

RLI Working Paper No. 11

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Protection of Refugees in India: Quest for National Refugee Law

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Protection of Refugees in India: Quest for National Refugee Law

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Abstract:

Protection of refugees in India is solely regulated at policy level by national administrative authorities as India is neither a party to the protocol 1951 Refugee Convention nor has it adopted national refugee legislation. However, India is hosting around 190,000 refugees originating from various countries of the world. Refugees in India are facing uncertainty on their rights because of the absence of codified protection strategy and specific national laws on aliens which made no distinction between refugees and foreigners. The paper analyses national initiatives, UNHCR's role and the role of the judiciary towards achieving refugee protection in India. Finally, the paper argues that India should develop own national refugee legislation. This working paper outlines the research background along with the adopted research methodology and set out the structure of the final paper.

Keywords:

Refugee, Government of India, Legal Status, Judiciary, National Legislation

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Setting the Agenda

India is not a party to the UN Convention on the Status of Refugees 1951 (1951 Refugee Convention) or the Refugee Protocol on the Status of Refugees 1967 (1967 Protocol). The government of India has never given any reasons officially for not acceding to the 1951 Refugee Convention or 1967 Protocol. However, some aspects of the government reasoning have been publically conveyed at various seminars and talks given by government officials relating to the status of refugees in India. Such statements have not been an object of closer scrutiny as very few researchers have given importance to it as these were not the direct official version. Thus, it is important to research into the valid and original reasons of the government of India for not acceding to the 1951 Refugee Convention or 1967 Protocol along with the validity and reliability of these reasons.

Before the drafting of the 1951 Refugee Convention, India faced the largest movement of refugees during the time of partition. Vicious communal violence resulted into the destruction of life and property of millions of people and about 7 million people were uprooted. The newly formed Indian State provided these refugees with emergency relief and rehabilitation in spite of its limited emergency response capacity. In the year 1947, an independent Ministry of Rehabilitation was created to assist the displaced persons from both West and East Pakistan. This Ministry was later abolished and a Department of Rehabilitation was created under the Ministry of Works, Housing and Supply. This department was again shifted under the Ministry of Labour, Employment and Rehabilitation. In the period of 1984 -1985, the government of India abolished the Department of Rehabilitation and created a Rehabilitation Division under the Ministry of Home Affairs. At present this is known as Freedom Fighters and Rehabilitation Division.¹ Creation of these administrative wings at early 1947 and continuation with structural changes for proper rehabilitation management gave an idea about India's respect towards vulnerable population or particularly the refugees.

On the eve of partition in 1947, 3.4 million² people had come to India from East Pakistan and the first five year plan provided 1357 million³ rupees for the rehabilitation of those refugees. By the end of July 1948, the number of refugees coming from East Pakistan (former Bangladesh) was around 1.1 million.⁴ In June 1952, the average monthly rate of admission to the government refugee camps was 2062 and increased till October.⁵

Just after a decade of getting its independence, in 1959, India faced again the regional influx of refugees from Tibet.⁶ These refugees came with their religious leader, the Dalai Lama, facing persecution for political and religious reasons while China started invading Tibet. This refugee group came to India with the hope that they will return as soon as the conditions in Tibet returned to normal. However, it has now been almost 55 years that they

¹ This division has two wings namely Freedom Fighters Wing and Rehabilitation Wing. The Rehabilitation Wing is dealing with matters relating to relief and rehabilitation of displaced persons from East and West Pakistan, Sri Lankan refugees and Tibetan Refugees. For more details see http://mha.nic.in/FREEDOM_FIGHTERS, last visited on January 29, 2014.

² Government of India, *Annual Report of Ministry of Rehabilitation (1954-55)* 1

³ *ibid* 2

⁴ Prafulla K Chakraborty, *The Marginal Men* (Naya Udyog, Calcutta, 1999) 1

⁵ Hiranmay Banerjee, *Utvastu* (In Bengali, Sishu Shahitya Samsad, Calcutta, 1970) 195

⁶ Eileen Kaufman, 'Shelter from the Storm: An Analysis of U.S. Refugee Law as Applied to Tibetans Formerly Residing in India' (2008-2009) 23 *Georgetown Immigration Law Journal* 497, 530

have had to settle in India. India primarily accepted them on humanitarian grounds; however this action resulted in the 1962 war against China.

During 1979-1980 a new wave of refugees came from Tibet. The government of India deported many of the refugees who came directly from Tibet but allowed those who came to India via Nepal.⁷ This interesting passage for Tibetan refugees may have resulted from two different ideas. One is India's policy not to embarrass the Chinese government and the second is to look at the plight of Tibetan refugees. This time the estimated number was about 25,000 and the government of India decided not to provide them with registration certificates as refugees. However, this population managed to get registration certificates as refugees from the Indian authorities by showing themselves as unregistered children of Tibetans who came to India before 1962. After 1994 there was again a mass influx of Tibetan refugees in India and the Central Tibetan Administration (CTA)⁸ in Dharamsala has adopted policy measures to let them stay in India for a certain period.⁹ New arrivals were divided into categories and a specific time-frame was given to them to remain in India. This decision was the result of India's changing attitude towards Tibetan refugees because of the growing concerns over national security and the development of a stronger Indo-China relationship. Due to China's request at several occasions India refused to allow Tibetan monks closely related to Dalai Lama to stay in India as refugees.

In 2005, India and the CTA came to an agreement to allow Tibetans to come to India through Nepal for the purposes of education, pilgrimage and other purposes under compassionate terms. The Indian High Commission in Nepal started to provide special entry permit to the Tibetans allowing them to enter into India. Two of the categories of persons allowed into the territory, i.e. pilgrimage and compassionate stay, had the opportunity to get registration certificates in India allowing them to stay beyond the time fixed in the special entry permit. As per the estimate of various actors like CTA, the government of India and UNHCR currently 1500 to 3500 Tibetans come to India annually.¹⁰

This type of arrival in India from Tibet is a perfect example revealing India's changing attitude to the Tibetans coming to the country and pointed out the flaws of Indian authorities in failing to instate proper policies or adopt one standard policy. Policies regarding granting refuge to the Tibetans in India kept changing over time. This actually lead to ambiguity regarding the determination of legal Tibetan residents in India. In order to face this situation India decided to offer a one-time registration opportunity for the unregistered Tibetans in India in 2003.

Apart from the Tibetan refugee population, there was steep rise of refugees in 1965 coming from East Pakistan during the India-Pakistan war. Minority community people fled from East Pakistan to India due to fear of persecution by the Pakistani Army. In the period from 1964 to 1968 a large number of *Chakmas*¹¹ migrated to India due to the ethnic disturbance in the Chittagong Hill Tracts Area. But the majority of refugees from this area were admitted at once in 1971 when the Liberation War of Bangladesh broke out. There was also a movement of refugees from Bangladesh in 1986 from the Chittagong Hill Tracts in

⁷ *ibid* 535

⁸ Central Tibetan Administration is the administrative authority of the Tibetans in exile and is governed by the Charter of the Tibetans in Exile. For more information see <http://tibet.net/>, last visited on 28th January, 2014.

⁹ *ibid* 536

¹⁰ *ibid* 553

¹¹ An indigenous tribal community generally resides at the Chittagong Hill Tracts of Bangladesh.

Tripura when the government of Tripura arranged for rehabilitation packages for these people.¹² Finally, they were voluntarily repatriated after getting assurance from the Bangladesh Govt. that they will not be subjected to persecution. Even today, the minority population of Bangladesh crosses the international border fleeing persecution.¹³

India is a signatory to various other international human rights instruments such as the ICCPR¹⁴, ICESCR¹⁵, CRC¹⁶, ICERD¹⁷, CEDAW¹⁸ etc. which contain provisions relating to the protection of refugees particularly the principle of *non-refoulement*. India joined as member the Executive Committee of UNHCR in 1992. There is no doubt that all these international instruments create an obligation for the state parties to protect refugees and India is no exception. The principle of *non-refoulement* has been accepted as a principle of customary international law. This leads to the international law and municipal law debate. Thus stands out the question of how a nation would respect international principles and policies unless they have been incorporated in the municipal laws of that nation. India follows the dualist school of law in respect of implementation of international law at domestic level. So, international treaties do not automatically form part of national law. They must be incorporated into the legal system by a legislation made by the Parliament.¹⁹

No doubt, India has sincerely attempted to regulate the status and protection of refugees by administrative measures, but an iota of doubt remains with regard to the effectiveness of such measures. In the absence of a strict legislative framework, the possibility of bias and discriminatory treatment by the government to refugees cannot be excluded. This raises a fundamental question: Which are the municipal laws that would apply to refugees in India? Owing to the absence of a specific legislation, the laws relating to the regulation of the status of aliens generally apply to the refugees in India.

The major Indian law relevant to aliens is the Foreigners Act of 1946 which empowers the Central Government to control the entry, presence and departure of aliens. The pertinent feature of the Foreigners Act is that it leaves a wide margin of administrative discretion. The administrative policies under the Act relating to aliens 'are very skeleton and leave very wide discretion to the executive'.²⁰ Owing to such ample governmental plenary power, biasness is

¹²Malabika Das Gupta, 'Refugee Influx' *Economic and Political Weekly* Vol. 2, No. 38/39 (New Delhi September 20, 1986) 1665

¹³See Shuvro Prosun Sarker, 'Bangladeshi Refugees (Undocumented Migrants) in India: Humanitarian Problem, Requiring Humanitarian Solution', *International Journal of Immigration, Asylum and Nationality Law* (Immigration Law Practitioners Association, United Kingdom) (forthcoming in May 2014).

¹⁴International Covenant on Civil and Political Rights, 1966. India acceded to the convention on 10 April, 1979.

¹⁵International Covenant on Economic, Social and Cultural Rights, 1966. India acceded to the convention on 10 April, 1979.

¹⁶Convention on the Rights of the Child, 1989. India acceded the convention on 11 December 1992.

¹⁷International Convention on the Elimination of All Forms of Racial Discrimination, 1965. India ratifies the convention on 03 December, 1968 with reservations.

¹⁸Convention on the Elimination of All Forms of Discrimination against Women, 1979. India signed the convention on 30 July 1980 and ratified it on 9 July 1993 with reservations.

¹⁹See S. K. Agarwal, 'Implementation of International Law in India: Role of Judiciary' (Dean Maxwell & Isle Cohen Doctoral Seminar in International Law Hans & Tamar Oppenheimer Chair in Public International Law Faculty of Law, McGill University), available at http://oppenheimer.mcgill.ca/IMG/pdf/SK_Agarwal.pdf, last visited on 29th January, 2014.

²⁰ M. P. Singh, 'Positions of Aliens in India' (Legal Position of Aliens in National and International Law, Heidelberg Colloquium, 1985) 12

sure to creep in. That disturbs the basic tenet of the rule of law. There is no doubt that the ‘skeleton legislation with wide delegation of rule-making power as well as the very conferment of discretion on the administrative authorities are a violation of the rule of law and can be challenged respectively on the grounds of unconstitutional delegation of legislative functions and the violation of the right to equality’.²¹

The way the Supreme Court of India has interpreted the Constitution in its decisions to highlight the duty of the state to accord refugee protection is commendable. In its two major decisions the Supreme Court employed Article 14 of the Universal Declaration of Human Rights and Article 13 of the International Covenant on Civil and Political Rights to uphold the obligation of refugee protection.²² The first instance was the case of *Khudiram Chakma v. State of Arunachal Pradesh*,²³ where the Supreme Court of India referred to the Universal Declaration of Human Rights in the context of refugees in India in the following words:

‘Article 14 of the Universal Declaration of Human Rights, which speaks of the right to enjoy asylum, has to be interpreted in the light of the instrument as a whole, and must be taken to mean something. It implies that although an asylum seeker has no right to be granted admission to a foreign State, equally a State which has granted him asylum must not later return him to the country whence he come. Moreover, the Article carries considerable moral authority and embodies legal prerequisite of regional declarations and instruments’.²⁴

The refugee protection approach was further reflected in the case of *National Human Rights Commission v. State of Arunachal Pradesh*.²⁵ The Supreme Court of India held that *Chakma* refugees who had come from Bangladesh due to persecution cannot be forcibly sent back to Bangladesh as they may be killed or tortured or discriminated, and in result of this they would be deprived of their right to life under Article 21²⁶ of the Constitution of India. The Supreme Court in the same case made a number of observations relating to the protection of *Chakma* refugees in India:

‘We are a country governed by Rule of Law. Our Constitution confers certain rights on every human being and certain other rights on citizens. Every person is entitled to equality before the law and equal protection of the laws. So also, no person can be deprived of his life or personal liberty except according to the procedure established by law. Thus the State is bound to protect the life and personal liberty of every human being, be he a citizen or otherwise, and it cannot permit anybody or group of persons [...] to threaten the *chakmas* to leave the

²¹ J. N. Saxena, ‘Proposal for a Refugee Legislation in India’ (1997) Vol 2 (No 2A) Bulletin on IHL & Refugee Law (Indian Centre for Humanitarian Laws and Research, New Delhi) 391

²² Article 14(1) of the Universal Declaration of Human Rights states ‘everyone has the right to seek and to enjoy in other countries asylum from persecution’. Article 13 of the International Covenant of Civil and Political Rights states: ‘An alien lawfully in the territory of a State party to the present Covenant may be expelled there from only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority’. The Supreme Court used these international mechanisms to hold that it is the duty of the state to protect refugees.

²³ (1994) Supp (1) SCC 615

²⁴ *ibid* 665

²⁵ (1996) 1 SCC 742

²⁶ Article 21: “No person shall be deprived of his life and personal liberty except according to the procedure established by law”.

State, failing which they would be forced to do so [...] the State government must act impartially and carry out its legal obligations to safeguard the life, health and well-being of *chakmas* residing in the state without being inhibited by local politics. Besides, by refusing to forward their applications, the *chakmas* are denied rights, constitutional and statutory, to be considered for being registered citizens of India'.²⁷

The above decisions of the Supreme Court of India would stand to claim that the obligation of the state to protect refugees is paramount. The importance of Article 21 of the Constitution can be well inferred from the decisions rendered by the Supreme Court. Article 21 is a non-derogable right. It is therefore arguable that International Refugee Law as established through the 1951 Refugee Convention and the 1967 Protocol has been fully incorporated into Indian Law via Article 21 of the Constitution of India. The obligation to protect refugees exists irrespective of the Indian Government's stand with respect to the 1951 Refugee Convention or the 1967 Protocol. However, the actual situation is that anyone who has illegally entered the territory of India falls under the scope of the Foreigners Act of 1946. Only those refugees who are able to go to the Supreme Court bringing forth claims regarding refugee status are getting the chance to go to UNHCR for status determination.

It can thus be concluded that the protection of refugees through Article 21 of the Constitution is case-specific and has not been translated into a binding norm for the field administration. If we examine the various orders of the lower courts in this regard we ascertain that they have primarily prosecuted refugees for being irregularly in the country and this is how their case came before the High Court or Supreme Court. In several cases, after being sentenced by the lower judiciary, the case moved to the High Court or Supreme Court and finally these courts ordered for release for a certain time in order for the person to be able to approach UNHCR who would process their application for refugee status.²⁸ Therefore, by and large, no standard practice seems to emerge regarding asylum or the treatment of refugees. There are some variations on whether the 'refugee-offenders' are fined and sentenced in the end as sometime they manage to appeal their sentence.

It is noteworthy that there were some regional initiatives for refugee protection in South Asia. The protection of refugees in this region heavily depends on the inter-state cooperation as none of the South Asian countries are party to the 1951 Refugee Convention. Refugee policy in this region is based on the belief that when there is no law, everything becomes arbitrary. The attempts of civil society organizations to bring a uniform model of refugee protection in South Asia by a systematic dialogue between governments and other organizations may stop the existing trend to get case by case basis relief from the judiciary.²⁹

The most important step in this regard has been taken in 1997 at Dhaka by the Eminent Persons Group (EPG) under the Chairmanship of Justice P. N. Bhagwati. This group of experts tried to frame a Model National Refugee Law (MNRL) which could act as a guiding model for the governments of South Asian countries seeking to frame their own national law.³⁰ The significance of this consultation was so noteworthy that the Minister of Law and

²⁷*National Human Rights Commission* (n 25) 756

²⁸See *State vs. Khy-Htoon*, FIR No. 18 (3) 89, Manipur, 1994. *Sate of Manipur vs. U MyatKyaw and Nazain* Civil Rule No. 516 of 1991, Guwahati High Court. *State vs. Muhammad Riza Ali*, FIR No 414/93, CMM New Delhi, 1995. *State Vs. Eva Massur Ahmed*, FIR No. 278/95, MM, New Delhi, 1995. *State vs. Akhtar Muhammed*, AF/6433, CJM, Amritsar, Punjab, 1997. *State vs. Hudson*, FIR No. 583/97, MM Delhi, 1998.

²⁹PiyaOberoi, 'Regional Initiatives on Refugee Protection in South Asia' 11 *International Journal of Refugee Law* (1999)193, 195

³⁰ *ibid* 198

Justice of Bangladesh accepted a copy of the MNRL from the Chairperson to place before the Parliamentary Committee of Law and Justice.³¹ However, since then, none of the South Asian countries have passed any legislation relating to the protection of refugees and the EPG has failed in this respect to intervene with the governments. There were suggestions to have a debate between the concerned governments in the South Asian Association for Regional Cooperation (SAARC) level on the basis of the MNRL and national-level dialogue among government agencies, human rights organizations and UNHCR in order to find a durable solution for refugee protection.³² In this context, the reasons why none of the South Asian countries, especially India, adhere to these consultations are unknown.

It can be said that the choice made by the South Asian countries not to enact national refugee law is partly due to political ignorance, historical mishaps, unstable democracies and exaggerated concern over security issues.³³ Various decisions of High Courts and the Supreme Court of India are precursors of refugee protection which were not rights-based but humanitarian in nature. So these kinds of interim, person-based orders have very insignificant effect on the development of refugee law jurisprudence. However, it is due to the judicial pronouncements that refugees are now regarded as a class of persons separate from other foreigners. Introduction of refugee law in India has been done 'through the back door'.³⁴ Finally, the MNRL prepared by the EPG during Dhaka Summit encompassed the definition of refugee, sought to create a system of status determination, incorporated rights and duties of both refugees and receiving State and struck a balance between humanitarian considerations and security concerns after 9/11.

The various provisions of the MNRL and suggested amendments and inclusions call for further in-depth research. It is believed that India's enactment of a refugee law based on MNRL will be significant for refugee protection in the South Asian region.³⁵ However, MNRL is a declaration based on a regional initiative of the EPG. The geopolitics in the South Asian region may not allow any country to 'burn its hand' by incorporating MNRL in the national legislative system as every country has their security and economic stability concerns. However, the provisions of MNRL will be a great resource if any of the South Asian nations want to enact its own refugee legislation.

It becomes apparent from the above analysis that the Indian position towards refugee protection varies. Previously, there was no effort to find out why this is happening in a country like India which is governed by the rule of law. The reasons behind not acceding to the Refugee Convention were studied by few researchers but no satisfactory reasons were found because the government of India has given no formal reasoning in this regard. There is hardly any study which emphasized the reasons behind the lack of a coherent refugee protection policy by the government. There has also been no study which tried to find out why the government of India is so reluctant to recognize the MNRL drafted by the EPG. There is no answer to the question why the Tibetan and Sri Lankan refugees were under the protection of government of India excluding the other refugees who are present in India.

It may be because the Government of India is playing a game of care and power in the entire Asian Region. The decisions of the Supreme Court should be law of the land under Article 141 of the Constitution of India. However, no reason has been advanced why the lower judiciary is reluctant while trying the cases under the Foreigners Act through its refusal to allow such persons to contact UNHCR in order to be recognized as refugees.

³¹ *ibid* 199

³² *ibid* 201

³³ Probodh Saxena, 'Creating Legal Space for Refugees in India: the Milestones Crossed and the Roadmap for the Future' (2007) 19 *International Journal of Refugee Law* 246, 247

³⁴ *ibid* 249

³⁵ *ibid* 255

When a person is not a certified refugee she is liable to being tried under the Foreigners Act of 1946 as constituting a threat towards the security of the State and due to their illegal entry. Nevertheless, the same person after being certified as a refugee will not be tried. There is also the contradiction that, on the one hand the government allows UNHCR to conduct refugee status determination and certify refugees while on the other UNHCR were not given total mandate to determine refugee status of each and every refugee claimant present in India. Again, while the government is providing protection for Sri Lankan and Tibetan refugees, it also differentiates its treatment between the two groups. Tibetans were never told to find another country of refuge but Sri Lankans were repatriated. In the case of Bangladeshi *chakma* refugees there was pressure among them for repatriation.

All the above create the Indian characteristics of refugee protection as a game of care and power based on hospitality, security, morals, nation building etc.³⁶ It can be said that the questions of State obligations must be viewed from a human rights perspective, however refugees were not featured as a determining agent. Moreover, the debate of MNRL in India has been conducted from a court room angle, a fact which requires massive enquiry on sociological aspects.

Looking through the Lens

The hypothesis of this research can be divided into two parts. Firstly, dealing with refugees through ad hoc mechanisms in India is creating arbitrariness in their legal status and entitlements which denies humane and right-based treatment as per international refugee standard. Secondly, enactment of national refugee law can solve these problems by creating balance between refugee protection and security concerns, economic constraints etc.

This research will follow a combination of doctrinal and non-doctrinal research methods. There will be several chapters of the final thesis on the international standards of refugee protection, legal status of refugees in India, role of Indian judiciary, non-governmental organizations, National Human Rights Commission of India etc.

The research will deal with the Refugee Convention 1951 and Refugee Protocol 1967 extensively to find out the international standard of refugee protection. It will then focus on Indian policy of not acceding the Refugee Convention and Protocol and to find the reasons thereof. The decision of the Government of India for not acceding to the 1951 Refugee Convention will be analyzed and the researcher will try to assess the validity of those reasons. The researcher will then ascertain India's international obligations to protect the refugees as a signatory of various International Covenants and Conventions. India's position as a signatory of ICCPR, ICESCR, CRC, ICERD and CEDAW will also form part of the analysis in order to find out related provisions for refugee protection in these instruments. Constitutional obligation will be traced and relevant provisions will be analyzed and Constituent Assembly Debates will be considered to find out the intention of the legislators in implementing those provisions. Various local laws which deal with aliens in India will be scrutinized to show the vulnerability of refugees confronted with these laws.

³⁶ Ranabir Samaddar, '*Refugee and the State: Practices of Assylum and Care in India, 1947-2000*' (New Delhi SAGE Publications 2003) 61

The most important part of this research will be to analyze the role of Indian higher judiciary with regard to refugee protection. It is noteworthy that the Indian higher judiciary in numerous cases is involved in the protection of refugees in India and introduced the rights regime. The Supreme Court handled refugee related cases in various occasions; however interference on the ad-hoc policy of the government was limited. The most important task for the researcher will be to see whether the judgments of the Supreme Court and various High Courts have any real validity and reliability in the Indian political atmosphere. Apart from that, the role of non-governmental organizations and UNHCR India must be analysed.

The research questions which emerge are the following:

1. *Why did India not accede to the 1951 Refugee Convention or 1967 Protocol?*
 - i. How valid are the reasons for not acceding the 1951 Refugee Convention or 1967 Protocol?
 - ii. What is the international standard of refugee protection under the 1951 Refugee Convention and 1967 Protocol?

2. *What is the legal status of refugees in India?*
 - i. What are the international obligations imposed on India regarding refugee protection?
 - ii. What are the Constitutional obligations?
 - iii. How do the local laws deal with refugees?

3. *What steps has the Indian judiciary taken with regard to refugee protection?*
 - i. What is the relevant case- law in relation to refugee protection decided by the Supreme Court of India and various High Courts?

4. *Steps taken by governmental, non-governmental and international organizations*
 - i. What are the activities of the National Human Rights Commission in protection of refugees in India?
 - ii. What are the steps taken by non-governmental and civil society organizations with regard to refugee protection in India?

5. *How does UNHCR work for refugee protection in India including mandate, status determination?*
 - i. What is the role of India in the UNHCR Executive Committee?
 - ii. What are the problems faced by UNHCR for protection refugee in India?

6. *From the field study*

- i. What is the actual condition of registered refugees in India with regard to food, clothes, housing, education, health and employment?
- ii. Interview of expert refugee law academics, judges, lawyers and other professionals with regard to refugee protection in India.

7. *National refugee law for India*

- i. Does India need a national refugee law?
- ii. What are the merits and demerits of a national refugee law?
- iii. Is it possible to think of a temporary protection scheme for refugees in India?
- iv. How can a national refugee law be framed which will create balance between refugee protection and economic constraints, security concerns etc.?
- v. Analyzing refugee legislation of other countries.

The Final Focus

India is not a party to the 1951 Convention relating to the status of refugees and 1967 Protocol, so the protection given to various refugee groups was subject to administrative discretion which often resulted in arbitrariness. The social condition of refugees in India cannot be easily understood without the help of an empirical study by interviewing refugees from various refugee groups residing in India as registered refugees either by UNHCR or by the government using strategic random sampling method. After proper analysis of the Indian legal and administrative position on refugee protection, and the social condition of registered refugees in India, it will be possible to focus on India's future policy towards refugee protection. The MNRL framed by the Eminent Persons Group during the Dhaka Summit and a comparative research on refugee legislations of different countries with a long-standing tradition on refugee protection may lead to a model for India's future refugee policy. The end product of this research will lead to identify the guiding principles and elements of a national legislation.