW OF LITERATURE:

At the outset, an intensive study was made on the literary sources and was a good deal for the same in which I have made an extensive analysis. Study conducted by Alexander Betts, Gil Loescher’s Refugees in International Relations, Oxford University Press, 2010, reveals that the Refugees lie at the heart of world politics. The causes and consequences of, and responses to, human displacement are intertwined with many of the core concerns of International Relations. This research therefore is an attempt to bridge the divide between these disciplines, and to place refugees within the mainstream of International Relations. Drawing together the work and ideas of a combination of the world's leading and emerging International Relations scholars, This research considers what ideas from International Relations can offer our understanding of the international politics of migration. The insights draw from across the theoretical spectrum of International Relations from realism to critical theory to feminism, covering issues including international cooperation, security, and the international political economy. They engage with some of the most challenging political and practical questions in contemporary forced migration, including peace building, post-conflict reconstruction, and state building.

A study by Veronica P. Fynn Redefining Refugee Status: Center for Refugee Studies 2009 Annual Conference Proceedings, York University, Universal-Publishers, 2010. It is a compilation of 11 scholastic essays ranging from a wide variety of topics related to "undocumented people" - domestic workers, internally displaced people, non-status students, environmental displacement, resettlement, refugees, and more. This Proceeding is a direct product of the Center for Refugee Studies Annual Conference Documenting the Undocumented: Redefining Refugee Status, which took place on April 16-17, 2009 at York University, Toronto, Canada. This source has great information on the contemporary status of the refuge worldwide.


The study is a much-needed task for the current era which impacts not only the law but also the politics and sociology of forced migration. Joanne van Selm and her co-editors have collected essays from a wide range of disciplines, NGO staff members, international organization professionals, and national-level policy makers who discuss the impact of this legal document on forced migrants, the states they migrate from and to, and the societies they join and leave behind. Sub-themes covered include the potential for solidarity between states in ensuring that legal and political commitments are upheld; regional approaches to refugee protection and displacement; and the human and social consequences of forced migration for those covered by, or excluded from, refugee protection. The geographic and disciplinary spread of the book is unparalleled, and The Refugee Convention at Fifty sets the contentious and critical study of refugees the high standards for scholarship and innovative thinking that will serve as precedent for future policy making and implementation in the field.

Frederick L.’s, Psychosocial Wellness of Refugees: Issues in Qualitative and Quantitative Research, Berghahn Books, 2000 provides concept of "psychosocial wellness". Noted scholars address the strengths and limitations of their investigations, citing examples from their work with refugees from Afghanistan, Lebanon, Sri Lanka, Cambodia, Vietnam, Palestine, Cuba, Nicaragua, Haiti. The authors discuss how they define "psychosocial wellness," as well as the issues of sample selection, measurement, reliability and validity, refugee narratives and "voices," and the ability to generalize findings and apply these to other populations. The key question that has guided many of these investigations and underlies the premise of this book is "what happens to an ordinary person who has experienced an extraordinary event?" This volume also highlights the fact that those involved in such research must also deal with their own emotional responses as they hear victims tell about the killing, torture, humiliation, and dispossession. The volume will therefore appeal to practitioners of psychology, psychiatry, social work, nursing, and anthropology. However, its breadth and the evaluation of the strengths and disadvantages of both qualitative and quantitative methods also make it an excellent text for students. Frederick L. Ahearn, Jr. was Dean and is now Ordinary Professor at the School of Social Service at the Catholic University of America and also has an appointment as Tutor at the Refugee Studies Programme, University of Oxford.

Steven James Gold’s Refugee communities: a comparative field study, examines refugee culture and compares their relationships with the host culture in a variety of ways - ethnic group solidarity, use of social services, entrepreneurship, barriers to success and
assimilation. He uses rich ethnographic material and two photo essays to link refugee communities with the more extensive literature on immigrants and on ethnic communities. Gold finds that diversity, rather than uniformity, characterizes these communities. His ethnographic portraits of these two groups and theoretical findings should be of interest to those who study immigration, ethnicity and culture.

Richard Black, Khalid Koser’s The End of the Refugee Cycle: Refugee Repatriation and Reconstruction, Berghahn Books, 1999 fills a fundamental gap in the literature which has tended to be based on pedagogical reasoning rather than actual field research. This study which presents new empirical research on examples of refugee repatriation and reconstruction apart from providing up-to-date material, it also fills a more fundamental gap in the literature which has tended to be based on pedagogical reasoning rather than actual field research. Adopting a global perspective, this volume draws together conclusions from highly varied experiences of refugee repatriation and defines repatriation and reconstruction as part of a wider and interrelated refugee cycle of displacement, exile and return. The contributions come from authors with a wealth of relevant practical and academic experience, spanning the continents of Africa, Asia, Central America, and Europe.

Karen Jacobsen’s The Economic Life of Refugees, Kumarian Press, 2005 is an overview of refugee experiences stressing the active roles they play in shaping their lives; the study Proposes a model for a policy that increases refugees' ability to support themselves. Popular images of refugees depict thousands of traumatized people pouring across borders, congregating in camps where relief agencies try to meet their health and food needs in and outside camps. This study explores the economic life of refugees in protracted situations in a variety of settings: in camps, in urban areas and in third world countries in Asia.

In “the Economic Life of Refugees”, Karen Jacobsen stresses that refugees fleeing violence and persecution are economic actors. She explores how some of the innovative ideas influencing migration theory can be applied to the study of refugees, and the ways in which humanitarian programs can support their efforts to pursue their livelihoods. The Economic Life of Refugees is destined to be a classic work of activism as well as social science.

D. Whittaker, in his Asylum Seekers and Refugees in the Contemporary World, Taylor & Francis, 2005, talks of asylum seekers and refugees and is one of the most talked about subjects in contemporary politics, fueled by extensive coverage in the media.

Asylum Seekers and Refugees in the Contemporary World discusses the international as
well as national implications of the issue, looking at the way different Governments have dealt with it. Taking a number of case studies, for example Palestinian, Afghan and Iraqi refugees, Whittaker cuts through the emotive language to give an objective introduction to the subject.

The study looks in detail at the issue as it has affected Britain and Europe in particular, as well as including material on the UN and its response to the refugee "problem". Including a final statement on the British Government's 2005 proposals for dealing with refugees,

**Global Refugee Crisis:** A Reference Handbook, Second Edition, Mark Gibney, 2010) refers to two disparate components to the global refugee crisis: first, there are about 46 million refugees and Internally Displaced Persons (IDPs), most of whom are struggling to survive in the poorest and most violent countries in the world, and second, our interpretation of international human rights law allows this state of affairs to worsen. Refugee protection has been a longstanding policy that ostensibly protects victims of human rights violations from other countries. In actuality, protection is largely negated by systematic efforts by industrialized states to reduce the number of refugees arriving at the borders. This study provides a comprehensive examination of this worldwide problem and rejects the idea that the majority of asylum seekers abuse the system to gain entrance into the country.

Tuyet-Lan Pho’s Southeast Asian Refugees and Immigrants in the Mill City: Changing Families, Communities, Institutions-thirty Years Afterward, UPNE, 2007, is an approach from points of view rooted in anthropology, political science, economics, sociology, education, and community psychology. Their work contributes to a broader understanding of U.S. refugee policy, migration, identity and group formation, political adaptation, social acculturation, and community conflict--major issues today in New England and the nation.

Vitit Muntarbhorn’s, The Status of Refugees in Asia, Oxford University Press, USA, 1992, Surveys some issues of law and policy affecting refugees in the Asian region. The movement and presence of refugees in different parts of the region is surveyed, and the general legal position evaluated--from multilateral treaties to regional and national initiatives. The study surveys a selection of country profiles to illustrate the national implementation of law and policy, and to highlight performance of three Asian countries which have acceded to the 1951 United Nations Refugee Committee assessed: China, Japan, and the Philippines. Attention is given to the five other countries which have not acceded to these instruments--Brunei, Indonesia, Malaysia, Singapore, and Thailand--and current critical refugee problem areas such as
Afghanistan and Sri Lanka are examined. The book concludes by examining current difficulties with state practice in the region and presents possible solutions and new directions for the future.

Sara Ellen Davies’s Legitimising Rejection: International Refugee Law in Southeast Asia, 2008. The 1951 Convention relates to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees are the two primary international legal instruments that states use to process asylum seekers' claim to refugee status. However, in Southeast Asia only two states have acceded to these instruments. This is seemingly paradoxical for a region that has been host to a large number of asylum seekers who, as a result, are forced to live as illegal migrants. This Study examines the region's continued rejection of international refugee law through extensive archival analysis and argues that this rejection was shaped by the region's response to its largest refugee crisis in the post-1945 era: the Indochinese refugee crisis from 1975 to 1996.

Antara Datta’s Refugees and Borders in South Asia: The Great Exodus of 1971, Routledge, 21-Aug-2012, argues that this massive influx of refugees within a few short months changed ideas about citizenship and belonging in South Asia. The study looks at how the Indian state, while generously keeping its borders open to the refugees, made it clear that these refugees were different from those generated by Partition, and would not be allowed to settle permanently. It discusses how the state was breaking its ‘effective’ link between refugees and citizenship, and how at the same time a second ‘affective’ border was developing between those living in the border areas, especially in Assam and West Bengal. Moving beyond the refugee narratives created by Partition, this study argues that these ‘effective’ and ‘affective’ borders generated by the refugee crisis in 1971 form part of the longer historical trajectory of the current political debate regarding ‘illegal infiltration’ from Bangladesh. It goes on to analyse the aftermath of the 1971 war and the massive repatriation project undertaken by the Governments of India, Pakistan and Bangladesh to examine ways in which questions about minorities and belonging remained unresolved post-1971.

Philomena Essed, Georg Frerks, Joke Schrijvers, Refugees And The Transformation of Societies: Agency, Policies, Ethics And Politics, Berghahn Books, 2005, challenges prevailing orthodoxies and encourages new developments in refugee studies. The refusal or reception of refugees has had serious implications for the social policies and social realities of numerous countries in east and west. Exploring experiences, interpretations and practices of 'refugees, 'the internally displaced' and 'returnees' in or emerging from societies in
violent conflict. It also addresses the ethics and politics of interventions by professionals and policy makers, using case studies of refugees from or in South Asia, the Middle East, North Africa and Europe. The study illustrates the dynamic nature of situations where refugees, policy-makers and practitioners interact in trying to construct new livelihoods in transforming societies. Without a proper understanding of this dynamic nature.

Valli Kanapathipillai’s, Citizenship and Statelessness in Sri Lanka: The Case of the Tamil Estate Workers, Anthem Press, 01-Aug-2009, focuses on Citizenship and Statelessness in Sri Lanka’ examines the loss of citizenship and statelessness of Indian Tamil estate workers in Sri Lanka. The loss of citizenship this community suffered over 60 years ago continues to dominate and disrupt their lives, contributing to poor working conditions, impoverishment and general marginalisation. By analysing the context of the formal agreement between the Indian and Sri Lankan Government that led to the loss of citizenship Kanapathipillai reveals the economic, electoral and ideological issues that influenced the decision, and introduces gendered notions of citizenship and the agency of the workers into the discussion of the phenomenon.

‘Citizenship and Statelessness in Sri Lanka’ approaches the issue from a Sri Lankan perspective, thereby bringing a distinct new voice to scholarship on this subject, which has previously focussed on the inter-Governmental and foreign policy implications of the agreement. By breaking the 'view from above' approach, and listening to the 'voices from below' of the Indian Tamil workers who have suffered as a result of the agreement, Kanapathipillai successfully reframes the parameters of scholarship on this subject.

Monika Barthwal-Datta’s, Understanding Security Practices in South Asia: Securitization Theory and the Role of Non-State Actors, , Routledge, 04-May-2012,explores the ways in which non-state actors (NSAs) in South Asia are involved in securitizing non-traditional security challenges in the region at the sub-state level.

South Asia is the epicenter of some of the most significant international security challenges today. Yet, the complexities of the region’s security dynamics remain under-researched. While traditional security issues, such as inter-state war, border disputes and the threat of nuclear devastation in South Asia, remain high on the agendas of policy-makers and academics.

Drawing on various case studies, this study offers an innovative analysis of how NSAs in South Asia are shaping security discourses in the region and tackling security challenges at the sub-state level. Through its critique of securitization theory, the study calls for a new approach to
studying security practices in South Asia – one which considers NSAs as legitimate security actors.

**Ishtiaq Ahmed’s**, State, Nation and Ethnicity in Contemporary South Asia, Continuum International Publishing Group, 1998, argues that few regions of the world are riven with the variety of ethnic conflicts that stalk South Asia. These conflicts stem from the impact of colonial legacies, population movements across porous borders, the disruptive effects of modernisation forces and the exigencies of electoral politics. The costs of ethnic conflict in South Asia have been staggering. In every state of South Asia, ethnic minorities - and sometimes majorities - have been hapless victims of violence. This study is a dispassionate and painstaking analysis of many of the ethnic problems that plague South Asia. **Ishtiaq Ahmed** carefully traces the historical origins of these various conflicts and discusses their contemporary dimensions. The study provides a succinct summary of a substantial body of literature on ethnicity and state-formation, a useful analysis of a range of conflicts that continue to punctuate the South Asian political landscape.

**Sibaji Pratim Basu’s**, The Fleeing People of South Asia: Selections from Refugee Watch, Anthem Press, 2009, has sought to capture the agony, tension and struggle of the refugees and internally displaced in South Asia in its different dimensions. The history of human civilizations is also the history of human displacements. From ancient times to the contemporary age, every year millions of people flee from their homes and lands in the face of imminent persecution for physical, social and cultural traits, which they cannot control, or exercising their religious or political beliefs. Large-scale 'development' projects as well as natural calamities have also caused large-scale displacements followed by ill-managed rehabilitation regimes. As a result, over one percent of the world’s total population today consists of refugees and internally displaced persons. South Asia is the fourth largest refugee producing region in the world. There is a close link between state formation and forced migration in this region. Ethnic violence, development work, natural calamities and climatic changes also make people, especially the indigenous ones, flee and settle in extremely unbearable new and foreign conditions. Women and children constitute the bulk of the displaced population.


And **David P. Forsythe The Humanitarians**: The International Committee of the Red Cross, Cambridge University Press, 2005.
The International Committee of the Red Cross (ICRC) coordinates the world's largest private relief system for conflict situations. Yet despite its very important role, operations remain mysterious and secretive. This study examines the ICRC from mid-nineteenth century origins to the present. Taking international humanitarian law into consideration, David Forsythe focuses on the policy making and field work of the ICRC. He explores how it exercises its independence impartially to protect prisoners in Iraq, displaced and starving civilians in Somalia, and families separated by conflict in the Israeli-Palestinian conflict.


Despite the fact that there are up to 25 million internally displaced persons around the world, their plight is still little known. Like refugees, internally displaced persons have been forced to leave their homes because of war and human rights abuses, but they have not left their country. This has major consequences in terms of the protection available to them. This 2005 study aims to offer a clear and easily accessible overview of this important humanitarian and human rights challenge. In contrast with other books on the topic, it provides an objective evaluation of UN efforts to protect the internally displaced.


Since its birth with the creation of the international Red Cross in 1863, international humanitarian assistance has developed considerably since World War II. In accordance with the Red Cross principle of humanity, it aims at preventing and alleviating human suffering wherever it may be found, protecting life and health and ensuring respect for the human being.

International humanitarian assistance involves a complex network of Government agencies, interGovernmental and non-Governmental organizations, and individual volunteers: it has been labelled a 'non-system'. While Governments and interGovernmental organizations play a dominant and structured role in this field, the non-Governmental organizations and their volunteers have proved to be their necessary operational partners, providing material, medical and moral relief and care wherever it may be needed, beyond borders, at the grassroots level.

Following a brief review of recent humanitarian activities of interGovernmental organizations, and an analysis of current trends of voluntarism, this study focuses on the role, status and attitudes of the major humanitarian non-Governmental organizations, including the
Red Cross organizations, the British charities, Church-related agencies, medical volunteers and U.N. volunteers.

Forsythe Rieffe, Taylor & Francis’s The International Committee of Red Cross: A Neutral Humanitarian Actor, 15-Jun-2007, talks about a complex position in international relations, being the guardian of international humanitarian law but often acting discretely to advance human dignity. Treated by most Governments as if it were an inter-Governmental organization, the ICRC is a non-Governmental organization, all-Swiss at the top, and it is given rights and duties in the 1949 Geneva Conventions for Victims of War.

This study analyzes international humanitarian action as practiced by the International Red Cross, explaining its history and structure as well as examining contemporary field experience and broad diplomatic initiatives related to its principal tasks. Such tasks include:
- ensuring that detention conditions are humane for those imprisoned by reason of political conflict of war
- providing material and moral relief in conflict
- promoting development of the humanitarian part of the laws of war
- Improving the unity and effectiveness of the movement.

Study made by two formidable experts in the field, The International Committee of the Red Cross is an accessible introduction to a notoriously secretive organization.

Annual Report - International Committee of the Red Cross, International Committee of the Red Cross, International Committee of the Red Cross., 1990, Georges Willemin, Roger Heacock, Jacques Freymond, The International Committee of the Red Cross, 1984, examines the ICRC from mid-nineteenth century origins to the present. Taking international humanitarian law into consideration focuses on the policy making and field work of the ICRC. The study explores how it exercises its independence impartially to protect prisoners in Iraq, displaced and starving civilians in Srilanka, and families separated by conflict in the Iran-Iraq conflict.

John Carey, William V. Dunlap, R. John Pritchard, International Humanitarian Law: Prospects, 31-Oct-2006, charts the history, practice, and future of international humanitarian law. At a time when the war crimes of recent decades are being examined in the International Criminal Tribunals for Former Yugoslavia and Rwanda and a new International Criminal Court is being created as a permanent venue to try such crimes, the role of international humanitarian law is seminal to the functioning of such attempts to establish a just world order.
Jean-Claude Favez, The Red Cross and the Holocaust, Cambridge University Press, 1999, presents a new assessment of the role of the world's most famous charity in World War II. Was the Red Cross aware of the appalling sufferings of the victims of the concentration camps? How much did its International Committee know about the deportation and extermination of the Jews in Europe? Did it try to protect the persecuted Jews? In what ways could it have helped them, given the neutrality that was the basis of its foundation? These questions have remained unanswered for more than fifty years and have sparked bitter debates. Jean-Claude Favez here presents a fundamental reappraisal, informed by unrivaled access to the archives of the Red Cross. This magisterial work includes a chronology, indices, biographical notes, and a statement by the charity's current leaders.

With this background about the importance of the research topics, the objectives, the hypothesis and the review of literature, an attempt is made in the following chapter to examine the concept of refugees.

“Owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country or return there because there is fear of persecution...”

Refugees across the world have been denied rights in terms of the citizenship and right to live, they have been undermined due to various discriminations and being physically displaced internally and externally due to drought, famine, war, environmental changes and pollution growth, they have been forced to leave their origin country and are forced to seek asylum in another country, for which the international community need to interfere for a serious rehabilitation on humanitarian grounds.

Definition: A Refugee is a person who, “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country”.

Those people who are forced to flee their homes due to persecution, weather on an individual basis or as part of a mass exodus due to political, religious, military or other problems,
are known as refugees. The definition of a refugee has varied according to time and place, but increased international concern for the plight of refugees has lead to a general consensus

The term refugee is often used to include displaced persons who may fall outside the legal definition in the Convention, either because they have left their home countries because of war and not because of a fear of persecution, or because they have been forced to migrate within their home countries.

Refugee was defined as a legal group in response to large numbers of people fleeing Eastern Europe following World War II. The lead international agency coordinating refugee protection is the Office of the United Nationals High Commissioner for Refugees (UNCHR), which counted 28.4 million refugees worldwide at the beginning of 2006.

In June 2011 the UNHCR estimated the number of refugees to 15.1 million. The majority of refugees who leave their country seek asylum in countries neighboring their country of nationality. The "durable solutions" to refugee populations, as defined by UNHCR and Governments, are: voluntary repatriation to the country of origin; local integration into the country of asylum; and resettlement to a third country.

Through the 1648 Peace of Westphalia, nations recognized each other's sovereignty. However, it was not until the advent of nationalism in late 18th century Europe that nationalism gained sufficient prevalence for the phrase 'country of nationality' to become practically meaningful, and for people crossing borders to be required to provide identification.

**International Refugee concern**

Though refugees have existed in all ages, the 20th Century was termed the century of the uprooted. This is because over fifty million refugees and displaced persons are recorded in many parts of the world. A few examples can help present the problem of displacement at the global level: The partition of India sub-continent in 1947 led to the forceful displacement of millions of people, and numerous refugees are reported to have left China and East Germany, between 1950 and 1959. Wars, like the Arab-Israeli war in 1967, the Vietnam and Cambodian civil wars and the India-Pakistan war in 1967, created millions of refugees and are noted to have increased the world refugee population. In Africa too conflict over decolonization from 1955 to around 1970 conflict over decolonization Angola, Algeria and Zaire are also known to have generated large

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6 Ogata, The Plight of Refugees, 2005 pp 23
numbers of refugees. In 1951, when the office of the United Nations High Commissioner for Refugees (UNHCR) was established, the refugee population within the UNHCR mandate was estimated to be one million.

It has been estimated that in 1965, seventy five million people (3% of the world’s population) lived outside their countries of birth, while in 2000 the number rose to 150 and 160 million. Asia is said to have hosted about 9.4 million refugees in 2003, followed by Africa with 4.6 million and Europe with one million. At the end of 2005, the global figure of persons of concern stood at 21 million, which included 9.9 million refugees. By the close of 2006, there were an estimated 9.9 million refugees globally constituting roughly one third (30%) of UNHCR’s population of concern. For the first time since 2002, a declining trend in the global figures was reversed. The increase was highest in Africa (+89%), followed by Asia (+68%), North America (+59%), Latin America and the Caribbean (+41%), and Oceania (+4%). Europe (-7%) was the only continent recording a decrease in the population of concern. Out of the 13.9 million persons of concern where disaggregated information by sex is available, the available data indicates that 49 per cent are female.

It is important to note that the primary victims of the refugee problem are always individuals. Nonetheless, it also manifests itself in various forms on the societal, Governmental and international levels. Obviously, it is a clear humanitarian, moral and development issue facing humanity. Indeed, its scope is wide enough to have significant bearing on security, environmental and natural resources concerns. However, a casual lookback into history tells us that the refugee movement is not a recent phenomenon. For instance, the Israelites were made refugees on several lands as they moved from Egypt to the Promised Land. Central America, Africa, the Middle East and Southeast Asia are apt illustrations as people labor daily to escape the depressing effects of war and natural disasters. Understandably, no part of the world today is immune to a refugee situation.

The world refugee problem is caused by a variety of reasons; factors and forces. These include massive violations of human rights, especially the practice of colonialism, direct and structural violence, war, internal conflicts, external aggression, ethnic and religious strife, direct

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7 Ibid pp24
9 UNHCR, 2003; Martin, 2004,p-29
10 Martin and Widgren, 2002 pp 46
11 Martin and Widgren, 2002, pp 48
political persecution and economic and national disasters. Nevertheless, most refugee movements today are caused by conflict. And contemporary conflicts are mostly of an internal, inter-communal nature.

The massive changes and instability generated by the end of the Cold War triggered new mass movements of people across the globe. In fact the Horn of Africa, Southern Africa and most recently Lebanon, Sri Lanka, Iraq and Sudan, war and mass displacement of peoples are challenging the sanctity of borders and have contributed to the disintegration of nations. The magnitude of refugee flows in recent years has generated urgent global concern. In 1951, when the United Nations High Commissioner for Refugees was established, there were some 1.5 million refugees, by 1980 there were 8.2 million. Religious revivalism moreover was the direct cause of several major refugee movements during the 1980s.

In Sudan, for instance, the imposition of Islamic laws have alarmed southern Sudanese Christians and animists and intensified the insurgency led by the SPLA. More recently the rise of Islamic fundamentalism in Somalia has complicated refugee movements. The majorities of mass movements, especially contemporary refugee movements in the Third World, are caused by war, ethnic strife and shape socio-economic inequalities. Also, a large proportion of the world’s displacements occur as a direct result of political and social revolutions. During the past 40 years, Cuba, Vietnam, Cambodia, Laos, Ethiopia, Afghanistan, Iran, Angola, Mozambique and Nicaragua generated massive refugee outflows as a result of the revolutionary changes in their political, economic and social systems. In the 1990s, refugee movements were mostly the result of ethnic and communal conflicts, fuelled by the increasing availability of modern weaponry and socio-economic inequalities. Although East-West conflict was a factor in the past, the underlying dynamic of many Third World conflicts has in fact been competition for political power among fiercely rival ethnic groups for example Ethiopia, Somalia and Sudan. Refugee movements are usually sudden and unplanned. Most of them left their homes immediately after either seeing people executed around their houses or when bombs or other factors caused it difficult to get food or shelter. Many refugees are at times unable to transfer assets from their countries of origin to their countries of asylum, and thus turn to be a problem or burden on the host countries and the host communities in particular. The responses of host countries to these mass influxes have varied greatly, both between states and, for single Governments, over time and by refugee group.

Some Governments have received refugees with generosity, providing them with assistance and guaranteeing their safety. Others have tried to prevent refugees from entering or
have treated them harshly, restricting their movements and even endangering their safety. The majority of countries hosting large numbers of refugees are developing and poor countries. These countries hosted two thirds of the global population of concern to UNHCR. The host Government often largely ignores refugee-hosting communities in remote areas. Developing countries that host refugees for protracted periods can experience long-term, economic, social and environmental consequences. In early 2003, more than 35 per cent of the 20.6 million asylum-seekers, refugees and other persons of concern to UNHCR were hosted by the forty-one Least Developed Countries. Of the 10.5 million refugees who have been officially recognized by the UNHCR’s mandate, 29 per cent were hosted by Sub-Saharan Africa (UNHCR Standing Committee 2004). But in (2007) the total number of refugees and others of concern to UNHCR in the globe is estimated to 32,861,500 of which 9,752,600 in Africa.

The presence of refugees sometimes aggravates the already prevailing economic, environmental, social and, at times, political difficulties in these countries. Often such countries are confronted by a combination of all these factors.

Moreover, in many refugee situations, problems are aggravated when refugees are a substantial proportion of the local, if not national population. For example, In Ngara, in the United Republic of Tanzania, the refugee influxes meant that the local population was outnumbered by a ratio of approximately 4:1, that is there were some 700,000 refugees among a local population of 186,000 and about 3.3 million Afghan refugees, some of whom have lived in Pakistan for over 15 years, have largely been portrayed by the host Government as a burden. Malawi in 1990, hosted the largest numerical and proportional refugee population in Africa, which peaked with over a million Mozambicans in late 1992 representing almost 10 per cent of the national population. Many developing host communities also face forms of socio-cultural change. The socio-cultural impact of refugees on the receiving community can occurs imply through their presence, in that they can play a role in altering the ethnic balance of the host community, and if the influx is sizeable, according to some researchers, pose a threat to the cultural values and norms of the host community. On the other hand some also believe that the influx of the refugees create a new context in which hosts devised strategies to gain access to incoming resources and to maintain access to their own resources. It must also be acknowledged that refugees could have a positive impact on the economy by contributing to agricultural

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13 UNHCR Standing Committee report, 1997, pp 34.
15 UNHCR Standing Committee 1997, pp 68
production, providing cheap labour and increasing local traders’ income from the sale of essential food stuffs. Some local populations benefit from access to schools, clinics and other social facilities built by the international community.

The first international co-ordination on refugee affairs came with the League of Nations’ appointment of Fridtjof Nansen to the newly created post of High Commissioner for Refugees. This position, and the attendant Commission, was set up in 1921 to assist the approximately 1,500,000 people who fled the Russian Revolution of 1917 and the subsequent civil war (1917–1921), most of them aristocrats fleeing the Communist Government. In 1923, the mandate of the Commission was expanded to include the more than one million Armenians who left Turkish Asia Minor in 1915 and 1923 due to a series of events now known as the Armenian Genocide. Over the next several years, the mandate was expanded to include Assyrians and Turkish refugees. In all of these cases, a refugee was defined as a person in a group for which the League of Nations had approved a mandate, as opposed to a person to whom a general definition applied.

The rise of Nazism led to such a severe increase in the number of refugees from Germany that in 1933 the League created a High Commission for Refugees Coming from Germany. On July 4, 1936 an agreement was signed under League auspices that defined a refugee coming from Germany as "any person who was settled in that country, who does not possess any nationality other than German nationality, and in respect of whom it is established that in law or in fact he or she does not enjoy the protection of the Government of the Reich" (article 1).

The mandate of this High Commission was subsequently expanded to include persons from Austria and Sudetenland. 150,000 Czechs were displaced after October 1, 1938, when the German army entered the border regions of Czechoslovakia surrendered in accordance with the Munich Agreement.

The conflict and political instability during World War II led to massive amounts of enforced migration. By the end of World War II, Europe had more than 40 million refugees. In 1943, the Allies created the United Nations Relief and Rehabilitation Administration (UNRRA) to provide aid to areas liberated from Axis powers, including parts of Europe and China. This included returning over seven million refugees commonly referred to as displaced persons or

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16 Prospects in 2005 for Internally Displaced Kurds in Turkey. Refugee reports pp 12
DPs, to their country of origin and setting up displaced persons camps for one million refugees who refused to be repatriated.

While the international community has generally responded swiftly and generously to refugee crises over the past half century, in recent years, some worrying trends have begun to emerge. Countries that once generously opened their doors to refugees have been tempted to shut those doors for fear of assuming open-ended responsibilities, of abetting uncontrolled migration and people-smuggling, or of jeopardizing national security. Real and perceived abuses of asylum systems as well as irregular movements, have also made some countries more wary of refugee claimants, and concerned that resources are not being sufficiently focussed on those in greatest need. Refugees have been refused admission to safety or have been expelled from asylum countries. Those who have reached a potential country of asylum have sometimes been turned away or sent back without being able to apply for asylum.

Refugees have been the targets of violent attacks and intimidation, largely because they were perceived as “different” from the communities in which they had temporarily settled. Tensions between refugees and local populations have erupted when refugees were seen as competitors for natural and economic resources. Armed combatants have been allowed to mingle freely with—and intimidate with seeming impunity—the civilians who sought safety in refugee camps and settlements. And, increasingly, Governments have resorted to detention of illegal entrants, including women and children, many of whom are seeking asylum. Some have done so to discourage or to dissuade those who have already arrived from applying for refugee status.

Some asylum countries around the world have become increasingly concerned about the economic and social costs of asylum and are moving to harmonise their refugee determination systems in part to address inequities which may result from different levels of entitlements. Some donor Governments are struggling with the costs of their own domestic systems for receiving refugees and determining their claims, while also supporting large numbers of refugees over long periods of time in other, less wealthy, nations. Developing countries argue that the burdens of asylum are not shared equally: while they host thousands, and sometimes millions, of refugees, wealthier countries are restricting access to their own territories and reducing support to the countries of first asylum. UNHCR itself is facing budgetary shortfalls and has been forced to cut back on staff and programs.
Recognizing Refugees

Improvements in international communication and transportation networks have made it easier for people to move between countries and continents. The vast majority of countries encourage international travelers visiting for business, family or tourism reasons. Many countries also allow for the permanent immigration of selected non-citizens. At the same time, however, many countries are faced with the problem of undocumented, or even smuggled, arrivals. As a general rule, no country is obliged to allow foreigners onto its territory. It is one of the elements of State sovereignty that a country may decide if and how it will permit non-citizens to enter.

Refugee protection does not occur only at borders. Asylum-seekers\(^{18}\) and recognized refugees can remain vulnerable even in countries of asylum that have acceded to the Refugee Convention, where implementing legislation and established procedures for examining claims for refugee status are in place. There remains a whole range of protection issues relevant to daily life in a country of asylum. Those issues include for many asylum-seekers and/or refugees the possibility of arbitrary detention and an atmosphere of racism and xenophobia among some segments of the national population.

The *Universal Declaration of Human Rights*\(^ {19}\) recognizes the right to seek and enjoy asylum as a basic human right. In exercising this right, asylum-seekers are often forced to arrive at, or enter, the country of asylum illegally. Unlike ordinary immigrants, many asylum-seekers cannot obtain proper passports or visas. This fact, and recognition of the physical and psychological traumas many asylum seekers have experienced, should be taken into account when considering any restrictions on their freedom of movement.

Problems of racism, discrimination, xenophobia and intolerance thwart international efforts to protect refugees. Racism may force people into becoming refugees, complicate efforts to protect them and pose obstacles to finding solutions to their problems. Refugees and asylum-seekers, particularly when they arrive in large numbers, can have a major impact on a country of asylum and the local population. Some host communities see refugees as a threat to their way of life or culture, or even to their national security and stability. Others may regard all foreigners as competition for limited local resources. The positive contribution that refugees can make to the country of asylum, and their need for the humanitarian support and protection that is lacking in their home countries are often lost in emotional debates about “unwanted” migrants. Protecting refugees from racism and xenophobia requires legal, political and social action. When local

\(^{18}\) Refugee, Encyclopedia Britannica, 2004, pp. 43

\(^{19}\) “Refugees and Displaced Persons”. Human Rights Education Associates. www.human.rights.watch
populations feel threatened, their fears provide fertile ground for the growth of racism, discrimination, xenophobia and intolerance. Those fears are easily fed by irresponsible media or are manipulated for political, rather than humanitarian, purposes.

Headquartered in Geneva, Switzerland, the Office of the United Nations High Commissioner for Refugees (UNHCR) established in December 14, 1950 protects and supports refugees at the request of a Government or the United Nations and assists in their return or resettlement. All refugees in the world are under the UNHCR mandate except Palestinian Arabs, who fled the future Jewish state between 1947 and 1949, and their descendants.

UNHCR provides protection and assistance not only to refugees, but also to other categories of displaced or needy people. These include asylum seekers, refugees who have returned home but still need help in rebuilding their lives, local civilian communities directly affected by the movements of refugees, stateless people and so-called internally displaced people (IDPs). IDPs are civilians who have been forced to flee their homes, but who have not reached a neighboring country and therefore, unlike refugees, are not protected by international law and may find it hard to receive any form of assistance. As the nature of war has changed in the last few decades, with more and more internal conflicts replacing interstate wars, the number of IDPs has increased significantly to an estimated 5 million people worldwide.

UNHCR is mandated by the United Nations to protect refugees and help them find solutions to their plight. As the problem of displacement has grown in complexity over the past half century, UNHCR has also grown to meet the challenge. The Office, founded in 1950, has expanded from a relatively small, specialized agency with an envisioned three-year lifespan to an organization of over 4,000 staff members with offices in nearly 120 countries and an annual budget of US$1 billion. In addition to offering legal protection, UNHCR now also provides material relief in major emergencies, either directly or through partner agencies. In its first fifty years, UNHCR has protected and assisted more than 50 million people and its work has earned two Nobel Peace Prizes. At the international level, UNHCR promotes international refugee agreements and monitors Government compliance with international refugee law. UNHCR staffs promote refugee law among all people who are involved in refugee protection, including border guards, journalists, NGOs, lawyers, judges and senior Governmental officials. At the field level, UNHCR staff work to protect refugees through a wide variety of activities, including responding to emergencies, relocating refugee camps away from border areas to improve safety; ensuring

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that refugee women have a say in food distribution and social services; reuniting separated families; providing information to refugees on conditions in their home country so they can make informed decisions about return; documenting a refugee’s need for resettlement to a second country of asylum; visiting detention centres; and giving advice to Governments on draft refugee laws, policies and practices. UNHCR seeks long-term solutions to the plight of refugees by helping refugees repatriate to their home country, if conditions are conducive to return, integrate into their countries of asylum, or resettle in second countries of asylum.

The mandate of UNHCR

The Refugee Convention and Protocol provide States Parties with a legal foundation for refugee protection. For its part, UNHCR has been given a mandate to provide international protection to refugees and seek permanent solutions to their problems through its Statute, adopted by the UN General Assembly in December 1950\(^\text{21}\). The Statute sets forth the High Commissioner’s functions, including his/her authority to protect refugees as defined in terms similar, although not identical, to the Refugee Convention. Over the years, the General Assembly has expanded UNHCR’s responsibility to include protecting various groups of people who are not covered by the Refugee Convention and Protocol. Some of these people are known as “mandate” refugees; others are returnees, stateless persons and, in some situations, internally displaced persons.

UNHCR’s directive is now, significantly more extensive than the responsibilities assumed by States Parties to the Refugee Convention and Protocol. One of the challenges facing refugees and countries of asylum today consists of bridging the “protection gap” which exists in situations where UNHCR seeks to protect persons with respect to whom concerned States do not recognise that they have a responsibility under any of the refugee instruments.

People concern to UNHCR

“Persons of concern to UNHCR\(^\text{22}\)” are all persons whose protection and assistance needs are of interest to UNHCR. They include:

- Refugees under the Refugee Convention
- Persons fleeing conflict or serious disturbances of the public order
- Returnees (i.e., former refugees)

\(^{21}\) GC III, Art. 9

- Stateless persons
- Internally displaced persons (in some situations)

UNHCR’s authority to act on their behalf is either based on the 1951 Convention and the OAU Convention, the Cartagena Declaration, or on UN General Assembly resolutions.

**Under international law, refugees are individuals who:**

- Are outside their country of nationality or habitual residence;
- Have a well-founded fear of persecution because of their race, religion, nationality, membership in a particular social group or political opinion; and
- Are unable or unwilling to avail themselves of the protection of that country, or to return there, for fear of persecution.

Refugee law encompasses customary law, peremptory norms, and international legal instruments. These include:

- The 1951 United Nations Convention Relating to the Status of Refugees; also referred to as the Geneva Convention;
- The 1967 Protocol relating to the Status of Refugees;
- The 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa
- The 1974 United Nations Declaration on the Protection of Women and Children in Emergency and Armed Conflict

World Refugee Day occurs on June 20. The day was created in 2000 by a special United Nations General Assembly Resolution. June 20 had previously been commemorated as African Refugee Day in a number of African countries.

**International refugee law** defines a refugee as someone who seeks refuge in a foreign country because of war and violence, or out of fear of persecution. The United States recognizes persecution "on account of race, religion, nationality, political opinion, or membership in a particular social group" as grounds for seeking asylum. Until a request for refuge has been accepted, the person is referred to as an *asylum seeker*. Only after the recognition of the asylum seekers' protection needs, he or she is officially referred to as a refugee and enjoys refugee status, which carries certain rights and obligations according to the legislation of the receiving country.

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23 This rule is also of a customary nature: Jean-Marie Henckaerts and Louise Doswald-Beck, Customary International Humanitarian Law, ICRC and Cambridge University Press, Cambridge, 2005, Rule 53
24 "Who is a Palestine refugee?". United Nations Relief, Works Agency for Palestine Refugees in the Near East.
An outline of the Role of the ICRC:

The role of peacekeepers and peace-builders has evolved, leading to the development of civilian and military cooperation and thus the introduction of political agendas; moreover, economic agendas are an increasingly important factor in situations of war. Influential countries also want to have a greater say in dealing, for instance, with the issue of civilians in armed conflict, the role of international justice or the “war” against terrorism. Diplomatic efforts are required for the development and endorsement of international law instruments. As the guardian of international humanitarian law, also known as the law of armed conflict, the International Committee of the Red Cross (ICRC)\textsuperscript{25} has since its inception taken active part in diplomatic endeavours not only to universalise the concept of humanitarian action but to adapt the legal instruments to changing reality. In more recent years, the ICRC has stepped up the dissemination of knowledge of international humanitarian law on an institutional basis through systematic cooperation with international and regional organizations.

The International Committee of the Red Cross (ICRC) was established in 1863\textsuperscript{26} and is at the origin of the International Movement of the Red Cross and Red Crescent. It is an impartial, neutral and independent organisation with an exclusively humanitarian mandate to protect the lives and dignity of victims of war, armed conflict and internal violence and to provide them with assistance. It directs and coordinates international relief activities conducted by the Movement in situations of conflict. It also seeks to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles.

The promotion of international humanitarian law is one of the ICRC’s means of preventive action. One of its special features is that it is not restricted to unstable peace or pre-conflict situations. It covers the whole range of such situations (peace, crisis, conflict and post-conflict) and takes a long-term view. The ultimate objective is to influence attitudes and behaviour so as to ensure that when armed violence breaks out, the rules and principles of humanitarian law are respected. In peacetime the promotion of this law is an educational act. Once a crisis has flared, it is intended to regulate behaviour.

Since its creation in 1950, it has been clear that the UNHCR has a special role to play in trying to protect those defined as refugees in the 1951 Convention on Refugees (along with

\textsuperscript{25} ‘International Committee of the Red Cross: prevention policy’, in International Review of the Red Cross, Vol. 91, No. 874, June 2009, pp 62

\textsuperscript{26} International Committee of the Red Cross: Handbook of the International Red Cross and Red Crescent Movement. 13th edition, ICRC, Geneva 1994, pp 16
its 1967 Protocol that extended the treaty’s terms of reference across time)\textsuperscript{27}. Subsequent resolutions by the UNHCR’s Executive Committee and UN General Assembly authorized the agency to deal not only with conventional refugees (those crossing an international boundary because of a well founded fear of persecution), but also with those so fleeing political unrest or who find themselves displaced for political reasons within their state of residence.

Despite traditional rhetoric to the contrary from all quarters, the UNHCR’s primary protective action entails two dimensions. First there is traditional protection, in which the agency undertakes diplomatic or legal steps to try to ensure that states implement the internationally recognized civil rights intended to benefit those “persons of concern” uprooted from their normal residence because of political events—viz., persecution, war, instability. For example, those seeking to prove refugee status are entitled to a fair hearing from public authorities; those granted refugee status are entitled not be returned to a situation of persecution but rather to be granted at least temporary asylum. Second there is relief protection, in which the agency seeks to protect those persons of concern who are threatened by hunger, exposure to the elements, sickness and disease, and various threats to sound mental health. In short, persons of concern to the agency have recognized socio-economic rights.

The UNHCR remains the clear lead agency of the international community in traditional protection efforts focused on individual conventional refugees and particular individuals claiming a well founded fear of persecution and seeking asylum in another state. Yet the agency has no monopoly in dealing especially with those uprooted by war and other political instability. The UNHCR’s shared responsibility stems from the long involvement of the International Red Cross\textsuperscript{28} in dealing with civilians adversely affected by war and other conflict situations. The founding of the ICRC (1863), took as its first the provision of medical aid to the war wounded. In 1864 it helped produce the first Geneva Convention for victims of war, which neutralized both medical assistance in international armed conflict and the wounded combatants who were hors de combat and who required that medical assistance. This treaty comprised the start of what is called today international humanitarian law (IHL), which is that part of the laws of war devoted to creating a humanitarian space in the midst of war. To make a long and interesting story fit present purposes, over time the ICRC extended its concern for the individual in both international and internal civil war to include civilians rather than just the wounded or captured

\textsuperscript{27} Framework for Durable Solutions for Refugees and Other Persons of Concern, UNHCR Core Group on Durable Solutions, May 2003,

Reflecting the growing concerns of the ICRC during the 1930s as it operated in places like Ethiopia and Spain, not to mention the terrible destruction from the Second World War, the Fourth Geneva Convention of 1949 pertains to civilians in armed conflict, as do parts of Protocols I and II added in 1977. Under these instruments of modern IHL, the ICRC has special rights and duties regarding civilians affected by war.

Apart from IHL, which legally regulates situations of armed conflict, the ICRC’s own traditions, endorsed by both the International Red Cross and state practice, allow the ICRC to address humanitarian issues arising in other conflict situations aside from war. Thus the ICRC exercises a broad and open-ended “right of initiative” which allows it to try to protect persons in “domestic troubles” or “domestic troubles and tensions” characterized by a variety of exceptional conditions including: declarations of states of siege or martial law, prolonged and special arrest and detention for reasons of state security, widespread fear and tension due to political events, forced dislocation and “ethnic cleansing,” etc. In these situations of political conflict not characterized by key public authorities as internal or international war, the modern ICRC finds that it is often able to play the role of neutral intermediary who tries to protect persons viewed as “the enemy” by public authorities. Just as in war, the ICRC’s basic concern is to try to protect persons held or adversely affected by an “enemy” party. Sometimes a Government will regard some of its own citizens as “enemy,” and sometimes citizens will regard their own Government in the same light. Given the modern mandate of the ICRC, self-devised but endorsed by the rest of the International Red Cross and by state practice, one can see that the ICRC is often interested in the same persons who comprise “persons of concern” to the UNHCR—namely persons uprooted by mass persecution, war, and political instability. While IHL explicitly mentions refugees in passing (as a group of especially vulnerable civilians meriting special humanitarian attention in war),

The ICRC, when it does become involved in conflict situations, carries out the same two types of applied protection traditional protection involving diplomatic and legal representation in behalf of civil rights, and relief protection involving an element of traditional protection plus provision of socio-economic goods and services. The ICRC and the UNHCR parallel each other not only in their list of persons of concern, but also in the protective efforts they seek to bring to such persons. They also parallel each other in seeking to construct a normative framework to


guide practical or field protection. Moreover, the two agencies are funded by essentially the same voluntary donors—the wealthy liberal democracies, either acting separately or through such mechanisms as the European Union. Some differences exist between the two agencies. For example, the ICRC is greatly interested in the combatant who is *hors de combat* whether taking the form of a sick or wounded fighter, prisoner of war, irregular fighter, or security detainee, etc. Normally the UNHCR does not seek to protect fighters of various sorts.

Normally the ICRC does not deal with the repatriation or resettlement of conventional refugees. The ICRC is a private Swiss agency (now with a multinational staff, but retaining an all-Swiss policy-making Assembly), which is highly independent (even from other Red Cross bodies).

Long before the UNHCR was created, the ICRC dealt with those fleeing widespread persecution and/or war and political instability. Thus the ICRC tried to respond, in its small and inadequate way, to the involuntary transnational movement of persons after the First World War and especially to those dislocated by events in the Soviet Union after the 1917 November revolution. Given its own experience in these events, the ICRC was among those pushing for the creation of a refugee office in the structure of the League of Nations. The ICRC had long seen itself as an emergency and supplemental actor who was prepared, at least in theory, to step aside when—and if—public authorities or the international community took the steps necessary to care for persons in dire straits because of conflict on a more permanent basis.

Thus today the ICRC does not much concern itself with medical relief to soldiers of industrialized and high-technology military forces, since all such forces have their own medical services. Things have changed since 1859 and the Battle of Solferino, which caused Henry Dunant to set in motion both the ICRC and the Red Cross Movement in reaction to the absence of adequate medical services by France and Austria-Hungary. It remains true, however, that the ICRC has a high opinion of its abilities and is not always persuaded that others can do as good a job as it has done in protecting persons in conflict situations. So the question of the ICRC’s deferring to other actors in the humanitarian and refugee fields is complicated matter requiring careful analysis.

After the Second World War, the ICRC was deeply involved in responding to various civilian populations that were dislocated by that war and its immediate aftermath. The ICRC was again one of those supportive of first the International Refugee Office and then the UNHCR as it

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31 Henry Dunant: *A Memory of Solferino*. ICRC, Geneva 1986, pp 34
became clear that refugees after 1945 would be a continuing rather than temporary problem. Once again the ICRC saw itself primarily as an emergency supplement to public authorities. It certainly had never seen itself as concerned primarily with refugees fleeing persecution per se, compared to flight or displacement due to war or other large-scale political conflict. In general the ICRC and the UNHCR have had good relations over the years. Where both have been involved in the same state or situation, in general they have reached amicable agreement on a division of labor. The ICRC played a major role in responding to the plight of Palestinian refugees dislocated in the 1947-1949\(^{32}\) fighting for control of western Palestine. In addition to playing its usual intermediary role throughout the war between the Zionist forces and various Arab armies.

The ICRC, struggling to maintain its traditional composition and mandate in the face of various critiques, had its own reasons for making such a relatively large, if exceptional, effort for Palestinian refugees. The agency was under attack in the late 1940s by both communist parties and some in the western world who objected to various aspects of its record in the Second World War. The communists saw the ICRC as a western bourgeois organization that had failed to protect Soviet prisoners of war from Nazi brutality (although the USSR had never ratified the 1929 Geneva Convention\(^{33}\)) on Prisoners of War and had treated German prisoners of war equally badly). The leadership of the Swedish Red Cross saw the ICRC as too legalistic and conservative to exercise effective leadership, witness the ICRC’s refusal to speak out about, or do much else to counteract, the German Holocaust. So these and certain other parties wanted either to internationalize the all-Swiss ICRC or to eliminate it altogether. Thus the agency took the conscious decision in Geneva to use the Palestine conflict to prove to the world that it was still a viable organization. Be all that as it may, its role was crucial for the existence and socioeconomic welfare of these persons dislocated by war and ethnic cleansing in the first Arab-Israeli war. This record, and the onset of the cold war, did much to undermine those demanding fundamental change at the ICRC.

Given its continuing interest in civilians affected by war and political unrest, the ICRC could hardly avoid dealing with what others might call war refugees and those internally displaced by political events. To recite some of its larger operations of this nature up until 1980, the ICRC found itself dealing with: 2 million persons moving between India and Pakistan in

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\(^{33}\) 64 GC I, Art. 9.
1950; over 1 million persons displaced in Algeria 1954-62; 600,000 persons displaced in Indonesia during 1957-59; 3.25 million persons displaced during the Nigerian civil war of 1967-70.

Of course the ICRC was not the only actor involved in trying to protect civilians in these situations.

Note should be taken of the role of what is now the Federation of Red Cross and Red Crescent Societies. Created in 1920, the Federation was the brainchild of the American Red Cross and its leader, Henry P. Davison, and was intended to replace the ICRC as the head of the International Red Cross. Since the Great War was the war to end all wars, ushering in an era of democracy and peace, there was to be no further need for the ICRC in conflict situations and its presumably aging and cautious leaders. History and the ICRC, however, were not to cooperate with this vision. There resulted a spirited and determined competition between the ICRC and the Federation for leadership of the International Red Cross for perhaps eight decades.

The ICRC was able to maintain its position as the lead agency for the International Red Cross in conflict situations, and the Federation had to content itself with being primarily the lead agency of the International Red Cross in responding to natural (and now technological) disasters. Still, the Federation, with at least periodic support from important western National Red Cross Societies, had its own program of refugee assistance in many parts of the world. If we again look at the larger operations up until 1980, we find the Federation dealing with: more than a million persons returning to Portugal from African colonies during 1975-79; and more than 1 million persons fleeing from Ethiopia into Somalia during 1979-80. In some cases there was a rather clear and harmonious division of labor between the ICRC and the Federation in certain conflict situations. For example, in 1956 in regard to events in Hungary, the ICRC concentrated on trying to provide humanitarian protection to persons in Hungary, whereas the Federation dealt with refugees in neighboring Austria.

Span of the ICRC intervention

The ICRC concerns itself with the following matters:

- Behaviour and actions of those responsible for making arrests, conducting interrogations and taking decisions related to detention;
- Material conditions of detention and access to medical care.
- Care for persons deprived of their liberty.

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- Enforced disappearances.
- Protection against torture and other forms of ill-treatment.
- Violations of the physical or moral integrity of detainees.
- Water and food;
- Personal hygiene and sanitation facilities.
- Health and access to medical care;
- Minimum judicial guarantees and procedural safeguards;
- Respect for family unity;
- To maintaining contact between detainees and their families.

**Humanitarian approach of the ICRC’s**

The ICRC distinguishes between two types of approach:

- **Individual approach** - which is a priority of the ICRC and specific to the organization – consists of carrying out activities to benefit certain individuals or categories of person who have been targeted by the repressive policies of the authorities or who are at risk;

- **Structural approach** - which the ICRC may also choose to implement in parallel to or separately from an individual approach – focuses on the institutions responsible for detention issues (on aspects of their organizational and normative frameworks, on management issues, particularly in the areas of health, infrastructure and material supplies) and benefits the entire detainee population.

The ICRC will carry out generic protection activities according to the individual and/or structural approaches chosen, depending on the nature and intensity of the needs identified. This also includes the provision of RFL services.

**Organisation and composition of the ICRC**

Signatories to the four Geneva Conventions of 1949 and their Additional Protocols of 1977 and 2006 have given the ICRC a mandate to protect the victims of international and internal armed conflicts. Such victims include war wounded, prisoners,

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35 International Review of the Red Cross An unrivalled source of international research, analysis and debate on all aspects of humanitarian law, in armed conflict and other situations of collective violence pp 45
refugees, civilians, and other non-combatants, rehabilitates refugees, visit prisoners, organise relief operations, re-unite separated families and to undertake other humanitarian activities during armed conflicts. It also has a mandate under its Statutes to undertake similar work in situations of internal violence where the Geneva Conventions do not apply.

The ICRC is part of the International Red Cross and Red Crescent Movement along with the International Federation and 186 National Societies. It is the oldest and most honoured organization within the Movement and one of the most widely recognized organizations in the world, having won three Nobel Peace Prizes in 1917, 1944, and 1963.

The ICRC is headquartered in the Swiss city of Geneva and has external offices called Delegations in about 80 countries. Each delegation is under the responsibility of a Head of delegation who is the official representative of the ICRC in the country. Of its 2,000 professional employees, roughly 800 work in its Geneva headquarters and 1,200 expatriates work in the field. About half of the field workers serve as delegates managing ICRC operations in the different countries while the other half are specialists like doctors, agronomists, engineers or interpreters. In the delegations, the international staffs are assisted by some 13,000 national employees, bringing the total staff under the authority of the ICRC to roughly 15,000. Delegations also often work closely with the National Red Cross Societies of the countries where they are based and thus can call on the volunteers of the National Red Cross to assist in some of the ICRC operations.

The managerial structure of the ICRC is not well understood by outsiders. This is partly because of organizational secrecy, but also because the structure itself is highly mutable and has been prone to change. The Assembly and Presidency are two long-standing institutions, but the Assembly Council and Directorate were created only in the latter part of the twentieth century. Decisions are often made in a collective way, so authority and power relationships are not set in stone. Today, the leading organs are the Directorate and the Assembly.

The ICRC is a constituent of the International Red Cross and Red Crescent Movement\textsuperscript{37}, which also includes the National Red Cross and Red Crescent Societies and the International Federation of the Red Cross and Red Crescent Societies. All the mechanism of the Movement act in accordance with the three fundamental principles or impartiality, neutrality and independence which are the result of a century of experience and guarantee the continuity of the Movement and its humanitarian work. When carrying out its activities, the ICRC makes no

\textsuperscript{37} ICRC. 1 Jan 1995. The Fundamental Principles PP 14
discrimination as to nationality, race, religious belief, class or political opinion. It endeavours only to relieve suffering, giving priority to the most urgent cases of distress. In order to continue to enjoy the confidence of all, the ICRC may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature. The Red Cross is independent. The National Societies, while auxiliaries in the humanitarian services of their Governments and subject to the laws of their respective countries, must always maintain their autonomy so that they may be able at all times to act in accordance with the Red Cross principles.

The consent of the ICRC is based on international humanitarian law, in particular four Geneva Conventions (1949) and their three Additional Protocols (1977 and 2006). The main mission of the Organisation is to protect and assist the civilian and military victims of armed conflicts and internal strife on a strictly neutral and impartial basis, and to promote obedience with international humanitarian law. The ICRC is also called by its mandate to prevent suffering by promoting and strengthening international humanitarian law (IHL) and universal humanitarian principles. The ICRC always adapts to the realities of a given situation and to the people it is helping, whether they are persons deprived of their liberty, wounded, sick or displaced persons, or resident populations. In meeting their needs, the ICRC makes sure, at all times and in all places, that its humanitarian action is impartial. Moreover, its neutral and independent approach facilitates the ICRC’s access to persons in need. By not taking sides between parties to a conflict, the ICRC improves the chance of bringing protection and assistance to those in need. It is a real challenge to ensure that this identity is clearly perceived and respected by all concerned, especially belligerents. This identity produces tangible benefits for the victims.

**ICRC protecting the internally displaced**

Worldwide, an estimated 20-25 million persons live displaced within the borders of their home countries. These are people who have fled their homes, often during a civil war, but have not sought refuge in other nations. In general, internally displaced persons have many of the same protection needs as refugees but, since they have not crossed an international border, they are not covered by the Refugee Convention.

International concern for the plight of internally displaced persons has acquired a degree of urgency in recent years as greater numbers of people, uprooted by internal conflict and

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38 Discover the ICRC”. The Humanitarians: The International Committee of the Red Cross, (Cambridge, NY: Cambridge University Press, 2005), pp 52
39 “Annual report 2011, Key facts and figures”. pp 43
violence, are exposed to danger and death. However, there is no single international agency, nor is there an international accord, that focuses on internal displacement. As a result, the international response to internal displacement has been selective, uneven and, in many cases, inadequate. Large numbers of internally displaced persons receive no humanitarian assistance or protection at all. The international community is now exploring ways to provide more sustained and comprehensive protection and assistance to this group of people.

In every case where internally displaced persons are exposed to violence related to conflict or strife, the ICRC would consider it as its duty to be actively involved, in accordance with its mandate and capacities, and to the extent that the relevant authorities or the security conditions allow. In geographical terms, this involvement may well go beyond the zones where active hostilities take place, so that the ICRC addresses protection problems affecting internally displaced persons, and indeed any other civilians, whatever part of the country they may be in.

The ICRC’s criterion for involvement is that of being present and active primarily in specific situations. As a neutral conciliator in the event of armed conflict or unrest, the ICRC seeks to bring protection and assistance to the victims of international and non-international armed conflict and internal disturbances and tension. In these situations, it seeks to give priority to those in most urgent need, in accordance with the principle of impartiality. In this respect, the ICRC considers an internally displaced person to be first and foremost a civilian, who as such is protected by international humanitarian law. All too often, the internally displaced suffer extreme deprivation, threatening their very possibility of survival, and all too often they are exposed to considerable danger, both during flight and while in displacement. Accordingly, the death toll among internally displaced persons has often reached extreme proportions, particularly among physically weaker persons such as children, the elderly or pregnant women. Hardships experienced by those left behind or by host communities compound the problem.

Given their precarious situation, internally displaced persons affected by armed conflict — who constitute one of the main categories of the displaced and who in many cases are also in the most life-threatening situation — would often constitute a primary target group for ICRC activities.

Although for numerous reasons displacement statistics are bound to remain rough estimates, the ICRC considers that of the close to five million persons assisted by it in the course of 1999, the great majority were internally displaced. For the year 2000, programmes specifically
aimed at protecting and assisting internally displaced persons have been developed in thirty-one countries throughout the world.

**ICRC’s partnership with UNHCR**

A key partner in protection is the International Committee of the Red Cross (ICRC), an independent agency that acts to help all victims of war and internal violence and tries to ensure implementation of humanitarian rules restricting armed violence. As a neutral intermediary, ICRC offers protection and assistance to victims of both international and internal conflict and unrest. Internally displaced persons constitute one of the primary target groups for ICRC’s activities. During 2000, ICRC developed programmes aimed at protecting and assisting internally displaced persons in 31 countries around the world. Through its national Red Cross and Red Crescent societies, the International Federation of Red Cross and Red Crescent Societies (IFRC) also complements UNHCR’s work by providing humanitarian relief to people affected by emergencies and by promoting international humanitarian law.

The *Refugee Convention* and *Protocol* is only the first step in establishing a sound legal foundation for refugee protection. National legislation must be adopted or amended to allow the provisions of the Refugee Convention and *Protocol* to be implemented effectively. UNHCR works closely with States to help ensure that each State’s particular legal tradition and resources will accommodate its international obligations. At a time when many Governments are proposing legislation or undertaking administrative measures aimed at placing tighter controls on immigration, special care must be taken to ensure that refugee protection principles are fully incorporated in the legal structure.

The international obligation not to return refugees to danger is absolute, and applies to all countries regardless of their level of economic development. Meeting the life-saving needs of refugees, setting up fair and efficient asylum procedures, helping refugees return home or integrate in host communities all have a financial cost, met by receiving States, as well as by the international community in a spirit of international solidarity. Since parliamentarians play a key role in budgetary appropriations, the effectiveness of their Government’s refugee and asylum policies, and of the international refugee protection system, depends on their commitment to funding them.

Much of what is spent on protecting and assisting refugees is difficult to calculate in monetary terms. Governments that host refugees are contributing in a very concrete way to

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41 *Refugees: Save Us! Save Us!*: Time magazine, 9 July 1979.
refugee protection, for instance by making land available for refugee camps and settlements and
providing the local infrastructure to serve the refugee population. Although it is difficult to
quantify this type of contribution, host Governments are also donor Governments and should be
recognized and acknowledged as such. Other Governments may offer support in cash or in kind
to countries hosting refugees. Sometimes, they offer resettlement spaces. These are all critical to
international solidarity and to sharing the responsibility for refugee protection. Parliamentarians
should urge their Government to plan for and fund institutions, procedures, and programs, within
the limits of their available resources, to meet the needs of asylum-seekers and refugees.
UNHCR advises Governments seeking to build their capacity to respond to refugees, and
supports such activities directly or assists the Government in seeking other sources of funding.
Priorities will vary from place to place, but most countries need to have a system in place for
receiving asylum-seekers and meeting their basic needs. Governments also need an entity
charged with responsibility for refugee matters, e.g., a body that conducts refugee status
determination. Drawing on its 50 years of experience throughout the world, UNHCR can advise
on cost-efficient structures and procedures that are responsive to local conditions.
Introduction

As of 2001 United Nations Convention marks the 50th centenary relating to the Status of Refugees. The Convention was a milestone in the setting of standards for the treatment of refugees. It incorporated the fundamental concepts of the refugee protection regime and has continued to remain the cornerstone of that regime to the present day. On 28 July 1951, when the Convention was originally adopted, it was to deal with the consequences of World War II in Europe. The inspiration for the Convention was the strong global commitment to ensuring that the displacement and trauma caused by the persecution and destruction of the war years would not be repeated. But during the decades that followed, it was globalised and the 1967 Protocol expanded the scope of the Convention as the problem of displacement spread around the world. In these origins lies the Convention’s humanitarian character which ensures that its fundamental concepts remain intrinsically sound.

The legal framework that supports the global refugee protection regime was built by States. Through the years, States have affirmed their commitment to protecting refugees by acceding to the 1951 Convention relating to the Status of Refugees, the cornerstone document of refugee protection. The Convention, which was developed and drafted by States, enumerates the rights and responsibilities of refugees and the obligations of States that are parties to it. As of September 2001, 141 States had acceded to the modus operandi. In addition, as members of UNHCR’s Executive Committee, 57 Governments help shape the organization’s protection policies and assistance activities.

Protecting refugees is primarily the responsibility of States. Throughout its 50-year history, the United Nations High Commissioner for Refugees (UNHCR) has worked closely with Governments as partners in refugee protection. In every region of the world, Governments have generously granted asylum to refugees and allowed them to remain until conditions were conducive for the refugees to return to their homes in safety and with dignity. Governments have allowed UNHCR to operate on their territories and have provided financial assistance to refugees, both through their own domestic refugee programs and by funding UNHCR’s protection and assistance operations.

An increasing number of countries around the world have invited refugees to settle permanently on their territories. By offering naturalization, providing land or permitting legal
employment, Governments of both asylum countries and resettlement countries have offered a lasting solution to the problems of those refugees who could not be assured protection in their home countries or in their country of first asylum.

**Refugee and its security System**

It is the responsibility of States to protect their citizens. When Governments are unwilling or unable to protect their citizens, individuals may suffer such serious violations of their rights that they are forced to leave their homes, and often even their families, to seek safety in another country. Since, by classification, the Governments of their home countries no longer protect the basic rights of refugees, the international community then steps in to ensure that those basic rights are respected.

In the aftermath of World War II, the United Nations General Assembly created the Office of the United Nations High Commissioner for Refugees (UNHCR). UNHCR is mandated to protect and find durable solutions for refugees. Its activities are based on a framework of international law and standards that includes the 1948 Universal Declaration of Human Rights and the four Geneva Conventions (1949) on international humanitarian law, as well as an array of international and regional treaties and declarations, both binding and nonbinding, that specifically address the needs of refugees.

**INTERNATIONAL LAWS STANDARDS IN PROTECTION OF REFUGEES**

**Convention of 1951 relating to the Status of Refugees**

The Convention Relating to the Status of Refugees is the foundation of international refugee law. The Refugee Convention defines the term “refugee” and sets minimum standards for the treatment of persons who are found to qualify for refugee status. Because the Convention was drafted in the wake of World War II, its definition of a refugee focuses on persons who are outside their country of origin and are refugees as a result of events occurring in Europe or elsewhere before 1 January 1951. As new refugee crises emerged during the late 1950s and early 1960s, it became necessary to widen both the temporal and geographical scope of the Refugee Convention. Thus, a Protocol to the Convention was drafted and adopted.

**Protocol of 1967 relating to the Status of Refugees**

The 1967 Refugee Protocol is independent, though integrally related to, the 1951 Convention. The Protocol lifts the time and geographic limits found in the Convention’s refugee definition. Together, the Refugee Convention and Protocol cover three main subjects:
• The basic refugee definition, along with terms for termination and exclusion from, refugee status
• The legal status of refugees in their country of asylum, their rights and obligations, including the right to be protected against forcible return, or refoulement, to a territory where their lives or freedom would be threatened
• States’ obligations, including cooperating with UNHCR in the exercise of its functions and facilitating its duty of supervising the application of the Convention. By acceding to the Protocol, States agree to apply most of the articles of the Refugee Convention (Articles 2 through 34) to all persons covered by the Protocol’s refugee definition. Yet the vast majority of States have preferred to accede to both the Convention and the Protocol. In doing so, States reaffirm that both treaties are central to the international refugee protection system.

The responsibilities of States parties to the Refugee Convention

The general principle of international law states that every agreement in force is binding upon the parties to it and must be performed in good faith. Countries that have ratified the Refugee Convention are obliged to protect refugees on their territory according to its terms. Among the provisions that States Parties to the Refugee Convention and Protocol must apply are:

Cooperation with UNHCR - Article 35 of the Refugee Convention and Article II of the 1967 Protocol contain an agreement for States Parties to cooperate with UNHCR in the exercise of its functions and, in particular, to help UNHCR supervise the implementation of the provisions found in those treaties.

Information on National Legislation - The States Parties to the Refugee Convention agree to inform the UN Secretary-General about the laws and regulations they may adopt to ensure the application of the Convention.

It emerges from the foregoing discussion that like anybody else refugees are also entitled to refugee rehabilitation and fundamental freedoms set forth in refugee rehabilitation treaties, covenants and declarations. Looked at from this perspective, the restrictive practices adopted by the countries vis-a-vis asylum seekers are legally unjustified, morally reprehensible and strategically counter-productive. The international community must therefore take initiatives to address the refugee rehabilitation concerns in a positive and constructive way. A victim oriented
approach needs to be adopted. As the refugee problem involves a complex and humanitarian and legal issues; there is also a cultural and racist element in its study and description of refugee issues. The west wants quick solutions to the refugee questions, where as it glosses over the Asian-African refugees. Such cultural and racist approaches should be done away and problems of refugees need to be looked into with equanimity and solutions are sought to transcend narrow considerations.

There is need for better cooperation between the UNHCR, ICRC, U.N. High Commissioner for Human Rights, and other Humanitarian NGOs should also be knit together more closely than in the past. In recent years UNHCR has incorporated a number of refugee rehabilitation principles in its working e.g., legal rehabilitation, institution building, law reform and enforcement of the rule of law, humanitarian assistance to internally displaced persons and given due importance to the establishment of increased cooperation with international and regional refugee rehabilitation mechanisms. The UN agencies, such as the World Food Program (WFP), the UN Children's Fund (UNICEF), the UN Development Program (UNDP), the World Health Organization (WHO), and the International Labour Organization (ILO) should provide expertise in matters related to refugees with their areas of interest. In addition, NGOs should traditionally play an important role in the implementation of programs for refugees.

As part of the efforts to prevent refugee flows, the U.N. and others, especially NGOs should engage in providing technical assistance to states within a general refugee rehabilitation framework. Since refugee protection has now come to be recognised as a part of the U.N. agenda for human rights, the possibility of the use of the current structure of international refugee rehabilitation treaty obligations and the mechanisms established by the Commission on Refugee rehabilitation for analysing the problems and proposing remedial actions should be increased.

Turning to refugee rehabilitation in India one is wonderstruck by the fact that India has neither acceded to the 1951 Refugee Convention nor enacted any legislation for the protection of refugees, although it has always been willing to host the forcibly displaced persons from other countries without adopting legalistic approaches to the refugees issues. All persons who flee their homelands have invariably been provided refuge, irrespective of the reasons of their flight.

The Government of India recognises Tibetans, Chakmas, Sri Lankan Tamils and Afghans and thousands of people of other nationalities from Iran, Iraq, Somalia, Sudan and Myanmar as refugees.
As Justice J.S. Verma, former Chairman of the National Human Rights Commission has observed, “the provisions of the (1951) Refugee Convention and its Protocol can be relied on when there is no conflict with any provisions in the municipal laws”.

Fortunately, the judiciary has sought to fulfil the void created by the absence of domestic legislation by its landmark judgments in the area of refugee protection. It extended the guarantee of Article 14 (right to equality) and Article 21 (right to life and liberty) to non-citizens including refugees.

While India’s record with respect to rehabilitation of refugees has been generally satisfactory, the Human Rights Committee has expressed concern at reports of forcible repatriation of asylum seekers including those from Myanmar (Chins), the Chittagong Hills and the Chakmas. It recommended that in the process of repatriation of asylum seekers or refugees, due attention be paid to the provisions of the Covenant and other applicable norms. The Committee also recognised that India, notwithstanding all its historic generosity to refugees, has engaged in certain practices less favoured to refugee populations. In this context it needs to be recognised that India is not the only country which resorting to such practices. Indeed, as already noted there are many countries starve refugees out, imprison them behind barbed wire, and otherwise make their lives miserable. At a time when the West is willing to undermine even the most basic premises of international refugee law in the name of ‘compassion fatigue’, ‘saturation of absorbing capacity’ or religious intolerance and xenophobia of a section of the local population towards refugees, and already has ignored its commitments flowing from the concepts of ‘international solidarity’ and ‘burden sharing’, developing countries alone cannot be singled out for condemnation. Use of these practices or schemes by them are legally and ethically repugnant but unless the refugee regime is rejuvenated and revitalised and the interests of the receiving state and refugees find proper accommodation therein, such practices, are likely to continue even in future. Be that as it may, India should reconsider its refugee policy and enact a separate national legislation on the treatment of refugees considering that India presently shelters one of the largest refugee populations in the world, its refusal to accede to the Refugee Convention or its Protocol is not only beyond comprehension but unnecessarily tarnishes its image at the international level.

As said by António Guterres, United Nations High Commissioner for Refugees (UNHCR) “with its history, culture and traditions, India is today an example of generosity in the way it has opened its borders to all people who have come looking for safety and sanctuary.
There are Tibetans, Afghans, Myanmarese in India and it has maintained an open-door policy for all. India has a generous approach in relationship to all people and proof of that is the granting of long-term visas and work permits to refugees. But resettlement will never solve a refugee problem unless a political solution is found for their plight to end. And more importantly, at a time when there are so many closed borders in the world, and many people have been refused protection, India has been generous”.

Hence, the approach in dealing with refugee crises should be "voluntary repatriation". This requires the United Nations to assure that the refugees are attracted to go home, that their safety is guaranteed and that they are wanted back home, provided this method could be effective in solving refugee situations. But repatriation requires significant resources for reconstruction and more needs to be done by the Governments of the country of origin, to create conditions for people to feel comfortable about considering the possibility of returning. It has to do with the living conditions, work, education, health, property and security; these are all key questions that need to be addressed for the voluntary repatriation of the people. It is very important that the Governments of the country of origin do everything possible to re-establish the confidence of people and to create conditions for effective reconciliation of different communities and to address the citizenship problems in order to ensure that everybody enjoys the basic rights that people are entitled to enjoy. In the general principle of international law, treaties in force should be binding upon the parties and must be performed in good faith. Countries that have ratified the Refugee Convention are obliged to protect refugees that are on their territory, in accordance with its terms.

Finally, it is time, a progressive global approach to the refugee problem is considered by the world community, an approach which takes due cognizance of the rehabilitation of refugees is secured globally, and the cooperation of all parties in seeking a solution to the problem. Given the close link between refugees and human rights, international refugee rehabilitation standards should be made powerful ammunitions for enhancing and complementing the existing refugee protection regime and giving it proper orientation and direction. Since the refugee problem is an important aspect of rehabilitation and protection, refugee rehabilitation groups, humanitarian organisations, the UNHCR, Governments and U.N. Human Rights agencies should take a hard look at their respective roles and make coordinated efforts for elimination of refugee rehabilitation abuses and protection of the rights of refugees.