



THE MISERY OF REFUGEES: ISSUES, GOVERNANCE, CHALLENGES AND SOLUTIONS *

INTRODUCTION

The United Nations ('Geneva') Convention Relating to the Status of Refugees which was adopted in December 1951 defines "Refugees" under Article 1(a) (2) as a person who owing to a well-founded fear of being prosecuted 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 or, owing to such fear, is unwilling to avail himself of the protection of that country.¹ The Macquarie dictionary definition of a refugee is 'one who flees for refuge or safety, especially to a foreign country, as in time of political upheaval, war etc'. According to the United Nations High Commissioner for Refugees in its 1999 Statistical Overview, refugees are persons recognized under the 1951 Refugee Convention; persons recognized under the 1969 Organization for African Unity Convention on Refugee Problems in Africa, persons granted humanitarian or comparable status and persons granted temporary protection.²

The United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons was held in Geneva. This conference led to the treaty called the "Convention Relating to the Status of Refugees of 28 July 1951." The international treaty establishes the definition of a refugee and their rights. A key element of the legal status of refugees is the principle of "non-refoulement" - a prohibition of the forcible return of people to a country where they have reason to fear prosecution. This protects refugees from being deported to a dangerous home country. The United Nations High Commissioner on Refugees (UNHCR) is the United Nations agency established to monitor the world refugee situation.

The refugee problem is a serious one; there are so many people around the world who need so much help and there are just not enough resources to help them all. The UNHCR tries to encourage host governments to provide assistance but most of the host countries are struggling themselves. The refugee problem is one that developed countries ought to take a greater part in to reduce human suffering worldwide. A refugee becomes a Refugee only because of the circumstances around him which left the person beyond his control, often poignant and ultimately he has to flee from Human Rights violations, civil war or ethnic strife all these

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¹ UNHCR (UN Refugee Agency), "Handbook and Guidelines on Procedures and Criteria for determining Refugee Status" Under the 1951 Convention and the 1967 Protocol Relating to the Status of the Refugees, Re-Issued Geneva, 2011, browsed on 2/10/2012; See also, International Justice Resource Centre at <http://www.ijrcenter.org/refugee-law/> browsed on 2/10/2012.

² Available at <http://www.unhcr.org/4dfa11499.html> browsed on 2/10/2012

leading to fear of persecution.³ There are currently some 43 million uprooted victims of conflict and persecution worldwide. More than 15 million of them are refugees who have fled their countries, while another 27 million are people who remain displaced by conflict inside their own homelands -- so-called "internally displaced people". For the past six decades, two United Nations agencies, the UN High Commissioner for Refugees (UNHCR) and the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), have been responsible for safeguarding the rights and well-being of refugees. UNHCR currently cares for 10.4 million refugees worldwide, while UNRWA helps some 4.8 million registered Palestine refugees in Jordan, Lebanon, Syria and the occupied Palestinian territory.⁴

IMMEDIATE CHALLENGES TO REFUGEES:

There are three utmost challenges which are faced by Refugees as recognized by UN High Commissioner for Refugees Antonio Guterres, whose agency works in more than 120 nations.⁵

The **first major challenge** cited by Guterres is the increasingly protracted nature of many modern conflicts, some of which have dragged on for years or even decades. And as they drag on, so too does the time spent in exile for millions of refugees. In fact, more than half of the refugees for whom the UN High Commissioner for Refugees (UNHCR) is responsible today have been in exile for more than five years. There are currently 25 of these so-called 'protracted situations' in 21 countries worldwide. For many, there is still no end in sight. One distressing sign of the intractability of today's conflicts is the fact that refugee repatriation is at a 20-year low. In 2009, some 250,000 refugees went home. While that may sound like a lot, it's actually only one-quarter of the average annual return rate of the past decade. Although agencies such as UNHCR can address some of the humanitarian needs of refugees living in long-term limbo, the underlying causes of these ongoing conflicts require a political solution. Without a resolution, the refugee numbers grow and the duration of their exile lengthens. Hope fades and refugees become desperate. At the same time, an increasingly disproportionate burden is placed on the many developing countries that already host four-fifths of the world's refugees.⁶ One way of easing that burden on less developed host countries is for more developed nations to take some of the most vulnerable refugees for resettlement. UNHCR has urged developed nations to help share the burden by increasing the number of resettlement places they can offer. But the 25 developed countries that now accept refugees for resettlement are still only able to provide places for about 10 per cent of the estimated 800,000 refugees who have been identified by UNHCR as needing such protection. And keep in mind that those 84,000 refugees resettled in 2009 still represent less than 1 percent of all refugees cared for by UNHCR around the world.

The **second challenge** is the increasingly dangerous climate in which humanitarian actors must work today, or what UNHCR calls the "shrinking of humanitarian space". Today's conflicts can have many different actors, including some who have no respect for humanitarian principles or the safety of those trying to help the victims. These different armed groups can include national and possibly foreign armies, ethnic- or religious-based militias, insurgent groups and bandits. All of these actors have been responsible for serious human rights violations. Providing humanitarian help in such an environment is both difficult and dangerous for aid workers, who

³ R. Matt, "The Global Refugee and Internally Displaced Persons Situation", available at <http://geography.about.com/od/globalproblemsandissues/a/refugees.htm> browsed on 2/10/2012.

⁴ See Resources of Speakers on Global Issues, REFUGEES, "Overview of Forced Displacement" at <http://www.un.org/en/globalissues/briefingpapers/refugees/overviewofforceddisplacement.html> browsed on 2/10/2012. See also, Anna Nelson, "War from the Victim's Perspective: A Photo Exhibit by Jean-Mohr" available at <http://intercrossblog.icrc.org/blog/war-from-the-victims%E2%80%99perspective-a-photo-exhibit-by-jean-mohr#sthash.cO2NgZib.dpbs> browsed on 2/10/2012.

⁵ Ibid

⁶ Ibid

are traditionally neutral and unarmed. In one six-month period in 2009, three UNHCR staff members were killed and another kidnapped.⁷ More recently, a UNHCR staff member was shot and killed in Sudan. In all, more than 40 UNHCR staff and associates involved in UNHCR operations have been killed in the line of duty, most of them in the past two decades. Humanitarians, whose objective is to help the innocent victims of conflict, are themselves increasingly becoming targets.

The **third challenge** is the erosion of the institution of asylum. This is particularly of concern in industrialized countries trying to cope with so-called “mixed movements” in which migrants, asylum-seekers, refugees and victims of trafficking travel alongside each other. These groups have different profiles and motivations for moving, and may thus have a very different status under international law. Migrants, especially economic migrants, choose to move in order to improve their lives. Refugees are forced to flee to save their lives or preserve their freedom. Although moving for different reasons, migrants, asylum-seekers, refugees and other groups increasingly make use of the same routes and means of transport to get to an overseas destination. If people composing these mixed flows are unable to enter a particular state legally, they may employ the services of human smugglers and embark on dangerous sea or land voyages, which many do not survive. UNHCR recognizes the sovereign right of governments to control their borders and ensure their national security, and many states have adopted measures aimed at preventing people without proper documents from entering their territory.⁸ However, if applied indiscriminately, those same measures can also create obstacles for refugees and asylum-seekers in genuine need of international protection. While refugees and asylum-seekers account for only a small proportion of the estimated 200 million people on the move in the world today, they are finding it ever more difficult to gain access to countries where they can seek protection.⁹ Everyone is entitled to exercise their fundamental human rights under international law. Refugees, asylum-seekers and migrants in an irregular situation are no exception to that rule. In reality, however, their rights are often violated. In places throughout the world, they are subjected to arbitrary and discriminatory treatment. In some of the world's most prosperous states, people, including women and children, who have arrived without the required papers can be held in detention for weeks or months on end even after they apply for asylum. Even the fundamental human rights principle of non-refoulement – that people should not be returned to a country where their lives or liberty are at risk – is being tested.¹⁰ A recent rash of involuntary returns of people who may need international protection in regions across the globe testifies to the vulnerability of even this long-established legal norm. Adding to the overall erosion of asylum are increasingly negative public attitudes in some countries toward foreigners, including refugees and asylum-seekers,. There has been a perceptible rise in racist and xenophobic acts in many nations, sometimes fuelled by politicians and the media.

PERMANENT AND VOLUNTARY SOLUTIONS:

Almost three quarters of all non-Palestinian refugees – 7.2 million people - have been trapped in temporary arrangements for over five years. Quite apart from the costs, the limited opportunities for refugees to work and inadequate education for their children create difficult psychological environments.

⁷ See, James Thomson, Rapporteur for the Annual Consultations, “Report on UNHCR's Annual Consultations with Non-Governmental Organizations”, 2008 Annual Consultation with NGOs, Geneva, Switzerland.

⁸ Long, Katy and Crisp, Jeff (2011) In harm's way: the irregular movement of migrants to Southern Africa from the Horn and Great Lakes regions. New issues in refugee research, Research paper no. 200. United Nations High Commissioner for Refugees, Geneva, Switzerland

⁹ See, Elizabeth Farris & Salman Shaikh, “Syrian Crisis: Massive Displacement, Dire Needs, and a Shortage of Solutions”, “Foreign Policy at Brookings, September 18, 2013”

¹⁰ See, Antonio Guterres & William Lacy Swing, “Making the most of Human Nobility (Statement by High Commissioner for Refugees)”, April 2010, UNHCR, The UN Refugee Agency.

There are three broad options for permanent solutions. **The first is local integration.** This grants refugees a permanent right to stay in the host country. Governments in both the developed and developing world are generally reluctant to acquiesce. There has been praise for Tanzania's move during 2010 to grant citizenship to a large group of Burundian refugees who arrived in 1972. The reported number of global refugees has been reduced by 162,000 on account to this decision. **The second major option is resettlement** in third countries. There is a global quota scheme, in which participating countries agree to take a certain number of refugees each year. However, few countries apart from the US offer meaningful quotas and only 99,000 refugees were resettled in 2010, a fraction of the demand.¹¹

The third option currently the most popular with support agencies and with the refugees themselves - is voluntary repatriation to the country of origin. About nine million refugees have been repatriated in the last ten years, making this the most successful of the durable solutions. However, the rate of these returns has now slowed considerably with only 197,000 in 2010, the lowest figure for 20 years. The main constraint is the protracted nature of conflicts in Afghanistan, Somalia and Democratic Republic of Congo.¹² The withdrawal of US troops from Iraq does not yet equate with a secure environment. This is especially relevant to Iraqi refugees in Syria, trapped with the additional quandary of political turmoil in their host country. Legally, repatriation can occur only when the returnees' safety can be guaranteed. The deadline for incentives encouraging Afghan refugees in Pakistan to return home has been extended to the end of 2012 because conditions in Afghanistan have not sufficiently improved. By contrast, the threat of persecution in Rwanda has been removed to the point at which a cessation clause in the 1951 Convention has been invoked. In June 2012 any country hosting Rwandan refugees will have the option to cancel the right to asylum on grounds that it is now safe to return.

Voluntary repatriation has historically benefited the largest number of refugees. While voluntary repatriation remains the preferred solution among most of the world's refugees, persistent conflict, fear of persecution or lack of basic services in the areas of return often prevent people from returning to their countries of origin. Resettlement is a key protection tool and a significant responsibility sharing mechanism. For some refugees, resettlement to a third country is the only way to find permanent safety and be able to enjoy fundamental human rights.¹³ Local integration is a complex and gradual process with legal, economic and socio-cultural dimensions. It is difficult to measure in numerical terms given the variety of legal and practical forms it can take. The analysis of local integration data in this report is therefore limited and subject to statistics available on the naturalization of refugees by host countries. Comparatively, resettlement benefits a small number of refugees; in 2010, only one per cent of the world's refugees directly benefited from resettlement. During the past 5 years, some 444,000 refugees were resettled compared to 2.5 million refugees who repatriated. Thus, for every refugee resettled since 2006, approximately 6 have repatriated. In recent years, UNHCR has worked with States to increase the use of resettlement as a strategic durable solution – which has been vital in resolving some protracted refugees situations, maintaining protection space, and opening up solutions that may have otherwise been unavailable.¹⁴

REFUGEES AND THE INDIAN LEGAL FRAMEWORK:

Refugees encounter the Indian legal system on two counts. There are laws which regulate their entry into and stay in India along with a host of related issues. Once they are within the Indian

¹¹ Available at <http://uk.oneworld.net/guides/refugees> browsed on 2/10/2012

¹² See, Asylum Seeker Resource Centre, "Asylum Seekers and Refugees: Myths, Facts & Solutions", available at <http://www.asrc.org.au/wp-content/uploads/2013/07/MythBusterJuly2013FINAL.pdf>, browsed on 2/10/2012.

¹³ See, UNHCR, Global Trends 2010, "60 Years and Counting"

¹⁴ Ibid

Territory, they are then liable to be subjected to the provisions of the Indian penal laws for various commissions and omissions under a variety of circumstances, whether it is as a complainant or as an accused. These are various constitutional and legal provisions with which refugees may be concerned under varying circumstances.

CONSTITUTIONAL PROVISIONS:

There are a few Articles of the Indian Constitution which are equally applicable to refugees on the Indian soil in the same way as they are applicable to the Indian Citizens.¹⁵

The Supreme Court of India has consistently held that the Fundamental Right enshrined under Article 21 of the Indian Constitution regarding the Right to life and personal liberty, applies to all irrespective of the fact whether they are citizens of India or aliens. The various High Courts in India have liberally adopted the rules of natural justice to refugee issues, along with recognition of the United Nations High Commissioner for Refugees (UNHCR) as playing an important role in the protection of refugees. The Hon'ble High Court of Guwahati has in various judgments, recognized the refugee issue and permitted refugees to approach the UNHCR for determination of their refugee status, while staying the deportation orders issued by the district court or the administration.¹⁶

In the matter of **Gurunathan and others vs. Government of India**¹⁷ and others and in the matter of **A.C.Mohd.Siddique vs. Government of India and others**¹⁸, the High Court of Madras expressed its unwillingness to let any Sri Lankan refugees to be forced to return to Sri Lanka against their will. In the case of **P.Nedumaran vs. Union Of India**¹⁹ before the Madras High Court, Sri Lankan refugees had prayed for a writ of mandamus directing the Union of India and the State of Tamil Nadu to permit UNHCR officials to check the voluntariness of the refugees in going back to Sri Lanka, and to permit those refugees who did not want to return to continue to stay in the camps in India. The Hon'ble Court was pleased to hold that "since the UNHCR was involved in ascertaining the voluntariness of the refugees' return to Sri Lanka, hence being a World Agency, it is not for the Court to consider whether the consent is voluntary or not." Further, the Court acknowledged the competence and impartiality of the representatives of UNHCR. The Bombay High Court in the matter of **Syed Ata Mohammadi vs. Union of India**²⁰ was pleased to direct that "there is no question of deporting the Iranian refugee to Iran, since he has been recognized as a refugee by the UNHCR." The Hon'ble Court further permitted the refugee to travel to whichever country he desired. Such an order is in line with the internationally accepted principles of 'non-refoulement' of refugees to their country of origin.

The Supreme Court of India has in a number of cases stayed deportation of refugees such as **Maiwand's Trust of Afghan Human Freedom vs. State of Punjab**²¹; and, **N.D.Pancholi vs. State of Punjab & Others**²². In the matter of **Malavika Karlekar vs. Union of India**²³, the Supreme Court directed stay of deportation of the Andaman Island Burmese refugees, since

¹⁵ Articles, 14, 20 and 21 of the Indian Constitution

¹⁶ See, T. Ananthachari, "Refugees in India: Legal Crisis, Law Enforcement & Security"

¹⁷ *Gurunathan & ors. v. Union of India*, WP No.S 6708 and 7916 of 1992

¹⁸ *A.C. Mohd. Siddique v. Govt. of India*, 1998(47) DRJ (DB) p.74

¹⁹ *P.D. Nedumaran v. Union of India*, The case is pending before the National Human Rights Commission of India, 13 August 1997

²⁰ *Syed Ata Mohammadi vs. Union of India*, Criminal writ petition no.7504/1994 at the Bombay High Court

²¹ *Maiwand's Trust of Afghan Human Freedom v. State of Punjab* Crl. WP No.125 & 126 of 1986

²² *N.D. Pancholi vs. State of Punjab & Others* [WP (civil) No. 1294 of 1987, unreported].

²³ *Malvika Karlekar v. Union of India* Crl. WP No.243 of 1988

“their claim for refugee status was pending determination and a prima facie case is made out for grant of refugee status.” The Supreme Court judgement in the Chakma refugee case clearly declared that no one shall be deprived of his or her life or liberty without the due process of law. Earlier judgments of the Supreme Court in **Luis De Raedt vs. Union of India**²⁴ and also **State of Arunachal Pradesh vs. Khudiram Chakma**²⁵, had also stressed the same point.

ARREST, DETENTION AND RELEASE

There is yet another aspect of non-refoulement which merits mention here. The concept of ‘International Zones’ which are transit areas at airports and other points of entry into Indian territory, which are marked as being outside Indian territory and the normal jurisdiction of Indian Courts, is a major ‘risk factor’ for refugees since it reduces access of refugees to legal remedies. This legal fiction is violative of the internationally acknowledged principle of non-refoulement. In the matter of a Palestinian refugee who was deported to New Delhi International Airport from Kathmandu was sent back to Kathmandu from the transit lounge of the Airport. He was once more returned to New Delhi International Airport on the ground of being kept in an ‘International Zone’. Such detention is a classic case on the above point barring legal remedies to the detained refugee. The only relief in such a case is through the administrative authorities.²⁶

The Indian Constitution does not contain any specific provision which obliges the state to enforce or implement treaties and conventions. A joint reading of all the provisions as well as an analysis of the case law on the subject shows international treaties, covenants, conventions and agreements can become part of the domestic law in India only if they are specifically incorporated in the law of the land. The Supreme Court has held, through a number of decisions on the subject²⁷ that international conventional law must go through the process of transformation into municipal law before the international treaty becomes internal law. Courts may apply international law only when there is no conflict between international law and domestic law, and also if the provisions of international law sought to be applied are not in contravention of the spirit of the Constitution and national legislation, thereby enabling a harmonious construction of laws. It has also been firmly laid that if there is any such conflict, then domestic law shall prevail.

GROUND REALITIES - SOME ASPECTS IN THE INDIAN PERSPECTIVE:

ROLE OF BORDER GUARDING FORCES AND LAW ENFORCEMENT OFFICIALS

It will be useful to acquaint oneself with the realities on ground when a refugee attempts to cross or actually crosses over to India. The Border Security Force (BSF) which guards the India-Pakistan and the India-Bangladesh borders, the Indo-Tibetan Border Police Force (ITBPF) which is deployed along the India-Tibet (China) border and the Assam Rifles (AR) which is deployed along the India-Myanmar border, are usually the first representatives of the Indian system which refugees may encounter when they enter or exit India by land routes. Vastness and, sometimes even the treacherous nature of the border terrain make it difficult to physically man the entire international borders of India.²⁸ The gaps in the border left unguarded,

²⁴ *Luis De Raedt v. Union of India* (1991) 3SCC 544

²⁵ *State of Arunachal Pradesh v. Khudiram Chakma* 1994 Supp. (1) SCC 615

²⁶ Delhi High Court, Criminal Writ Petition-60/1997

²⁷ (E.g., *Gramophone Company of India Ltd v. Birendra Bahadur Pandey* AIR 1984SC 667; *Civil Rights Vigilance Committee, SLRC College of Law, Bangalore v. Union of India* AIR 1983 Knt.85; *Jolly George Varghese v. Bank of Cochin* AIR 1980 SC 470.)

²⁸ Available at <http://www.worldlii.org/int/journals/ISILYBIHRL/2001/7.html> browsed on 3/10/2012

are often used by refugees to illegally enter/exit the Indian Territory. If caught while entering illegally, the authorities may return the refugee across the border, sometimes even without ascertaining relevant refugee claims of persecution in the country of origin, though this is not in strict conformity with the internationally acknowledged principle of non-refoulement. When this happens, the refugee may face 'forced return' to the country where he/she came from. In the alternative, the border guarding force may interrogate and detain the person as permissible under the law of the land, at the border itself, pending decision by the administrative authorities regarding his plea for refuge/ asylum.²⁹

It goes without saying that there will be circumstances and occasions when the authorities may have to be satisfied about the bona fides of the person concerned. It is part of the duty and responsibility of the authorities to rule out any criminal or anti-national taking the plea of a 'refugee' and entering the country for mala fide purposes. If caught while illegally exiting India, the person (refugee) may be handed over to the local police for investigation and for further action according to law. In cases where the refugee is found in possession of invalid travel documents or in cases of violation of any other Indian law, the refugee may be detained by the border authorities at the border post itself and handed over to the local police for investigation. In all such instances, after the registration of a case on the basis of a First Information Report, the police would lodge the accused refugee in the area prison and produce him/her in the local court for trial in conformity with the provisions of CrPC.³⁰

The following two cases will illustrate the position of law as well as the procedure that is followed in two specific circumstances. Mahmud Ghazaleh, an Iranian refugee registered with UNHCR, was detained while illegally exiting India for Nepal via the Sonauli border in District Maharajgunj, U.P. The refugee was travelling on forged & fabricated travel documents. He was detained by the border authorities who prima facie discovered that his travel documents were forged. They handed the refugee over to the local police station at Sonauli for investigation and registration of FIR u/s 419/420/468/471 IPC read with Sec 3/6 of the Passport Act and Sec.14 Foreigners Act. He was subsequently interned at the Gorakhpur district jail. In another case two Afghan refugees, Shah Ghazai and his minor son Assadullah, were apprehended by the authorities at the Attari border at Amritsar, Punjab while attempting to illegally exit India for Afghanistan via Pakistan. They were handed over to the local police in Gharinda, district Amritsar for investigation and registration of FIR and were subsequently interned at the Amritsar Central Jail.³¹

NGOs and Human Rights activists look for instances and often intervene through legal action in courts, in cases of suspected illegal detention of refugees, particularly in cases where it is alleged that formal FIR is not recorded by the concerned law enforcement authorities even after such a detention. It is sometimes alleged that such a situation obtains in cases where the refugee is suspected to be a spy or a terrorist entering the Indian borders with the deliberate and mala-fide intent to cause harm to the stability and integrity of the country or a person suspected to be engaged in trans-border crime like smuggling etc. In such cases allegations are made that the refugee's detention would not be recorded until the authorities are in a position to know the credentials of the individual(s) concerned. The following case is illustrative of the above, even though the circumstances pertaining to it may be somewhat different. An Iranian refugee, Syed Ata Mohamadi, recognised by UNHCR, was apprehended at the Bombay International airport en route to Canada. He was detained at the immigration lounge of the airport for travelling on

²⁹ Ibid

³⁰ Refugee and Immigration Ministry/Root causes of Refugee and Immigration/Available at <http://www.disciplehomemissions.org/files/RIMRootCauses.pdf> browsed on 3/8/2012

³¹ Ibid

an assumed name, on a false passport. His detention lasted over a month; he was released only on the intervention of the Bombay High Court.

Immigration and Custom officials come into the scene at the point of entry into India through seaports and airports. In cases where a refugee is detected while entering/ exiting established seaports and airports on Indian Territory, without valid travel documents, he/she is immediately detained by the Immigration/ authorized Custom officers and prima facie investigated. In cases of illegal entry, the immigration authorities usually take steps to deport the refugee immediately to the country where he or she last came from. This, it may be mentioned, is not in conformity with the principle of non-refoulement. Pending deportation, the refugee is detained at a detention cell in the immigration section of the airport, seaport etc.³² In such an eventuality, the refugee has to arrange to buy his/her own meals and other requirements from resources at his/her disposal. In addition, when deported, the cost of the ticket is also required to be paid by the refugee, which often renders him/her a destitute. The following is a case of this kind. A Palestinian refugee Majid Ahmad was deported from Kathmandu to New Delhi. He was again sent back to Nepal and was once again deported back, thus amounting to four trips in two days. He was subsequently detained at the Immigration lounge of the International Airport at New Delhi for over 25 days. All the expenses for his food as well as his forced travels including his final deportation to Bangladesh were met from his personal resources, which no doubt was almost fully depleted.³³

CONCLUSION:

People who decide to leave everything they have ever known, fleeing with what they can carry to begin an unknown future in a new country, usually make the decision only when there seems to be no other option for survival, or when the kind of survival they would experience at home is unbelievably brutal and stark. The presence of refugees and immigrants anywhere in the world indicates that something has gone seriously wrong, and it is important for us to understand why people are forced into the desperate decision to flee their homelands. That decision is usually caused by internal conditions that make life unbearable in the home country. However, where these conditions exist, external conditions may also contribute to the decision to leave, such as rumors about the availability of a better life elsewhere. Among the most common causes of refugee and immigration movements are: war, poverty, human rights violations, and mistreatment of minorities. These causes are most often found in combination with each other. Ethnic cleansing leads to war; human rights violations lead to poverty; etc. It can be easily seen from the foregoing paragraphs that India notwithstanding its own security concerns, particularly in the last couple of decades, and pressure of population and the attendant economic factors, continues to take a humanitarian view of the problem of refugees. Even though the country has not enacted a special law to govern 'refugees', it has not proved to be a serious handicap in coping satisfactorily with the enormous refugee problems besetting the country. The spirit and contents of the UN and International Conventions on the subject have been, by and large, honoured through executive as well as judicial intervention. By this means, the country has evolved a practical balance between human and humanitarian obligations on the one hand and security and national interest on the other. It is in balancing these interests, which may sometimes appear to be competing with each other, that the security and law enforcement agencies face day-to-day challenges. If and when a separate 'Refugee

³² See, D. Pushpita, "India's Border Management (Select Documents)", Institute for Defence Studies and Analysis, New Delhi.

³³ Ibid

Law' for the country is enacted, it is important that this aspect is given due consideration. It is important that security and enforcement officials do not overlook both the legal as well as the underlying human angles inherent in the 'refugee' situation, especially the latter



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