

REFUGEES AND HUMAN RIGHTS : A CASE STUDY OF INDIA

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Globalisation and Migration are the two trends, which are being observed world wide. As long as there have been wars, persecution, discrimination and intolerance, there have been refugees. They are of every race and religion and can be found in every part of the world. Forced to flee out of fears for their lives and more liberty, refugees often give up everything – home, belongings, family and country – for an uncertain cause in a strange land.

In the new millennium while celebrating the 52nd anniversary of the UN Convention on Refugees, there is still a sobering reminder of the international community's continuing failure to prevent prejudice, persecution, poverty and other root causes of conflict and displacement. Their plight is one of the greatest tragedies of our times and their fate is linked to political and Human Rights question that should be of concern to each and every one of us.

The interface between human rights and refugees must start from the very concept of Human Rights as a baseline of equal concern for the interest of everyone. India has a deep rooted culture of generosity to strangers, including refugees which provide a very positive climate for, receiving and hosting refugees. India is the land that sheltered probably the largest number of refugees through different centuries.

Violation of Human Rights is one of the major causes for mass exoduses. Involvement and safety of personnel involved in Humanitarian assistance has promoted the re-examination of the normative underpinnings of Humanitarian Law under the Geneva Convention, demonstrating relationship between Human Rights, Refugee Problem, and Humanitarian Law.

In this work, an attempt has been made to define and describe refugees. Down from the narrow view held by the League of the Nations, to the one held by International Refugee Organisation, Statute of UNHCR, 1951 Convention, General Assembly Resolutions, 1967 Protocol, OAU Convention, 1984 Cartagena Declaration and finally the broad interpretation by the Model Law, a reference to the growth of the definition has been traced.

'Human Rights' are bestowed upon Human beings by nature and are based on man's increasing demand for a decent civilized life in which the inherent dignity of each Human being is well respected and protected. 1951 Convention is known as the "Bible of Refugee Rights" and provides for an International Bill of Rights, containing detailed

provisions on the minimum standards of treatment of refugees. The Fundamental Rights mentioned in the Indian Constitution partake the character of the civil and political rights of the Universal Declaration and the 1951 Convention. A special reference has been made to the Rights of refugee Women and Children. Also, Right to Asylum or Principle of Non-Refoulement add to the soul of refugee rights.

A separate chapter deals with the Genesis of the refugee problem in India. However, the study has been restricted to the post partition refugees, that is the Partition refugees, Chakmas, Tamilians, Tibetans, and Afghans. The Rights they were granted and the conditions, in which they live have thoroughly been discussed.

Chapter on Indian Legal System and the Refugee Problem examines the role of judiciary in protecting Refugee Rights. Various laws, Acts and Constitutional articles, indirectly guarantee security to the refugees. There are three main bodies dealing with the refugees – The Border/Immigration Authorities/Police, Administrative Policies / Directions concerning Refugees and the Courts.

The Courts have come to the rescue of the refugees while interpreting the law and applying the Humanitarian Tradition, International Legal Obligations, The Constitution of India and the Legal Obligations. Along with the Courts various NGOs, specially the UNHCR have played a major role in upliftment and protection of the refugees.

Lastly, Conclusion, provides insights into the various solutions dealing with the gigantic problem of refugees in its diverse manifestations. A Common Law on Refugees is slowly evolving in State practices and conventions supported by Human Rights standards as mandated by the Constitution. Resettlement, Integration and Voluntary Repatriation are the three best possible solutions to this problem.

Refugee Problem is a multi dimensional and global problem, which seeks an extensive and comprehensive solution. The notion of 'Karuna' must not be forgotten, as ultimately all of us have also seeked refuge on the mother earth. Let us Live and Let Live, as all are members of common Fraternity.