

Refugees & IDPs
in
South Asia

Editor:
Dr. Nishchal N. Pandey

COSATT
CENTRE FOR ORIENTAL STUDIES AND
TERRITORY RESEARCH



Konrad
Adenauer
Stiftung

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Dr. Nishchal N. Pandey

CONSORTIUM OF SOUTH ASIAN THINK TANKS
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Preface

Consortium of South Asian Think-tanks (COSATT) brings to you another publication on a critical theme of the contemporary world with special focus on South Asia. Both the issues of refugees and migration has hit the headlines the world-over this past year and it is likely that nation states in the foreseeable future will keep facing the impact of mass movement of people fleeing persecution or war across international borders.

COSATT is a network of some of the prominent think-tanks of South Asia and each year we select topics that are of special significance for the countries of the region. In the previous years, we have delved in detail on themes such as terrorism, connectivity, deeper integration and the environment. In the year 2016, it was agreed by all COSATT member institutions that the issue of refugees and migration highlighting the interlinkages between individual and societal aspirations, reasons and background of the cause of migration and refugee generation and the role of state and non-state agencies involved would be studied and analyzed in depth. It hardly needs any elaboration that South Asia has been both the refugee generating and refugee hosting region for a long time. South Asian migrants have formed some of the most advanced and prosperous diasporas in the West. However, due to increasing trends of poverty, unemployment, religious extremism getting intertwined with conflict; migration and refugees are going to be critical issues of the contemporary world with regional and global consequences. There have been

tremendous failures of policy, strategy and assessments and very little work being done and poor coordination between South Asian countries.

Despite of the creation of the South Asian Association for Regional Cooperation (SAARC) in 1985, member states have not brought the issue of refugees in the formal SAARC agenda. Since SAARC has been avoiding bilateral, contentious issues it has not been touching the issue of refugees or even the IDPs but the civil society and the track-II of South Asia have all along been clamoring for an informed debate on this topic.

In this context, two major conferences were organized this year (2016) first in Kathmandu inaugurated by Chairman of the Nepal Human Rights Commission and former chief justice Anup Raj Sharma and second in Colombo inaugurated by Minister for Prison Reforms, Rehabilitation, Re-settlement and Hindu Religious Affairs of Sri Lanka DM Swaminathan. On both occasions, thought provoking papers were presented by well known experts representing the major think-tanks. Some experts were also drawn from the civil society, academia and the media. These papers have been incorporated in this volume. They explore the experiences and lessons learned from various interventions on the ground throwing particular light on the problems faced by particular groups. The book therefore is one of its kind in South Asia since very little has been written on these twin-subjects.

Konrad Adenauer Stiftung (KAS) has been supporting the COSATT initiative from its very inception. I would like to thank from the bottom of my heart the Director of the Regional Programme Political Dialogue - Asia and the Pacific of the KAS Dr. Beatrice Gorawantschy and her team for their unflinching

support and encouragement which we are optimistic will continue in the months and years ahead.

One of the first comprehensive resource books on this subject with research articles by erudite authors from across South Asia, I am hopeful that this will be of immense value to the governments, policy makers, development sector workers, as well as researchers of the region and beyond.

Nov. 2016

Dr. Nishchal N. Pandey
Kathmandu

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Migration and IDPs in South Asia

**Keynote Address by Hon. D. M. Swaminathan MP,
Minister of Prison Reforms, Rehabilitation,
Resettlement and Hindu Religious Affairs**

There are 214 million estimated international migrants in the world today where they comprise 3.1 percent of the global population. Global migration flows have increased in magnitude and complexity due to economic and human security factors. The last two centuries have witnessed several waves of migrant flows across the world.

Migration is not new for South Asia. In the colonial period, millions of indentured workers were recruited. In the South Asian region, the factors influencing migration are multi-faceted. Poverty is seen as one of the key root causes. The income disparities in the South Asian region will remain pronounced and will continue to underprop the economic incentives for the 'poor and low skilled' to migrate.

Another main cause for migration is connected with political struggles. The internal conflict in the South Asian countries caused large-scale refugee movements. The openness of the United States, Canada, and Australia to family migration meant that primary movements from South Asian countries as asylum seekers.

At the end of 2008, war-torn Afghanistan which millions of people first fled in 1979 when the Soviet Union invaded remained the biggest global source of refugees, with 2.8 million (one-fourth

of the global refugee population) in 69 different asylum countries according to the United Nations High Commissioner for Refugees (UNHCR). Pakistan hosted the most refugees of any country in 2008, with 1.8 million, nearly all from Afghanistan.

The long civil war in Sri Lanka led to mass internal displacement as well as refugee outflows. In 2001, an estimated 144,000 Sri Lankan Tamils were living in camps in India, while other Tamils were dispersed around the world. The resurgence of fighting in 2006 led to new displacements, especially of Tamils from the north of the island.

In January 2009, UNHCR counted 137,752 Sri Lankan refugees around the world, and over half a million persons internally displaced within Sri Lanka. The final war of April-May 2009 led to many civilian deaths and injuries and to further large scale flight. In early July 2009, 280,000 persons were reported to be housed in government camps in northern Sri Lanka.

South Asian countries are experiencing large scale internal migration due to the urbanization. There are lot of poor rural urban migrants.

Migration was considered a problem in the developing world, including South Asia, in the past for its negative implications for development in terms of brain drain and labour force reduction. However, in recent times, the benefits of migration have received greater attention in the development discourse, particularly considering the importance of remittances as a source of foreign exchange as well as numerous human development benefits such as knowledge, skill and technology transfers, reduction in unemployment, poverty reduction, and empowerment of underprivileged segments of the society. Therefore migration has

been a critical factor in South Asian economies as a source of employment and livelihood for workers, and as a source of remittances which provide a stable flow of external finance.

The remittances of migrants represent a significant proportion of most South Asian countries' Gross Domestic Product (GDP) as well as foreign exchange earnings. South Asia has traditionally had a comparative advantage in the export of low-skilled labour at low cost. Therefore we can see that there has been a growth in migration from South Asia into new markets all over the world.

When we look Sri Lanka in the IDP context, the people from Northern and Eastern Provinces were severely affected by the civil conflict that continued for more than thirty years. This led to a large number of Internally Displaced People in the Northern and Eastern Provinces. The protracted civil conflict in the country imposed massive and long-lasting human, social and economic costs which are immeasurable. The human and social costs of death, disability and the mental trauma affected the same Internally Displaced People severely. The economic cost of the thirty years civil conflict is also very high. Houses, properties and other belongings of those people were totally destroyed due to the conflict. Resettlement of the Internally Displaced Families in the Northern and Eastern Provinces continues as a significant issue in national and international level.

Since the cessation of the armed conflict in May 2009, there was much improvement in lives of people affected by the armed conflict. The then Government of Sri Lanka planned and initiated a resettlement programme for the Internally Displaced Families. From May 2009 to up to now, 237,535 Families consisting 821,305 Persons have returned to their places of origin or

relocated in alternate locations in Northern and Eastern Provinces. Most of the people who were displaced during the last six years period have returned to their places of origin or relocated in alternate locations. Hence 13,324 Internally Displaced Families consisting of 43,026 persons either live in the Welfare Centres in Jaffna or with their friends and relatives.

After January 2015, there were prominent improvements in the existence of the Internally Displaced People in the Northern and Eastern Provinces. As the first step to the reconciliation and peacebuilding, the Ministry of Resettlement has taken necessary steps with the support of the new Government of Sri Lanka, to release the lands of the Internally Displaced Families in their places of origin gradually. Lands extents of 1,760 Acres in Jaffna District, 903 Acres in Trincomalee District and 474 Acres in Kilinochchi District have been released in 2015 and 2016 and 3,152 Internally Displaced Families have been resettled in these lands. This land release gave a highly regarded improvement in lives of people affected by the conflict and a projecting change in the national reconciliation and peacebuilding in Sri Lanka.

After returning to their place of origin or the relocated alternate locations, the Internally Displaced Families need to be provided with housing, sanitation, water supply and other basic facilities as infrastructure (Access roads, Schools, Hospitals) to enable them to have a durable solution as predicted by the UNHCR. In the conflict affected areas, most of the families lost their houses and other properties. After returning they have no way for their livelihood. Land areas which were released after 25 years, need all basic infrastructure developments.

Therefore the present Good Governance Government of Sri

Lanka has taken necessary actions to rebuild the conflict affected areas and to uplift the living status of the Internally Displaced Families through providing durable solutions to them. The Ministry of Prison Reforms, Rehabilitation, Resettlement and Hindu Religious Affairs identified that providing of basic needs and facilities to the newly resettled families is an urgent and important matter to ensure resettlement with durable solution. Therefore Ministry planned and initiated a rapid Resettlement and Development Programme for the Internally Displaced Families in 2016.

Even though the present Government has financial difficulties in the Treasury due to the financial mismanagement of the former government, a special attention was given about the Internally Displaced People when prepared the budget proposal and in 2016, a distinct budgetary allocation of Rs.14 Billion has been allocated for the Resettlement and Development Projects for the conflict affected areas in the Northern and Eastern Provinces and Former Threatened Villages in the border districts like Ampara, Anuradhapura, Polonnaruwa and Puttalam. This budgetary allocation is being utilized to provide durable solutions to the Internally Displaced Families and the Refugee Returnees from India. As a result the Northern Province has contributed around 12% of the GDP while the other provinces contributed around 7% of the GDP.

The present Government of Sri Lanka recognizes that the provision of durable solutions to the Internally Displaced People when they return to their places of origin will heal the wounds of war and forging a strong sense of unity within a diverse polity. A meaningful solution will positively impact on the lives of the Internally Displaced People and those affected by displacement and a sustainable and all-inclusive reconciliation can also be achieved.

IDPs in South Asia: Is A Regional Response Necessary?

Abdul Ghafoor Mohamed¹

There has been an alarming increase in the numbers of people considered as IDPs all over the world in recent years, and South Asia has been no exception. The issue of internally displaced persons (IDPs) has become an increasingly serious issue in the member states of South Asia Association for Regional Cooperation (SAARC) in recent years. Political conflicts within states, border issues between member states, spread of radicalization and increasing terrorist attacks within the region in addition to being subject to periodic natural calamities have contributed to a growing number of internally displaced persons in all South Asian countries. While the issue of IDPs has been traditionally dealt with largely as a domestic issue, regional ramifications of having large numbers of IDPs, often near the borders can no longer be ignored. There is much SAARC member states could learn from each other in terms of national experiences and best practices in dealing with the many challenges facing IDPs.

The widely accepted definition of an internally displaced person is someone who is forced to flee his or her home but who remains within his or her country's borders. Although IDPs may not fall within the legal definition of refugees, they are often

1 Former Ambassador of The Maldives to the United States and Permanent Representative to the United Nations.

referred to as refugees. While a difference is often made between refugees and IDPs, it is not quite uncommon that today's IDPs often end up as refugees in the future.

The causes that produce IDPs all around the world are well known. Some are man-made and thus one might argue avoidable, while others are the tragic consequences of natural disasters. Some populations end up being displaced due to environmental mismanagement often caused by developmental projects pursued by governments or multinational companies. Wars, ethnic conflicts, religious discrimination, minority oppression may also add to an upsurge in the numbers of IDPs in a country.

Even in The Maldives, the smallest of the South nations, and usually considered a relatively safe haven in the region, the tsunami of 2004 resulted in producing large numbers of IDPs, some of whom in fact had to be resettled in other islands or newly built islands. More than 10 years after the tragic incident, the resettlement of many of the islanders who lost their homes in the tsunami still remain an unfinished business.

The predicaments faced by IDPs in other South Asian countries are even more serious. This fact is even more exacerbated by the fact that IDPs often are from the most vulnerable sections of the population – economically disadvantaged, ethnic and/or religious minorities, women and children. And more often than not, there are hardly any laws or regulations or support structures established either within the countries or even internationally to afford assistance to such groups. Even where attempts to address the issues faced by IDPs have been made nationally, the policies have tended to be discriminatory, favouring selective groups while others continuing

to remain marginalized. This is often the result of the definition being used to identify who would be considered an IDP or who would not, being based on political considerations. Moreover, IDPs have lacked legal or constitutional mechanisms that might provide them protection, the rehabilitation and care that may be made available to them being often ad-hoc. And yet, IDPs face even more serious problems than refugees, as they are forced to remain within a system that is responsible for their displacement. Nor is there an international protection mechanism that has been developed for their benefit.

As the plight of IDPs in the region has been worsening in recent years, it is time for the South Asian countries to consider a paradigm shift in dealing with the issues of IDPs in the region.

South Asian countries must recognize that programmes developed for IDPs need to move beyond merely addressing their humanitarian and welfare needs, to include a framework of rights and justice in an equitable manner, without discrimination between different types of IDP groups. One of the many criticisms that has been leveled against the treatment afforded to IDPs in South Asia has been the tendency to be more accommodative of the needs of those that had been displaced due to environmental disasters, such as the tsunami victims, while being dismissive of the hardships faced by those victims that have had their lives uprooted due to political conflicts.

South Asian countries need to recognize that the IDP issue is not necessarily just a national or a bilateral issue any more. While the magnitude of the issue may vary from country to country, it is evident that all the South Asian countries are affected by the presence of IDPs. Moreover, the issues that arise from the

presence of IDPs can no longer be dealt with or kept within the borders of a country. More often than not, one country's IDPs today have the potential to end up as either refugees or migrants in bordering or neighbouring countries tomorrow.

The potential for increased bilateral tensions and increased conflicts in the region is ever present. Persistent conflicts within the countries and across borders and the tenuous lifestyles imposed upon IDPs make them extremely vulnerable targets for radicalization and other illegal and nefarious activities. In their desperation to seek out a better life for themselves and their families, many are prone to fall victim to becoming illegally trafficked for labour, prostitution, drug smuggling and/or being used as tools for terrorism.

As such, it will not only be a prudent policy, but indeed has become necessary, to seriously consider developing a regional approach in dealing with the issue of IDPs in South Asian countries. It has been recognized that a clear legal framework that helps protect the rights of IDPs is currently lacking in South Asia, and that it is necessary to develop such a framework.

South Asia may be beset with a myriad of conflicts and seemingly endless confrontations; yet it has also been established that the region is capable of engaging in regional cooperation, even during periods of intense disagreements and on controversial issues.

The South Asian Association for Regional Cooperation (SAARC) has now been in existence for over three decades. Its progress may have been slow, and it may not have always lived up to the expectations often promised by the rhetoric expressed by its leaders. Yet, one should also recognise that the Association has

not gone backwards – indeed, the decision by Afghanistan to join SAARC as its eighth member is indicative of the belief in the continued relevance of the Association in the region.

The SAARC Charter may exclude bilateral or contentious issues being raised in SAARC forums. But over the years, it has become evident that the existence of SAARC has been beneficial in reducing bilateral tensions at critical times, even if indirectly. While the SAARC agenda may not formally deal with political issues, the many bilateral meetings of SAARC leaders that are held on the sidelines of the SAARC Summit provide important opportunities to discuss and iron out differences between leaders, without much domestic political costs.

Hence, it is not inconceivable that member states could agree on the issue of dealing with the issue of IDPs in the region, with a view to formulating a regional framework for addressing the plight of IDPs. Indeed, one might argue that the basis for initiating a regional discussion on the critical human rights and security challenges posed by the growth of IDPs in the region already exist within the framework of the SAARC Social Charter adopted by the member states in 2004. This is a document that built up on the many social pledges that the SAARC member states had committed themselves in the past, such as the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution and Convention on Regional Arrangements for the Promotion of Child Welfare. More recently, SAARC member States have also agreed on a Convention on Cooperation of Climate Change.

Although the implementation of these conventions and agreements may have tended to fall short, the fact that SAARC

member states are able to reach a consensus on such complex issues is indicative of a desire and willingness to recognize the efficacy of working towards a regional solution. As such, there is no reason why member states should not consider formulating a regional mechanism that would address the issue of dealing with IDPs in the region.

As a beginning, member states could consider adopting the issue of migration, refugees and IDPs as a theme for a forthcoming summit. Such a step would help bring the issue to the forefront at the highest political levels and engage member states in exchanging information and experiences to identify best practices to produce regionally accepted standards of conduct in dealing with the plight of IDPs in the member states. Undoubtedly, this would require a strong humanitarian commitment and political will on the part of all leaders of South Asian countries.

The Refugee Imbroglia with Special Focus on Tibetan and Bhutanese Refugees in Nepal

Mohan P. Lohani¹

Introduction: Defining ‘Refugee’

International Encyclopedia of the Social Sciences (1968), while acknowledging that there is no single definition of “refugee” that is suitable for all purposes, categorically states that all refugees have common characteristics, such as they are uprooted, they are homeless, and they lack national protection and status.²

Article 1 of the 1951 Refugee Convention as amended by the 1967 Protocol defines a refugee as ‘a person who, 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 or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.’³

1 Former Nepalese Ambassador to Bangladesh and former Executive Director of the Institute of Foreign Affairs (IFA), Kathmandu.

2 *International Encyclopedia of the Social Sciences (1968)*, Copyright 2008 Thomson Gale

3 *1951 Refugee Convention and the 1967 Protocol*

Despite the exodus and influx of refugees in earlier centuries, the refugee problem in the modern age has become more complicated. 'Modern refugee movements, beginning in Europe and subsequently becoming world-wide, have given rise to a new class of people who are not only homeless and stateless but also live in a condition of constant insecurity which erodes human dignity. They have caused grave political and economic problems for the countries of temporary reception, problems which have proved too burdensome for the administrative facilities and financial resources of private organizations and national governments. The refugee problem, precisely speaking, has transcended national jurisdiction and institutions.'⁴

The Refugee Imbrolio Confronting Europe

Europe is currently grappling with its worst migrant crisis since World War II. Over one million people crossed clandestinely from Turkey to Greece in 2015 and some 1,50,000 have made the trip since the start of this year. It is reported that hundreds of thousands have arrived in Europe fleeing conflict in the hopes of starting a new life. Pope Francis, during his recent visit to Greece, commenting on the plight of migrants observed: 'We have come to call the attention of the world to this grave humanitarian crisis and to plead for its resolution.'⁵ The Pope took back with him to Rome 12 Muslim refugees from Syria, including six children. At a time when European attitudes have been hardening against refugees, the Pope's action was a symbolic gesture of sympathy for the crisis confronting the refugees. It may be noted that Syria has been in the grip of civil war for the last five years. While more

4 *International Encyclopedia of the Social Sciences (1968)*, Op. cit

5 *International New York Times*, April 18, 2016

than 2,50,000 Syrians have been killed in this war, approximately 2 million Syrians, mostly women and children, have fled the country and become refugees in the Middle East and Europe. The deepening civil war in Syria has been exacerbated by the conflicting interests of major powers of the world.

The Refugee Problem Confronting Nepal

a) The Problem of Tibetan Refugees

Nepal has had to cope with the influx of refugees in different periods right from the late fifties to the early nineties of the last century. Tibetans entered Nepal as the first group of refugees in 1959 after the failure of the uprising in Lhasa led by the Dalai Lama against Mainland China. Accompanied by a large number of followers, the Lama left Lhasa and sought asylum in India. Tibetan refugees, approximately 20,000 in number, have been sheltered and settled in the following 12 Tibetan Refugee Camps in Nepal.

The 1993 record confirms that only 3,545 Tibetan refugees out of 13,465 are Refugee Card (RC) holders. The rest 9,920 are non-RC holders. Four percent of the Tibetan refugees, born and brought up in Nepal, have become stateless. Tibetan refugees in Nepal have continued to complain that they are not allowed to hold peaceful demonstrations; have no right to own fixed property and are not permitted to apply for public jobs. In spite of being RC holders, they face difficulty in getting driving license and travel documents and in opening bank account. They complain of their

religious and cultural activities being viewed with suspicions by Nepali authorities.⁶

Tibetan refugees are found, from time to time, engaged in unlawful activities. They court arrest as fake passport holders or on charges of possessing illegal gold and illegal citizenship certificates of Nepal even by paying exorbitant sums of money.

In recent years, Tibetan refugees have resorted to self-immolation because they are prevented from protesting the alleged occupation of Tibet. Many Tibetans stage demonstrations for 'Free Tibet' every year in front of the Chinese embassy and protest against Government of Nepal restrictions on their activities. The latest US Report on Human Rights in Nepal has blamed the government of Nepal for not issuing refugee cards to Tibetan refugees since 1995. The Report informs that according to UNHCR estimate, more than half of the 15,000 to 20,000 resident Tibetan refugees have remained undocumented.⁷

Tibetan refugees have been transiting Nepal for more than 55 years and there has been decrease in their influx. Since 2008 during which China as host to World Olympic Games heightened security along its border and increased vigilance of people moving towards Nepal. The latest American Report on Human Rights accuses Nepali police and other local officials of harassing Tibetans engaged in daily activities. The movement of Tibetan refugees in Nepal is monitored under strict surveillance and restricted as Tibet, the soft belly of China, remains a sensitive

6 Karki, Netra Bahadur (2016), 'Refugees in Nepal: Impact on Refugee lives and National Security', an unpublished thesis submitted to Army Command and Staff College, Shivapuri, Kathmandu, Department of Strategic Studies, Faculty of Humanities & Social Sciences, TU

7 *US Report on Human Rights in Nepal*, April 2016

issue in Nepal-China relations. Nepal has repeatedly assured China that it will not allow its territory to be used for anti-Chinese activities. Nepal's consistent stand on One China policy has been appreciated by China. A few powers are, however, not reconciled to Tibet as an integral part of China and the 'Free Tibet' movement is being clandestinely aided, abetted and financed by them. All visitors to Tibet have observed that it has been modernized by China and it has geared its energies and resources, in recent years, towards developing the western part that remains backward in many respects. Therefore, this is a hyper-sensitive issue and Nepal is always under pressure from both China and pro-Tibet activists to act suiting their interests but successive governments of Nepal have always maintained a great degree of policy stability towards Tibetan refugees living inside Nepal.

b) The Bhutanese Refugee Problem

The Bhutanese people of Nepali origin known as the *Lhotsampas* first entered Nepal at the end of 1990 from the eastern bordering town of Kakarbhita through the Indian territory. They sought asylum in Nepal after they were systematically evicted from the homeland by the Royal government of Bhutan on the ground of being illegal settlers and economic migrants. After the mass demonstrations of September 1990, they were branded as anti-national elements. On 12 December, 1990 a group of 60 asylum seekers was provided shelter by Nepal, a non-signatory to the 1951 Convention on Refugees and the 1967 Protocol, on humanitarian ground.

While Bhutan and India have no open border, Nepal and Bhutan are separated by a wide stretch of Indian Territory. Critics point out that 'because of the open border between Nepal and

India, refugees from Bhutan could easily enter into Nepal via Indian Territory. In reality, the first place of asylum for the Bhutanese refugees is India. Under International Convention, it is the responsibility of India to settle them in India by establishing refugee camps, but India drove them into Nepal.’⁸ Critics point out that willingness of the Indian government would have solved the problem long ago. Since the arrival of refugees in 1990, Nepal insisted on the safe and voluntary repatriation of refugees to their own homeland with dignity and honor. In other words, Nepal, from the very beginning, sought to find an amicable solution to the refugee problem.

The Government of Nepal (GoN) requested United Nations High Commissioner for Refugees (UNHCR) to coordinate emergency assistance for these refugees. As their number rose, they were accommodated in seven camps of Jhapa and Morang districts of eastern Nepal. By October 2008, the number of Bhutanese refugees as registered by Refugee Coordination Unit (RCU) in Jhapa in coordination with UNHCR was 1,07,870 (One hundred seven thousand and eight hundred seventy).

Refugees in Nepal: A Short Glimpse (2010) provides the following information: “The record revealed that out of the total registered refugees, 84.65 percent possess Bhutanese citizenship certificates, 10 percent land ownership certificates, 2.95 percent school certificates, marriage certificates, court and service certificates of Bhutanese government while 2.35 percent do not

8 Kansakar, VBS, “Nepal-India Open Border: Prospects, Problems and Challenges”, *Nepal-India Open Border, Positive and Negative Aspects*, Institute of Foreign Affairs Report (2058/2059 BS), Kathmandu, 2059 BS, P. 170

seem to have any evidence. It is alleged that their documents were seized forcibly by the Bhutanese government.”⁹

The first meeting of the Joint Ministerial Committee (JMC), which was held in Kathmandu in 1993, decided to classify refugees in four categories, namely, bonafide Bhutanese refugees forcibly evicted from their country, Bhutanese who left Bhutan voluntarily as migrants, Non-Bhutanese and Bhutanese criminals who left Bhutan after committing crimes in their country. The categorization strategy was severely assailed by critics at home as Nepal’s capitulation to Bhutanese deceit and manipulation. Several rounds of negotiations were held at Joint Ministerial level (JMC) to resolve the refugee crisis but to no avail. The process of repatriation was held up as Bhutan refused to even accept and endorse the presence of any third country on its soil to monitor the repatriation process. The fact that not a single refugee has gone back to Bhutan so far has been characterized as a ‘text book case of failure of foreign policy and diplomacy as an outcome of Nepal’s failing domestic politics.’¹⁰

Nepal’s parliament mandated the government in the 1990s to adopt three options to resolve the refugee crisis. Under option one, the government sought to find an amicable solution to the refugee problem through bilateral negotiations with Bhutan. Government of Nepal was mandated, as a second option, to seek assistance from the government of India which, instead of persuading Bhutan

9 NUCRA, *Refugees in Nepal: A Short Glimpse* (December 2010), Ministry of Home Affairs (NUCRA)

10 Simkhada, Shambhu Ram, *Triumph and Trauma of Transition: An Individual’s Journey of Life and Expedition of Diplomatic Mountain Climbing in a Country, Region and the World in Transition*, unpublished book, Kathmandu, 2016

to find an amicable solution, outright rejected its involvement on the ground that the refugee issue was a bilateral problem between Nepal and Bhutan. Nepal civil society has regretted this attitude of non-cooperation in the part of India. Only as a third option, Nepal could internationalize the issue with assistance from friendly countries of the west.¹¹

Before Nepal considered internationalizing the refugee issue, Bhutanese refugees frustrated due to prolonged detention in camps with restricted movement opted for third country resettlement with support and assistance of UNHCR and International Organization for Migration (IOM). Nepal has noted with appreciation the involvement of UNHCR and IOM in minimizing the difficulty of this country, for which the government of Nepal has thanked these international organizations.

As of November 2015, more than 80 thousand refugees have been resettled in advanced countries like USA, Canada, UK, Australia, Denmark, Norway, the Netherlands and New Zealand. Some critics, however, opine that resettlement process is at best a temporary palliative and not a durable or long-lasting solution. For 18 years (1990-2008), most of the refugees expressed their strong desire to return home. While a sizable number of refugees opted for Third Country Resettlement, more than 17,000 refugees are anxiously waiting for the repatriation process to resume. Since neither repatriation nor local integration became a realistic possibility for the great majority of refugees, resettlement in a third country emerged as the only viable and durable solution to the two decades-long problem.

11 Karki, Netra Bahadur Op. cit

Socio-Economic Implications of the Refugee Problem for Nepal

Nepal has had to face security and other socio-economic challenges due to the influx of refugees from Tibet and Bhutan. Nepal, one of the least developed among developing countries (LDC), is also the poorest country in the world. 'A vast majority of people are in abject poverty and remittances from foreign employment has been the only alternative factor instrumental in reducing the extent of poverty... The devastating earthquake that severely hit Nepal on April 25, 2015 coupled with prolonged agitation followed by India's blockade against Nepal that lasted for more than 150 days resulted in acute shortage of petroleum products including cooking gas, medicines and other essential commodities.'¹²

Host country Nepal faced with its own internal problems in managing state affairs and propping up the economy was and continues to be constrained to meet essential supplies of the refugees like food, shelter, health and education. Despite international humanitarian response, minimum facilities are still lacking in the refugee camps set aside for both Tibetan and Bhutanese refugees.

Nepal has also experienced security irritants and challenges arising from the refugee influx. Refugee management has been one of the toughest challenges for host country Nepal. 'Crippled with the destruction caused by the bloody Maoist insurgency which has taken 13,000 lives since 1996, Nepal has the additional

12 Dahal, Prof. Dr. Madan Kumar, 'The Economic Implications of the Agreements and Joint Statement issued during PM Oli's visit to China' Paper presented at a Talk Program organized by China Study Center, Nepal on April 10, 2016

burden of harboring refugees from the neighboring countries.’¹³
The authorities, among others, face tremendous difficulty in maintaining law and order in the refugee camps.

‘Presence of a large number of refugees in heavily populated districts has created serious socio-ecological problems of diverse nature. Unemployment problem has further aggravated because the refugees have taken away scarce jobs of the local inhabitants. Heavy pressure of the refugees in the areas surrounding the forest resources has caused deforestation and environmental degradation. Besides, problems like scarcity of foodstuffs, alcoholism, prostitution, social conflicts, epidemics and pollution have also been noticed. Similarly, maintenance of law and order has been threatened by occurrence of frequent vandalism and violence in and outside the camp.’¹⁴

Pathetic living condition in the refugee camps has compelled the refugees to involve themselves in various crimes ranging from minor to heinous. The police has had to arrest the refugees and charge them for crimes like drug trafficking, smuggling, robbery, fake passport, fake citizenship card, and murder. These are serious challenges to the country’s internal security. Experts have warned that Nepal could face a severe security problem if the refugee issue remains unresolved indefinitely. To prevent the refugee crisis from flaring up, Nepal, however, despite its own prolonged political instability, has not slackened its efforts to deploy security forces like Armed Police Force (APF) and Nepal Police (NP). It goes without saying that massive refugee influx in a country, no

13 Pandey, Nishchal N. (2006), ‘Bhutanese and Tibetan Refugees in Nepal: Implications for Regional Security’ *Institute of South Asian Studies*, National University of Singapore

14 NUCRA (December 2010), Op. cit

matter how rich or poor, is an additional burden to its security agencies.

Way Out of the Refugee Crisis

1. The Apex court of Nepal has directed the government of Nepal to formulate new legislation to ensure, in keeping with international laws, the rights for refugees.
2. The government of Nepal has been strongly urged by the refugees themselves to formulate domestic refugee law and sign the 1951 Refugee Convention and its 1967 Protocol.
3. More than one lakh Bhutanese refugees have taken advantage of Third Country Resettlement alternative to Repatriation facilitated by UNHCR and IOM. Majority of them (Bhutanese and Tibetans) are willing to be resettled in Third Countries, instead of being cooped up in refugee camps without minimum facilities. Efforts, however, should be intensified to facilitate repatriation of refugees remaining in the camps.
4. The international community could greatly alleviate suffering of Bhutanese and Tibetan refugees through more economic assistance and by providing educational opportunities, enhancing vocational skills, assistance for repatriation or resettlement in Third Countries.
5. The government of Nepal should work more positively for refugee management and solution finding by issuing refugee identity card, particularly to Tibetan refugees and providing them access to further education.
6. For sustainable peace and security, Nepal's balanced relationship with all countries of the world, particularly its immediate neighbors, is an imperative that should receive

high priority. Nepal and Bhutan as close neighbors have many things in common and can no longer allow the refugee issue to dampen and dilute their good neighborly relations in a long-term perspective. Both have experienced the pangs and constraints of being landlocked and the least developed among developing countries (LDC). As SAARC member states, both countries are expected to work together and in close concert with other member states in order to achieve the lofty objectives of regional and sub-regional cooperation. Nepal and Bhutan have shared common positions on many issues of global and regional concern. Amicable resolution of the refugee problem could open up new avenues of cooperation between the two countries. In brief, there is ample scope for exploring and expanding the areas of cooperation that are mutually beneficial and would promote the wellbeing of the people of the two countries.¹⁵

15 Lohani, MP, 'Thimpu's Political Will on Trial', Kathmandu, 2000

Resettlement of Afghan Refugee: Socio-Political Costs and Humanitarian Dimensions

Salma Malik¹

One of the most tragic and pressing consequence of violent armed conflict as well as rising domestic insecurity has been the mass movement of population groups, seeking “refuge” in places, which are considered safer than the comfort, safety and security of what once constituted their homes. In the last few years, the developments in the Middle East, gave rise to a massive exodus of people predominantly from the conflict affected areas of Syria² and Iraq,³ whose northward movement has become a political and humanitarian moot point for Turkey and Europe. According to a June 2015 report by the UNHCR,

2015 is on track to see worldwide forced displacement exceeding 60 million for the first time - 1 in every 122

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- 1 Assistant Professor, Department of Defence & Strategic Studies, Quaid-I-Azam University, Islamabad, Pakistan.
 - 2 The UNHCR cites a total number of registered refugees originating from Syrian Arab Republic as 4,194,554 as of June 2015, “2015 UNHCR country operations profile - Syrian Arab Republic,” *UNHCR*, <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486a76&submit=GO>.
 - 3 The estimated figure provided on the UNHCR country operations profile for the year 2015 states an approximate 377,747 refugees. However Jordan alone claims 400,000 refugees residing in its territory, of which only about 32,800 are registered with the UNHCR as of March 2015. For details see: “2015 UNHCR country operations profile – Iraq,” *UNHCR*, <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e487016&submit=GO>.

humans is today someone who has been forced to flee their homes. Syria's civil war that began in 2011 has been the main driver of mass displacement, with more than 4.2 million Syrian refugees having fled abroad and 7.6 million uprooted within their shattered homeland as of mid-year. Together, nationals of Syria and Ukraine, accounted for half of the 839,000 people who became refugees in the first half of 2015, ...Violence in Afghanistan, Somalia and South Sudan sparked large refugee movements, as well as fighting in Burundi, the Central African Republic, the Democratic Republic of Congo and Iraq.⁴

The report further reveals concerning trends, which highlight that after Turkey (1.59 million), Pakistan (1.51 million) has the highest number of refugee population, and the top five *Host* countries, all belong to the developing world, as “more than 5.9 million refugees under UNHCR's mandate (42%) resided in countries where the GDP per capita was below USD 5,000.”⁵ And the “Developing regions hosted 86 per cent of the world's refugees – at 12.4 million persons, the highest value in more than two decades. The Least Developed Countries provided asylum to 3.6 million refugees or 25 per cent of the global total.”⁶ The rest of the world, which prior to Arab Spring and turmoil in the Middle East and Levant had faced marginal refugee inflow, is now completely overwhelmed by it, as for the first time in contemporary history, has the West been faced with such a

4 “UNHCR Global Trends 2015: World at War Forced Displacement in 2014,” *UNHCR*, June 18, 2015, <http://unhcr.org/556725e69.html>

5 Ibid, p. 4

6 Ibid.

monumental humanitarian crisis, which does not appear to get resolved in a few years' time. Antonio Guterres, the UN High Commissioner for Refugee very aptly remarked that, "We are witnessing a paradigm change, an unchecked slide into an era in which the scale of global forced displacement as well as the response required is now clearly dwarfing anything seen before."⁷

However, mass migration of refugees is not a trend alien to Pakistan. As it has hosted since the mid-1970s for the longest time period, spanning almost four decades, Afghan nationals, who fled their homes first owing to a bloody civil war and then decade plus long Soviet occupation of their homeland. At the height of Soviet occupation, the number of registered and officially recognized Afghan refugees was 05 million. After the termination of Soviet war, the *Geneva Accords*,⁸ which were the main instrument of

7 Ibid, p. 3.

8 "The Agreements on the Settlement of the Situation Relating to Afghanistan," commonly known as the *Geneva Accords*, were signed on April 14, 1988 between Afghanistan and Pakistan, with the USA and the USSR serving as guarantors, facilitated the withdrawal of the Red Army from Afghanistan. The agreement entailed a scheduled withdrawal of Soviet troops from Afghanistan, which initiated a month after the signing of the Accords and ended by February 15, 1989. The Accords brought a formal end to the nine-year-long Soviet occupation of Afghanistan, however firstly the main fighting force/ militia namely the Mujahedeen were neither party to the negotiations nor to the Geneva Accord, and consequently, refused to accept the terms of the agreement.

Secondly, and most importantly, the Accords did not set out clear modalities for a phased repatriation of millions of Afghan refugees residing mainly in Pakistan, Iran and many who had fled to the Europe. The 07 Articles comprising the *Bilateral Agreement between The Republic of Afghanistan and The Islamic Republic of Pakistan on The Voluntary Return of Refugees* did highlight the issue yet a caveat remained, which stated that these repatriation efforts will be applicable to "refugees who express the wish to return" (Article V). Available at: <http://www.badloon.net/english/>

peace and future conflict resolution, did neither make adequate provisions, nor give due importance to such a grave and pressing humanitarian crisis. This resulted in a continued presence of this huge refugee population in an already resource stressed country, which despite being a non-signatory to the UN Refugee Convention of 1951 and its follow up protocols, sheltered them on humanitarian grounds. And at times, Pakistan had to endure the entire burden itself, as with the end of Soviet war, many countries which were generously pouring money into the Afghan Jihad, as well as the US and donor organizations withdrew all kinds of support.

This paper provides an overview of the relatively overlooked issue of Afghan refugees and the socio-political, legal and humanitarian plight faced by them, given the rapidly changing security profile of the region at large and within Afghanistan and Pakistan specifically. Keeping in mind the various conventions and international rulings pertaining to the rights and privileges, what impact has post-cold war strategic environment cast on the refugee issue. Despite an improved security and political situation in Afghanistan, why does such a large number of Afghan refugees still reside in Pakistan? How should this major problem be perceived and dealt with? As a political issue alone or a humanitarian emergency, especially given the security doctrine evolving post December 2014 Peshawar school massacre?

Pakistan – Obligations & Challenges for a Host Country

As previously mentioned, despite facing innumerable internal problems itself, Pakistan has hosted the largest of world's refugee

population for the past four decades. Like its South Asian neighbors, Pakistan is neither a party to the 1951 Refugee Convention, nor its follow-up 1967 protocol, with the exception of Afghanistan which signed the initial convention. However, due to its obligations as signatory to *Customary International Law*, it stands committed to many of the principles enshrined in the Refugee Convention. Since 1958, Pakistan has been a member of UNHCR's *Executive Committee (ExCom)*, and has actively been involved in the drafting and approving many of the *ExCom Conclusions on Refugee Protection*, as well as the *Additional ExCom Conclusions* that have helped establish norms relevant to Afghan refugees such as the need to fully protect refugees who arrive in a host country as a part of a large-scale influx, the problem of mass influx of refugees and the right to seek and enjoy asylum, the importance of UNHCR's protection mandate and the primary responsibility of states in protecting refugees within their territories, as well as the importance of refugee registration.⁹ Furthermore, in August 2000 Pakistan also publicly acknowledged its international legal obligations to refugees when it agreed with UNHCR to screen Afghan refugees according to standards generally based on international refugee law.

Since that time, the Pakistani government has been regularly engaged in the efforts to register the refugees and to provide some legal protection. In the early 1980s Afghan refugee families were issued *passbooks*,¹⁰ which worked as identification documents as

9 "A thematic compilation of Executive Committee Conclusions," *Office of the United Nations High Commissioner for Refugees UNHCR*, Division of International Protection 7th edition, June 2014,

10 The issuance of Passbooks & Identification documents was done according to Article 25 of Chapter 5 dealing with Administrative Measures in the *1951 Refugee Convention*.

well as means to receive assistance. However, since these passbooks did not vouch for individual identification, therefore the refugees could not be offered any legal protection, other than what little they could get once duly registered by the host government as well as UNHCR. As the flow of refugees from Afghanistan unfortunately continued even after Soviet withdrawal, since late 1999 the Pakistani government refused to consider newly arriving Afghans as prima facie refugees.¹¹ However, the government had to retrace this decision, as soon after first a devastating earthquake, inhospitable weather as well as inhospitable living conditions owing to protracted conflict and then a reigniting of civil war and persecution at the hands of Taliban once again brought the refugees back to Pakistan.

For Pakistan, the flow of refugees from its Western border is not a new phenomenon. The seasonal migration and movement of *Kuchis* (Afghan nomadic tribes), Hazaras, asylum seekers, those fleeing from sectarian and ethnic persecution as well as economic and environmental refugees can be traced back to more than a century, even during the time of Amir Abdur Rehman. However, Afghan nationals are not the only refugees residing in Pakistan, there is a presence of other nationals, such as Iraqi, Somali, Kurdish, Bengali, Burmese (Rohangiya) as well as Iranian nationals, who sought shelter in the country at various times. After Turkey, Pakistan hosts the largest number of refugee population, which according to the UNHCR's mid-year assessment for 2015 stands at 1,540,854 refugees for a total population of 182,490,722,

11 Chapter 8, "Refugee Protection And Assistance In Pakistan" in the report, *Closed Door Policy: Afghan Refugees in Pakistan and Iran*, Human Rights Watch, February 26, 2002

with a ratio equal to 118 natives to refugee population. The current profile stands as:

UNHCR Chart of Refugees & Displace People in Pakistan 2015

UNHCR 2015 Planning Figures for Pakistan					
Type of population	Origin	January 2015		December 2015	
		Total in country	Of whom assisted by UNHCR	Total in country	Of whom assisted by UNHCR
Total		2,311,750	2,311,750	2,352,080	2,352,080
Refugees	Afghanistan	1,468,250	1,468,250	1,478,030	1,478,030
	Iraq	60	60	80	80
	Somalia	400	400	500	500
	Various	140	140	180	180
Asylum-seekers	Afghanistan	5,290	5,290	6,270	6,270
	Islamic Rep. of Iran	20	20	30	30
	Somalia	50	50	60	60
	Various	40	40	40	40
Internally displaced	Pakistan	566,900	566,900	590,900	590,900
Returnee arrivals during year (ex-IDPs)	Pakistan	270,600	270,600	276,000	276,000

Source: UNHCR 2015.¹²

12 According to the UNHCR, the main groups of people of concern planned for in 2015 under the Pakistan operation include: Afghan refugees, of whom approximately one-third live in refugee villages, and two-thirds in urban and rural host communities; some 7,000 asylum-seekers and individually-recognized refugees from various countries (mostly Afghans), living mainly in urban areas; IDPs, including those relocated by military operations and ethnic/religious conflicts in FATA, and, since the beginning of military operations in June 2014, IDPs from North Waziristan; and three groups presumed to be stateless or at risk of statelessness in Pakistan, namely Bengalis and Biharis, as well as Rohingyas from Myanmar. For details see:

The first mass influx of conflict affected refugees started with the civil war and later April 1978 Spring Revolution in Afghanistan. This was soon to be followed by an unprecedented number of Afghans crossing over into Pakistan to seek security, shelter and refuge, once in December 1979; the Soviet troops marched into Kabul city. The pattern continued and as mentioned earlier, despite the termination of war and signing of the Geneva accords, the refugees preferred living in Pakistan, despite challenging situations, than face death, hunger and dismal security situation back home. An estimated five million Afghans got displaced, with a majority entering Pakistan, a lesser number Iran and few others remained internally displaced. In a 1988 study on refugees, Hafizullah stated;

According to United Nations statistics, there are 5 million Afghan refugees in Pakistan, Iran and elsewhere and an additional one million internal refugees who fled the countryside to Kabul and other major cities for security reasons. Approximately one-third of Afghanistan's pre-war population of 15 million has been uprooted and scattered; they represent one-half of the world's estimated refugee population.

According to available statistics, 2.7 million registered Afghan refugees are living in 380 camps in Pakistan, while several hundred thousand more are unregistered and live on their own resources. The overwhelming majority of Afghan refugees (75 percent) live in

“2015 UNHCR country operations profile – Pakistan,” *UNHCR*, <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e487016&submit=GO>

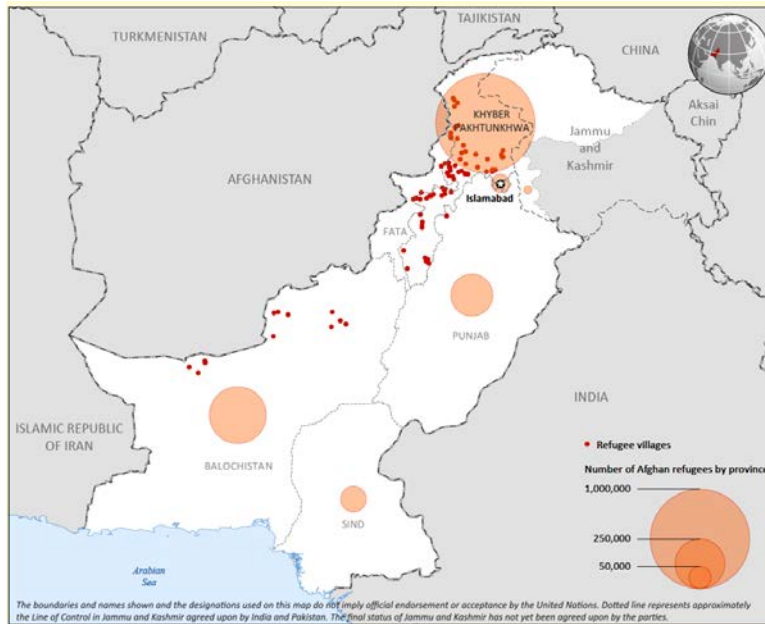
Pakistan's northwest frontier, 20 percent live in Baluchistan and 4 percent live in Punjab Province.¹³

The refugees, who initially fled from Soviet persecution, were welcomed with open arms by the Pakistani regime of the time (under general Zia ul Haq). Evoking the parable of *Muhajirs* and *Ansaars* of Madinah at the time of the migration of the Holy Prophet Muhammed Sall Allahu Alayhi Wa Sallam, Zia opened up the entire country to the heavy in flow of Afghan refugees, which damaged the country's demographic, social, societal as well as micro-economic picture to such an extent that its repercussions are still being faced and felt. The resistance struggle ensued by the Afghans against the Soviets was dubbed as a *Holy Jihad* and the fighting forces as Mujahedeen, giving the entire operation a religious connotation, which managed to attract many to take up arms and fight in the name of Allah. The experiment of CIA sponsored "jihad" translated into a success, because of the massive influx of weapons, money and resources that were brought together from virtually the world over. For many in the US administration, Afghanistan was the opportunity to avenge for Vietnam,¹⁴ and they would spare no means to achieve their goals. Thus the Afghan Muhajirs not only proved a strategic asset of sorts, but often young adolescent Afghan men were recruited by the Afghan fighting militia from the refugee camps, which also worked as sanctuaries to the fighting militia.

13 Emadi Hafizullah, "Resettlement Pattern: The Afghan Refugees in Pakistan," *Cultural Survival Quarterly*, 12.4 (Winter 1988), pp. 20-22.

14 Steve Coll, *Ghost Wars The Secret History of the CIA, Afghanistan and Bin Laden, from the Soviet Invasion to September 10, 2001*, Penguin, 2004, pp. 91-97

Map of Afghan Refugee Villages in Pakistan 2015



Source: *Government of Pakistan, UNCS, UNHCR* 2015. ¹⁵

At present, there are fewer refugee camps as one witnessed during the 1980s and later decades, yet there still remain dedicated refugee villages inside Pakistan, the majority of which are located around Peshawar and north along the Afghanistan border in the Khyber Pakhtunkhwa (KP) province; while others are clustered around Quetta in Balochistan province. In the initial decades, refugees arriving during the U.S.-led bombing campaign and earlier in 2001 mostly went to the New Jalozi camp in KP which was an active refugee camp at that time, some thirty-five kilometers east of Peshawar. And the large number (approximately 80,000 refugees) that were already there made it

¹⁵ <http://www.unhcr.org/images/operationsMaps/country-pak.jpg>

difficult to accommodate the new arrivals. However, in recent years other mentionable camps or villages in KP include Shamshatoo, Badaber and Nasirbagh, old and new Akora, Gamkol, Barakai etc. which house tens of thousands of refugees. In Balochistan, refugees are located nearer to the border crossing point at Chaman, in a small staging camp at Killi Faizo, Kuchlak, Panjpai, Hanna Valley, Roghani and Tor Tangi camps run by UNHCR. However, despite government's repeated efforts to get the refugees registered and restricted to their dedicated villages, a good number have and still continue to reside in urban centers of Peshawar, Quetta, Punjab, Gilgit-Baltistan, Islamabad Capital Territory (ICT) and Karachi.

Amongst the registered refugee population, 81.5% are Pashtuns, 7.3 % Tajik, 1.3 % Hazaras, 2.0 % Turkman and 5 % other ethnic groups. With an 80 % of the total refugee population residing in KP, 13 % in Balochistan, 3 % in Sindh and 4 % in Punjab and ICT. With the post 9/11 security situation becoming critical in Pakistan as well, which led to a mass scale internal displacement, many refugee camps were closed down especially in the FATA and the Afghan refugees were either encouraged to return to Afghanistan or smaller camps have been merged into bigger ones in designated areas. However unfortunately, the changing dynamics of Afghan conflict has been a disincentive for the returning refugees, who have very often resorted to the pattern of leaving from controlled border check points, with care packages and rations supplied by UNHCR and rehabilitating agencies, and re-entering Pakistan from informal, un-manned check points. According to the UN sources, between the years 2007 to 2010-12 357,000 and 229,000 Afghan nationals have been repatriated back to Afghanistan. This still leaves about 1.5 million registered

Afghan refugees in Pakistan and an equally large number which remain unregistered and unaccounted for. In the absence of a national population and housing census survey carried out in Pakistan, the last one taking place in 1998, these figures remain estimations at best. Although in year 2011 and again recently in 2016 attempts were made to carry out a nation-wide census, but the previous one remained informal and the latter one got postponed due to security situation and military action taking place in KP.

The most difficult task for the Pakistani government authorities has been the upkeep, administration and management of such a huge population group. Given that other than the UNHCR, after the termination of active armed conflict post Geneva accords, there have been no other humanitarian agencies that provided financial or material support. For the longest time period, the Government of Pakistan alongside the UNHCR has looked after every aspect of refugee housing, welfare, accommodation as well as repatriation efforts, whenever possible. Even the *World Food Programme (WFP)* in 1995 ceased its food rations for the refugees thereby rendering meaningless, the only means of identification they held in the shape of a *ration card* or the *pass book*, creating further burden for the respective government.

The various Pakistani governmental offices that coordinate from Pakistani side comprise of the Chief Commissionerate for Afghan refugees, the Ministry of States and Frontier Regions (SAFRON), federal, provincial government as well as the FATA disaster management authorities respectively, the Ministry of Interior, Ministry of foreign affairs as well as the National Database & Registration Authority (NADRA) tasked to carry out

specific measures. Yet there are problems of coordination and management, which besides inter- institutional issues suffer at times due to coordination between the federal government and the provincial governments is often lacking. These layers of government are further complicated by the fact that the Federally Administered Tribal Areas (FATA) has a semi-autonomous legal status with the federal government. With separate tribal leaders and security personnel located in FATA they are not legally obliged to coordinate their policies with one-another, much less with the governor of KP or with Pakistan's federal government. Since the Military operation initiated in various tribal agencies and KP at large, not only has the civilian oversight into refugee matters, gradually lessened, but the military owing to the over-riding security concerns is often considered the main stakeholder.

Given the complex security situation, and many terror outfits using these refugees and their villages as a sanctuary has over the decades diminished the local empathy towards the Afghan nationals. Secondly, the refugees are constantly monitored and screened for the presence of any suspicious individuals and actions, thus adding to the woes of the people. The sociological divide of "us versus them" seems to be getting stronger and worse with the rise of terrorist incidents, suicide bombing as well as petty theft and crime, which makes raids and harassment at the hands of law enforcement agencies a common occurrence. Owing to the post 9/11 security situation, the first time Pakistan closed its borders to prevent Afghans from entering was in 1999-2000, citing an inability to absorb additional refugees who were returning to Pakistan due to fresh wave of violence and conflict in their country. These actions were in direct response to a request from the U.S. to strengthen security in an effort to apprehend

those responsible for the September 11 attacks in the US. Western governments, including the U.S., Australia, and European Union member states, also tightened immigration controls in a way that could further deny protection to Afghan refugees.¹⁶ Done primarily to prevent terrorist outfits from using the cover of refugees to seek sanctuary, this action unfortunately placed the refugees at a risk of being returned to a country where their lives were seriously endangered¹⁷ but also violating its obligation of non-refoulement.¹⁸

Inside Afghanistan, there were fines imposed at checkpoints on people returning to Pakistan. For those Afghans who could not afford to pay, incidents of extortion hampered their ability to reach greater safety in Pakistan. As a result of Pakistan's increasingly strict border closure policy, and the fines and extortion inside Afghanistan, it became even more dangerous and costly for Afghan refugees to enter Pakistan back, after September 11, 2001. At the Torkhum crossing point, *border pushbacks* became more prevalent with the increased numbers of refugees seeking to enter Pakistan after the October 7, 2001. Entering Pakistan, through unofficial routes, or even manned borders *vulnerability* decisions have often been influenced by bribery and extortion. In addition,

16 "Safe Refuge Must Be Provided For Afghan Refugees," *Human Rights Watch*, (New York, September 21, 2001) <http://www.hrw.org/includes/blue/titles/news.gif>

17 From Human Rights Watch Report, *Closed Door Policy: Afghan Refugees in Pakistan and Iran*.

18 Article 33, Chapter 5, Administrative Measures on Prohibition Of Expulsion Or Return (*Refoulement*), *1951 Refugee Convention*. Also see, Erika Feller, ed. *Refugee Protection in International Law*, UNHCR's Global Consultations on International Protection, Cambridge University Press (CUP). June 2003, p.353.

one problem initially faced in the *vulnerability screening* was that women, children, and elderly were allowed to enter, whereas sometimes men were not. This policy was due to the security concerns of the government of Pakistan, but it was applied to civilian as well as armed men. As a result, in the initial stages, some families accompanied by civilian men were separated at border crossings.

With no specific provisions for refugees in Pakistan's federal domestic laws, the concept of legal protection is undermined. *The Foreigners Order of October 1951*, promulgated pursuant to the *Foreigners Act of 1946*, gives the power to grant or refuse permission to enter Pakistan to civil authorities at Pakistan's border. Under this Order, foreigners not in possession of a passport or visa valid for Pakistan, or those who have not been exempted from the possession of a passport or visa, can be refused entry. The Foreigners Order also allows civil authorities to restrict the movements and place of residence of foreigners inside Pakistan, as long as these are made in writing. Other provisions allow for the arrest and detention of undocumented foreigners. As Pakistan's internal security situation became challenging, more stringent laws and regulations were made, which certainly impacted the refugee population. Especially the Peshawar school massacre of December 2014 led to a twenty points counter terrorism action plan which also calls for expeditious repatriation of Afghan refugees.

Unlike Iran, which had set up exclusive *Mehman Shehr* for the refugees who were neither allowed to move out of these camps, nor enjoy any economic or vocational privileges, Pakistan had adopted a much more open door and gracious policy towards the incoming Afghan nationals. Although, according to rules, the

refugees living in the camps were also restricted to their respective areas only and not allowed to seek employment, but in reality it was never observed very stringently. As a result, the socio economic dynamics of Afghans' slowly capturing the low wage and menial jobs' market existed from the onset of refugees, in clear violation of the principle of refuge. The Afghan refugee men would work at and do any job given, menial labor etc. at wages much lower than what were established under the prevalent labor laws. Thus gradually rendering the local labor and workers jobless by taking over the labor market, low scale (and later mass scale) transportation, trading and commercial activities.

A major consequence of refugees' or more precisely Afghan nationals' movement and settlement in urban areas has been a shift in the demographic and cultural ambience of several cities, such as Peshawar, Quetta, Karachi and to a very marginal and limited effect even the capital territory. Peshawar, the eighth largest city of the country despite KP's provincial capital had never been a Pashtun city,¹⁹ and with the rise in refugee camps as well as hiring and purchase of residential and commercial property by Afghan middle class in its fringe areas such as Hayatabad, underwent a drastic demographic transformation. Likewise, similar trends could be observed about Quetta,²⁰ the ninth largest city and provincial capital of Balochistan where gradually the Pashtun speaking population become the second biggest ethnic group after Brahvi and Balochi speakers. The main port city and largest

19 "Population size and growth of major cities," *Pakistan Bureau of Statistics*, Government of Pakistan, <http://www.pbs.gov.pk/sites/default/files/tables/POPULATION%20SIZE%20AND%20GROWTH%20OF%20MAJOR%20CITIES.pdf>

20 Ibid.

metropolis of Pakistan, Karachi has also been deeply affected by the free movement of Afghans and Pashtun population, which often would become difficult for non-Pashtuns to distinguish. The fact that Karachi hosts the biggest Pashto speaking population outside KP, has given rise to intense and violent local conflict over space, occupation and territory. At the onset many urban and middle class Afghan nationals, very easily sought Pakistani identification cards, which entitled them to full residential, commercial and related privileges, complicating the socio-political dynamics further. The first ever census survey carried out by the UNHCR of Afghan refugees entering Pakistan since 1978-9, was in 2005, and the results were both shocking and beyond expectations for Pakistani authorities as well as the UNHCR. The 3 million strong refugee population was both beyond available resources and operational management. Amongst this only about 42% resided in designated camps, whereas 58% was settled in urban areas.

At one end of the spectrum are the privileged Afghan nationals, who benefit from all stakeholders concerned. Whereas, on the other end are the poor, underprivileged refugees, who on a daily basis face harassment, extortion, and insecurity. Furthermore, women are at a risk of abuse and harassment especially in households headed by women, already unaccustomed to appearing in public places, deeply afraid to go to the distributions in order to collect food and services. Not only are the living conditions difficult, a primary problem brought forth by Human Rights Watch was that there were no female police on site to ensure the security and protection of female refugees. This absence of female staff is contrary to Pakistan's obligations under *ExCom Conclusion No. 64*, which urges states to "increase the

representation of appropriately trained female staff across all levels of organizations and entities which work in refugee programs and ensure direct access of refugee women to such staff.” The need for female staff was also clear during the repatriation, in which some refugee women described having less information and fewer alternatives than men when deciding whether or not to relocate. Other refugees in urban settings, particularly in Peshawar, reported anecdotally about destitute women and girls resorting to prostitution.²¹ Similarly, low enrolment trends in school going children have been reported. According to a UNICEF study only 50% refugee children would receive primary level education,²² citing different reasons such as requirement to pay school fees, their need to work in order to supplement the family’s income²³ as a main disincentive. The girl-children are worse off, as they mainly stay home.

Informally during the establishment of the Transitional Islamic State of Afghanistan in June 2002, and then later in 2013 a formal tripartite agreement between Pakistan, Afghanistan and

21 See *BBC on line*, "Inside a Peshawar Brothel," December 19, 2001, at <http://news.bbc.co.uk/>. UNHCR has recognized the fact that poverty can force refugee women into prostitution, "the failure to address adequately the assistance needs of refugee women has had serious repercussions in the form of sexual exploitation. . . some refugee women have been forced into prostitution for lack of assistance." See UNHCR, *Guidelines on the Protection of Refugee Women*, 1991.

22 "Afghanistan, Iran, And Pakistan, Closed Door Policy: Afghan Refugees in Pakistan and Iran," February 2002 Vol. 14, No. 2(G), <http://www.hrw.org/reports/2002/pakistan/pakistan0202.pdf>. P. 32

23 "Afghan Child Laborers Endure Pakistan's Summer Heat, Risk of Abuse, Long Hours and Low Pay", *AWM Report*, August 30, 2004, <http://afghanwomensmission.org/awmnews/index.php?articleID=42>, accessed, 11/21/2004

UNHCR took place. The agreement dealt with volunteer repatriation of the refugees, effective information sharing by all stakeholders, skill development, technical and vocational training to registered refugees residing in camps as well as most importantly, sustainable and conducive environment in Afghanistan for their return and reintegration. SAFRON from Pakistan and its Afghan counterpart as the main coordinating bodies are engaged in the repatriation efforts. Afghan government has sanctioned 48 refugee villages in 22 provinces to accommodate the returning people. However, still a sizeable number of the refugees prefer staying back in Pakistan due to fluid security situation in their home land. After the National Action Plan, unfolded in the wake of Peshawar incident, the pressure to send Afghan refugees back to their country increased manifold. Yet it was soon realized that firstly the sheer number of refugees was too much for Afghanistan to absorb, and secondly neither the security nor economic capacity was sufficient to facilitate these people. As quoted by an International aid worker that “every extra person who comes here (Afghanistan), will only increase the poverty.” From its side, Pakistan has extended the refugee registrations till 2018/19 instead of the previously announced 2015 timeline. Another very important point to note is that not less than three generations of Afghan nationals have suffered the agony of refugeehood, amongst whom a substantial number were born and brought up in Pakistan, whether in refugee camps or as urban dwellers. Which means that for this particular generation, Afghanistan may be the imagined and promised homeland, yet not their birthplace and familiar country, which further deepens the crisis and challenge of repatriation.

Seeking Effective and Sustainable Repatriation

One of the biggest challenges faced by stakeholders is the post conflict repatriation and rehabilitation, a task made much more challenging, when the affected population group is as big as the Afghan refugees, plus the situation in the country of origin does not hold any promise for stability and sustainable peace and livelihood. Yet, the UNHCR has rehabilitated over 3 million refugees back to Afghanistan to date. In order to make the process sustainable and efficient, in 2011 a quadripartite consultative process was initiated involving the Islamic Republics of Afghanistan, Iran and Pakistan and UNHCR. This process led to the *International Conference on the Solutions Strategy for Afghan Refugees to Support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries (SSAR)*,²⁴ co-hosted by UNHCR and the government of Switzerland in May 2012. The process established the mechanism for voluntary return and sustainable reintegration of the refugees, while providing assistance to host countries which would enable them to actively participate in this multi-year initiative.

Since the launching of the Solutions Strategy in 2012,²⁵ Pakistan made considerable efforts under the Ministry of SAFRON, which include:

24 “Report of the International Conference on the Solutions Strategy for Afghan Refugees to Support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries,” *UNHCR*, 2-3 May 2012, Geneva, Switzerland.

25 “Solutions Strategy for Afghan Refugees to Support Volunteer Repatriation, Sustainable Reintegration and Assistance to Host Countries,” *Portfolio of Projects 2015-16*, Govt. of Pakistan and UNHCR, <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=539ab6ca9>

- Volunteer Repatriation of more than 50,000 Afghan refugees from Pakistan within the first eight months of 2015. Dissemination of information about the voluntary repatriation process and reintegration conditions in Afghanistan through media/mass information campaigns
- The nation-wide PoR card renewal exercise completed in February 2015,
- Establishing of special helpline, mass information campaigns and SMS services provided in support of the renewal process.
- Access to free primary education (Grades 1-8) provided to over 77,000 refugee children in refugee villages through 174 conventional schools (including 127 in Khyber Pakhtunkhwa and 38 in Balochistan), 48 satellite classrooms and 13 early child education centers with a total of 1,455 teachers.
- Particular attention was on increasing girls' enrolment and retention, including through operation of 18 home-based schools.
- Provision of Basic Health Units (BHU) services to patients
- Effective and efficient resettlement programme to third countries, particularly the US, Australia, New Zealand and Canada.
- Awareness raising and sensitization sessions on issues such as elimination of domestic and gender-based violence, child labour, dangers of early marriage and the importance of education.

- Projects covering the sectors of health, infrastructure, livelihoods, water and sanitation, education and social protection.²⁶

Conclusion

Where protecting refugees is a shared responsibility, at the same time it is a major political decision undertaken by individual state actors, carrying immense political implications. In a world which is increasingly marked by violent armed conflict as well as complex emergencies, the likelihood of displaced people, asylum seekers and refugees is going to increase manifold. Bringing to light pressing social, psychological, political as well as humanitarian realities, whose answers would not be easy to seek. Would adaption of certain global conventions and treaties help alleviate the plight of these suffering people? Or every state stands individually as well as collectively committed to lend a helping hand. What about countries such as Pakistan, which are already burdened by pressing governance indicators, internal strife, hosting decades old and largest refugee population and now saddled by its own displaced people. How do they fit into the moral and humanitarian framework with little resources and assistance at hand.

The legal framework and institutional arrangements for protecting and assisting refugees and other displaced people have developed and improved with time. It is our collective responsibility now to learn from the lessons of the past in developing new mechanisms for responding effectively to the challenges of the future. Meeting the needs of the world's displaced people—both refugees and the internally displaced—is

26 Ibid.

much more complex than simply providing short-term security and assistance. It is about addressing the persecution, violence and conflict, which bring about displacement in the first place. It is about recognizing the human rights of all men, women and children to enjoy peace, security and dignity without having to flee their homes. This is the task ahead for governments, international organizations and the people of the world in the new millennium.

Radicalization of Refugees/IDPs in South Asia

Dr. Geeta Madhavan¹

The word “refugee” conjures up images of desperate men and women fleeing for their life, holding a small bundle of belongings with frightened children clutching their hands. These are people risking all to flee from dangerous situations in their homeland and seeking protection for life elsewhere. The global displacement of people running from their home countries by the end of 2015 reached a record high of 65.3 million according to the United Nation High Commissioner for Refugees (UNHCR) as stated in a report published on World Refugee Day. Considering that the population of the world is estimated at 7.4 billion, it is distressing to realise that 1 out of every 113 person globally is a refugee or an internally displaced person. Taking into account that the figures till end of 2014 were 59.5 million; it shows an increase of 10%; an increase that causes serious concerns for not only the host countries but also the global community.

Social and political instability creates inequality and leads to migration and displaced persons. Expectations from the State are not met leading to seeking new areas to grow and prosper resulting in migration by humans that often end up as Internally Displaced Persons (IDPs). Loosely referred to refugees, they do

¹ Dr. Madhavan is Founder Member of the Centre for Security Analysis, Chennai, India.

not fall within the accepted legal definition of refugees. Although they flee from volatile areas that do not provide them security and maybe victims of ethnic cleansing, religious discrimination or political violence; they remain within the borders of their country unable to return to their normal life and legitimate homes.

Arrival and movement of refugees is a serious national and security issue in the political and economic context for any host country. Under international law, the issues in dealing with refugees is secured in an understanding of the history of population movements, the emerging framework of refugee protection, the UNHCR, regional agencies and various national and international organisations. International law also deals with it in the political context of statelessness and displacement. Since the 1980s there has been a “globalization” of the refugee problem. In the emerging era of global terrorism mass exodus which has been from Asia and Africa to the Western countries has created new discussions about the principles of asylum and refoulement (the forcible return of refugees or asylum seekers to a country where they are liable to be subjected to persecution) under international law with many states requesting for a re-think of these principles. Refugees and IDPs who were once considered innocent people who need to be protected and cared for, in the present milieu of suspicion and threat are seen as danger to the national security and the economy of the host country. This change of attitude is developing globally because of the increased number of refugees, rise in international terrorism, as well as growing numbers of ethnic and secessionist conflicts.

The discussion on radicalization of refugees and IDPs opens with two identifiable areas wherein such events may occur:

- a) within the camps where the refugees are kept by the host state and
- b) in the vicinity of the camps or outside it where they re-settle in society.

In the case of IDPs the area may further extend from the areas where the IDPs gather themselves and congregate in ghetto-like enclosures (stemming from a need to be together for a sense of security) to areas of common worship or common social and cultural activities.

There are several catalysts that directly and indirectly lead to radicalization of Refugees and IDPs:-

- a) The duty of the state of ensuring security to its own people comes in conflict with the protection and rehabilitation of the immigrant population – e.g. the Myanmar refugees seeking asylum in Thailand, Sri Lankan refugees in India (especially in the southern state of Tamil Nadu geographically closest to Sri Lanka). South-East Asia is a hotspot, with thousands of the Rohingya origin, an ethnic minority from Myanmar, fleeing by sea from poverty and persecution to Indonesia and Malaysia in the first instance, and risking their lives at sea to make it to Australia and of large number of Bangladeshis fleeing to other countries from poverty and social inequalities to better prospects.
- b) Alienation and marginalization and sometimes stigmatization by receiving society is another cause for radicalization among the refugees and IDPs. In army camps the Sri Lankans who were initially treated with sympathy by the host state found themselves being

treated with suspicion with an escalation of crime in the area. The Sri Lankans living and mingling with the society also found life hard as they carried with them the stigma of terrorism and suspicion of being LTTE cadres or colluding with the terrorist organisation and were denied jobs, housing etc. In the aftermath of the assassination of former Prime Minister Rajiv Gandhi the hatred swelled when the needle of suspicion pointed directly to the LTTE. With the proscription of LTTE in India, Sri Lankan refugees were subject to discrimination with many fearing to employ them in case they were LTTE cadres or sympathizers. The same is still the case in the north eastern and northern states of the migrant population from Bangladesh or Nepal. Society's reactions of suspicion and fear leads to fissures in society pushing the cleft deeper and widening the gap between the citizens and the newcomers.

- c) In the case of IDPs, social intolerance and ghetto form of living quarters instead of assimilation into mainstream society leads to hardening of intolerance on one side and fear in the other. It develops into a classic convoluted situation where on the one hand, the IDPs congregate together in a particular area from fear of being vulnerable to the ridicule and violence of the locals; on the other hand the locals view the segregation as self imposed desire of the "new comers" to stay aloof and segregate themselves from society.
- d) "Missing" youth are drawn towards radicalization by the emphasis laid by the radical recruiting agencies on the alleged social inequality imposed on them. Working for

living wages in jobs way below their proficiency and qualifications leads to intense frustration and discontent which makes them ripe for the picking for the radical preachers and leaders. The frustration and low self esteem felt by such youth is also channeled into radicalism which gives them a sense of power and self worth.

- e) Handling of various issues by the media disregarding sensitivity and objectivity in matters pertaining to the refugees and the IDPs drives the wedge deeper. When some random violent incidents occur they are linked without evidence to a group of refugees or displaced persons. The geographic placement and legal status of the refugees, the level of social and economic support for local populations in those locations, the pre-existence of militant groups in refugee areas, as well as (probably the most important factor) the policies and actions of the receiving country, including its acceptance of militant organizations and its ability to provide security are all factors that influence reactions. The host countries come under significant economic, security and other stress and seldom report refugee involvement in violent activity objectively. Some governments' accounts of violent incidents complicate objective analysis and are further exaggerated through media, and are biased against certain refugee populations.
- f) It is also noted that when law enforcement agencies of the host country lack accountability and sensitivity when dealing with refuge issues, they are responsible for creating suspicions in society by apparent action against

the refugees. Often persons are picked up and questioned without sufficient evidence on the basis of “suspicion”. Militancy is serious security concern and law enforcers come down heavily on the civilian population suspected to breed or harbour the elements in the case of refugees and IDPs and even on suspicions of collusion with the militant wing of the organisations.

- g) Relief materials and services that arrive for the refugees from internal, regional, international agencies and organisations often leave the surrounding population of the host country feeling disadvantaged when they are not provided with comparable items and services. The discontent spreading among the populace produces a backlash that not only creates hatred for the “pampered” refugees or IDPs and locals may sometimes even prey on the refugees further escalating the violence. Refugees and IDPs who compete for jobs in the local economy and may be given special status and reservations or the waiver of certain pre requisites needed in the case of the host-country nationals. They may also may be given special concession in educational institutions resulting in heightened resentment. Local resentment can persuade the host government to increase controls on refugees.
- h) States may also indirectly encourage radicalization by allowing political wings of militant groups to participate officially in relief efforts or by supporting a faction or conducting military operations in the refugees’ home country. Preventing radicalization becomes impossible when armed groups arrive with the refugees and are not disbanded.

A new phenomenon often termed as Compassion Fatigue is being experienced by several host countries. Those who initially welcomed the hapless refugees and IDPs feel the need to re-think their policies as the economic burdens increase. States have started to raise the issue of increased welfare costs by incoming refugees, especially in areas of education, health, and housing. Several host countries' administrative and legal policies are seen undergoing changes. The policies and laws of the state receiving the refugees influence social thinking and acceptance. A government that was initially welcoming may react to a growing refugee population by imposing legal restrictions that limit or eliminate refugees' rights and opportunities. In many States refugees are not permitted to resettle and become citizens. Refugees are confined to camps and those living outside camps may be prohibited from legitimate employment and education and health services. Some host countries will not acknowledge or register refugees and in some cases, even the children that are born to them in the host country do not get citizenship rights. The government may worsen the situation by harassing ethnic groups associated with the refugees. Thus occurs the social and political stratification of people moving beyond national borders. State migration policies are become increasingly restrictive to control unwanted migration to protect labor markets, to fence off state-funded social provisions; sometimes even expelling undocumented and unwanted persons.

There are some ways of mitigating and controlling the risks of radicalization of refugees and IDPs. As *Radicalization* means the process of committing to political or religious ideologies that espouse change through violence and related armed militancy, it is to be understood that they are not always inevitable in all situations. First, the risk can be curtailed if the main stakeholders

adopt comprehensive policies that extend beyond immediate life-saving needs and address such issues as the refugees' impact on the countries that host them.

Secondly, it is important to understand that any form of control of radicalization will also require collaboration across organizations and fields of expertise beyond humanitarian aid.

Thirdly, the global community has to make a firm commitment to reinforcing and expanding the principle of **Refoulement** i.e. the accepted norm under international law that discourages the expulsion of persons who have the right to be recognized as refugees. The principle of non-refoulement has first been laid out in 1954 in the UN-Convention relating to the Status of Refugees, which, in Article 33(1) provides that:

”No Contracting State shall expel or return (*‘refouler’*) a refugee in any manner his race, religion, nationality, membership of a particular social group or political whatsoever to the frontiers of territories where his life or freedom would be threatened on account of opinion.”

It is important to note, that the principle of non-refoulement does not only forbid the expulsion of refugees to their country of origin but to any country in which they might be subject to persecution. The only possible exception provided for by the UN Convention is the case that the person to be expelled constitutes a danger to national security (Art 33(2)).¹

Although with the principle of refoulement in international law has been regarded as *jus cogens*, the rules are differently interpreted in the case of mass influx. Therefore, the customary norm that states must provide at last temporary safe havens is

often flouted by states as there is no clear framework how it is to be applied.

Finally, the international community's focus should be on conflict prevention even if it cannot absolutely eliminate the refugee problem, as well as on good governance and economic growth to help prevent the IDPs. Fleeing due to fear for life for oneself or family as well as the need to seek new areas to grow and prosper leading to migration and ending in displacement will continue to take place globally unless the international community takes cognizance of the enormity of the problem and grasps that mass movements of human beings will tilt the economic and demographic axis of the world creating large scale human catastrophe.

Migration in Northeast India: A Live Politico-Electoral Issue

Rani Pathak Das¹

In Northeast India, Migration continues to be a big issue for nearly four decades now. The Assam Agitation that began in 1979 to flush out the illegal Bangladeshi migrants ended with the signing of the Assam Accord on 15 August 1985. But the migration issue still continues to remain a crucial factor in Assam, or for that matter, the entire Northeast India. In fact, this has been one of the major issues over which elections are won or lost in Assam. The recent Legislative Assembly Elections in Assam held on 4 and 11 April, 2016, too, was not an exception. One of the major promises made by the Bharatiya Janata Party (BJP) in this election was to protect Assam's future by saving the identity of the State's indigenous people from an onslaught by illegal Bangladeshi migrants. The party experienced a debut win in this north-eastern state.²

The Northeast region of India is in a strategic location and shares porous borders with Bangladesh, China, Myanmar and Bhutan. While there is no migration from China, Myanmar and Bhutan to the Northeast, migration from Bangladesh stands as a

1 Rani Pathak Das is a Senior Research Associate with the Centre for Development and Peace Studies (CDPS), an independent think tank based in Guwahati, India.

2 'Landslide Victory for BJP Alliance', *The Assam Tribune*, 19 May 2016. <http://www.assamtribune.com/scripts/detailsnew.asp?id=may2016/at050>

major problem in the region. Even before India's independence, there had been migration of people from East Bengal, now Bangladesh, to Assam. Of course, then it was an internal migration of people from one part of India to another. With the partition of India in 1947, the flow of migrants from the then East Pakistan to India increased many fold for different reasons, including alleged religious persecution. However, the issue became a part of the political dynamics in 1979 with the discovery of names of illegal Bangladeshi migrants in the voters list prepared for a Parliamentary by-election.

A New Dimension to the Issue

So long, the issue was raised by political parties and others irrespective of religion, but a new dimension was introduced by the BJP. Prior to the Lok Sabha polls in 2014, the BJP announced that they would grant stay rights in India to all those minority Hindu, Sikhs, Christians, Jains, Parsis and Buddhist refugees who had fled Bangladesh and Pakistan due to 'religious persecution.' The BJP's idea was to let these people stay on in India even after expiry of their visas on humanitarian grounds.³

On 7 September 2015, the Union Ministry of Home Affairs decided to exempt Bangladeshi and Pakistani nationals belonging to minority communities who have entered India on or before 31 December 2014, and stayed in the country without proper documents or after the expiry of the relevant documents. On the same day, the Government also issued two notifications in the Official Gazette under Passport (Entry into India) Act 1920 and

3 'India to allow minorities from Pakistan, Bangladesh to stay without papers'
<http://indianexpress.com/article/india/india-others/india-to-allow-minorities-from-pakistan-bangladesh-to-stay-without-papers/>

Foreigners Act 1946. Ever since Prime Minister Narendra Modi came to power, number of steps have been taken including issuance of Long Term Visa (LTV), manual acceptance of applications for citizenship, consideration of an affidavit filed before the authority in return for citizenship renunciation certificate and permission to the children of such refugees, who entered India, on the basis of their parents' passport, to apply for Indian citizenship without a passport.⁴

The decision of the Government of India has raised strong reactions in different sectors inviting fresh discourse on the migration problem in the region. The All Assam Students' Union (AASU), under whose aegis the Assam Agitation or the Anti-Foreigners Movement was raised which ended with the signing of the Assam Accord, opposed the Government's decision to provide refugee status to Hindu migrants from Bangladesh and stated that all illegal migrants irrespective of religion must be deported from the State as per the Accord. AASU advisor Samujjal Bhattacharya said that his organisation is opposed to the Modi government's decision because "Assam can no longer be the dumping ground for Bangladeshi migrants. Assam took a lot of refugees during and after Partition and during the 1971 war. It is after all, a small state with a high unemployment rate. These people can be given space in some other state."⁵ The Asom Gana Parishad (AGP), a product of the anti-foreigners' uprising of the eighties in Assam who had been in power in Assam for two terms, said that the Central

4 India to allow minorities from Pakistan, Bangladesh to stay without papers

5 Assam on the Boil Again, this Time Over Hindu Migrants from Bangladesh, by Sangeeta Barooah Pisharoty, 13.09.2015, <http://thewire.in/2015/09/13/assam-on-the-boil-again-this-time-over-hindu-migrants-from-bangladesh-10622/>

government's decision will threaten the identity of the indigenous people of the State and endanger their political, economic and cultural rights.

The Asom Sahitya Sabha, the apex literary body in the State, formed a committee to assess the probable consequences of the Centre's notification. The committee, comprising 20 people, including a former president of the Sabha, and a few advocates, would be looking into the possible impacts of the notification on Assam.⁶ There were similar reactions on the part of other non-political mass-based organizations like Asom Jatiyatabadi Yuva Chatra Parishad (AJYCP), Krishak Mukti Sangram Samity (KMSS) with a number of ethnic organizations of the State, which have already demonstrated their protest against the latest move of New Delhi. Other political parties like Communist Party of India (CPI), CPI (Marxist Leninist), Nationalist Congress Party (NCP) etc also expressed resentment towards the decision of the Government.

On the other hand, organizations like Bengali Lok Manch and the Assam chapter of the Nikhil Bharat Bengali Udbastu Samanay Samiti (NBBUSS), one of the main pan-India organisations championing the cause of the Displaced Bengali Hindus (DBH), welcomed the Modi government's move but reiterated their main demand for Indian citizenship. There are anywhere between 59 and 75 lakhs displaced Bengali Hindus in Assam out of a total of 3.5 crore said to be scattered across India.⁷ The Assam-based organisations representing the community of DBH say that

6 Sabha panel on migrants. *The Telegraph*, 18 September 2015. http://www.telegraphindia.com/1150918/jsp/northeast/story_43272.jsp#.Vwjg9vl97IU

7 Ibid

religious persecution in Bangladesh makes it impossible for them to go back, and have for years demanded that they be granted not just refugee status but Indian citizenship.

Major political parties fighting election this year in Assam have different stand on the issue and are playing political ball game. While the BJP has been talking about granting citizenship to Hindu refugees from Bangladesh and Pakistan on humanitarian ground combined with a fresh promise to stop illegal infiltration from Bangladesh and to take measures to detect and deport them, the Congress party too capitalised on the issue by stating that they too have been making the same demand for some time. Obviously, both the parties do not want to part with this section of Bengali Hindu vote bank. The BJP also made the All India United Democratic Front (AIUDF) its key target of attack saying if the party were to share power, the identity of Assam's indigenous people would be at stake⁸. The head of AIUDF, Maulana Badruddin Ajmal⁹, a minority political leader, on the other hand, has been blaming the BJP at the Centre that it is trying to communalise the problem by issuing every Bengali speaking Muslim as a Bangladeshi and demanded that only those who have come from Bangladesh after 25 March 1971 should be regarded as illegal migrants and can be detected and deported.

8 Assam polls 2016: Perfume baron with global business hopes to be kingmaker in elections, Wasbir Hussain, First Post, 29 March 2016. <http://www.firstpost.com/politics/assam-polls-2016-perfume-baron-with-global-business-hopes-to-be-kingmaker-in-elections-2701170.html>

9 Apart from his political identity, Maulana Badruddin Ajmal is also a perfume baron with signature outlets and distribution centres in more than 30 countries around the world and a Muslim cleric in his capacity as the Assam state president of a faction of the Jamiat Ulema-e-Hind, a leading Muslim organisation in India.

25 March 1971 was the cut-off date determined by the Assam Accord which was signed ending the six-year-long Assam Agitation against the illegal Bangladeshi migration. However, the irony here is that no bilateral agreement exists between India and Bangladesh regarding deportation of migrants. It is obvious that after detection of any migrant, India can only deport the same provided the host country accepts them. Another significant loophole of the Assam Accord was that it only said about detection and deletion and not used the word deportation which is the actual legal term. Expulsion of migrants cannot guarantee that they will not come back again once they are expelled, and this was what happened all through the years following the signing of the Accord. One more fascinating aspect about the Accord was that after detection of any foreigner, the onus was on the person who has reported to prove that the detected person was a foreigner. This invited a lot of harassment to the people and the result is written in the wall—since 1985, only 38,186 illegal migrants were detected by the Foreigners’ Tribunals out of which 2,448 have been pushed back to Bangladesh.¹⁰ Again, no one can deny that some of those expelled might have returned to Assam again!

Demographic Changes

The north-eastern part of India is a turbulent region of 263,000 sq km¹¹, accounting for 8 per cent of the India’s geographical area, and shares a highly porous and sensitive frontier with Bangladesh,

10 As stated by Dr Bhumidhar Barman, Minister for Assam Accord implementation in Assam Assembly in March 2015. <http://indianexpress.com/article/india/india-others/declared-foreigners-by-tribunals-over-38000-bangladeshi-infiltrators-missing-in-assam/>

11 Located at Longitude 89.46 degree E and Latitude 21.57 degree N to 29.30 degree N

China, Myanmar and Bhutan. The region is home to 45.53 million people (2011 Census)¹² and has a 4,500 km-long international border. However, it is connected to the mainland India through a 22 km long land corridor, best known as the ‘chicken’s neck’ that passes through Siliguri in the state of West Bengal in eastern India. The region shares a 1,879 km long border with Bangladesh, out of which the state of Tripura shares 856 kms, Meghalaya shares 443 kms, Mizoram shares 318 kms and Assam shares 262 kms. All the eight states of the region (Sikkim was integrated as the eighth North Eastern Council state in 2002) have been bracketed as the ‘North East’ after India’s Independence in 1947.¹³

According to the 2011 Census, Assam’s population is 31,205,573 and out of this, 19,180,759 were recorded as Hindus (61.46 per cent) and 10,679,345 Muslims. The critical insight given by the 2011 Census is that nine districts in Assam now have a majority Muslim population. These nine districts are Barpeta, Dhubri, Karimganj, Goalpara, Darrang, Bongaigaon, Hailakandi, Nagaon and Morigaon. According to the 2001 Census, six districts in Assam were Muslim-dominated. The three districts which became Muslim majority during the period 2001-2011 are Darrang, Bongaigaon and Morigaon. According to the 2001 Census, Bongaigaon had 38.5 per cent Muslim population, Morigaon 47.6 per cent and Darrang 35.5 per cent. Now, the 2011 Census states that Bongaigaon has 50.22 per cent Muslim

12 mha.nic.in

13 ‘Bangladeshi Migrants in India: Towards a Practical Solution—A view from the Northeastern Frontier’, Wasbir Hussain in *Missing Boundaries: Refugees, Migrants, Stateless and Internally Displaced Persons in South Asia*, ed. PR Chari, Mallika Joseph, Suba Chandran. Monohar, 2003

population (a growth of about 12 per cent); Morigaon has 52.56 per cent (a growth of about 5 per cent) and Darrang has 64.33 per cent Muslim population (a growth of about 29 per cent). The earlier censuses had shown that the rates of growth of Muslim populations are the highest precisely in the districts that share a border with, or lie close to the border with, Bangladesh - particularly Dhubri, Karimganj and Hailakandi. However, the 2011 Census data exhibited an interesting finding: Muslim population growth is higher in districts away from border. The population has increased by 28.8 per cent in Darrang district, 14.88 per cent in Kamrup, 13.86 per cent in Nalbari, and 11.37 per cent in Barpeta. These districts do not share a direct border with Bangladesh. This shows that while illegal migration from Bangladesh is still a real issue, the trend has been coming down over the years. The figures also indicate that the flow of illegal migrants is spreading across the various districts of Assam. Another clear distinction could be made from this trend of population growth. It is seen that the population of the indigenous Assamese speaking Muslims, mostly located far from the Bangladesh border have been registering marginal increases as compared to those living in areas close to the border.

The push factors for this silent demographic invasion is created by the population explosion in Bangladesh, with 2.8 million added every year in one of the poorest and most densely populated countries in the world. In the early nineties, Sadeq Khan, a former diplomat, stated:

All projections, however, clearly indicate that by the next decade, that is to say by the first decade of the 21st century, Bangladesh will face a serious crisis of lebensraum... A natural overflow of population pressure

is very much on the cards and will not be restrained by barbed wire or border patrol measures. The natural trend of population overflow from Bangladesh is towards the sparsely populated lands in the South East, in the Arakan side and of the North East in the Seven Sisters side of the Indian sub-continent...¹⁴

The pull factors such as availability of sparsely populated or near empty areas in Assam and different parts of the Northeast, better employment opportunities, higher wages, facilities and amenities of modern life encourage migration.

Assam Agitation

The by-election of the Mangaldoi constituency in Assam in 1979 was the trigger factor of the first organized anti-foreigner movement in Assam that turned into a mass uprising—popularly came to be known as the Assam Agitation. The circumstances of the by-election provide interesting insights. As soon as the Election Commission, the authority that supervises elections in India, ordered holding of fresh polls, officials started the exercise of revising the voters' rolls for the Mangoldoi constituency.

The exercise was reaching an end when the local electoral officer started receiving complaints that the names of many Bangladeshis had been included in the voters' list. In just a few weeks, as many as 70,000 complaints were registered against illegal migrants. A tribunal was set up by the state government to investigate the complaints. It upheld 45,000 complaints or sixty-four per cent of the cases out of a total electorate of 6,00,000.

14 *Assam: Demographic Jitters*. Wasbir Hussain. http://www.satp.org/satporgtp/sair/archives/3_10.htm

AASU, the state's largest student group, galvanized the masses, successfully mobilizing them to come out onto the streets, and enforced general strikes and a boycott of elections. No correct voters' list (free from the names of illegal aliens), no elections — this was AASU's slogan. The AASU-led anti-foreigner movement in Assam sought to halt the illegal influx of foreign nationals from across the porous border in Bangladesh as well as from Nepal, preventing these categories of people from taking part in the electoral process, and eventually detecting and deporting them. This was intended to protect the State, its people and culture against what it called the 'silent invasion from Bangladesh'.

Assam was marked by political instability as the mass uprising against the illegal migration of foreigners was beginning to take shape. Slogans like 'our land, their living space' were spreading fast amongst the indigenous Assamese, making them uneasy to say the least. The gravity of the situation was brought home by none other than the then Election Commissioner of India, S.L. Shakhder. He declared at a conference of the Chief Electoral Officers of States, in 1978, that reports from the northeast regarding foreigners being included in the voters' list were, indeed, alarming. Shakhder went on to add:

In one case [Assam], the population in the 1971 census recorded an increase as high as 34.98 per cent over the 1961 figures and this increase was attributed to the influx of a very large number of persons from the neighbouring countries. The influx has become a regular feature. I think that it may not be a wrong assessment to make on the basis of increase of 34.98 per cent between the two censuses, the increase that is likely to be recorded in the 1991 census would be more than 100 per cent over the

1961 census. In other words, a stage would be reached when that State may have to reckon with the foreign nationals who may, in all probability, constitute a sizeable percentage, if not the majority of the population in the State.¹⁵

The then Chief Minister of Assam Golap Borbora (Janata Party) set up some tribunals to probe complaints against alleged illegal foreign migrants that were pouring in. Indira Gandhi's Congress party was opposed to the move and toppled Borbora in 1978 with the backing of a section of legislators, and the other Congress faction in Assam headed by the veteran former chief minister Sarat Chandra Sinha. Borbora was succeeded by Jogendranath Hazarika whose tenure as chief minister lasted just three months. He had to resign in the wake of a massive public protest that forced him to get the tribunals resume its work of detecting and deporting the aliens. The same section of legislators revolted again, forcing him to quit. Assam Governor Lalan Prasad Singh concluded that no party would be able to provide a stable government as the situation was too volatile and recommended President's rule or direct central rule from New Delhi.

The AASU under its president Prafulla Kumar Mahanta, a student leader at the University of Gauhati and his deputy, Bhriku Kumar Phukan, the reticent general secretary of the organization, was bringing normal life in the State to a halt with their calls for strikes, non-cooperation and road or office blockades. Indira Gandhi invited them over for talks to work out a solution. They

15 Cross-Border Human Traffic in South Asia: Demographic Invasion, Anxiety and Anger in India's Northeast, Wasbir Hussain, <http://www.satp.org/satporgtp/publication/faultlines/volume7/Fault7-WasbirF.htm>

went, but rejected Mrs Gandhi's call to end the agitation although she promised them that New Delhi would draw up measures to detect and deport the illegal migrants who had entered Assam after 1971. The talks failed.

Mrs. Gandhi decided to clinch the issue by calling for fresh elections in Assam, have an elected government in place and let it tackle the agitation. The polls were fixed for 1983. The AASU and its allies, backed by thousands of their supporters across the state, opposed the polls. No polls without a revision of the voters' list, they said, in no uncertain terms. The government was bent on holding the elections. The agitation leaders urged the people to boycott and resist the polls. Roads and bridges were burnt or damaged and government officials refused to conduct election duties. The government flew in poll officials from outside Assam. The people of Assam boycotted the elections. The 1983 polls as it were, turned out to be the most farcical elections in India's electoral history. There were instances where candidates won with the votes of just his immediate family members.

Assam Accord

After protracted negotiations, the Assam movement formally ended with signing of the 1985 Assam Accord in New Delhi between the AASU and the Central government, in presence of then Prime Minister Rajiv Gandhi. This Accord fixed a cut-off date to determine who the illegal migrants in Assam were. This date was March 25, 1971, the day Bangladesh was born. The Assam Accord states that all those migrants who have come and settled in the State on or before this date shall be regarded as citizens. And those illegal migrants who are found to have arrived

in the State after this date are to be detected and expelled in accordance with the law.

The main provisions of the Assam Accord of 1985 on the foreigners issue were:

1. For purposes of detection and deletion of foreigners, 1.1.1966 shall be the base data and year.
2. All persons who come to Assam prior to 1.1.1966, including those amongst them whose names appeared on the electoral rolls used in 1967 elections shall be regularised.
3. Foreigners, who came to Assam after 1.1.1966 (inclusive) and up to 24 March, 1971 shall be detected in accordance with the provisions of the Foreigners Act, 1946 and the Foreigners (Tribunals) Order 1964.
4. Names of foreigners so detected will be deleted from the electoral rolls in force. Such persons will be required to register themselves before the Registration Officers of the respective districts in accordance with the provisions of the Registration of Foreigners Act, 1939 and the Registration of Foreigners Rules, 1939.
5. For this purpose, Government of India will undertake suitable strengthening of the government machinery.
6. On the expiry of a period of ten years following the date of detection, the names of all such persons which have been deleted from the electoral rolls shall be restored.
7. All persons who were expelled earlier, but have since reentered illegally into Assam shall be expelled.

8. Foreigners who came to Assam on or after March 25, 1971 shall continue to be detected, deleted and practical steps shall be taken to expel such foreigners.
9. The Government will give due consideration to certain difficulties expressed by the AASU/AAGSP regarding the implementation of the Illegal Migrants (Determination by Tribunals) Act, 1983.

After signing of the Accord, the AASU leaders, who headed the Agitation, formed a political party—Asom Gana Parishad—and contested election. Even after two terms (10 years) of their rule, they were able to expel less than 1500 illegal migrants and they blamed the poor progress in the exercise of detection and expulsion on loopholes in the controversial Illegal Migrant (Determination by Tribunals) Act, 1983 (IMDT) which was legislated by the Central Government supposedly to facilitate the detection of foreigners in Assam. The IMDT Act, which was repealed by the Supreme Court as ‘unconstitutional’ on 12 July 2005, operated only in Assam, while the Foreigners Act, 1946, applies to the rest of the country. Under the IMDT Act, the onus of proving the citizenship of an accused ‘illegal alien’ lies on the accuser, whereas in the Foreigners Act, the onus lies with the accused.

Migration and Politics of Citizenship

The anti-foreigners agitation was the beginning of a whole new politics of citizenship in Assam, and is an issue that dominates the State’s murky politics even today. The organizations behind the Assam Movement estimated the number of ‘foreigners’ in Assam to be as high as 4.5 to 5 million, or 31 to 34 per cent of the total population of the state in 1971. There were other groups that

stoutly contested these figures¹⁶. The politics of citizenship, triggered by the real or perceived presence of ‘lakhs of illegal migrants from Bangladesh’, has reached such a pass—30 years after the issue was supposed to have been tackled with the signing of the Assam Accord—that many refuse to even be rational anymore. The result is rather dangerous because moderates, Muslims and others alike, have chosen to play safe by remaining silent.

The Assam Accord had said all those Bangladeshi nationals entering India after 25 March 1971 will be regarded as illegal migrants, who are to be detected and expelled. But today, there are forces in Assam who would not like to bother about this cut-off date and bracket all migrants of East Bengal origin as aliens. Anybody raising a voice against dubbing all Muslim settlers, irrespective of the time when they had started living in Assam, as illegal migrants, are conveniently sought to be projected as someone who is pro-Bangladeshi. This has led to the silencing of most moderate or sane voices in the State.

Illegal migration from Bangladesh is a live issue. But, the reality also is that lakhs of Bangladeshis who had entered India on valid travel documents have since disappeared, meaning they had not returned to their home country. According to recent figures with the Union Home Ministry, 58,932 Bangladeshi citizens who had legally entered India during 2009-11, did not return¹⁷. Therefore, the issue of migration from Bangladesh, both legal and

16 Ibid

17 ‘Assam deported only 134 Bangladeshi illegal immigrants in past 2 yrs’, *The Times of India*. <http://timesofindia.indiatimes.com/india/Assam-deported-only-134-Bangladeshi-illegal-immigrants-in-past-2-yrs/articleshow/16441711.cms>

illegal, is something that has emerged as a huge challenge for New Delhi.

The hard reality also is that in Assam today, there can be several categories of migrants who could be entitled for Indian citizenship, mostly in accordance with the provisions of the Assam Accord. These include: persons who had come before 1st January 1966; persons who came between 1st January 1966 and 24 March 1971 (they are entitled to grant of citizenship after a lapse of 10 years); persons born on Indian soil between 24 March 1971 and before 1st July 1987 (they are entitled to claim citizenship by birth); and persons born on Indian soil after 1st July 1987 but before the commencement of the Citizenship Act, 2003 (they are entitled to citizenship if one of the parent is an Indian national and the other not an illegal migrant at the time of his or her birth).

The government is in a paradoxical situation because what would India do with those people who could be declared tomorrow by the Tribunals as illegal migrants? Push them into Bangladesh? No one has a clue really! And this is a perfect recipe for the politics of citizenship to linger on in Assam.

Rise of AIUDF

Originally formed as the Assam United Democratic Front (AUDF) in October 2005 by Maulana Badruddin Ajmal, this political party wore a national face in February 2009 and renamed itself as All India United Democratic Front (AIUDF). The party harps on the protection of “civil and political rights of minorities”¹⁸, and believes that “migration is a natural phenomenon and a reality”.

18 AIUDF releases vision document, speaks up for “civil and political rights” of minorities, March 29, 2016. <http://goassam.com/13887/aiudf-releases-vision-document-speaks-up-for-civil-and-political-rights-of-minorities>

Since its inception, it has seen a rising trend in winning elections in Assam. In its first Assembly elections in 2006, the AUDF was able to win 10 seats—all belonging to the minority dominated belts of the Brahmaputra valley. In 2011 Assembly elections it won 18 seats and took to the role of the main opposition party in the Assam Assembly where no party could get the required number of seats to sit in the opposition. In 2014 parliamentary elections, the party was able to win three parliamentary seats—equaling the number with the ruling Congress party. Less than a decade ago, the AIUDF was something of a political pariah. But the party’s rise in the last 10 years is clear evidence of a continuing demographic shift that successive Congress governments in the past have deliberately ignored. The AIUDF is being accused by parties like the BJP of thriving on the votes of ‘Bangladeshis’ or people who may not be of Indian origin. This is because the party’s main support base comprises the Muslim settlers who dwell in the chars or the riverine areas in northern, western and central Assam. But, it would not be correct to bracket all Muslim settlers as ‘Bangladeshis’ because most of them could well fall under the pre-a971 entrants’ category, meaning they may have migrated to Assam before 1971, the cut-off date set by the 1985 Assam Accord.

Migration Woes in Tripura

Tripura, another north-eastern state of India, has faced the migration and refugee problem for several decades and witnessed a bloody history over it. The State could well be among the few places in South Asia where the natives of the land have been reduced to minorities after large-scale migration in a span of less than 50 years. As B.G. Verghese says:

Tripura is the Northeast's nightmare being a state whose demographic transformation has rendered its original inhabitants a minority in what was once a proud tribal kingdom ruled by a succession of 183 Tripuri princes who held sway over a land that finds mention in the *Mahabharata* and (the) *Ain-i-Akbari* and whose history is recorded over the centuries in Rajamala, the state chronicle.¹⁹

The Maharaja of Tripura enacted legislation to acquire land for tea cultivation in 1917 and 1925 and it is believed that this had encouraged migration of poverty and famine-stricken Bengalis from East Bengal. Alarmed by the rise of the number of migrants from different regions to Tripura up to 114,383 way back in 1931, the Maharaja reserved land for use in agriculture by five tribal groups in the State—Tripuris, Reangs, Jamatias, Noatias and Halams. The apprehension of the State's tribal people about possible large-scale influx of Bengalis came true with the partition of India and Pakistan bringing about a dramatic transformation in Tripura's demographic profile. "Attacks on Hindus in East Pakistan in the 1960s led to many refugees settling in Tripura. One estimate states that 600 persons fled to Tripura every day after the assaults."²⁰

In 1901 Tripura's population was 1.73 lakh, with tribals making up nearly 52.89 percent of the whole. By 1941, the total population rose to 5.13 lakh with a barely 50.09 percent tribal majority. But by 1981, the tribal population dipped to 28.44 percent of a total population of 2.05 million because of several

19 BG Verghese, *India's Northeast Resurgent*, New delhi, Konark, 1997, p.166

20 Hazariaka, *Strangers in the Mist*, p. 123

socio-political developments. The graph now has a slight increase in tribal population, with the 2011 Census figure at 31.78 per cent.

Decadal percentage of Tribal population in Tripura

Year	Total Population	Total Tribal Population	Percentage of Tribals
1874-75	74,523	47,523	63.77
1881	95,637	49,915	52.19
1891	137,575	70,292	51.09
1901	173,325	91,679	52.89
1911	229,613	111,303	48.47
1921	304,347	171,610	56.37
1931	382,450	203,327	52.00
1941	513,010	256,991	53.16
1951	639,028	237,953	37.23
1961	11,42,005	360,070	31.50
1971	15,56,342	450,554	28.95
1981	20,53,058	583,920	28.44
1991	27,57,205	8,53,345	30.95
2001*	31,99,203	9,86,328	30.83
2011	36,71,032	11,66,813	31.78

(Source: Census Reports)

By the mid-1960s, the tribals turned more and more restive due to this realization of becoming minority in their own land—a tribal political party called Tripura Upajati Juba Samity was formed in 1967 which was followed by the formation of tribal military outfit Tripura National Volunteers (TNV) in 1978. The mid-1979 saw a series of attacks on the settlers as well as the symbols of government authority such as the security forces to protect the distinct identity of the tribals from the ‘invaders’ from ‘outside’. The demographic impact of Bengali settlement was beginning to make a political impact. The Congress party was

edging past the Communists on the strength of the 'refugee vote'. However, the present Communist Party of India Marxist (CPI-M) government in Tripura under Chief Minister Manik Sarkar, who is running the government for the fourth consecutive term, has been able to bring harmony between the tribals and the majority Bengalis and douse the fire of insurgency and unrest. The Tripura government being able to remove the Armed Forces Special Powers Act (AFSPA) from the State on 28 May 2015, after 18 years of its imposition, speaks a lot about the government's success in bringing peace to the State.²¹

Chakma Refugees in Arunachal Pradesh

The genesis of the Chakma crisis goes back to 1964 when about 100,000 Chakma people (one-sixth of the population) were displaced turning them into "developmental or environmental refugees" in order to complete the Kaptai hydroelectric dam over the Karnafuli river in the Chittagong Hill Tracts (CHT) in present Bangladesh. Sponsored by United State Agency for International Development (USAID), the project inundated 40 per cent of the prime cultivable land of the indigenous natives. This is one of the earliest examples of mass displacement in South Asia due to a 'developmental' initiative.

However, this 'environmental' or 'developmental' factor is only a part of the whole problem. The Chakmas were actually a 'rejected' lot back home and became 'unwanted migrants' in Arunachal Pradesh. With India's Independence in 1947 the

21 AFSPA removed in Tripura after 18 years: Here's why it was enforced and why it's gone now. <http://www.firstpost.com/india/afspa-removed-in-tripura-after-18-years-heres-why-it-was-enforced-and-why-its-gone-now-2266770.html>

Chakmas wanted to become Indian citizens, but they found themselves as Pakistani nationals in complete defiance of the very logic of partition of the subcontinent. The liberation of Bangladesh as a sovereign state in 1971 renewed their hopes. However, they soon discovered that there was no autonomous politico cultural space for them in that overwhelmingly Muslim dominated society. The plight of these people is well expressed by one among the sufferers:

I was a non-Bengali-speaking Buddhist in Chittagong Hill Tracts, now a part of Bangladesh. Prior to 14 August 1947, I was a British subject. On 14 August I became a citizen of the state of Pakistan. In 1971, the Chakmas in CHT became citizens of Bangladesh, while those of us living in India as refugees became stateless people, as Bangladesh did not recognise us as its citizen and the Indian state had not granted us citizenship. We have thus never had the opportunity to determine our own identity, which is responsible for our continuing plight as stateless people. (Sumati Ranjan Talukdar, Jyotsnapur Village, Changlang district, Arunachal Pradesh)²²

Some 40,000 Chakmas came from CHT, then East Pakistan, took asylum and were settled by India in the NEFA (North East Frontier Agency)²³ during 1964-69. No doubt, with time the

22 'Chakma refugees: Partition Residues and development Victims' in *Stateless in South Asia: the Chakmas between Bangladesh and India*, Deepak K Singh, Sage, 2010, p. 1

23 The North-East Frontier Agency (NEFA) was one of the political divisions in British India and later the Republic of India until 1972, when it became the Union Territory of Arunachal Pradesh. In 1987, it was accorded the status of a full provincial state within the India Union.

number increased to around 60,000,²⁴ but in Arunachal Pradesh, they have remained stateless for about five decades. In the absence of citizenship and land rights however, they have continued to live like refugees, except that the state government does provide them the basic amenities.²⁵ The response of the indigenous people has been one of alarm and protest at the prospect of the Chakmas permanently settling in the State. Arunachalis fear that they stand to lose the land as well as employment, that political power may shift out of their hands and they might even be reduced to a minority in their own land. There have been anti-refugee stirrs in Arunachal Pradesh in 1983, 1989 and 1995, during which dozens of settler homes were torched.²⁶

On 17 September 2015, the Supreme Court of India directed the Central Government and the Government of Arunachal Pradesh “to finalise the conferment of citizenship rights on eligible Chakmas and Hajongs” within three months from the date of the order.²⁷ Granting citizenship to all the Chakma and Hajong refugees can have huge impact on the State’s local politics. All political parties in Arunachal Pradesh, including the Congress and the Bharatiya Janata Party, and other mass based organizations like the All Arunachal Pradesh Students’ Union (AAPSU), have called upon the state government to take legal recourse and challenge the Supreme Court ruling. The Government of

24 Arunachal’s high-stakes unrest, Wasbir Hussain. <http://www.deccanchronicle.com/151107/commentary-op-ed/article/arunachal%E2%80%99s-high-stakes-unrest>

25 <http://indianexpress.com/article/explained/arunachal-fumes-as-sc-seeks-citizenship-for-chakmas-and-hajongs/>

26 Arunachal’s high-stakes unrest, WASBIR HUSSAIN

27 Supreme Court orders to grant Indian citizenship rights to Chakmas and Hajongs in 3 months, Mohit Singh, September 17, 2015

Arunachal Pradesh too has already moved in this direction. It is significant that as per the Supreme Court order, the 1964-1969 stream of refugees are to be granted citizenship, but what will happen to those who have entered the State much after this time period? The matter is certainly challenging for the Government. While the Arunachalis may push these people out of their state, the neighbouring states are not willing to accept them. Violence and bloodshed in the near future cannot be ruled out, if the crisis goes out of control.

The Road Ahead

The problem of migration from the Bangladesh region to India has been a serious and persistent issue which began much before India's Independence, when the present Bangladesh was a part of India. After Independence and partition of India, this migration became illegal. However, partition could not stop the migration problem and in fact, the flow increased. Even after the liberation of Bangladesh in 1971, there has been a heavy flow of migrants to West Bengal and the north-eastern part of India due to different factors, including religious persecutions and utter poverty in Bangladesh. It seems to have become a real hard task for the Government of India to stop this illegal migration as well as to detect and deport the foreigners as per the Assam Accord. Commonality of language, culture and religion between the two countries emerged as a major challenge in identifying immigrants, making deportation extremely difficult. The immigrants speak the same language as many Indians, and often have familial connections that make it easy to assimilate with the local population. Bangladesh's consistent denial that its citizens are illegally crossing the border also complicates matters. Even when

Indian authorities have identified illegal immigrants, deporting them becomes almost impossible given the reluctance of Bangladeshi authorities to cooperate. However, in view of both India and Bangladesh now having good bilateral relations, the issue needs to be solved as soon as possible.

1. Fresh infiltration from Bangladesh has to be stopped. One of the central components in India's migration control strategy is border fencing. The project was sanctioned (1986) in two phases: Phase I (1987-1999) and Phase II (2000-2007) which proposed a fencing of 3,438 km. However, the work in the second phase is still going on as the project is yet to be finished. The Union Home Minister of India, Rajnath Singh has announced in January this year that Construction of the barbed-wire fence along the Assam stretch of the Indo-Bangladesh border would be completed by the end of 2016.²⁸ The government in fact needs to have a comprehensive border management policy. Elements of such a policy would include the setting up of an effective mechanism to manage the trans-border movement of people, effective surveillance, a comprehensive and coordinated intelligence apparatus, the involvement of border populations and a greater role for the local administration and law enforcement agencies.
2. The government and the civil society must stop bracketing every Bengali speaking Muslims as

28 Bangladesh border fence in Assam to be completed this year: Rajnath Singh - See more at: <http://indianexpress.com/article/india/india-news-india/rajnath-singh-promises-to-complete-bangladesh-border-fence-by-year-end/#sthash.IArjmESe.dpuf>

Bangladeshis. There is need for integration and assimilation of those migrants who came before 1971. This approach will inspire this category of migrants to work and serve as buffers. Once they feel secured, they may discourage new influx.

3. Detect the foreigners who infiltrated after the 1971 cut off date and keep the migrants in detention camp and then deport by evolving a working mechanism with Bangladesh. A dialogue on the contentious subject could help both the nations.
4. India and Bangladesh laid down a framework of cooperation for development since 2009. India may even propose a system of work permit allowing Bangladeshi nationals easy entry into India to work and live here. This would give a legal status to these people who currently live in daily uncertainty, allay genuine security concerns and help towards resolving this long-festering problem.
4. Development can well serve as a strategy to prevent possible growth of Islamic terrorism in Northeast India. As the migrant people living in the char or riverine areas of the Brahmaputra and Barak valley of Assam are extremely poor and illiterate, it is very much possible that terrorist forces outside the country may exploit these people easily. Incidents of such kind, though in a small way, have already occurred in the State.
5. Investment in Bangladesh and political assertiveness on India's part to stabilize the society and economy in Bangladesh is important. Economic and cultural investment in Bangladesh particularly in the regions

close to Indian borders will help reduce the problem of influx from Bangladesh. The people of both countries have given a mandate on the agenda of 'development'. Therefore, it is in the interest of both countries that there should be close cooperation and interaction between Bangladesh and India on the issues of economic prosperity.

6. India may provide aid to the Bangladesh government and in return Indian companies may setup offices and industries in Bangladesh. For instance, companies like TATA and Airtel are operating in Sri Lanka. Connectivity through trains and roads and improve trade between the two countries making Bangladesh a livelihood available state so that people don't have to migrate to India.

Sri Lankan Tamil Refugees in India: Issues and Concerns

Subramanyam Raju¹

Introduction

Refugee issue has become one of the growing problems faced by most of the developed and developing countries in the world. About twelve percent of the total refugees of world live in South Asia. India is the major hosting state for refugees. Since 1947, India has been providing shelter to more than 2, 24,500 refugees. India has been offering shelter to the many refugees: West Pakistan during 1947-48, East Pakistan (in 1971), Tibetans, Chakmas of Bangladesh, Afghans and Sri Lankans.

Sri Lankan refugees are the second largest refugee (next to the Tibetans) community living in India. Currently there are about a lakh Sri Lankan Tamil Refugees living in Tamil Nadu (India). During the pre colonial period, individuals/groups were allowed pursue multiple and shifting identities. However, later, the British, under its colonial rule, created clan, ethnic, caste, religious groups through consensus. After the British left, the sub continent was divided into several sovereign states. They adopted the colonial legacy of administration. Territory has become manifestation of the national identity of a citizen. Sovereign state believes in statist membership model and creates thereby problem for the

1 Prof. Raju is head of the UNESCO Madanjeet Institute of South Asian Regional Cooperation (UMISARC), Pondicherry University, India.

statelessness in South Asia. In addition, multi-religious and pluralistic culture prevails in the third world. As a result, minority has become stateless citizens i.e refugees. Also those who are not loyal to state become refugees. As Ayesha Jalal writes: “In what was a brutal irony of the coming of independence, erstwhile colonial subjects earned the trappings of citizenship by further constraining their freedom to nurture historically evoked multiple identities. It was worse than that. Liberation from the colonial yoke did not involve dismantling the structures of unitary state power. The very instruments of colonial tyranny that had so fired the nationalist ire become lightning rods of the post colonial order. The anti colonial thrust of nationalists legitimizing ideologies notwithstanding, an alien concept of indivisible sovereignty was briskly adapted to delimit the acceptable parameters of political allegiance.”²

India has been an Executive Committee (Ex-COM) member of the UNHCR since 1995. However, India refused to sign the 1951 Convention and 1967 Additional Protocol on refugees. Reasons for India’s refusal could be: it shares contiguous borders with many countries; it shares ethnic and linguistic affinity among people in the border areas; it would affect labour market, adverse political and demographical factors; the convention is not feasible and not enforcing the member countries; refugee problem varies from country to country and should be addressed at national level; refugee flows threaten the stability in the region; it would threaten identities of peoples in other region; not all the countries in South Asia are positioned to receive refugees like India. India, being a developing country, could not afford to fulfill the convention

2 Ayesha Jalal, *Democracy and Authoritarianism in South Asia*, Cambridge University Press: Cambridge, 1995, p.248

obligations. If it signs the convention, then it has to fulfill obligation, which go beyond its economic capabilities. Knowing the geographical situation in South Asia, refugee issue can be dealt bilaterally and not legalistically.

Historical linkages between Tamils and Sinhalese

Sinhalese and Sri Lankan Tamils had been historically linked to South India. Migration between Sri Lanka and India has occurred in both directions. Though South Indian medieval dynasties at times invaded Sri Lanka, Sinhala and Tamil kings used to cooperate in peace and war and protected each others' religions. Over a period of time, demographic changes occurred through trade, cultural, religious, political and military movements.³ Sinhalese and Tamils were identified as different identities. Tamils were identified with the north-east and Sinhalese with the rest of the island.

The narrow stretch of water between Sri Lanka and India in the north-western frontier, separating the two countries, facilitates close contact between people. Massive movement of people from India, particularly Tamil Nadu to Sri Lanka, took place when the British colonial administrators decided to take labourers from India to work in the newly established tea plantation sites in central Sri Lanka in the nineteenth century. Migration of large numbers of Indian labourers in Sri Lanka contributed to some disturbances in the relationship between Sri Lanka and India after the British left the sub continent. The Tamils in Sri Lanka raised their concern over the policies of Sri Lankan government against them.

3 See Crisis Group Report, *Sri Lanka: Sinhala Nationalism and the Elusive Southern Consensus*, <http://www.refworld.org/pdfid/4732c78b2.pdf>

The ethnic conflict continued for the three decades. The main factors that led to the conflict were: the declaration of Sinhala as the sole official language replacing English in 1956, which led to a serious reduction of opportunities for Tamils in the state services; the enactment of the 1972 Constitution that removed minority safeguards and gave Buddhism foremost place; state-aided settlement schemes in Tamil regions changed demographic patterns. The Tamils protested against discrimination and demanded some degree of regional autonomy and power sharing but were ignored by the Sri Lankan government.

Ethnic Conflict

The Tamil United Liberation Front (TULF) and the Liberation of Tamil Tiger Front (LTTE) emerged as the dominant militant groups and fought for a separate state for the Tamils. Later, the LTTE became the most powerful organization and spread from the northern and eastern provinces to other parts of the country through attacks against military establishments and the Sinhalese. They trained people, procured weapons, established an army and procured their rights. Youth and women were actively involved in the LTTE's activities. By 1986, they were able to control most of the areas of northern Jaffna peninsula. They demanded the government to make the Northern and Eastern Provinces of Sri Lanka as an independent Tamil State.

The ethnic conflict was intensified by the anti-Tamil riots in 1977, 1981, and 1983 (see Map-1). Of these, the 1983 riots were unforgettable because the Sinhalese attacked Tamils with the support of Sri Lankan security forces. After the riots, the fight between the government and the Tamils further intensified. The Tamil militants started procuring arms from outside the country to

fight against the security forces. As the Tamil armed group became more powerful, the Sri Lankan forces took a harder line against it.



Map-1: Ethnic Conflict in Sri Lanka

A reverse migration from Sri Lanka to India (Tamil Nadu) took place owing to the ethnic conflict. The genesis of the conflict between the Sinhala majority and the Tamil minority people in Sri Lanka could be traced to the early nineteenth century and the confrontation turned into violence and internal civil war in the mid-1980s. However, there had been a gradual and steady escalation of confrontational politics between these two groups since independence in 1948. Internal civil wars often are preceded by ethnic riots, which proved to be true in the case of Sri Lanka as there were periodic clashes between these groups. Often, the minority Tamils were attacked and victimized during the riots. Over a period of time, Tamils were moved and settled in the north and eastern parts of Sri Lanka. Further, after the 1983 riots, a vast number of Tamils moved to India. Some of the families from the

south migrated to India by air and a large number of people (mostly from the northern region) crossed the Palk Straits, rather illegally using fishing boats. Those who moved by air settled in private households and the boat people settled in refugee camps set up by the Government of Tamil Nadu in places like Mandapam and Dhanushkodi. In other words, some of the Tamils were internally displaced and some of them left their country and went to India and other countries particularly European countries. Sri Lanka has three categories of refugees: (1) internally displaced from Northern and Eastern Provinces, (2) those who ventured into India, and (3) those who migrated to Western countries as refugees. The first two categories were the most affected by the war and the most economically disadvantaged.

In the immediate aftermath of the July Riots, sympathy among the people of Tamil Nadu for the Sri Lankan Tamil people was extremely high and the refugees were received and treated well by the government and people of Tamil Nadu. This situation continued until the assassination of Rajiv Gandhi (Prime Minister of India) in Tamil Nadu in 1991. The involvement of the LTTE in the assassination created a hostile environment for refugees living in the camps. They were under severe restrictions and control. The local and international NGOs and United Nations High Commission for Refugees (UNHCR) had been banned from entering the refugee camps. Although the Indian government allowed local NGOs to engage in humanitarian activities in these camps in 1998, UNHCR was not allowed to inspect and engage in relief work. Many refugees complained of inadequate facilities provided by the state, which could have been improved with assistance from international organizations such as UNHCR and the International Committee of the Red Cross (ICRC).

Influx of Tamil Refugees

The flow of refugees from Sri Lanka to India could be seen in four phases. During the first phase (1983-1989), there were about 1,34,053 of Tamils left their homes and took shelter in India. In second phase of 1989-1991, 1,22,078 Tamils entered into Tamil Nadu as refugees. Later in the third phase i.e. 1996-2001, 21,940 people came to India. During 2006-2008, it was reported that 22,058 Tamils took shelter in Tamil Nadu (see Table-1). There was no significant influx of refugees from Sri Lanka to India during 1991-1995 and 2002-2005.

Table 1: Influx of Tamil Refugees (approx.)

Phase	Period	No. of Refugees
First	1983-1989	1,34,053
Second	1989-1991	1,22,078
Third	1996-2001	21,940
Fourth	2006-2008	22,058

Source: Annual Report, Ministry of Home Affairs, Government of India, 2008

Citizenship

Under the Ceylon Citizenship Act of 1948, Sri Lankan citizenship could be claimed through descent and registration. Citizenship required his/her father or grandfather or she or he be born in Sri Lanka. This was difficult for the Estate Tamils because a large number of births were not officially registered or the requisite documents had been lost. And there was no official registration of births until 1897.⁴ Many plantation workers went back to Tamil Nadu to find spouses and to give birth to children Sinhalese leaders justified mass deprivation of membership and citizenship

4 Gerrard Khan, *Citizenship and statelessness in South Asia*, Working Paper No. 47, Tufts University: The Fletcher School of Law and Diplomacy, October 2001, p.6

because the Estate Tamils refused to assimilate with the indigenous population by retaining their exclusiveness in “religion, language, social tradition and occupation.”⁵ For instance, the then Sri Lankan Prime Minister Kotewala stated, “In most countries, a migrant population can be absorbed into the indigenous population in one generation. In Sri Lanka, the Indian Tamils are still Indian after three generations.”⁶ Further, Kotelawala described the Indian Tamil problem as a matter of “life and death for the Sinhalese.”⁷ It is true that Estate Tamils keep their social and personal contacts to India. The assimilation and conformity brought to the new nationalist agenda. It is to be noted that Estate Tamils have not supported the ethnic conflict for separate state. However, socio-cultural links of the Estate Tamils to Tamil Nadu created national security fears for the Sri Lankan government. The Sinhalese feared that future Indian leaders might use the Indian Tamils as a fifth column in the island if estate workers were granted citizenship.⁸ The Opposition leader of Sri Lanka, J. R. Jayawardene’s address to the Commonwealth Parliamentary Conference at Colombo in December 1974 where he opined: “India is a peaceful country today. We respect and honor her Prime Minister, Indira Gandhi. But, can we say that every day India will have a peaceful ruler? There may be a dictator like Tippu Sultan of Mysore or there may be some

5 *Ibid*, p.7.

6 Statement of Prime Minister John Kotelawala in Parliament, Parliamentary Debates, House of Representatives (PDHR), vol. 16, no. 25, 3/1/54.

7 John Kotelawala, *An Asian Prime Minister’s Story*, London : G.G. Harrap; 1956, p. 99.

8 P.Sahadeven, *India and the Overseas Indians; The Case of Sri Lanka*, Kalinga Publications, 1995, p. 129.

dictator like Yahya Khan.”⁹ However, Sri Lankan government did not take a step to expel the plantation workers, may be because: Indian army would intervene into the island; Sri Lanka had economic interest; Sinhalese were reluctant to work in plantation; and if they are stateless without any political voice, Sri Lankan government was able to exploit their labour. It is to be noted that President Bandaranaike said that those acquiring citizenship would not be permitted to vote for ten years and they would be allowed to vote for local politics and so that their influence in the Central government would be less.

The 1948 and 1949 legislations made provisions that seven or ten year period of uninterrupted residence in Sri Lanka as a qualification for citizenship. Most of the Estate Tamils sought Sri Lankan citizenship under the 1949 Act. They had roots in Sri Lanka for more than two generations.

India had no legal and constitutional responsibility towards Tamils. If any overseas Indian did not seek Indian citizenship, the then Prime Minister Jawaharlal Nehru stated that “India’s connection with them will be cultural and not political.”¹⁰ Nehru agreed to negotiate with the Sri Lankan government on the basis of India’s “sentimental interests” in the Indian Tamil problem.

India-Sri Lanka Agreements over repatriation

The Nehru-Kotelawala Pact was resulted in 1954. According to the Pact, India would accept the repatriation of those Indian Tamils who wanted Indian citizenship but did not accept the Sri

9 *Bangkok Post*, 14 December 1974

10 A.Didar Singh and S.Irudaya Rajan, *Politics in Migration: Indian Emigration in a Globalized World*, New York: Routledge, 2016, p.26.

Lankan position that those who did not meet the criteria for Sri Lankan citizenship would be given Indian citizenship. This left over 900,000 Tamils became stateless citizens in Sri Lanka. Later in 1964, the Indo-Ceylon Pact was signed and India agreed to repatriate 525,000 of stateless Tamils and Sri Lanka agreed to grant citizenship to 300,000. About 35,000 people would be repatriated annually to India and 20,000 people would be obtained Sri Lankan citizenship.

Prime Ministers of both the countries met and discussed to settle the problem of residue stateless persons in 1974. Sri Lanka agreed to grant citizenship to 375,000 and India for 600,000. After the July riots, there was a large number of Sri Lankan Tamils took shelter in India. Both the governments felt that the influx of the refugees to be stopped. As a result, first phase of repatriation started on 24 December 1987, after signing the Indo-Lanka Accord in July 1987. Clause 2.16(d) states: “The Government of India will expedite repatriation from Sri Lanka of Indian citizens to India who are resident there, concurrently with the repatriation of Sri Lankan refugees from Tamil Nadu.” Further Clause 2.16(e) says: “The Governments of Sri Lanka and India will cooperate in ensuring the physical security and safety of all communities inhabiting the Northern and Eastern Provinces.”¹¹ Between 24 December 1987 and January 1989, an estimated 43,000 refugees were repatriated and sent back to Talaimannar. In 1988, Sri Lankan Parliament enacted legislation granting citizenship to the massive residue Estate Tamils and it was more expansive than earlier agreements. Second phase of repatriation

11 Gautam Das and M.K.Gupta Ray, *Sri Lanka Misadventure: India's Military Peace-Keeping Campaign 1987-1990*, New Delhi: Har-Anand Publications Pvt.Ltd, 2008, Appendis-1, p.326.

was initiated in June 1991, but was called off in January 1992 due to civil society's allegation of forced repatriation. Further their situation deteriorated after the assassination of Rajiv Gandhi in May 1992. After assassination of Rajiv Gandhi, many of the refugees expressed their willingness to return. During January-June 1992, about 23,000 refugees were repatriated. In the third phase, 6,927 refugees were repatriated to Trincomalee in September 1993 and continued till 1994. During the second and third phases, repatriation of refugees was not voluntary and refugees were psychologically intimidated by the host as situation in Sri Lanka was volatile.

The United National Party in Sri Lanka came to power in December 2001. The new government initiated a peace process with the LTTE and as a result signed a Cease-Fire Agreement (CFA) in February 2002, which paved the way for direct negotiations to resolve conflict. The CFA and the subsequent peace talks raised hopes of permanent peace not only among people who live in Sri Lanka but also among refugees who moved to India. Refugees in India were very happy about the agreement and wanted to see normalcy in their country soon.¹² It is evident that termination of the war by peaceful means would facilitate return of large numbers of Tamil refugees from India, which would resolve many of the problems of the refugees in India.

Significantly, there was no influx of refugees to India since February 2002 and there was an outflow towards Sri Lanka. In other words, Sri Lankan refugees in India were returning home and some were expressing willingness to go to their country. It is

12 Author's interview of some of the refugees at Mandapam Refugee Camp, 30 November 2003.

unfortunate that the returnees are not provided adequate assistance for resettlement in Sri Lanka. Some of the returned refugees argued that the state was not keen for their return.

Yet, many refugees preferred to stay in Tamil Nadu for various reasons: educational opportunities provided by the Tamil Nadu government was of much better standard than what was available in Tamil regions in Sri Lanka.¹³ For some refugees, the prospect of living in Tamil Nadu as a refugee was much better than returning to Sri Lanka as the situation in view of the war had been extremely unpredictable and some of the primary earning activities had been severely restricted in Sri Lanka. Many farmers could not engage in agricultural activities as their lands are in the high security zone and also fishing activities are restricted. It is to be noted that agriculture and fishing are main sources of livelihood for many economically backward people in Tamil areas in Sri Lanka. Hence, many refugees continued to live in refugee camps in Tamil Nadu.

Post Rajiv Gandhi Assassination and Refugees in Tamil Nadu

The over-inflow of Tamil refugees had created a serious humanitarian crisis in the state of Tamil Nadu. Therefore, a sudden inflow of refugees in large numbers added to the economic problems of the state. Many refugees claimed that the Tamil Nadu state was generous enough to receive them and even rescue them from mid-sea sandy islands and keep them in the camps. However, more than economic and welfare issues, it was security problems that concerned the Indian authorities. The inflow of refugees and the presence of Tamil militants have created severe security issues

13. See "Sri Lankan Refugees in India: Hesitant to Return Refugee International": www.refugeesinternational.org/cgi-bin/ri/bulletin?bc=00713

in the state of Tamil Nadu. Militants mingled with the refugees and made use of the camps for their activities, which culminated in the assassination of Rajiv Gandhi. Since then, the Indian authorities were concerned that militants might continue to misuse the facilities provided to the refugees. As a result, the security forces adopted strict screening measures, which led to victimization of many refugees who did not have connection with the LTTE or other militant groups. Refugees who were suspected of having links with Tamil militancy were placed in what is called special camps. The Tamil refugees in Tamil Nadu camps were suspected for any criminal or violent activities in the state. Hence, many refugees had been punished for any violence occurred. For instance, in the immediate aftermath of the Rajiv Gandhi assassination, more than two thousand refugees were detained and questioned. This was continued till late 1990s.

Meanwhile, the refugee issue had implications for the state of Sri Lanka. First, the trend of the LTTE exploiting Tamil Nadu as a base has been continuing mainly because of the refugee camps in Tamil Nadu. Sri Lanka had also been worried about the way the refugee issue had been used by the LTTE for propaganda purposes. Sri Lanka too wanted to completely curb the Tamil refugees crossing to Tamil Nadu. Hence, both governments had been engaged in preventing refugees crossing the narrow waters and enhanced their surveillance activities, which had obviously reduced the inflow of refugees.

Many more are willing to return, but are stranded in India due to bureaucratic hurdles and security screening procedures of the Indian agencies. Therefore, many people are attempting to illegally return to their motherland, sometimes sacrificing their

lives. The Sri Lankan Navy is extremely alert in detaining these illegally returning refugees, resulting in the detention.

Post LTTE Sri Lanka and refugees

After the disappearance of LTTE from the political scene in 2009, refugees in Tamil Nadu started going back to their home country. The following table-2, provides us that during 2011-March 2016, there were 4691 refugees returned Sri Lanka (see Table-2). There was a large number of people and families returned to their country in 2011 compared to subsequent years. Table-3 illustrates number of refugees camps in Tamil Nadu, persons and families in campuses, people living with their friends and relatives; refugees of Sri Lankan origin living in India and people returned to Sri Lanka during 2011-March 2016. But some of the Sri Lankan refugees in India wanted to return to Sri Lanka if the situation improves.

Table 2: Arrival of Refugees

Year	No. of Families	No. of Persons
2011	557	1728
2012	453	1291
2013	273	718
2014	137	338
2015	208	453
2016	72	163
Total	1700	4691

Source: Ministry of Prison Reforms, Rehabilitation, Resettlement, and Hindu Religious Affairs, Sri Lanka

Some refugees had returned and more are willing to return since February 2002. When the author met some of the refugees in Mandapam, near Pamban and the latter expressed that though they had been enjoying the facilities provided by the government, they

wanted to go back to their homeland. Further, they said that they missed their relatives who were living in Sri Lanka and they wanted to die in their country and not in India.

Table 3: Statistics of Sri Lanka Refugees in India

Description	Total
No. of Refugees Camps in Tamil Nadu	110
No. of Persons in Such Camps	67,436
No. of Families in Camps	19,916
No. of Persons living with their friends and relatives	34,757
No. of Refugees of Sri Lankan Origin in India	102,000
No. of persons returned to Sri Lanka during 2011 - 31.03.2016	4691

Source: Sri Lankan Deputy High Commissioner Chennai

Climate Change and Refugee

Large-scale migration from coastal zones is expected due to submergence of coast-lines after sea levels have risen. This will create large numbers of environmental refugees especially from low-lying regions in poor countries. Intrusion of sea-water in the ground water and changes in temperature can reduce agricultural and fishing incomes. How much sea level could rise this century with increasing temperatures is yet to know. By rising sea levels, the entire population of an island like Sri Lanka might be forced to move permanently elsewhere. This may further escalate tension among the people (refugees) who came back from India to Sri Lanka.

Conclusion

A warm hospitality was extended to the Sri Lankan Tamils refugees by the Union government of India, Tamil Nadu government as well as Tamil people. However, later, the prolonged refugee situation of Sri Lankan Tamils had brought its

own difficulties for the refugees as well as for the host country. There was expectation for peace and reconciliation and encourage the voluntary repatriation of Sri Lankan refugees back to their home country with dignity and rights, after the end of civil war in May 2009 in Sri Lanka.

A number of steps could be taken by India, Sri Lanka and international agencies to address the issues of the refugees: refugees born in India may be given option to choose their nationality. Refugees born from an Indian national, parent being the refugee, refugees married to an Indian national may be allowed to obtain Indian citizenship. Refugees who have been economically, socially assimilated in India would be allowed to obtain Indian citizenship. UNHCR may be allowed to facilitate return of the refugees to their places of origin. Sri Lanka could facilitate their return by providing necessary facilities for resettlement and legal assistance to reintegrate them into the Sri Lankan society. After the LTTE was dismantled in 2009, the land, which was taken from Tamils in the northern part of Sri Lanka by the government, is still under the control of security forces¹⁴. Unless the land is given to them, the refugees, who were repatriated in Sri Lanka, could not able to continue their normal life.

The Tamil Nadu state could speed up the processing of applications of refugees to return and allow the international humanitarian agencies to assist the refugees who are willing to return to Sri Lanka immediately. A solution to the ethnic conflict

14 According to the Centre for Policy Alternatives, a Colombo NGO, about 12,750 acres of land in the northern Province is still under the control of security forces, see *The Hindu*, 30 May 2016, p.12.

is not possible without India's help. Hence, India could involve in addressing the resettlement of refugees in Sri Lanka. It is to be noted that India has been involved in rebuilding and rehabilitation process in the post Elam-IV War. India can take further initiatives to transform the lives of Tamils in northern areas by connecting a land bridge¹⁵ between the southern India and northern Sri Lanka. India in collaboration with Sri Lankan government must ensure safety and security of the returnees.

15 An agreement was signed by India and Sri Lanka in July 2002 to construct a land bridge between Rameswaram in Tamil Nadu and Talaimannar in Sri Lanka. Through this, road cum rail and bridge links would be developed, which would offer huge economic benefits to both sides of the Palk Straights. It is to be noted that this proposal was initiated the then and present Prime Minister of Sri Lanka, Ranil Wickemesinghe.

Comparative Assessments of Refugees in South Asia

Dr. Nishchal N. Pandey¹

Almost each country of the South Asian region has been hosting refugees from the neighborhood whereas some of these countries are also refugee generating countries. India for example has the largest number of refugees in the region. “There are over 50,000 Jumma refugees from the Chittagong Hill Tracts of Bangladesh sheltered in Tripura State of India, over 70,000 Sri Lankan Tamil refugees living in Tamil Nadu and about 121,143 Tibetan refugees. They are under the protection of the Government of India. Besides the Sri Lankan, Jumma and the Tibetan refugees, the United Nations High Commissioner for Refugees (UNHCR) provides protection to 22,000 refugees consisting of the Afghans, Iranians, Somalis, Burmese, Sudanese refugees reside in Delhi.”² In addition, Afghans in Pakistan, Tibetans and Bhutanese in Nepal, internally displaced Nepalese in India, Bangladeshis in India - all these have created a dreadful situation for the region. This has negatively impacted on the economy and security of South Asia besides creating friction in the bilateral relations between nation states.

1 Director, Centre for South Asian Studies (CSAS), Kathmandu. He can be contacted >nina@ntc.net.np<

2 Country Report on the Refugee Situation: South Asia Human Rights Documentation Centre http://www.hrdc.net/sahrdc/resources/country_report.htm

Despite of the creation of the South Asian Association for Regional Cooperation (SAARC) in 1985, its member states have not brought the issue of refugees in the formal SAARC agenda. Since SAARC has been avoiding bilateral, contentious issues they have not been touching the issue of refugees or even the IDPs but the civil society and the track-II of South Asia have been clamoring for an informed debate on this topic. This paper delves on the overall refugee condition in the region with special focus on the Bhutanese refugees in Nepal.

It is prudent to analyze the Bhutanese refugee issue in the overall ambit of refugee condition in South Asia as both Bhutan and Nepal are not only founding members of SAARC but also share an open border with India, are land-locked and are influenced by the same geo-political variables and under-currents that prevail in the entire region.

The UNHCR definition of refugees states that “[they] are people who flee their country because of a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership of a particular social group. A refugee either cannot return home or is afraid to do so”.³ While presence of refugees is a major issue in South Asia, Internally Displaced Persons (IDPs) has developed into another set of trouble for at least some of the South Asian countries like Nepal.

The refugee scene in the whole of South Asia is poignant, pertinent and problematic hence the sorry plight of the hundred thousand Lhotsampas needs to be seen in the larger context of the refugee situation in the region. The largest migration of South

3 UNHCR is a website that presents plight of refugees worldwide.
www.unhcr.org

Asians occurred in 1947, accompanying the partisan of India into two nations - India and Pakistan on the basis of religion. In the nine months between August 1947 and the spring of the following year, by unofficial counts, at least 18 million people were forced to flee their homes and become refugees; at least a million were killed in communal violence.⁴ In the later years, the trouble of the growing millions of refugees in South Asia swallowed resources of their host countries as well as those of the UNHCR. All South Asian countries are today grappling with refugees of one or the other kind and suffer from the twin challenges of overpopulation and extreme poverty. Refugees who have been dispossessed but are today slowly returning to their homeland-as in Afghanistan are inevitably in need of assistance but their own country or the U.N do not have sufficient resources.

With multifarious causes of refugee origination not mitigated, South Asia today hosts one of the world's largest numbers of refugees. This phenomenon has created the following problems [*either to the refugee generating or the refugee hosting country*] and pose as one of the greatest sources of non-traditional threat to security in the region:

- Economic burden
- Political complexities
- Diplomatic pressures and embarrassment
- Legal challenges
- Environmental degradation
- Sociological and psychological impact

4 French, Patrik. (1997) *Liberty or Death: India's Journey to Independence and Division*. London: Harper and Collins Publishers. See also Sarkar, Sumit (1983) *Modern India 1885-1947*. New Delhi: Macmillan India.

- Rise in drug abuse/prostitution/unemployment/petty crimes
- Rise in tension among various ethnic and religious groups
- Adverse affect on law and order

“[Therefore] with the expansion of the concept of security, refugees today are regarded as a source of non-military threat to national security. While scholars and policy makers have devoted time and resources to the study of refugees *per se*, not much work has been done on the implications of the presence of the refugees on the security of the state that hosts them.”⁵ This is further accentuated by the wicked fact that the “state” in South Asia and its “authority” has not yet solidified itself and both the “state” and “nation-building processes” continue to generate turmoil and displacement. Therefore, while proper analysis of the links of insecurity and refugee inflows inside South Asian states needs to be properly carried out, it has to be understood also that the refugees themselves are products of conflict and insecurity situations and their presence further exacerbate conflict, tension and insecurity.

The actual security implication of the refugee movements need to be assessed *apropos* to the refugee generating [home state], the refugee receiving [the host state], and external aspects of home and the host states’ security. “The home state, by driving its citizens out, exposes itself to international criticism and embarrassment, pressures and even intervention for atrocities on its own people. Whereas, the security implications of the refugees in the host country are far-reaching and multi-dimensional evident

5 Chandran, Suba. (2003). Refugees in South Asia: Security Threat or a Security Tool? In P.R Chari, Mallika Joseph, Suba Chandran (Eds.) *Missing Boundaries* (p. 151). Delhi: Manohar Publishers.

both in relations to internal and external security.”⁶ This trend is witnessed in a four-way traffic of the refugees i.e. movement within the region; movement from the region; movement into the region; and movement within the country of domicile.

Refugees are recognized world over as one of the primary causes of war, famine, insurgency or inter-state warfare. These days they are widely regarded as a source of international terror networks and need to be stopped, controlled or at least aggressively monitored. Many European countries have generously granted them the right to migrate and stay in their societies, educate their children, work and make a living which shows the benevolent attitude of these countries.

Everywhere in South Asia and even beyond, when simmering discontents are largely left ignored, disgruntlement leads to resentment and these are capable of leading to protracted socio-political or ideological conflict. Refugee then becomes a by-product. These days, ethnicity represents a powerful source of conflict in any modern state and ethnic Nepalese can be taken as a good example of this because of their presence throughout the Northeast Indian states, Bhutan, West Bengal and Nepal.

Conflict in the present globalizing environment has manifested itself primarily at the national level in the form of ethnic strife, tribal warfare, civil wars, group genocides, guerrilla movements, and terrorist activity. It has been a particularly salient feature in the politics of developing and transitional countries. This cycle of mutual impact—involving proliferating actors at the national, supra-national, and non-governmental levels—has

6 Muni, S.D., & Baral L.S. (Eds.) (1996) *Refugees and Regional Security in South Asia* Colombo: RCSS.

generated a burgeoning research interest in the concept of human security as a tool for understanding the essence of modern conflict and untangling its root causes. As the bulk of South Asian migration and indeed international migration flows are driven by the search for economic security and freedom, regulatory regimes remain restrictive and national in character. This asymmetry perpetuates illegality and discrimination despite the economic benefits derived from migration by both sending and receiving countries.

History of mankind is the history of migration. People have since time immemorial re-settled into distance lands in search of security, economic prosperity and livelihood for themselves and their children. Additionally, the history of mankind is also repeatedly interspersed with mass expulsions of people forced to flee from famine, wars, revolutions and natural disasters. Early examples of the movement of people around the world in considerable number include the expulsion of the Jews and the Moors from Spain in the late 15th century, the flights from religious persecutions to the New World in the 16th and the 17th centuries and the exodus of the émigrés in the French revolution. The 20th century witnessed the greatest of refugee flows than at any point of history. The partition of India, breakup of the Ottoman Empire, creation of Israel and Bangladesh, civil wars in Sudan and Nigeria, independence of Algeria, westward surge of the Polish after World War II, Paraguayans settling in Argentina, etc.

However, until the 20th century there was little or no methodical attempt to help refugees for either repatriating them to the place of origin or for their re-settlement. Clearly, it seems that the refugee problem is older than the concept and the definition of the refugees. After the First World War, international

organizations were created to give assistance and finally in 1921, the League of Nations appointed Fridtjof Nansen its high commissioner for refugee work. Later the International Labor Organization and the Nansen International Office for Refugees took charge. Nansen effected repatriation wherever possible by even arranging 'Nansen Passports' which gave the holder the right to move around freely. But the Second World War further displaced civilian populations in huge numbers. At the War's end the United Nations Relief and Rehabilitation Administration (UNRRA) had the responsibility of caring some 8 million "displaced persons". With the end of UNRRA, the UN created the International Refugee Organization to carry on its work. Since 1951, the office of the UNHCR has coordinated international activities and worked for independent solutions. Despite its best efforts, there are approximately 22 million refugees in the world today.

In the last 50 years, there has been an increase in awareness in both scholarship as well as pedagogy to the complexities of the movements of people, caused by varied reasons ranging from "forced booting out" by oppressive regimes to ethnic or political violence and colossal natural calamity as well as economic chaos. Economic globalization and the end of the Cold War meant to be "a liberal humane place, with liquid nationalism" have furthermore led to the steady rise in cross-border flows since 1990. With a host of intra-state conflicts centering around ethnicity, separatism and religion; mass exodus of people living in make-shift huts have become a stark reality of the New World Order. According to the World refugee Survey, 2003 published by the U.S. Committee for Refugees, "Afghanistan, Palestine, Myanmar, Sudan, Angola, Democratic Republic of the Congo,

Burundi, Vietnam, Somalia, and Iraq are the top ten principal sources of refugees”. Just when this paper was being written, the magnitude of the humanitarian crisis in the Greater Darfur region of Sudan, where a violent conflict has been raging since early 2003 has resulted in thousands of people dead as a direct or indirect consequence of the on-going conflict. About 2 million people - a third of the entire population of the Darfur region - are badly affected. 1,000,000 people have been displaced within Sudan and approximately 200,000 people have fled across the border into Chad. Serious violations of human rights have been reported by the UN and human rights organizations and observers warn that the humanitarian situation may only get worse⁷.

There are through various routes that security can be threatened by refugees or by migratory movements - when refugees or migrants work against the regime of their home country, when they pose social, economic or cultural threat to the host country, or even when the host country uses them as instruments to threaten the home country.⁸ Nowadays, grave humanitarian consequences of the failure of state capacity to protect and assist its own citizens can also lead to outside intervention. There is a growing tendency to link “sovereignty” with “responsibility.”⁹

7 European Union. (2004). *EU Humanitarian Aid for Greater Darfur-Sudan*. Retrieved May 2, 2010. <http://europa-eu-un.org>

8 Zimmermann, W., (1995) Migrants and Refugees: A Threat to Security? In M. Teitelbaum M. & Myron Weiner (Eds.), *Threatened Peoples-Threatened Borders* (p. 90) New York: Universal Book Traders.

9 International Development Research Centre. (2001). *The Responsibility to Protect: Report of The International Commission on Intervention and State Sovereignty*.

A major problem in our region is that a maximum number of refugees in South Asia have been absorbed inside the region itself. Therefore, although the host and the generating country are different, they are indeed members of the SAARC.¹⁰ Yet the refugee management process in the region is not uniform and there have been shifts in terms of policy framework and strategy to mitigate its adverse impacts on the society, its polity, economy and the environment. Three factors-humanitarian, economic responsibility and national security-largely shape state's attitudes in either accepting or declining the refugees. However all South Asian countries adopt haphazard and *ad hoc* policies on this intricate issue. The realization that refugees are people, they need family support and reunion and that they too need freedom, seldom dawns in the outlook of the refugee generating countries and the end result is delay and separation, and a useless life in pitiable conditions behind barbed wire.

Generally, a comparable illustration can be cited of the impact of refugees in individual South Asian states i.e. effect on the economy (*which even otherwise faces difficulty in sustaining its own populace*), a negative bearing on the law and order situation of these countries (*which even without these refugees is prone to violence and perpetual disturbance*), impact on the overall political situation of these countries (*which remains murky and unstable*), and the general pressure on the fragile environment that sends off-shoots to the region as a whole.¹¹ Whereas identical

10 Note: The Tibetan refugees originate from TAR, China. China is also an Observer of SAARC.

11 Note: The environmental condition within the region is such that Sundarban refugees could be the only people in the world displaced solely due to environmental degradation.

consequences of the general impact of the refugees inside South Asian countries has been a hallmark, it occasionally leads also to strained bilateral relations affecting overall regional accord and harmony.¹² With easy availability of small arms, landmines and explosives to fuel armed movements by refugees, the presence of large scale “idle minds” in one’s territory always produce unease rather than sympathy among governments of the host countries. With the easy access to social media, terror networks are also involved in recruiting on-line these idle minds inside refugee camps.

Case of India

According to one estimate, some 3, 45,000 refugees were living in India alone that includes: 1,44,000 from Sri Lanka, 110,000 from TAR - China, 52,000 from Myanmar, 15,000 from Bhutan, 12,000 from Afghanistan and 5,000 to 20,000 from Bangladesh, and nearly 300 from other countries. This number keeps changing regularly. Additionally, refugees from Chin state in Myanmar have been fleeing to Mizoram in India since 1988. In early 2003, their number in Mizoram rose to 50,000. These Chin refugees face the danger of being either expelled or arrested unlike those from Sri Lanka or Tibet Autonomous Region of China, whom India protects as refugees.¹³ There is no official record of illegal

12 Pandey, Nishchal N. (2004) Security in South Asia: A Future Perspective. In *Future of South Asia: A New Generational Perspective* (p. 23). Kathmandu: IFA/FES.

13 Note: Chin refugees come under “*Government of India’s Foreigners Act-1946*” which makes no distinction between illegal immigrants and refugees.

immigrants from Bangladesh into India¹⁴ but the 2001 Census recorded that there were 30, 84, 826 illegal Bangladeshis in India.

Being the largest country in the region, the second most populous nation in the world with porous border and also being a democracy, India has had to receive the inflow of refugees from any given conflict situation around its vicinity. Its free and an open polity and media inspire political activists fighting for democracy to live in various cities and struggle for their cause. Others from poverty stricken places are enthused to take-up low wage jobs in Indian cities. However, there is always a sizeable section in India that is opposed to welcoming refugees from outside worrying unemployment, scarce resources, poor law and order situation in Indian states which is further complicated by refugees from other countries.

Tamil refugees from Sri Lanka began fleeing to India in 1983 when violence broke out between the majority Sinhalese and the minority Tamils. Although, many of the refugees have been repatriated over the years, at present 61,000 are living in 103 government run camps in Tamil Nadu. An additional 20,000 refugees live outside the camp. Since the outbreak of hostilities in Sri Lanka, several lakh Muslim Tamils have fled the island. As of mid-1999, approximately 66,000 were housed in 133 refugee camps in south India, another 40,000 lived outside the Indian camps, and more than 200,000 Tamils have sought refuge in America, Canada and other western countries. Following the assassination of Rajiv Gandhi, the refugees have restrictions on

14 Note: Bangladeshi economic migrants in India is even estimated as high as 12 million according to Minister of State for Home Affairs of India Sriprakash Jaiswal. Read: The Bangla Bogey. (2004, July 29). *The Times of India*, p. 12.

their freedom of movement and are treated with some degree of suspicion by local police. The refugee camps have been moved away from the coastal areas to isolated interior regions so as to prevent contact amongst refugees between different camps.

With the end of the war and the comprehensive elimination of the Liberation Tigers of Tamil Eelam (LTTE), the security situation in Sri Lanka has improved considerably. Tourism is up and the economy too is growing. Several thousands of refugees have returned accounting to nearly 15 percent.

Seasonal economic migrants, criss-cross the Indo-Nepal open border regularly from both sides. Today there is a large number of Nepalese settlers from the far-western development region of Nepal in India, the official numbers of them being unknown. Human trafficking mainly the trafficking of Nepalese girls for prostitution in major Indian towns such as Mumbai and Delhi is yet another pestering problem for both India and Nepal.

Case of Pakistan

Pakistan has certainly been a generous host to the Afghan refugees for much of the 3 decades. During its war with the then Soviet Union (1979-89), one-third of Afghanistan's people fled the country, with Pakistan and Iran sheltering a combined peak of more than 6 million refugees. By early 2000, 2 million Afghan refugees still remained in Pakistan and about 1.4 million in Iran. It was cited in a recently conducted survey that in Peshawar - a city of 1 million people 35 miles from the border in the northwest of Pakistan, there were four times more Afghans than Pakistanis; another 40,000 Afghans live in refugee camps south of the city. Nevertheless, since the defeat of the Taliban, the U.N. plans to help at least 1 million Afghans return. More than two million

Afghans who fled from Taliban oppression to neighboring Iran and Pakistan have already been repatriated.¹⁵ In the mid-90s, Pakistan became increasingly hostile to those fleeing from Afghanistan because of sociological, environmental, political, and more importantly financial reasons. After 9/11, Pakistan also had to keep a closer vigil on extremist elements especially in the bordering towns and villages with a substantial Afghani refugee population.¹⁶ There are about 2 hundred thousand who fled to Pakistan during the U.S. led bombing campaign in 2001. While the western countries accuse Pakistan of sheltering terrorist elements of Afghanistan, Pakistan has been unable to gear its security forces to effectively tackle the problem of Afghan refugees.

However, the real problem is that even after they return home; lack of education, dearth of financial resources, lack of safety, and the slow pace of reconstruction of their country make it difficult for Afghans to earn their daily living. Afghanistan has been particularly unfortunate to harbor one of the largest numbers of illiterate populace owing to the long-standing conflict and *warlordism* hence, generates refugees unintentionally. Most of them land up in neighboring Pakistan.

Case of Nepal

Other than the Bhutanese refugees many of whom have already been resettled in the U.S. and other countries, an estimated 20,000 Tibetan refugees also live in Nepal. They arrived between 1959 and 1989. At the end of 1989, Nepal stopped registering Tibetan refugees. Of the remaining registered refugees, some 12,000 live

15 source >www.irinnews.org<

16 President Musharraf says Terror will be Crushed, (2004, august 14). *Dawn*.

in Kathmandu's Bouddha or in Pokhara, Baglung, and other places. China considers these refugees as illegal immigrants, sometimes also as 'miscreants'. It has been a consistent policy of Nepal that Tibet is an integral part of China. Sino-Nepal relations in political, economic and cultural spheres has grown from heights to heights since diplomatic relations was established in 1955. Occasionally, Nepal faces criticism from the U.S and some European countries as regards to its Tibetan refugee policy. For instance, expressing her dismay that the Government of Nepal deported 18 Tibetan refugees who fled on April, 2003 Senator Feinstein from California announced her intention to withdraw her sponsorship of legislation she had introduced to grant duty-free status to Nepalese garments in the United States. Nepal's Foreign Secretary Madhuraman Acharya during his visit to Washington on July 2003 discussed on the bill granting duty-free and quota-free access for Nepalese garments in the American market with Under Secretary of State Marc Grossman and Assistant Secretary of State Christina B. Rocca.

The Bhutanese and Tibetan refugees have entered Nepali territory from India and China. Ironically, even though both these countries are the most populous countries in the world, Nepal does not have border fences with either one of them. Nepal has never thought of the imperative to regulate its porous borders with TAR and with Indian states of U.P., Bihar, West Bengal, Sikkim and Uttarakhand. However, security sensitivities of both the neighbors have grown manifold from within Nepal. Whereas, Chinese officials occasionally warn us of increasing anti-China activity from within Nepal, main perpetrators of bomb blasts and other nefarious activities in India have been regularly caught inside Nepal. Despite of these serious accusations, Nepali policy makers

have seldom ventured out of the narrow prism of upholding the country's age-old policy of maintaining the porous and open border with both its neighbors.

Case of Bangladesh

Bangladesh has had a lion's share of the refugee problem in South Asia. A country which once every other year faces the wrath of mother-nature in the feature of flood, torrent and drought also has to take care of the diverse challenges emanating from the refugees' crux. About 250,000 Rohingya fled to Bangladesh in late 1991 and early 1992. Many of these 250,000 Burmese that first came have been repatriated back to Myanmar. By the end of 2003, fewer than 20,000 remain. But, there is a strained relation between local inhabitants and the Rohingya.¹⁷ These Rohingyas haven't received recognition as refugees from the Bangladeshi government and are considered to be illegal economic immigrants in search of work. In spite of the appalling conditions, the refugees prefer living in the slum than going back to Myanmar.

In the mid-1980s, Muslim settlers' appropriation of land belonging to ethnic minorities in Bangladesh's Chittagong Hill Tracts (CHT) region had caused some 64,000 Chakma, to flee to India and more than 60,000 others to become internally displaced. In December 1997, the government signed a peace accord that ended a 25-year conflict which paved the way for the repatriation of the entire refugees. Despite provisions in the accord for the "rehabilitation" of both the refugees and the internally displaced, the situation of the more than 60,000 Chakma who had become

17 Refugee International is a site that contains refugee situations from around the world (www.refugeesinternational.org).

internally displaced during the previous three decades remained unresolved at the end of 2001.

As mentioned earlier, figure of refugees and IDPs inside Bangladesh also keeps changing every passing month.

Internally Displaced Persons

Internally Displaced Persons (IDPs) are the single largest population at risk in the world. An estimated 20 to 25 million persons have been forcibly displaced within the territories of over 50 countries due to violent conflicts and resulting human rights violations (conflict-induced) or by natural disasters or development projects (development-induced). With around 13 million, Africa has more IDPs than the rest of the world put together but South Asia is not far behind. Today we have around 90 percent of the world's refugees in least developed countries. We have countries like Nepal that receive about 101 refugees for every one dollar of GDP.

“Unlike refugees, IDPs are not covered by any kind of international conventions or protocols. What is available is only the “*Guiding Principles on Internal Displacement*” that identifies specific needs of internally displaced persons and their rights and guarantees relevant to the protection of persons from forced displacement and their protection and assistance during displacement as well as during return or resettlement and reintegration. As the title suggests, these Principles are only for “guidance” and therefore not obligatory. Definitely, IDPs fall within the ambit of international humanitarian law and the national law of the state concerned. However, these legal

provisions cannot be properly enforced due to the lack of any legal instrument for IDPs.”¹⁸

An estimated 157,000 persons of various ethnicities were displaced in several states in Northeast India, an area that is home to many tribal groups. Once sparsely populated, Northeast India's population has swelled with the arrival of millions of ethnic Bengali Hindus and Muslims from Bangladesh and from India's West Bengal State in recent decades. Population growth has led to competition for land and jobs, and has also given rise to tension among various minority ethnic groups. Those tensions gave rise to ethnic and politically based insurgencies causing widespread displacement. More than 500,000 people are today internally displaced in India from Kashmir to the Northeast.¹⁹ Another issue in the Northeast is the large presence of Nepali speaking population from Sikkim, Darjelling, Kurseong, Kalimpong, Tripura, Meghalaya and Assam who are asserting their rights within the Indian union. In the year 2011, the West Bengal government signed a tripartite agreement on the Darjeeling hills between the Gorkha Janamukti Morcha (GJM) and the West Bengal and central governments. At the core of the pact is the formation of a new autonomous, elected Gorkha Territorial Administration (GTA), a hill council armed with more powers than its predecessor Darjeeling Gorkha Hill Council (DGHC) formed in the late 1980s. It is evident from this agreement that migratory population gradually increases in its influence and then starts emphasizing its rights.

18 Manoharan, N. (2006) "*Internally Displaced Persons (IDPs) : An Overview*" Retrieved on January 16, 2007, from >www.ipcs.org<

19 Refugees International is a website that presents lot of information on refugee situations worldwide (www.refugees.org).

In Bangladesh, it is estimated that in the direct aftermath of the general elections of 2002, an estimated 5,000 to 20,000 Bangladeshi Hindus and other minorities fled to India to escape Bangladesh's post-election violence against the minorities. An unknown number of Hindus, roughly as many as 200,000 became internally displaced.

In Nepal, during the Maoist insurgency, people from rural areas migrated to cities like Kathmandu, Nepalgunj, Biratnagar and Pokhara to save themselves and their family from violence. Especially the people from the mid-west of Nepal owing to food shortages, economic bedlam and unpredictable security situation sold off/abandoned their property in their villages and to re-settled in other areas. As a direct consequence, property prices in major cities soared up. People fleeing the conflict and insecurity have [generally] tended to move among urban and economic migrants, amid continued urbanization and traditional migration patterns from rural areas to urban centers, or emigration to India.²⁰ The government even formed a nine-member task force recently led by the then Vice-Chairman of the National Planning Commission, Dr. Shankar Sharma to carry out a detailed study, and submit a report for providing relief to internally displaced persons (IDPs).²¹ Although no one knows the exact figures, it had been estimated that more than 100,000 people have been internally displaced in Nepal owing to the Maoist insurgency. But these IDPs remain

20 Note: The population of 12 municipalities of Nepal grew by 5.2% over the last two years, compared to 3.6% between 1991 and 2001, according to a survey gathered by an UNDP-Rural-Urban Partnership Programme conducted in 12 municipalities in 2002. This represents an increase of 80,000 rural-urban migrants in the last two years.

21 Sharma Commission takes Shape (2004, August 9) *The Kathmandu Post*, p.1

largely unrecognized; receiving little assistance to cope with their displacement. Young people in particular have been uprooted from the countryside by the effects of war. Moving to cities, with families in rural areas or migrating to India, conditions for IDPs vary greatly. Displaced children in cities appear to be some of the worst affected.²² According to another estimate, roughly 5 million Nepalese youth work in the Gulf, Malaysia, Korea and even in inhospitable places like Iraq and Afghanistan. Most of them have gone searching for jobs.

The situation slightly improved after the peace process initiated in 2006 but the crisis in the terai region introduced another set of IDPs within Nepal, primarily the hill people living in the plains. Due to the schism between Madhesis and the Pahade communities, even government officials, businesspersons and locals fled the terai districts and came to relatively safer places such as Chitwan, Kathmandu and Dharan. Districts such as Saptari, Siraha, Mahottari and parts of Dhanusa witnessed massive violence against the pahade community from 2007-2008.

States of South Asia unable and at times even unwilling to effectively handle their own IDPs are neither adept nor willing to divert sufficient resources to rise upto the challenge emanating from the refugee influx in their countries from diverse quarters. Foremost is good and hassle-free relations with countries in the periphery and secondly but more crucial is to maintain tight vigil in the borders so that unwanted people don't misuse and criss-cross at will. None of the South Asian countries have yet devised a refugee policy. India especially has had continuous problems with

22 Relief web contains information on refugee rehabilitation initiatives (www.reliefweb.int).

almost all countries in the neighborhood at times even accusing these countries of not putting their house in order leading to refugee influx in various Indian cities

Refugees and a Role for SAARC

The strategy adopted till now by refugee hosting states in South Asia has been to try and engage the home state in negotiations to resolve the refugee impasse'. However, most of the time, bilateral negotiations are tedious, laborious and complex processes that take years even decades to reach to an amicable and an honorable arrangement. The refugees themselves are seldom represented in these negotiations. South Asia needs to focus on ways to prevent refugee flows by either political or economic means rather than pondering on what to do once the refugees are already settled in their respective territories. Preventive measures alone are not likely to succeed without regional mechanisms. "South Asian practices towards refugees and asylum seekers of various types have on the whole been generous and accommodating despite of the absence of a legal framework dealing with refugees. Nevertheless, its absence results in arbitrary, ad hoc and discretionary decision-making which undermines fair and unilateral refugee protection."²³

It would hence be useful if SAARC would be formally involved in this process and not bilateralism rather a regional structure in order to deal with this humanitarian cataclysm in a comprehensive manner would prove useful. Although, SAARC does not permit "bilateral and contentious issues" to be brought into its agenda, what has to be understood is that almost all South

23 Siwakoti, G.K. (2010: 2 April). "Refugee Regime under SAARC: An Agenda for Action", Asia Pacific Refugee Rights Network. p. 3

Asian countries are affected in one way or the other by the presence of refugees/illegal immigrants and would collectively benefit by their regional organization getting involved into this issue. People have historically moved to places where there is safety and economic opportunity. Managing the refugee crises therefore has much to do with effectively managing the overall state of regional security.

As SAARC is now at its 31st year of existence, it has to move away from pomp and ceremonies while focusing on some issues really affecting member states by offering tangible and concrete solutions. Surely, there are enough conventions and understandings reached but as heads of governments have also increasingly felt, the achievements of SAARC have been rather modest. Countering terrorism, customs union and common currency are some of such issues that can be the future goals of SAARC. But these goals cannot be achieved when there are lingering problems such as the issue of refugees in the region. Arranging for a regional mechanism for tackling the refugee problem could be one of the shorter term objectives.

Two Unique Cases of South Asian Refugees: Mohajirs in Pakistan and Biharis in Bangladesh

Alok Bansal¹

South Asia or the countries that constitute South Asia today have historically been the home to a large number of refugees. The centrality of India in South Asia and its culture of “*Atithi Devo Bhava*” (guests are god), ensured that the refugees were welcomed and provided with succour. Consequently, when Persia was conquered by the Caliph’s Army, the native Zoroastrians facing religious persecution migrated to South Asia. Armenians, Baghdadi Jews, Poles and many other communities found solace in the region, temporarily or on permanent basis, whenever the going became tough in their traditional homelands. Similarly, many others migrated to the region from China, Arabia and other parts of the world for economic reasons. When the ruler Taimur Shah was defeated, he was given the territory of Gwadar, which they continued in their possession for almost two centuries. During World War II, a large number of refugees from various countries in Europe and Asia found shelter in the region. Refugees from Poland (10000, including 5000 orphans), Greece, Baltic countries, Malta, Burma, Malaysia, China and Jewish exiles from Axis territories were housed in the region till situation improved in

1 Director, India Foundation, New Delhi.

their home countries or they could be rehabilitated. Invariably in all cases they were welcomed with open arms and consequently, most major South Asian cities evolved as potpourri of cultures.

After the Second World War, the present political boundaries started emerging in South Asia and consequent rise of nationalism saw emergence of new refugees both from within the region as well as outside. Creation of Pakistan led to the largest migration of human population in recent history, while most of those migrating amalgamated in the society where they moved, some have become 'refugees' for life, having been termed as such by the host country, despite having all the rights of a citizen. As the Peoples Liberation Army moved into Tibet and Dalai Lama fled from there, large number of Tibetans migrated to the region. Emerging political dynamics in Sri Lanka and prejudice of the Sri Lankan leadership led to migration and resettlement of Plantation Tamils in India consequent to Shastri Sirimao pact. Subsequently, ethnic conflict and civil war in Sri Lanka forced another wave of migration. Chakmas from Bangladesh, Rohingyas from Myanmar, Lhotsampas from Bhutan and some ethnic groups in India's North East were forced to move out of their traditional homelands due to ongoing conflicts. Saur Revolution in Afghanistan and subsequent western sponsored 'jihad' brought in millions of Afghan refugees to Pakistan. Similarly, millions of Bangladeshi and Nepalis have migrated to India for economic reasons.

There are presently millions of refugees in South Asia, but there are two groups in South Asia, which may not technically conform to the academic definition of refugees, but present their unique set of problems. Their movement out of their traditional homelands was not driven by their persecution or economic

benefits, but by ideological reasons. The first set is the *Mohajirs* or the refugees, who migrated from Urdu speaking regions of India. By terming them Mohajirs, they have been permanently, branded as refugees, even though they enjoy all the rights as citizens of state. Unlike Punjabis who were forced to move out because of violence and subsequently, amalgamated in their new homeland, Mohajirs moved to Pakistan primarily for ideological and economic reasons. They were in the forefront of the struggle for Pakistan and considered themselves to be its creators and ideologues. The Mohajir elite and intelligentsia opted for a Pakistan where the past glory of Muslim rule could be resurrected under their leadership. They moved to Karachi, which was the seat of power and hence the avenue for employment opportunities. And from there, they subsequently moved to other urban centres of Sindh, such as Hyderabad, Sukkur and Khairpur. These migrants from India, primarily from Uttar Pradesh, who went to live in Pakistan, were politically more enlightened and culturally more refined than those among whom they chose to go and live. Religion had motivated them to migrate to the 'land of pure'. They did dominate the body politic of Pakistan in the initial decades, however, subsequent developments, like Jinnah's death, Liaquat's assassination, creation of One Unit and shifting of capital from Karachi to Islamabad, diminished Mohajir hold on Pakistani polity. Today they are being marginalised in their traditional strongholds in urban Sindh and are being accused of 'working for foreign powers'.

The second unique case is of stranded Pakistanis (Biharis) in Bangladesh, who have turned refugees, in what could probably be called as the only instance of the state having moved away from its citizens rather than the other way round. Like the Mohajirs in

Pakistan, Urdu speaking Biharis migrated to what was then East Pakistan in their quest for a utopian Muslim homeland. They were driven by “the two nation theory”, which propagated that Hindus and Muslims were two separate nations. These Biharis not only made an alien land their homeland but were also in the forefront in attempting to establish Pakistani authority in the Eastern part of the country. As Bangladesh emerged from the crumbling edifice of Pakistani nation, these migrant Biharis found themselves on the margins. They had not only opposed the demand for Bangladesh but had also actively collaborated with the Pakistani state apparatus and the armed forces to let loose a reign of terror on the local Bengalis. During the war of liberation in what was then East Pakistan between March and December 1971, they had willingly offered to defend a united Pakistan.

After the Liberation War, their commitment to ‘the ideals of Pakistan’ and the reaction of local population to their acts during the war of liberation led these Biharis to opt for Pakistani citizenship when Bangladesh was created. In the immediate aftermath of the creation of Bangladesh, Pakistan agreed to take them back in due course, as denying citizenship to these ‘patriotic’ Pakistanis at that critical juncture would have led to further demoralisation of its population. The fact that a section of the newly created state wanted to retain its links with Pakistan suited Pakistani propaganda that Bangladesh was nothing but the result of Indian conspiracy. However, with the passage of time Pakistan did not find any use for these marginalised people. In due course most of Pakistan forgot about these stranded Pakistanis who were being projected as patriots during the 1971 war and its immediate aftermath. These “patriots” of 1971 are now considered as “pariahs” by Pakistan that has stopped owning them as it fears

that, on migration, they would settle in Sindh and join the ethnic political ranks of Mohajirs. The economic and the political costs just seemed too much to bear. As a result these stranded Pakistanis continue to live in squalor in camps set up in Bangladesh and have no political rights.

Although judiciary in Bangladesh has cleared the path for them acquiring the BD citizenship, most of them find themselves still attached to the ideals of Pakistan and hence attempt to crossover through India. Many of these journeys end up in disaster and loss of lives.

Rohingya Refugees in India: Challenges and Resolutions

Nihar R Nayak¹

The growing sympathy towards ISIS amongst second generation Muslim migrants of Europe has posed a major security challenge to EU member countries. The alleged involvement of Muslim migrants in Paris and Brussel bomb blasts indicates radicalization of Muslim migrants in Europe. This development has divided the entire continent as to whether the region should remain open for Muslim migrants from Syria and North African countries or not. The differences of opinion amongst EU member countries and the UK about managing immigrants (both internal and external) could be one of the reasons behind UK's decision to exit from EU recently and to promulgate stringent immigration laws to protect its citizens, economy and territory from future attacks by Islamist groups.

The information about involvement of Muslim migrants in terror strikes has not only shaken the EU, but also other countries that have offered asylum to a large number of refugees over a period of time. There has been a constant fear of the Islamic State also known as Islamic State of Iraq and Syria's (ISIS) and its influence and rising sympathy for the group amongst Muslim migrants. Around 20 foreigners were killed by ISIS sympathizers

1 Associate Fellow, Institute of Defense Studies and Analyses (IDSA), New Delhi.

on July 1, 2016, in Bangladesh. Although the government claimed the attackers were mostly homegrown terrorists and did not have any connections with ISIS and Al-Qaeda, external sources indicated role of ISIS behind the attacks. Earlier, Bangladesh security agencies and media reports had indicated ISIS and Al-Qaeda sympathy towards Rohingya Muslims in Bangladesh. Media reports also said that desperate for identity, job, and better living conditions, some Rohingya Muslims in India were allegedly involved in sending Rohingyas of Bangladesh to Saudi Arabia to join the ISIS by using fake Indian passport.²

The expanding influence of ISIS in India and its effort towards reaching out to young Muslims has put Indian state on high alert. Although there have been no incidents showing Muslim migrants' involvement in anti-India activities or sympathy towards Islamist extremist groups, as a precautionary measure, the level of vigilance on Rohingyas of Myanmar has been increased. However, the state also needs to focus on addressing the plights of these refugees and make them feel like part of India by providing basic amenities just like any other refugees living in India. Anti-state elements could easily take advantage of this group now living in perennial denial of identity, deprivation and marginalization.

Sources of Conflict

The Rohingyas are Muslim minority belonging to Arakan province of Myanmar. The conflict precipitated in 1978 due to sectarian violence between Buddhists and Rohingyas. Although a large number of Rohingyas migrated to Bangladesh since then, the

2 "Delhi cops bust forged passport scam; terror link probed", *dnaindia*, January 16, 2016.

number of refugees in Bangladesh increased as the Rohingyas became stateless in 1982 when a law passed by the then Myanmar government denied them citizenship rights. Some of them also landed in Indian territory illegally in search of better opportunities and to avoid conflict with local Bangladeshis. However, Rohingya refugees' inflow increased in 2012 directly to India following Buddhist attacks on Rohingya Muslims in Rakhine state in Myanmar.³ Some of them migrated to India illegally by sea route and others by land route. The refugees did not prefer to take asylum in Bangladesh due to poor facilities and security offered by Bangladesh government to the refugees.

The Rohingyas of Myanmar are largest stateless people in India. Given their cultural and ethnological similarities with some sections of Indian community, they could mingle in India easily and remained invisible till early 2012. Their presence was noticed in May 2012 when around 4,000 Rohingyas carried out a protest in Delhi and demanded refugee status. Subsequently, the issue was discussed in Rajya Sabha (Upper House of Indian Parliament) and the government announced it would “give LTVs (long term visas)”⁴ to Rohingya migrants.

Most importantly, four years later, the government of India still does not have an exact official data on the number of Rohingya migrants living in India. The available data at government agencies working on the Rohingya refugees', both at

3 “The Government Could Have Stopped This” Human Rights Watch, July 31, 2012.

4 Sahana Basavapatna, “Where do #belong? The Stateless Rohingya in India”, in Sabyasachi B R Chaudhury and Ranabir Samaddar, (eds), *Rohingyas: The Emergence of a Stateless Community*, A Report by Calcutta Research Group, Kolkata, 2015, p. 33.

central and provincial levels, show huge differences in the numbers of Rohingyas, their legal status and their geographical reach. Many of them are still living in slums in India without any registration and valid documents. Quoting the bureau of immigration (BoI) figures, media reports indicated that around 10,565 Rohingya Muslims entered India in 2012. They are living in unauthorized slums in 11 states - Jammu & Kashmir (6684), Andhra Pradesh (1755), Haryana (677), Delhi (760), Uttar Pradesh (111), West Bengal (309), Siliguri (42), Punjab (50), Rajasthan (162), Maharashtra (12) and Andaman & Nicobar (3).⁵ However, another media report has said that there could be around 1.3 lakh Rohingya Muslims in India.⁶

The largest numbers of Rohingyas, as indicated above, have been living in Jammu region of Jammu and Kashmir State of India. No report and study is done to find out why they chose to live in Jammu while that place does not have any UNHCR office, prospective job market or presence of Muslim community. Interestingly, Jammu and Kashmir Chief Minister Mehbooba Mufti once stated in the state assembly that 5,107 Rohingyas, including 4,912 UNHCR card holders, stay in Jammu and none of them were found radicalized by any “mysterious organizations.”⁷

India’s Response

Despite not being a party to the 1951 UN Convention relating to the Status of Refugees or the 1967 Protocol, India hosts 1,98,665

5 “Rohingya Muslims forging alliance with ISI?” *dnaindia*, 22 July, 2015.

6 “Govt Calls Meet With Seven States on Rohingya Muslims on July 20” *Outlook India*, July 6, 2015.

7 “J&K govt: 10 Myanmar Rohingyas facing imprisonment in the state”, *The Indian Express*, June 24, 2016.

refugees and had 4,718 pending cases of asylum seekers as of June 2014, fleeing from conflict-torn countries.⁸ India has meted out equal treatment to refugees, at par with Indian citizens. Appreciating this, Antonio Guterres, United Nations High Commissioner for Refugees, has stated, “India a more reliable partner in the world to guarantee that people who need help will find a place. 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.”⁹ Although Rohingyas migrated to India in late 1970s, the issue was officially discussed in December 2012. Barring some arrests, India has been generous to Rohingyas. They are given refugee status as per UNHCR verification. India also agreed to issue LTVs after their refugees’ status demands in 2012. Most importantly, India is obliged to treat all persons living in its land equally as far as availing basic amenities and human rights and dignity are concerned. This obligation is rooted in Article 21 and 14 of the Constitution, the Supreme Court has declared that “these (apart from other constitutional rights) are applicable to everyone residing in India, not merely to citizens of the country.”¹⁰ For example, on World Refugees Day, the Telangana State government opened a Sarva Shiksha Abhiyan (SSA) school at Balapur area of Hyderabad for 300 Rohingya refugee students on

8 “India home to 2,00,000 refugees in first half of 2014: UNHCR” *The Hindu*, January 9, 2015.

9 “India’s refugee policy is an example for the rest of the world to follow”, *The Hindu*, January 3, 2013.

10 P. M. Velath and K. Chopra, “The Stateless People: Rohingya in Hyderabad”, in Sabyasachi B. R. Chaudhury and Ranabir Samaddar (eds.), *Rohingyas: The Emergence of a Stateless Community*, A Report by Calcutta Research Group, Kolkata, 2015, p.47.

June 20, 2016, which was first such school in India. The State government also plans to open two more such schools to accommodate all refugees' children living in Hyderabad. Such kind of actions will certainly prevent Rohingyas to indulge in anti-State activities and make them feel secure and confident.¹¹ Such humanitarian gestures from India could be the reason that they have chosen to live in India, while Bangladesh and other South East Asian countries did not allow them to accept them as refugees since 2012 onwards.

Since India does not have a legal framework and national refugee status determination system, the same is done by UNHCR. The UNHCR Refugee Status Determination (RSD) procedure starts with registration as asylum seekers of a foreign national fleeing from any conflict area or other reasons to India. Then the UNHCR conducts interviews of each individual asylum seekers accompanied by a qualified interpreter. After interviews and verifications, the UNHCR decides whether refugee status will be granted or not. It also gives an opportunity to the asylum seekers to appeal again before the UNHCR if the claim is rejected.¹² UNHCR certified refugees are entitled to avail socio-economic benefits in India. Moreover, quoting government sources a media report said India also “welcomes Rohingyas as refugees as long as they obtain a valid visa and have a refugee card”.¹³

11 “School for 300 Rohingya children in Balapur”, *The New Indian Express*, June 21, 2106.

12 UNHCR, for details see http://www.unhcr.org.in/index.php?option=com_content&view=article&id=8&Itemid=130

13 Divyani Rattanpal, “Are Myanmar’s Rohingya Muslim Refugees a Threat to India?” *The quint*, June 20, 2016.

At the diplomatic level as well, Delhi had urged the then military regime of Myanmar to address the grievances of Rohingyas and consider repatriation. That effort did not yield much result. India, Bangladesh and other democratic countries had expected that newly elected democratic government in Yangon to be generous towards Rohingyas. Aung San Suu Kyi's silence over Rohingya issue and her statement over ignoring the term "Roginyas" in official statements has now brought uncertainty to the future of 120,000 refugees.¹⁴

Given the reports about involvement of Muslim migrants in the bomb blasts in Paris and Brussels, Muslim youths joining ISIS from India and involvement of some Rohingyas in subversive activities in recent past, India has increased vigilance on the asylum seekers. During intelligence sharing with Bangladesh, India also got to know that some international extremist groups have expressed their sympathy towards Rohingyas. Since Rohingya migrants are spread across 11 states, Delhi has asked the provinces to keep a close watch over the Rohingyas and prevent Rohingya youths from the influence of radical Islamist organizations. An internal security meeting, participated by home secretaries of those 11 provinces in July 2015, observed that a section of the Rohingya community has been radicalized by pan-Islamist groups.¹⁵ While India has approached this matter through the humanitarian angle, some Rohingya refugees are demanding special status which has now emerged as a new challenge before Indian government.

14 "Aung San Suu Kyi tells UN that the term 'Rohingya' will be avoided", the guardian, June 21, 2016.

15 "Lashkar radicalizes Rohingyas to wage war against India", *Hindustan Times*, August 2, 2013.

Challenges

Technical

As mentioned earlier, some Rohingya Muslims, staying in India for the last 4-5 years and were issued asylum seeker cards by UNHCR in 2011, have started demanding refugee status to enable them to stay legally in India.¹⁶ Since India is not a party to international conventions on refugees, it could be a difficult task for India to address this demand. They, in fact, now compare themselves with other refugees living in India and blame India for discriminating them.

Security

Moreover, the alleged involvement of some Rohingya refugees with terrorist activities in India has further complicated the relationship between Indian State and Rohingyas. Following incidents are reported in Indian media about Rohingya refugees' involvements in terrorist activities:

1. July 7, 2013: Security agencies suspected involvement of Rohingya youth refugees of India and Bangladesh in serial bomb blasts at the Mahabodhi temple in Gaya, Bihar.
2. October 2014: Andhra Pradesh police reportedly arrested a Rohingya Muslim youth from Hyderabad in the case of Burdwan blasts.
3. October 4, 2015: Two foreign militants belonging to Jaish-e-Mohammad (JeM) outfit were killed in an encounter in south Kashmir. One of them was identified as Chota Burmi of Myanmar. His real name was Abdul Rehman al Arkun i.e.

16 "Rise in number of Rohingya Muslims settling in India set alarm bells among security agencies", *The Economic Times*, July 21, 2015.

Abdul Rehman of Arakan. Police suspect him as a Rohingya Muslim.¹⁷

External linkages

Since a large number of Rohingyas have come from Bangladesh after living there and frequent media reports about international terrorist groups' linkages with Rohingya refugee camps in Bangladesh has been major concern for India. Moreover, over a period of time, especially during Awami League government, Bangladesh has shared some important external linkages of international terrorist organizations' linkages with Rohingya refugees. Media reports indicated that Dhaka has shared with New Delhi that terror groups like the Lashkar-e-Taiba (LeT) have instigated Rohingyas to avenge 2012 sectarian violence in Myanmar and Pakistan based terror groups and Saudi Arabian financiers plan to radicalize and fund some Rohingya refugees. Before the violence Al Qaeda explosive expert Nur Bashar and the banned Islamic Movement of Uzbekistan's shura member, Mufti Abu Zarraul Burmi reportedly visited to Arakan. The LeT also supported the Rohingya Solidarity Organization (RSO) in Bangladesh.¹⁸

There are also reports about Saudi based organization called Rabita Al-Alam Al-Islami who has been allegedly encouraging radicalization of Rohingyas in two Bangladesh camps. This was confirmed in 2013 when a Delhi-based Rohingya refugee raised

17 "2 Foreign Militants of Jaish Killed in Jammu and Kashmir Gunfight", *The New India Express*, October 4, 2015.

18 Shishir Gupta "Lashkar radicalizes Rohingyas to wage war against India", *Hindustan Times*, August 2, 2013. Also see Pragati Chakma, "Rohingya refugees: A threat to Bangladesh?" *Dhaka Tribune*, January 28, 2016.

the issue at international forums and made contacts with the Saudi Arabia-based Gulf Rohingya Council.¹⁹ Jamaat-ul-Arakan (JuA) and the RSO have been running terror training camps in remote areas of Bandarban district of Bangladesh. It is believed that two RSO cadres from Bangladesh had joined Afghan Jihad.²⁰

Apart from that there are also unconfirmed reports about Bangladesh Rohingya refugees' linkages with Harkat-ul Jihad-e-Islami (HUJI) in Bangladesh and Jaish-e-Mohammed (JeM) of Jammu and Kashmir.²¹ Pakistan-based terror outfits like LeT, JuD and Falah-i-Insaniyat Foundation (FIF) have all been known for their deep links with Rohingya Muslims.²² For example, on June 1, 2015, LeT chief Hafiz Saeed issued a statement in Lahore accusing India of assisting the Myanmar Buddhists for targeting Rohingyas.²³

Besides that international terrorist organizations like Al-Qaeda, Jamaah Ansharut Tauhid and Al Shabaab had expressed solidarity towards plight of the Rohingyas.²⁴

19 "Rise in number of Rohingya Muslims settling in India set alarm bells among security agencies", *The Economics Times*, July 21, 2015.

20 Animesh Roul, "Militant Islam Meets Militant Buddhism in Myanmar", *The Jamestown Foundation*, vol. 11 (19), October 17, 2013.

21 E. Brennan and C. O'Hara, "The Rohingya and Islamic Extremism: A Convenient Myth", *The Diplomat*, June 29, 2015.

22 "Pakistan's Rohingya tears stoke India's fears" *The Times of India*, July 28, 2015.

23 Shishir Gupta "Lashkar radicalizes Rohingyas to wage war against India", *Hindustan Times*, August 2, 2013.

24 For more information see E. Brennan and C. O'Hara, "The Rohingya and Islamic Extremism: A Convenient Myth", *The Diplomat*, June 29, 2015.

Problems with Rohingyas in India

Given the stateless status of Rohingyas and failure of talks between Bangladesh and Myanmar over resolving the crisis due to non-acceptance of Rohingya refugees as their citizens, Rohingya Muslims' migration to India from Bangladesh and Myanmar has been continuing. Since the UNHCR verification process takes time, a large number of Rohingyas are still living in India without any registration. Media interviews and NGO reports on Rohingya refugees indicate that they are suffering from problems like:

- Stateless status
- No land for house
- No education for children
- No health facilities
- No job opportunity
- Low wage job and exploitations at work places
- Poor living standards

The Stateless and illegal migration status sometimes force them to indulge in unlawful activities. Dominik Bartsch, Chief of Mission, United Nations High Commissioner for Refugees (UNHCR) in India, observed that perennial statelessness of Rohingyas “forced to go underground and that results in people being off the grid, bereft of any support and subject to criminal activity and, worst case, even fundamentalism.”²⁵

How does radicalization happen?

Despite many studies being undertaken by using political,

25 “Myanmar’s Rohingya stuck in refugee limbo in India”, UNHCR, September 15, 2014, for details see http://www.unhcr.org.in/index.php?option=com_news&view=detail&id=47&Itemid=117

psychological and sociological approach to analyze radicalization process and its remedies, the radicalization process till continues across the world. A person can come under influence of radical thinking due to non-conventional ways. Many studies find that social media and internet play a vital role in radicalization process. But interestingly, out of the five ISIS sympathizers arrested by Indian security agencies in Hyderabad in June 2016, two did not have smart phones and did not know how to use internet. They were influenced by others during their visit to mosque for prayer. However, process of radicalization of a stateless person could be different. A RAND study of 2105 stated that historical cases and research findings indicate that refugees become radicalized easily if there is pre-existing militant elements in the refugees' camps. However, the study also found that following other factors could also increase risk of radicalization:

1. Policies and actions of the receiving country like punitive actions to deal with refugees,
2. Political and militant organizing, used by host against origin country,
3. Loose security and strict vigilance,
4. Absence of social infrastructure,
5. Local economic conditions and poor resilience,
6. Bad environment for youths,
7. Camps located close to origin country, and
8. Poor living conditions limit opportunities.²⁶

26 Barbara Side, et.al, "Lessening the risk of refugees radicalization: Lessons for the Middle East from Past Crises", Perspective, RAND Corporation, 2015.

In case of India, the possibilities of radicalization cannot be ruled out completely. The process, however, may take slightly longer time due to absence of four major factors as identified in RAND study. Those are 1. absence of pre-existence of militant groups in refuges areas, 2. political and militant organizing, used by host against origin country, 3. local economic conditions and resilience 4. camps located close to origin country. Therefore, risks are there. But there is no immediate threat.

Resolutions

However, perennial stateless status of Rohingyas is vulnerable to exploitation by others. Therefore, India needs to address Rohingya refugees' plight by focusing on following issues:

1. Issue long term visa to illegal Bangladeshis, including Rohingya Muslims. That would help State to know the exact number of migrants living in India. LTV also gives a sense of security and help them to avail basic amenities provided by the State.
2. Allow Rohingya refugees to avail social-economic and health benefits in India by using UNHCR registration card to reduce anxiety and frustration.
3. Negotiate with Myanmar for early solution to the problem.

IDPs in Pakistan

Aymen Ijaz¹

Introduction

In the recent decades, there has been an enormous increase in the number of Internally Displaced People (IDPs) in South Asia. The vulnerability of IDPs is compounded because, unlike refugees, they are confined to the state within which they were forced to migrate, and do not get the international legal protection that international refugee laws provide for refugees.² The eight South Asian countries accounts for 36 per cent of the total reported displacement worldwide. The average number of people displaced each year by disasters in South Asia has not changed dramatically since the 1970s.³ Displacement risk is unevenly distributed among countries within the region due to the massive differences in population size and urban growth rate.

Global Trends in Displacement

As of the end of 2014, approximately 38 million people around the world faced internal displacement due to armed conflict and generalized violence. Presently, there are almost twice as many

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- 1 Assistant Research Officer, Islamabad Policy Research Institute (IPRI), Islamabad.
 - 2 Paula Banerjee, Sabyasachi Basu Ray Chaudhury and Samir Kumar Das, *Internal Displacement in South Asia: The Relevance of the UN's Guiding Principles* (New Delhi: Sage Publications, 2005).
 - 3 Justin Ginnetti and Chris Lavell, "The Risk Of Disaster-induced Displacement in South Asia", Technical paper, *IDCM*, April 2015, p.9.

IDPs worldwide as there are refugees. The protracted crisis in countries such as in Iraq, South Sudan, Syria, Democratic Republic of Congo (DRC) and Nigeria have resulted in an increase in the IDPs number since last year. According to Internal Displacement Monitoring Centre (IDCM), 77% of the world's IDPs live in just 10 countries Syria 7,600,000 19.90% Colombia 6,044,200 15.83% Iraq 3,376,000 8.58% Sudan 3,100,000 8.12% DR Congo 2,756,600 7.22% Pakistan 1,900,000 4.98% South Sudan 1,498,200 3.92% Somalia 1,106,800 2.90%.⁴ Iraq, South Sudan, Syria, Democratic Republic of Congo (DRC) and Nigeria accounted for 60 per cent of new displacement worldwide.⁵ 90% of IDPs in the Middle East and North Africa were living in Iraq and Syria.⁶ In 2014, there were people living in displacement for ten years or more in nearly 90 percent of the 60 countries and territories such as Sudan, Afghanistan, Iraq, etc.⁷

Displacement

Displacement is a disaster or conflict impact that is largely determined by the underlying vulnerability of people to shocks or stresses that compel them to leave their homes and livelihoods just to survive.⁸ Displacement resulting from International Humanitarian Law (IHL) violations such as attacks against civilians, destruction of property, sectarian or ethnic violence, restricted basic necessities and natural calamities generate

4 Global Overview 2015, "People internally displaced by conflict and violence", *NRC and IDMC*, May 2015.

5 Ibid.

6 Ibid.

7 Ibid.

8 Justin Ginnetti and Chris Lavell, "The Risk Of Disaster-induced Displacement in South Asia", p.8.

situations when population is forced to migrate or move. The vast majority of population is assumed to remain within its own country of residence and is often reluctant to cross international borders to find refuge. Displacement occurs regardless of length of time displaced, distance moved from place of origin and subsequent patterns of movement, including returning back to place of origin or re-settlement elsewhere.⁹

Definition of IDPs

The definition of internally displaced persons (IDPs) most commonly used comes from the United Nation's (UN) Guiding Principles on Internal Displacement. The Guiding Principles define IDPs as:

“persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human made disasters, and who have not crossed an internationally recognized State border”¹⁰

IDP vs. Refugee

A refugee is a person who has fled his/her country of origin in order to escape persecution, other violations of human rights, or the effects of conflict. By contrast, an internally displaced person is someone who has moved within the bounds of his or her own country, either for the same sorts of 'refugee-type' reasons, or

9 Ibid.

10 See Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add.1, February 11. New York: United Nations.

because of natural or ‘man-made’ events, for example, earthquake, famine, drought, conflicts, disorder, or development projects, such as high-dam building etc.¹¹

Legal Instruments for IDPs

There is no universal instrument specifically addressing the plight of IDPs but in 1998 the UN General Assembly and the UN Commission on Human Rights took note of the Guiding Principles on Internal Displacement.¹² The Guiding Principles are not legally a binding instrument. More recently, in 2009, the African Union adopted the Kampala Convention on IDPs which is a way forward that a legal instrument for IDPs can be created on the similar pattern. There are certain provisions under IHL for IDPs under Geneva Convention (GC)-IV and Additional Protocol (AP) I-II that provide rights to IDPs.¹³

IDPs in Pakistan

Pakistan has faced a series of displacement crises due to natural disasters and armed conflict in the recent years. At the end of 2014, there were at least 4.1 million IDPs in South Asia and Pakistan accounted for 46 per cent of the region’s displaced population.¹⁴ IDMC estimates that till June 2015, there were more

11 <https://pesd.princeton.edu/?q=node/262> (accessed on May 4, 2016).

12 “Internally Displaced Persons and International Humanitarian Law, Advisory Service On International Humanitarian Law”, ICRC, <http://www.internal-displacement.org/assets/publications/2016/201601-training-package-law-and-policy/2-Human-rights-based-approach/Session-2-Handout.-internally-displaced-persons-icrc-eng.pdf> (accessed on May 4, 2016).

13 Ibid.

14 *Global Overview 2015*, p. 50.

than 1.8 million IDPs as a result of conflict and violence in Pakistan. Around 19 million people have been displaced by earthquakes and flooding and over 5 million by armed conflict over the past few years.¹⁵

Displacement Trends in Pakistan

The displacement trends in Pakistan are generally from rural to semi-urban or urban areas. The IDPs in the north-west region tend to stay in the areas where they first take refuge and most of the IDPs from FATA prefer to live in KP. According to Office of the United Nations High Commissioner for Refugees (UNHCR), 98 percent of registered IDPs from the north-west of Pakistan live with the host communities.¹⁶

Factors for Displacement in Pakistan

Over the last decade, Pakistan has experienced large-scale internal displacement caused by two main factors:-

a) Military Operations

The Pakistan Army in order to eliminate the militant's threat and to destroy the terrorist's hideouts in Pakistan has to conduct various military operations in the tribal and border areas of Pakistan. These operations led to evacuation of civilians from these areas to avoid the collateral damage. Hence, large number of population was displaced as a result of these military operations.

15 Report on "Displacement caused by conflict and natural disasters, achievements and challenges", *IDMC*, January 10, 2012, <http://www.internal-displacement.org/south-and-south-east-asia/pakistan/2012/displacement-caused-by-conflict-and-natural-disasters-achievements-and-challenges> (accessed on May 5, 2016).

16 Anne-Kathrin Glatz, "Pakistan: solutions to displacement elusive for both new and protracted IDPs", 2015.

- *2009 Displacement in Swat*

A military operation named *Operation Rah-e-Haq* was conducted in Swat Valley (Malakand region) of the Khyber Pakhtunkhwa (KP) province of Pakistan in 2009 against the militants leading to an exodus of around 2.5 million people.¹⁷

- *Displacement in South Waziristan*

70,000 people had fled during *Operation Rah-e-Nijat* as the Pakistan's military launched an air and ground offensive against the Tehrik-e-Taliban Pakistan (TTP) militants in the Mehsud tribal area of South Waziristan that began in 2009.¹⁸

- *Displacement in North Waziristan*

Similarly, the recent *Operation Zarb-e-Azb* has displaced roughly around 2 million people from Federally Administered Tribal Areas (FATA) region particularly from North Waziristan. 70% of whom are women and children.¹⁹

b) Disasters/ Natural Calamities

Pakistan is prone to disasters and natural hazards, including earthquakes, floods, cyclones, monsoon and drought. In July and August 2015, monsoon floods affected 1.6 million people. Large-scale displacement occurred in Pakistan in August and September 2010 after the worst flooding hit the country, which affected 20

17 "Fall out of Military operations", *Dawn*, May 30, 2009.

18 Ali Akbar, "Rah-e-Nijat IDPs to return to South Waziristan from March 16", *Dawn*, February 28, 2015.

19 Aymen Ijaz, "Post Operation Zarb-e-Azb: Security and Rehabilitation Challenges", *IPRI Review Meeting*, December 8, 2015, <http://www.ipripak.org/post-operation-zarb-e-azb-security-and-rehabilitation-challenges> (accessed on May 6, 2016).

million people, forcing over 7 million people from their homes.²⁰ The figure for the people displaced during floods is estimated to be 2.53 million for 2014 and for 2013 it stands at 1.2 million. Between 2008 and 2014, a cumulative total of 14.57 million people fled disasters in Pakistan. Eleven million people were displaced in Sindh province of Pakistan alone in 2010.²¹

- *2005 Earthquake*

On 8 October 2005, an earthquake of magnitude 7.6 hit the city of Muzaffarabad in Azad Kashmir that killed more than 100,000 people, injured an estimated 138,000 people and rendered 3.5 million homeless due to the destruction of buildings and infrastructure.²²

- *2010 Floods*

In July and August 2010, Pakistan experienced the most heavy monsoon rainfall in the last 50 years that submerged approximately, one-fifth of Pakistan's total land area. The government estimated that 20 million people were affected with a death toll of nearly 2,000 people and the destruction of

20 Ibid.

21 Anne-Kathrin Glatz, "Pakistan: solutions to displacement elusive for both new and protracted IDPs", *IDMC*, August 24, 2015, <http://www.internal-displacement.org/south-and-south-east-asia/pakistan/2015/pakistan-solutions-to-displacement-elusive-for-both-new-and-protracted-idps> (accessed on May 7, 2016).

22 Sajjad Shaukat, "Earthquake in Pakistan-2005 Army's Relief Efforts", *South Asia Research and Analysis Studies*, 10/6/2015, <http://www.saras.org.pk/viewarticle.php?topicid=3603> (accessed on May 7, 2016).

property, livelihood, and infrastructure eventually estimated to be \$43 billion USD.²³

Challenges to IDPs in Pakistan

There are number of challenges that are faced by IDPs in Pakistan such as loss of identity because of disintegration from their tribe and society and absence/loss of national identity cards (CNIC). There are problems of food, shelter, transportation, health and hygiene facilities in camps. The IDPs have lost their property, assets, belongings and livestock, thus mainly depending on NGOs and donations. The unemployment and psychological impact of this displacement and violence particularly on minds of children and young people is another serious challenge. The IDPs living in the camps lack political rights because of absence of CNIC and because of issues of registration and participation in the elections. Interruption in educational pursuit due to displacement and provision of poor educational facilities in the camps is a problem for IDPs. At the same time, these IDPs find it difficult to integrate into host communities. Even when these IDPs are repatriated back to their own areas, they are unable to cope up with the resettlement and rehabilitation challenges. The most important challenge is the security concerns of these IDPs while living in the camps and even after completion of the military operations the security threats still surrounding their homes and areas.

National Response

The Government of Pakistan through its various ministries and departments such as the Economic Affairs Division of the Finance

23 “Humanitarian Responses in Pakistan”, *Pakistan Humanitarian Forum*, <http://pakhumanitarianforum.org/ngos-in-pakistan/humanitarian-responses-in-pakistan/> (accessed on May 7, 2016).

Ministry, Ministry of States and Frontier Regions (SAFRON), and the FATA Secretariat, is currently focused on finalizing and funding the plans for the return, reconstruction and rehabilitation of IDPs. The government of Pakistan has taken several steps to address the challenges faced by the IDPs in Pakistan such as:-

- National and provincial authorities, Pakistani military, host communities, family networks, and civil society are all involved in Pakistan's response to internal displacement. In April 2015, the FATA authorities have launched a sustainable return and rehabilitation strategy for 2015 and 2016, developed with technical support from United Nations Development Programme (UNDP) and financial support from the World Bank. The government and non-government organizations have established several camps in Peshawar, Nowshehra, Lower Dir, D.I.Khan, Hangu, Tank and inside Mohmand and Kurram Agencies etc.
- Provincial-level frameworks have been put in place in KP and FATA to guide the response to displacement caused by both violence and disasters, including the FATA Early Recovery Assistance Framework 2012 (ERAF). In June 2009, the provincial government created the *Provincial Reconstruction, Rehabilitation and Settlement Authority (PaRRSA)* to oversee resettlement and rehabilitation of IDPs and to take over camp management from the Commission for Afghan Refugees (CAR).
- The Pakistan's military is playing a commendable role in the rehabilitation and resettlement of IDPs. The military leadership has flagged the issue of return of IDPs twice in February 2016, once during Apex Meeting of KP and

secondly during Corps Commander Conference. The military is providing relief to IDPs, providing security and has also opened many de-radicalization and rehabilitation centers at different places such as Bara, Khyber Agency and *Sabaoon-I* in Swat and *Sabaoon-II* in North Waziristan Agency (NWA).

- According to Pakistan’s leading newspaper *Dawn*, The Fata Disaster Management Authority (FDMA) had begun the third phase of the return of internally displaced persons to five Fata Agencies since April 11, 2016. The government plans to facilitate the return of all IDPs by the end of 2016. The FATA Secretariat along with *FATA Rehabilitation & Reconstruction Unit (RRU)* is also making efforts for safe and secure return of IDPs. The return of IDPs of Operation Zarb-e Azb has started since March 16, 2015 from South Waziristan Agency (SWA) and on March 31, 2015 from North Waziristan Agency (NWA) in phases as given in the table below:-

**Table: Phased Return of IDPs
from March 2015-November 2016**

Phase-1	March15-July 15
Phase-2	August 15-November15
Phase-3	December15-March16
Phase-4	April16-November16

- Earlier in August 2009, the FATA reforms package was introduced. The FATA political administration has been restructured with gradual incorporation of amendments in the Frontier Crimes Regulation (FCR). The Frontier Corps (FC) is deployed not only to train the Levies and the Khasadars but also to ensure law and order situation in the tribal region. The package also includes measures for the economic and social uplifting of tribal masses.

- To ensure economic and social development of IDPs, recently the IDPs of Zarb-e-Azb have been given Rs. 25,000 as cash assistance and Rs. 10,000 as transportation expenses along with food ration for six months and a kit containing non-food items for each household. The children were also given anti-polio and measles vaccinations. The RRU has conducted the *Housing Damages Survey* in SWA and Khyber Agency and *FATA Housing programme* was launched to rebuild damaged and destroyed houses.²⁴
- Similarly, *FATA Youth package* is also introduced by the Pakistan Army according to which, 14,000 youth from FATA will be recruited in the army in the next five years, 1500 students would be accommodated in Army Public Schools and Colleges and technical skills would be imparted to them. Besides this, building of Cadet Colleges at Wana and Spinkai, establishment of Waziristan Institute of Technical Education and Wana Institute of Technical Training and opening up of Women Skill Development Centre at various places to educate and to provide skilled labour to women are significant steps taken by the government.²⁵

International Response

- The UNHCR and international humanitarian organization, donor agencies, World Bank INGOs etc. have played a key role in rehabilitating of Pakistan's IDPs. The UNHCR has provided help in protecting IDPs rights, maintaining IDP camps, monitoring and supporting the IDPs registration

24 Aymen Ijaz, "Post Operation Zarb-e-Azb: Security and Rehabilitation Challenges", 2015.

25 Ibid.

processes and legal aid/civil documentation.

- UNHCR has also encouraged government of Pakistan to adopt an IDP policy that conforms to international standards and principles. In 2014, UNHCR had provided USD 16,189,528 (including operational costs) to Pakistan in supplementary budget requirements for its agency and implementing partner activities under the three Clusters i.e. Protection, Shelter/Non Food Items (NFI), and Camp Co-ordination and Camp Management (CCCM) Clusters.²⁶
- The UNHCR's Humanitarian Country Team (HCT) agreed to the Pakistani government's request and a Preliminary Response Plan (PRP) for the year 2014 was finalized. The PRP complements the national response regarding the cash grant assistance to registered and verified IDPs in Pakistan and works parallel to the HCT's existing Strategic Response Plan (SRP). The PRP highlights the additional funding needed for the NWA emergency not covered by the SRP.²⁷
- In 2015, the Pakistan Humanitarian Pooled Fund (PHPF) was able to maximize available funds to respond to the critical humanitarian situation in KP and the Bara, SWA and Orakzai Agencies of FATA through 2 Standard allocations – the first in May 2015 and the second in the month of November 2015.²⁸ The Government of the United Kingdom, through the

26 Ibid.

27 "Emergency Response for Internally Displaced Persons from North Waziristan Agency in Pakistan", Supplementary Budget Appeal 2014, *UNHCR*, <http://www.unhcr.org/53da47479.pdf> (accessed on May 8, 2016).

28 "Pakistan: Humanitarian Bulletin", Issue 37 | December 2015 - January 2016, *OCHA*, http://reliefweb.int/sites/reliefweb.int/files/resources/humanitarian_bulletin_dec_jan_2016.pdf (accessed on May 8, 2016).

Department for International Development (DFID) has signed a multi-year agreement with Office for the Coordination of Humanitarian Affairs (OCHA) to support the PHPF from 2015 to 2019.²⁹ In 2015 budget, the UNHCR had allocated USD 28.4 million for the protection and assistance of conflict IDPs in Pakistan.³⁰ Other countries such as China and Japan have also provided financial assistance and relief aids for the IDPs of Pakistan.

- There has always been an active international response from the international community during the earthquake and floods emergency in Pakistan. Many foreign countries including US, Russia, UK, Turkey, Japan, UAE, Saudi Arabia etc. and international organizations such as UN, EU and even regional countries like China, India, Afghanistan, Iran etc. have responded extensively to the humanitarian crisis in Pakistan by providing food, emergency teams, relief and financial aid. In August 2010, the United Nations (UN) launched the Pakistan Initial Floods Emergency Response Plan to meet urgent humanitarian needs in Pakistan. Similar efforts are being made by the international community to facilitate Pakistan in rehabilitation of IDPs of military operations being conducted in FATA and tribal areas of Pakistan.

Recommendations

- Proactive measures must be taken at first place to prevent the occurrence of displacement by the early identification of threats, monitoring of risk factors and by adoption of

29 Ibid.

30 For details see, "Pakistan", *UNHCR Global Appeal 2015 Update*, <http://www.unhcr.org/5461e60916.pdf>. (accessed on May 8, 2016).

appropriate responses.

- The displaced people must be assisted beyond the immediate emergency response and their needs be addressed throughout the various phases of displacement.
- Effective mechanisms must be available to all displaced individuals to address their grievances such as food, shelter, health, security, employment, education and register complaints.
- Effective security and internal border control frameworks must be set up to control displacement. Proper radicalization strategies be formulated and implemented that help reintegration and rehabilitation of IDPs, not only physically but also psychologically.
- The revival of economic prospects and job opportunities for the affected population returning to their native areas must be ensured in order to prevent recurrence of displacement in the future.
- Implementation and coordination of aid, resources and assistance for the IDPs needs to be localized for proper administration and management. IDPs must have a say in the decision making process concerning their lives. There is also a need to strengthen the humanitarian communication mechanisms to better inform IDPs of available support/ services and registration processes.
- A legal national/domestic legislation must be enacted to ensure provision of law and justice to the IDPs. There is a need to incorporate Guiding Principles on Internal Displacement in domestic legislation to enhance measures for

the protection, empowerment and basic/human rights of IDPs.

- The government of Pakistan must step up its current efforts and strategies for rehabilitation and resettlement of IDPs and in this regard Pakistan should also co-operate with regional countries for finding collective solutions and responses. Infact, a regional burden sharing approach must be adopted.
- The National and International organizations, human rights bodies and financial institutions must make robust efforts and provide funds and resources for rehabilitation and reintegration of IDPs in Pakistan.

Conclusion

Pakistan has suffered worst IDPs crisis in the last few years. The nature and magnitude of internal displacement in Pakistan has badly affected its security, economy and infrastructure. The multiple factors that have contributed towards internal displacement must be properly studied and responded. Long term and durable solutions must be adopted There is a need to formulate and implement a comprehensive and effective approach that focuses on preventing internal displacement and the factors that lead to displacement and in a situation where displacement is inevitable, by mitigating its effects on the affected population. Rather than acceding to the international instruments for the refugees, a legal framework at global level must be formulated to address the IDPs problem. Beside this, concrete efforts must be made at national and regional level to assist IDPs and multilateral mechanisms such as collective funds, joint supporting/relief teams etc. must be adopted to overcome with this crisis. A regional oriented strategy that is inclusive of all states must be worked upon as IDPs issue is a common problem in South Asia.

Managing the Rohingya Crisis: Need for Increased Multi-Level Engagement

Md. Nazmul Islam¹

1. Introduction

The worsening ethnic conflict between the Rohingya Muslim minorities and the Buddhist majority in Rakhine state of Myanmar is one of the unique cases of ethnic conflict in global history where the citizenship rights of the Rohingyas are categorically denied, freedom of movement is severely restricted and right to education is harshly deprived. Since independence in 1948, successive governments in Myanmar have refuted the Rohingyas' historical claims and denied the group recognition as one of the country's 135 ethnic groups.² During the democratic era of Myanmar (1948-1962) the Rohingyas were considered as the citizen of Myanmar but the military Junta which took over power in 1962 enacted the early emergency law in 1974 and the Citizenship law 1982 that removed the status of Rohingya as a recognised ethnic group in Myanmar.³ They are also subjected to various forms of extortion and arbitrary taxation, land

1 Author is Research Officer at Bangladesh Institute of International and Strategic Studies (BIISS), Dhaka. His email address is: nazmulir63@gmail.com.

2 Ministry of Foreign Affairs, Myanmar, *Burma Press Summary*, Vol. 6, No. 2, February 1992.

3 Intiaz Ahmed (ed.), *The Plight of the Stateless Myanmar refugees: Responses of the State, Society and the International Community*, Dhaka: The University Press Limited (UPL), 2010. p.16.

confiscation, forced eviction, restrictions on marriage that started in 1970s and as days pass, situation is deteriorating. Though one of the root causes of the conflict are denial of citizenship, the stubborn mindset of the consecutive governments to deny the basic rights inherent to a human being is deteriorating the situation. Myanmar officials always claim that the issue is solely an internal matter, but the after effect of the crisis badly impact the neighbouring countries of Myanmar *viz* Bangladesh, India, Thailand, Malaysia, Indonesia etc. Also it does have a corollary effect at the regional level (especially in South Asia and Southeast Asia) as well as in international level since no state is isolated from the actions, reactions and interactions among different actors in today's globalised world.

In this backdrop, this paper focuses on the need for increased multilevel engagement to find a durable solution of this long lasting problem. The paper intends to show that an effective bilateral, regional and global involvement could pave the way for resolving the crisis through shrinking the pace of Rohingya refugee generation. For the convenience of discussion, the paper is divided into four sections including introduction and conclusion. Section two deals with the overview of the Rohingya crisis that briefly elucidates the historical background as well as analyses different factors enforcing the Rohingyas to leave Myanmar and seek asylum in different countries. The third section focuses on managing the crisis through three levels engagement *viz* bilateral level, regional level and international level. Methodologically, the paper is qualitative in nature and tries to go deeper into the crisis by analysing different issues and factors relevant to it. Regarding data collection, secondary method (data have been collected from different books, journals, legal tools and instruments of regional

and international organizations, news clippings, seminar papers, internet based articles etc.) has been followed.

2. Overview of the Rohingya Crisis

2.1 About the Rohingyas

The Rohingyas are an ethnic Muslim minority group living primarily in Myanmar's western Rakhine State. They differ from Myanmar's dominant Buddhist group not only ethnically but also linguistically and religiously. According to the United Nations, Rohingyas are one of the most persecuted minorities in the world.⁴ Even the word 'Rohingya' is a taboo in Myanmar and Myanmar officials term them as illegal migrants from Bangladesh. In this regard it can be noted that the National Museum in Yangon which has an excellent collection of materials of all sub-nationalities makes no mention of the Rohingyas nor does it have any collection dedicated to them.⁵ So, what are the origins of the Rohingyas in Myanmar?

Regarding the origin of Rohingyas, there are basically two theories.⁶ One theory suggests that they are the descendents of Moorish, Arab and Persian traders, including Moghul, Turk, Pathan and Bengali soldiers and migrants who arrived between 9th and 15th centuries, married local women, and settled in the region. Rohingyas are therefore a mixed group of people with many ethnic and racial connections. This position is mainly upheld by the political organizations of the Rohingyas, including scholars

4 "The Rohingyas: The most persecuted people on Earth?", *The Economist*, 13 June 2015.

5 Imtiaz Ahmed, *The Rohingyas: From Stateless to Refugee*, p. 2.

6 Imtiaz Ahmed (ed.), *op. cit.*, p. 4.

sympathetic to their cause.⁷ On the other hand, the second theory suggests that the Muslim population of the Rakhine State are mostly Bengali migrants from the then East Pakistan and current Bangladesh, with some Indians coming during the British period. This theory is further premised on the fact that since most of them speak Bengali with a strong 'Chittagong dialect,' they cannot but be illegal immigrants from pre-1971 Bangladesh. The government of Myanmar, including the majority of Burman-Buddhist population of the country subscribes to this position.⁸

According to the Burmese Constitutions of 1947 and 1974 and the 1948 Citizenship Acts, Rohingyas are Burmese citizens.⁹ They enjoyed public employment and obtained the passport of Myanmar. They also got the rights to elect and to be elected at all levels of administrative institutions including the parliament. The general election for the Constituent Assembly was held in Arakan (former name of Rakhine state) in 1947. From the holding of the elections until the 1962 military takeover, three parliamentary general elections were held for both houses of Parliament in 1951, 1956 and 1960 respectively. In the 1951 general elections Rohingyas won 5 seats, 4 in the Lower House and one in the Upper House.¹⁰ They had no political Party of their own. They

7 Abdur Razaque and Mahfuzul Haque (ed), *A Tale of Refugees; Rohingyas in Bangladesh*, (Dhaka: The Centre for Human Rights, 1995), p.5.

8 Ministry of Foreign Affairs, Myanmar, *Burma Press Summary*, Vol. 6, No. 2, February 1992.

9 Radio speech by Prime Minister U Nu, 25 September 1954 at 8:00 PM, and Public speech by Prime Minister U Nu and Defence Minister U Ba Swe at Maungdaw and Buthidaung respectively on 3 and 4 November 1959.

10 "The Ethnic Rohingyas of Arakan: Living Under the Oppressive Claws of a Tyrannical Regime in Burma", available at <http://www.rohingya.org/portal/index.php/learn-about-rohingya/70-the-ethnic-rohingyas-of-arakanliving->

stood either as independent or as supporter of Anti-Fascist People's Freedom League (AFPFL).

In the 1990 general elections, the Rohingyas were able to vote and were allowed to stand as candidates, a right normally denied to non-citizens.¹¹ The National Democratic Party for Human Rights (NDPHR), a Rohingya political Party, won four seats, capturing all the constituencies in Buthidaung and Maungdaw. Subsequently, the National Democratic Force (NDF), like many other political parties that won seats in the 1990 elections, was deregistered by the military regime in March 1992. From the general election of 2010, four Rohingya MPs were elected and represented in parliaments. But in the last election held on 8 November 2015, the national parliament and the country's former President Thein Sein stripped the voting rights of Rohingyas and disqualified their parliamentary candidates.¹²

As of 2015, about 1.3 million Rohingyas live in Myanmar. They mainly reside in the northern part of Rakhine state and account for nearly one third of Rakhine state's total population.¹³ Besides, approximately 0.3-0.7 million Rohingyas are staying in different countries like Bangladesh, Thailand, Malaysia,

[under-the-oppressive-claws-of-a-tyrannical-regime-in-burma.html](#), accessed on 15 June 2016.

11 Amnesty International, *The Rohingya Minority: Fundamental Rights Denied*, May 2004, p. 12.

12 David Mephram, "What Burma's Elections Mean for the Rohingya?", *The Newweek*, 8 October 2015.

13 "Will anyone help the Rohingya people?", *BBC News*, 10 June 2015.

Indonesia, India and Pakistan either as refugees¹⁴ or as asylum seekers.¹⁵

2.2 Factors that force Rohingyas to flee from Myanmar

It is mentioned earlier that the denial of citizenship is the main problem for the Rohingyas that lead them to avail no basic social and legal services. They are also prey to other forms of discrimination and persecution on the basis of ethnicity. These discriminations are deteriorating the plight of the Rohingyas and it demonstrates that how people in their own country can be forced out and become refugees. The plights are so dire that sometimes they prefer to flee from Myanmar and seek refuge in other countries. So what are the factors that force them to flee their own country and seek refugees? These factors include restriction on movement, forced labor, arbitrary taxation and extortion, registration of births and deaths in families, restrictions on marriage, deprivation of the right to education, arbitrary arrest, torture and extra-judicial killing etc.

Rohingyas in Rakhine State must routinely apply for permission to leave their village, even if it is just to go another

14 A refugee means- “someone who 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.”, stated in Article 1(A)(1), ‘Definition of Refugee’ by *The 1951 Convention relating to the Status of Refugees*, adopted on 28 July 1951 by the United Nations Conference on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14 December 1950.

15 Finding a Durable Solution to Rohingya Refugee Crisis: An Overview of Regional and Domestic Constraints, *ASEAN Briefs*, Volume 2, issue 6, September 2015. See also, UNHCR, *Bangladesh Factsheet*, August 2015.

nearby village. This has had serious repercussions on their livelihood and food security, as they are often unable to seek employment outside their village or trade goods and produce unless they have official permission and obtain a pass which they must pay for. Most Rohingyas cannot afford to pay on a regular basis for these permits due to poverty as Rakhine state is the poorest region in Myanmar where 77.9 % population live below poverty line.¹⁶ Rohingyas' inability to travel freely greatly inhibits their ability to earn a living, obtain proper health care and to seek higher education.

Because of having limited earning capabilities, most of the Rohingyas become victim of forced labour with little or no pay. As North Rakhine has turned into a militarized zone, it has resulted in the increase of forced labor and other violations of human rights in the region.¹⁷ Forced labor demands from the authorities' place a large burden on them as it leaves them with not enough time to do their own work. Most of the times it is the poorest who must undertake forced labour. Besides, the armed forces routinely confiscate property, cash, food and use coercive and abusive methods to recruit them as forced labours.

Rohingyas in northern Rakhine State are also subjected to extortion and arbitrary taxation at the hands of the authorities. These vary from tax on collecting fire-wood and bamboo to fees for the registration of deaths and births in the family lists, on

16 World Bank, *Ending poverty and boosting shared prosperity in a time of transition*, Report No. 93050-MM, November 2014, p. 8.

17 International Labour Office, Governing Body, *Report of the High Level Team*, GB. 282/4, 282 Session, Geneva, November 2001.

livestock and fruit-bearing trees, and even on football matches.¹⁸ The authorities impose very high rates of taxation on the food grains and on various agricultural products of Rohingyas including staple food, rice. In addition, shrimp tax, vegetable tax, animal or bird tax (for cows, buffalos, goats, and fowl), roof tax, house-building or repair taxes, etc, are collected by force. Every Rohingya who breeds either cattle or domestic livestock has to pay certain amount for each and every item they possess. Every new born or death of the above has to be reported paying a fee.¹⁹ All Rohingya households are obliged to report any changes to the family list to the authorities for the registration of births and deaths in families. They are forced to pay fees to the Village-tract level Peace and Development Council (VPDC) or the Nasaka.

The authorities in Northern Rakhine State have forcefully introduced a regulation that the Rohingyas are required to ask for permission to get married. This restriction is only enforced on Muslims of that area and not any of the other ethnic minority groups living in the region. In recent years, imposition of restrictions on marriage of Rohingya couples has further intensified. Marriages need to be solemnized with the consent and sometimes, in the presence of the army officers. There are also consistent reports of young couples fleeing to Bangladesh because this is the only way for them to get married.²⁰

Since the new Burma Citizenship law in 1982, Rohingya students are denied the right to education. It is problematic to

18 Amnesty International, *The Rohingya Minority: Fundamental Rights Denied*, May 2004, p. 4.

19 *Ibid*

20 *Ibid*

pursue higher studies while professional courses are barred to them. Rohingya students who stood in selection tests and got formal admission in various institutions located in Yangon and other parts of Myanmar are unable to pursue their studies as they are not allowed to travel. During recent years about 1500 students have to stop their further studies. There have been incidents that students could not sit in their supplementary examination as they were denied travel documents to go to outside by the authorities. In addition, as Rakhine state remains totally shut from outsiders, the Burmese authorities has been carrying out a relentless torture and killing campaign in the state particularly against the youths without putting anyone on trial. Over 100 innocent Rohingyas were killed in 2009 in different parts of Rakhine.²¹

These are the main reasons why the Rohingyas are forced to leave Myanmar and try to reach other countries to avail better rights and protection in the destination countries. But the unfortunate fact is that they are to face same types of problems in the refugee camps or shelter centres in the destination countries due to shortage of food and water, shortage of shelter facilities, deficiency of medical facilities, lack of security within the camp especially for women, children and aged persons. There might have been two reasons behind this inadequacy of facilities in these camps: either the destination countries have reached to a breaking point in their ability to handle the situation or they are not considering the crisis from a humanitarian aspect. For this, a coordinated and comprehensive approach with increased multi-level engagement can be initiated to manage the crisis.

21 "Rohingyas become victim of arbitrary arrest, torture and Extra-Judicial Killing", available at <http://brcuk786.blogspot.com/p/rohingya.html>, accessed on 12 June 2016.

3. Managing the Crisis through Multi-level Engagement

The problem and the crisis of Rohingyas are rooted in Myanmar but it can't be said that it has some corollary effects on other countries especially in the Southeast Asia and South Asian region. But when the question of intervention comes, very inadequate response is found from these countries that are directly or indirectly affected by the crisis. Different regional and international organisations have been working to limit the crisis but the problem for them is inability to reach to the root of the problem. So a comprehensive and coordinated approach needs to be taken by different stakeholders from different levels (bilateral, regional and international level) to abate the plights of the Rohingyas. In this regard, this section basically analyses that how different countries and organisations are directly or indirectly pertinent to the crisis as well as their possible roles to diminish the sufferings of the ill-fated Rohingyas.

3.1 Bilateral level

At the bilateral level there are basically two categories of countries pertinent to the crisis. One category includes countries (e.g. Bangladesh, India, Thailand, Malaysia and Indonesia) who are directly impacted by the Rohingya refugees generated as a result of the crisis. Other category includes countries (e.g. USA, UK, China, and Canada) that are not directly affected by the crisis, but have leverage on Myanmar and can work with Myanmar to resolve the crisis.

3.1.1 Bangladesh

Because of being one of the neighbouring countries of Myanmar and due to the geographical proximity with Rakhine state of Myanmar, Bangladesh has been facing the problems of the

issue of Rohingya Refugees since 1978 when almost 200,000 refugees came into Bangladesh and took shelter.²² Again in 1991-92 approximately 250,000 refugees fled from Myanmar's western Rakhine state and they started living in Cox's Bazaar, one of the south east districts of Bangladesh.²³ Though Bangladesh is not a party to the 1951 Convention on the Status of Refugees but it gives shelter to them in light of Bangladesh's experience during its war of liberation in 1971 and from overall humanitarian considerations. Due to political unrest in Myanmar and lack of interest and response from the Myanmar side, presently around 30,000 registered Rohingya refugees are residing in two camps- Kutupalong and Noapara in Cox's Bazar district.²⁴ In addition, there is a huge population of approximately 0.3-0.5 million Myanmar nationals living outside the camps, having entered into Bangladesh in an irregular manner.

With the passage of time different interventions have been taken by the Government of Bangladesh to deal with the issue. As a part of different initiatives, the current government approved the 'National Strategy Paper on Myanmar Refugees and Undocumented Myanmar Nationals in Bangladesh' on 9 September 2013 in the Cabinet under the Chair of the Prime Minister.²⁵ The strategy paper contains several key elements that

22 Kei Nemoto, *The Rohingya Issue: A Thorny Obstacle between Burma (Myanmar) and Bangladesh*, *Online Burma Library*, available at http://www.burmalibrary.org/docs14/Kei_Nemoto-Rohingya.pdf, accessed on 20 June 2016.

23 *Ibid*

24 Ministry of Foreign Affairs, Bangladesh, *National Strategy Paper on Myanmar Refugees and Undocumented Myanmar Nationals in Bangladesh*, 31 March 2014.

25 *Ibid*

includes- listing of undocumented Myanmar nationals in Bangladesh in order to identify them and determine their actual number and location; meeting the basic needs (medical care, potable water, sanitation facilities, humanitarian services) of the listed individuals; strengthening border management through enhanced capacity building of the border security agencies; sustaining diplomatic engagement with Myanmar government to resume the repatriation process of Myanmar refugees at an early date; increasing national level coordination through a three stage coordination mechanism *viz.* a) National Coordination Committee under the Chair of the Foreign Minister. b) National Taskforce under the Chair of the Foreign Secretary, c) Local Taskforce at district and sub-district levels under the Chair of Deputy Commissioner.

It is expected that implementation of the key elements of the Strategy Paper would ensure proper management of the complex and multidimensional issue of Rohingya refugees and eventually facilitate voluntary repatriation to Myanmar in the near future. At the same time, Bangladesh expects that the newly formed democratic government in Myanmar will be cordial and sympathetic to protect the rights entitled to the Rohingyas in Myanmar.

3.1.2 Thailand

For many decades, Thailand has played an important role in the Southeast Asian region as a place of refuge for those fleeing violence and persecution from Cambodia, Laos and Vietnam in post 1975 or those fleeing conflict and political persecution in

Myanmar since the 1980s.²⁶ Thailand is also home to hundreds of thousands of economic migrants, regular and irregular. Migration flows into the country are complex. Many migrants arrive in Thailand for a variety of reasons including economic, persecution and human rights abuse. The Thai government has never formally recognised the refugee status of any persons from Myanmar except those who fled the country after the 1988 “student uprising”.²⁷ Consequently, Thai policy does not use the term “refugee”, but “displaced person”; and it does not use the term “camp”, but “temporary shelter”. The terms used by the Thai authorities reflect the intended temporary nature of the refugee protection framework in Thailand.²⁸

Rohingyas have entered Thailand both by sea and by land. The sea routes are currently more widely accessible to them. While some Rohingya refugees treat Thailand as their final destination, the majority use it as a transit country on the journey from either Myanmar or Bangladesh to Malaysia and beyond. The treatment of the Rohingyas arriving in Thailand by boat has raised concerns. In 2013, approximately 2000 Rohingyas were officially allowed entry into the country, but were detained in immigration detention centres (IDCs) and/or shelters as “illegal immigrants”.²⁹

Thailand is currently accommodating approximately 110,372 refugees from Myanmar in nine temporary shelters along the

26 Equal Rights Trust and Institute of Human Rights and Peace Studies, Mahidol University; *Equal Only in Name: The Human Rights of Stateless Rohingyas in Thailand*, London, UK: Stroma Ltd, 2014. p 13.

27 Equal Rights Trust, *op. cit.* p.14

28 *Ibid*

29 *Ibid*

border.³⁰ In addition to the boat arrivals, Thailand is home to a relatively small yet significant population of informally settled Rohingyas, many of whom have lived in the country for over twenty years. It is difficult to estimate the total number of Rohingyas living in Thailand, given their irregular status and undocumented existence. Government estimates placed the population at around 20,000. More recent estimates by community leaders, NGOs and a 2008 survey by the Thai National Human Rights Commission place the number at approximately 3,000, most of whom are believed to live in Bangkok with others living in Mae Sot, Ranong and the southern provinces.³¹ Some estimates put the figure as high as 100,000. For years, this settled population has been navigating its own set of insecurities and human rights concerns associated with residing and working in a country that considers them to be “illegal” economic migrants, with the added insecurity of being stateless and having escaped persecution in Myanmar.

3.1.3 India

There are an estimated 36,000 Rohingya Muslims in India today, concentrated in the seven states of Uttar Pradesh, West Bengal, Andhra Pradesh, Kerala, Assam, Jammu and Kashmir and Delhi.³² They came to India from Myanmar through the porous India-Bangladesh border. Although in principle, all refugees in

30 Finding a Durable Solution to Rohingya Refugee Crisis: An Overview of Regional and Domestic Constraints, *ASEAN Briefs*, Volume 2, issue 6, September 2015.

31 Brown S. and Olarn K., “U.N. condemns Thai court case against journalists over people trafficking report”, *CNN*, 15 April 2014.

32 Divyani Rattanpal, “Are Myanmar’s Rohingya Muslim Refugees a Threat to India?”, *The Quint*, India, 20 June 2016.

India have access to government health and education services, many Rohingyas struggle for these as they don't have an official refugee status.³³ It is a sad truth that even though the Rohingyas in India are desperately poor and sometimes lack even the most basic benefits that the Indian state confers on citizens and legal residents, they still feel life here is still better than back in Myanmar. The government is unable to deport them to Myanmar and unwilling to allow them to stay, thus condemning them to endless and arbitrary detention.³⁴

Regarding the crisis, there exist two concerns for India. Firstly, rise in number of Rohingya Muslims settling in India set alarm bells among security agencies.³⁵ Bureau of Immigration (BoI) of India claims that more than 10,000 families are reported to have settled in India with Jammu and Kashmir recording the highest number.³⁶ The numbers, security agencies suspect, may be higher as large number of Rohingyas are also staying illegally in India and poses more serious security threats. Secondly, the Kaladan Multi-Modal Transit Transport Project³⁷ which is yet to be operational might get impacted by any sort of instability in Rakhine state where the Rohingyas reside. So, for the own interest

33 *Ibid*

34 Meher Ali, "An Uncertain Refuge: The Fate of the Rohingyas in India", *The Wire*, India, 15 November 2015.

35 "Rise in number of Rohingya Muslims settling in India set alarm bells among security agencies", *The Times of India*, 21 July 2015.

36 *Ibid*

37 The Kaladan Multi-Modal Transit Transport Project is a project that will connect the eastern Indian seaport of Kolkata with Sittwe seaport in Rakhine, Myanmar by sea; it will then link Sittwe seaport to Paletwa in Myanmar via Kaladan river boat route and then from Paletwa on to Mizoram by road transport.

of India it needs to work closely with Myanmar in regard to the issue.

3.1.4 Malaysia

As of 2015, Malaysia hosts 37,850 Rohingyas³⁸ and the Rohingya refugee crisis presents a test of Malaysia's chairmanship of the Association of Southeast Asian Nations (ASEAN).³⁹ The agreement by Malaysia and Indonesia to provide temporary shelter to thousands of migrants stranded at sea was a diplomatic breakthrough.⁴⁰ It reflected Malaysia's delicate efforts to maintain its regional commitment to ASEAN while allaying domestic concerns about illegal immigrants in Malaysia.

Malaysia is not a signatory to the 1951 Refugee Convention, and it does not possess a legislative and administrative framework to address refugee matters. Therefore, the inclusion of more Rohingya refugees would have further strained country's domestic capacity to cope with illegal immigrants in the country. Nevertheless, these issues do not deny Malaysia's long-standing concern for the plight of the Rohingya people. In 1992, the government of the then-Prime Minister Mahathir Mohamad had urged Myanmar to take immediate steps to resolve the problem.⁴¹ This was consistent with Mahathir's foreign policy to project Malaysia as an Islamic nation concerned for the welfare of Muslim minorities. However, Malaysia could not interfere directly

38 *ASEAN Briefs, op. cit.*

39 David Han Guo Xiong, "Rohingya Refugee Crisis Tests Malaysia", *Fair Observer*, USA, 3 July 2015.

40 Joe Cochrane, "Indonesia and Malaysia Agree to Care for Stranded Migrants", *The New York Times*, 20 May 2015.

41 David Han Guo Xiong, *op.cit.*

in the domestic affairs of Myanmar, given the ASEAN principle of non-interference in the internal affairs of other member-states.

3.1.5 Indonesia

Indonesia identifies itself as a regional leader. When chairing ASEAN in 2003, Indonesia's then President Megawati Sukarnoputri at the 36th ASEAN Summit announced, "ASEAN should be more proactive, more sensitive to the mainstream values and ideas in international relations, including democracy and greater respect of human rights, and more attentive to its own felt needs."⁴² Her speech marked a re-orientation in regional politics, as the word 'democratic' appeared for the first time in an ASEAN document – the 2003 Declaration of Bali Concord II. Over the past decade, Indonesia's dealings with Myanmar have been contradictory. On the one hand, Indonesia's foreign policy establishment have pronounced their trust in Myanmar's leaders. On the other hand, they have also criticised its leaders for their approach towards the Rohingyas.⁴³

Indonesia hosts nearly 12,000 Rohingyas as refugees and for most of the Rohingyas fleeing persecution and violence, Malaysia and Indonesia are countries of final destination as well as transit point to reach Australia.⁴⁴ The current asylum seeker crisis off Southeast Asian shores has its precedents. In January 2009, a total of 400 Rohingyas from Myanmar's Rakhine State were rescued off the northern coast of Sumatra. After these incidents,

42 Olivia Cable, "Indonesia and the Rohingya: de-legitimising democracy?", *The New Mandala*, Australian National University (ANU), 29 May 2015.

43 *Ibid*

44 *ASEAN Briefs, op. cit.*

Indonesia's then Foreign Minister Wirajuda declared in 2009 that he would consider refugee status for the Rohingyas.⁴⁵

Since Indonesia identifies itself as a regional leader, its foreign policy establishment must navigate through ASEAN's doctrine of non-interference, establish and build consensus around a collective position within ASEAN on its approach to dealing with the Rohingyas through manoeuvring between domestic, regional and international expectations in resolving the issue.

3.1.6 China, USA, UK, and Canada

There is a small community of Rohingya residing in Yunnan province that feels affinity with China's Uighur Muslims. China shares a border with Myanmar and enjoys economic leverage as major trading partner as well as one of the top sources of foreign investment. When Myanmar was isolated from Western countries, China maintained good relations. During the last decade, China sent high-level dignitaries to Myanmar.⁴⁶ Bilateral contacts have included the sale of Chinese machinery, joint efforts to combat cross-border trafficking of narcotics, border trade of consumer goods, and Myanmar's exports of timber and precious stones to Yunnan. China also shielded Myanmar from Western and United Nations opprobrium and sanctions.⁴⁷ So, no country has more leverage over Myanmar than China and for this reason it can play a constructive role on this issue.

45 Olivia Cable, *op. cit.*

46 Tin Maung Maung Than, "Myanmar and China: a special relationship?" *Southeast Asian Affairs 2003* (Singapore: Institute of Southeast Asian Studies, 2003), pp. 189-210.

47 *Ibid*

Other countries, particularly those that do not have to deal with large numbers of Rohingyas arriving on their shores, acknowledge that the Rohingyas are victimised by Myanmar; and also, by some of the receiving countries that fall short of their protection obligations.⁴⁸ This narrative seemingly says the right things, but is not loud, forceful or timely. The West, including the EU, United Kingdom and the USA, whilst remaining deeply concerned by the situation, called for all parties to exercise restraint in this regard and added that they would continue to watch developments closely. Myanmar has become a destination for capital investment as the USA, the EU, and Canada have lately lauded the country's transition towards democracy and have largely lifted economic sanctions they began applying after 1988.⁴⁹

3.2 Regional level

In recent years, natural hazards, climate change and civil wars have all contributed to more and more people fleeing their homes. Issues related to international migration-not just those specifically pertaining to refugees-are no longer simply a national problem.⁵⁰ On the contrary, such issues pose challenges that can only be addressed effectively and humanely with focused international attention and concerted action. In addressing the Rohingya crisis, regional approach could play a leading role. In this regard, role of

48 Roomana Hukil & Nayantara Shaunik, "*Rudderless & Drowning in Tears: The Rohingyas of Myanmar*", Institute of Peace and Conflict Studies (IPCS), Issue Brief 222, June 2013.

49 Moshahida Sultana Ritu, "Ethnic Cleansing in Myanmar", *The New York Times*, 12 July 2012.

50 Antonietta Pagano, "*The Rohingyas Refugee Crisis: A Regional and International Issue?*", Middle East Institute, 10 March 2016.

Association of South-East Asian Nations (ASEAN) as well as other regional instruments like Regional Cooperation Framework, Regional Consultative Process, Special Meeting on Irregular Migration in the Indian Ocean, MBI (Myanmar, Bangladesh, India) Gas Pipeline Project could be vital.

ASEAN may consider forming a minister-level working group with a mandate to address the refugee tragedy as a trans-national issue of long-standing concern to the whole of South-east Asia. The working group should include ministers from the main countries involved and representatives of the Muslim, Buddhist and Christian faiths.⁵¹ An immediate task is to institute a systematic monitoring of living conditions of both Rakhines and Rohingyas both in Myanmar and Bangladesh, in camps as well as residential areas. Monitors should be mandated to provide accurate reports on threats or incidents.

One approach would be for ASEAN to exert economic pressure on Myanmar to gradually reduce discrimination against Rohingyas. Here, ASEAN has a leverage, since its members represent biggest investment in the country. However, applying this pressure would require the political will to employ it, especially as non-interference in the domestic affairs of member states is one of its founding principles.⁵² Another approach for ASEAN would be building upon the Bali Process⁵³ to work

51 Stein Tonnesson, “*ASEAN’s Rohingya Challenge*”, Peace Research Institute Oslo (PRIO), Policy Brief 2015.

52 Antonietta Pagano, *op. cit.*

53 The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime is a voluntary and non-binding process with 48 members including the United Nations High Commissioner for Refugees (UNHCR), United Nations Office on Drugs and Crime (UNODC) and the

towards the establishment of a common regional framework concerning illegal migrants and refugees in the Asia and Pacific region. Some initiatives in this direction have already been organized, as in May and December 2015, two international meetings were held among the directly affected countries, aiming at coping with the migration emergency.⁵⁴ In last December's meeting, Southeast Asian representatives met in Bangkok to define a common strategy on crucial issues, such as migrant protection, irregular migration prevention and the fight against human smuggling.⁵⁵

For resolving the crisis of the Rohingyas in Myanmar, a functionalist approach can also be followed. Functionalism interprets each part of society in terms of how it contributes to the stability of the whole society as society is more than the sum of its parts where each part of society is functional for the stability of the whole.⁵⁶ The driving force of the theory is deemed to be the self interest of groups or states where the spill over effect could make a shift in integrating the actions of the actors for their betterment.⁵⁷ The successful example of this approach is the European Union (EU) and regarding the Rohingya refugee problem in the South Asia and the Southeast Asia, implementation of Myanmar-Bangladesh-India (MBI) joint pipeline project could be a successful manifestation of the functional approach. The idea

International Organization for Migration (IOM). There are a further 27 observers to the process.

54 A. Belford and A. Sawitta Lefevre, "Thai migrant crisis meeting ends without any solution on Offer," *Reuters*, 04 December 2015.

55 *Ibid*

56 Michelle Cini (ed.), *European Union Politics*, USA: Oxford University Press, p. 87.

57 *Ibid*

of (MBI) joint pipeline project was first mooted in 1997 where Bangladesh proposed a 900 km pipeline from Myanmar through Bangladesh to provide natural gas to India.⁵⁸ Afterwards, three countries reached to a Memorandum of Understanding (MoU) in 2005. But later, the project did not proceed due to lack of commitment from the countries. However, Bangladesh government is keen to further the project. India is also trying to revive this pipeline project.

3.3 International level

International law provides three solutions to refugee problems.⁵⁹ The first is voluntary repatriation, where refugees can safely and voluntarily return to their country of origin. The International community has repeatedly stated that the solution to the Rohingya refugee issue is their voluntary return to Myanmar. However, without altering the discriminatory policies in the Rakhine region, repatriation will not be an effective and justifiable solution. The second is local integration where through local, economic and political processes refugees become part of the receiving society. No neighbouring country of Myanmar is ready to accept the Rohingyas because it may overburden their demography and economy. The third is resettlement which suggests the permanent movement of refugees to a third country. Some Rohingyas were

58 AKM Abdur Rahman & Shaheen Afroze (ed.), *Energy Security in South Asia Plus: Relevance of Japanese Experience*, Dhaka: Pathak Samabesh, p. 120.

59 "Migration: Looking for a home" Special Report on Migration by *The Economist*, 28 May 2016.

sent to Canada, Australia, Sweden and Norway from countries like Bangladesh.⁶⁰

Unless and until there is any durable solution, the Rohingyas have to live through discrimination. To reduce their sorry predicament, various international organisations are working at both policy level and field levels. Different UN agencies particularly, UNHCR continue to work with all stakeholders to prepare the groundwork for an eventual safe and dignified return of the Rohingya refugees to Myanmar as well as to protect the rights of the Internally Displaced Persons (IDPs).

The UN has faced many impediments in its efforts to provide relief and aid in the affected zones. But the UN should be utilized for negotiating free and unhindered international humanitarian access in Rakhine State. Individual governments need to encourage the UN Secretary General to take up this issue and give high-level support to his efforts. Governments also need to assert that future positive diplomatic relations are dependent on unhindered humanitarian access and abolishment of discriminatory policies and practices against the Rohingyas. Diplomats and UN officials should use the word “Rohingya” both in public and private because this will delegitimize the Myanmar government’s ongoing discrimination and campaign to portray the Rohingyas as illegal immigrants.⁶¹

Different organisations like International Organisation for Migration (IOM), International Committee of the Red Cross

60 Pia Prytz Phiri, “Rohingyas and refugee status in Bangladesh”, available at <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/FMRpdfs/FMR30/34-35.pdf>, accessed on 16 June 2016.

61 Jawad Falak, “The Rohingya Crisis: Implications and Recommendations”, *Stratagem*, Issue 4, August 2015.

(ICRC), World Food Programme (WFP) are working to lessen the sufferings of the Rohingyas but owing to funding shortages, these organisations are not able to meet up all needs necessary for these ill-fated people. The Organisation of Islamic Co-operation (OIC) can play a critical role here by offering aid and volunteers to look after the refugees.

4. Conclusion

The Rohingya crisis in Myanmar is a human rights crisis with serious humanitarian consequences. The legal status and the discrimination that these stateless people face must be addressed because the humanitarian crisis for the Rohingyas in Myanmar is a part of a systematic policy of impoverishment of the Rohingyas. Separating the Rohingyas from mainstream socio-political structure of Myanmar has already led them to become victim of civil as well as human rights violations and discrimination. This has led to illiteracy, substandard health and living conditions and few options for a productive future. It is sad but true that the older generations of Rohingyas are not hopeful about their future but they expect that at least their children would grow up with basic rights to have a chance to lead a better life in future.

The matter of hope is that Myanmar is in a process of democratization and as democracy promotes people's rights so the newly formed government of Myanmar must prioritise inter-communal dialogue and conflict resolution in Rakhine State. Also, effective negotiations with Myanmar at bilateral level need to be arranged because participation of more actors involved in the crisis could pave the appropriate way to find the solution in resolving the problem. As the crisis has a wider regional dimension with record numbers of Rohingyas fleeing to

neighbouring countries on precarious boat journeys, a balanced regional approach would be needed. The international community also needs to respond in different ways- humanitarian assistance, diplomatic support and resettlement programme to broaden their support to manage the crisis.

Challenges and Prospects of Re-settled Bhutanese Refugees

Lekhanath Pandey¹

Introduction

Nepali speaking Bhutanese, known as Lhotshampas (dwellers of the South), began settling in the southern part of Bhutan from the late 19th century. They were brought there from the eastern Nepal for cultivation purpose in arable land of south Bhutan². In the 1980s, the Lhotshampas started being seen as a threat to the political order in Thimphu. A string of measures were passed, including One Nation, One People Policy (*Drigham Namzha*)³, which was discriminatory against the people of Nepali origin. This policy, issued by royal decree as part of the country's sixth Five Year Plan (1987-1992), was based on Buddhist religious vows and thus premised on the cultural values of the Durkpas⁴. Nepali courses were removed from school curricula; Lhotshampas were forced to wear bakhkhus and even asked to follow Buddhism, instead of Hinduism. Since then, Bhutan has not permitted

1 Pandey is a Special Correspondent at *The Himalayan Times daily*, He also teaches Journalism at the Central Department of Journalism and Mass Communication, Tribhuvan University, Kathmandu.

2 Phuntsho, Karma. *The History of Bhutan*. Random House, India. 2013

3 Griek, Ilse. *Human Rights in Translation: Dispute resolution in the Bhutanese refugee camps in Nepal (pg-68)*. Wolf Legal Publishers. 2014.

4 Ibid

teaching of the Nepali language in their schools, and issuance of citizenship of over 40,000 residents is still pending⁵.

When the Lhotshampas organized a series of public demonstrations against this policy, the participants were branded as “anti-nationals”. They were arrested, jailed, tortured and humiliated before they were forcibly evicted. They sought political, cultural, religious and linguistic rights, but Bhutanese authorities compelled them to leave the country. They also sought asylum in Nepal after they were systematically evicted from the homeland by the Royal government of Bhutan on the ground of being illegal settlers and economic migrants⁶. From 1990 to 1992, over 80,000 Nepali speaking Bhutanese arrived in Nepal and started staying in the eastern region. Many of them were forcibly deported by the Bhutanese military, who later compelled them to sign “Voluntary Migration Form” documents stating they had left willingly. This exodus was one of the world’s largest by proportion⁷, almost one-sixth of the country’s population.

India, as their first destination of refugee, didn’t allow them to stay in her soil instead transported them up to the border of Nepal. The Government of India even stood behind this ethnic cleansing by lending support in the mass eviction. Once Bhutanese of Nepali

5 Dhakal, DNS. *International community must take concrete steps for lasting solution of Bhutanese refugee problem*. April 21, 2016

(Accessed on April 25, 2016: <http://nrbbhutan.org/international-community-must-take-concreate-steps-for-lasting-solution-of-bhutanese-refugee-problem/>)

6 Lohani, Mohan P. *Refugee Imbroglia with Special Focus on Tibetan and Bhutanese Refugees in Nepal*. Presented in a seminar on May 3, 2016

7 Mishra, Vidhyapati. *Bhutan Is No More a Shangri-La*. June 28, 2013
(Accessed on April 10, 2015: <http://www.nytimes.com/2013/06/29/opinion/bhutan-is-no-shangri-la.html>)

ancestry pushed across the Bhutanese border into Indian territory; Indian army trucks immediately transported them to the Mechi River and pushed them across the border into Nepal.⁸ But publicly, New Delhi tried to maintain a neutral posture that it was a bilateral issue between Nepal and Bhutan. By the end of 2000; as many as 108,000 Bhutanese refugees were registered in Nepal. As their stay prolonged; their families grew and the population increased further up to 118,000 at one point.

Stay in refugee camps and repatriation efforts

The refugees were kept at seven UNHCR-built camps, in Jhapa and Morang districts of eastern Nepal, for almost two decades before their resettlement in overseas countries. They demanded their respectful repatriation with safety, along with more political and cultural rights. Nepal and Bhutan held as many as 17 rounds of ministerial meetings for the repatriation, but it yielded no result as the then authoritarian royal regime of Bhutan refused to accept all those refugees as bonafide Bhutanese citizens. Thimphu even regarded many political groups among Lhotshampa community, including the Bhutan People's Party (BPP) and Bhutan National Democratic Party (BNDP), as terrorists or anti-national groups.

In 2001, after several rounds of talks, Bhutan agreed to take back home only "genuine" Bhutanese. A joint-verification team (JVT), involving Nepali and Bhutanese representatives, was set up and it started the classification of the refugees. It verified about 13,000 refugees of Khudunabari camp and came up with a report that around 75 percent of the refugees are genuine Bhutanese, who

8 Bird, Kai. *The Enigma of Bhutan*. March 7, 2012.
Accessed on July 1, 2016: <https://www.thenation.com/article/enigma-bhutan/>

could return home under strict conditions, while other remaining couldn't be repatriated.

Repatriation was expected to commence upon completion of the verification. However, this process was halted following a physical attack against JVT members in Jhapa in 2003. Refugees even staged hunger strikes for their early repatriation, but the stalled verification process didn't resume. The Government of Nepal and the refugees tried to get New Delhi on board in the repatriation process, but India dissociated itself, maintaining that it was a bilateral issue between Nepal and Bhutan.

Beginning of the resettlement

As a temporary solution, the Government of Nepal; UNHCR; International Organization for Migration; Government of Bhutan; and a core group of eight advanced countries—including the United States of America, agreed to resettle them in overseas territories. New Delhi also backed the initiation.

The beginning of the third-country resettlement scheme also coincided with the growing influence of Maoist ideology among the refugees⁹. Many Maoists groups were formed inside the refugee camps after Nepal's Maoist rebels joined mainstream politics in November 2006. The US and other countries expressed concerns on such a trend. The US embassy voiced its concern that Maoists could organize disillusioned ethnic Nepalis, particularly in the refugee camps in neighboring Nepal¹⁰.

9 Karma Duplo, General Secretary, Druk National Congress said in an interview.

10 Dutta, Apoorva. *The ethnic cleansing hidden behind Bhutan's happy face* (Accessed on May 15, 2016: <http://www.firstpost.com/world/the-ethnic-cleansing-hidden-behind-bhutans-happy-face-918473.html>)

At the meantime, the proposal of third country resettlement came from the United States.

Initially, the USA offered asylum to about 60,000 refugees, with the possibility of more if deemed necessary. Along with the Bhutanese refugees, the United States sought to resettle at least 5,000 Tibetan refugees living in Nepal to their country¹¹. Nepali side didn't bow down and the idea was dropped, with seemingly strong diplomatic pressures from China.¹² Other six countries--- namely Canada, Australia, New Zealand, Norway, Denmark, and the Netherlands---pledged to join hands to take responsibility of some of the refugees. The United Kingdom joined in the grouping in early 2011.

The first batch of refugees left their Jhapa-based camps for the USA in early 2008. As of 30 June 2016: 104,009 Bhutanese refugees have been resettled in eight countries overseas. The USA has alone taken 88,299 refugees¹³--- much more than it had initially pledged, and resettled them into all of its States, excluding Hawaii. Canada has resettled 6712; Australia, 5861; New Zealand, 1009; Denmark, 875; Norway, 566; the UK, 358; and the Netherlands, 329.¹⁴ There are still 14,750 registered refugees of 4030 families left in UNHCR camps, by the end of March. They are living at two camps in Jhapa- Sanischare (2851) and Beldangi

11 Just prior to the formal launch of the resettlement process, visiting US Assistant Secretary of State for Population, Refugees, and Migration Ellen R. Sauerbrey had said during a press conference in Kathmandu (The Himalayan Times, November 3, 2007)

12 Note: A former Foreign Secretary of Nepal said in an Interview

13 UNHCR Report, June 30, 2016

14 Ibid

(11869)¹⁵. With this, it has become one of the largest successful resettlement programs in refugee history.

These refugees have been kept at difference places, mostly outsidess the urban centers of the host countries. In the USA, Bhutanese refugees have been concentrated mostly in Eastern and South Eastern states like Pennsylvania and Georgia, and are engaged in jobs at factories, walmarts and farms there. Alaska has also allured a significant chunk of resettled Bhutanese owing to higher chances of getting jobs at gasoline factories.¹⁶

Challenges of resettled Bhutanese refugees

To be settled in a new society is not a trouble-free venture. Even in a diverse and flexible society like the USA, immigrants had to face a lot of socio-cultural challenges. In fact, Bhutanese refugees had to go through such hardships even more in their new destinations. Most of them were camped in shelters in Nepal under strict rules for more than two decades, coupled with a harsh treatment by their own government in Bhutan before the eviction in late 1980s. Bhutan is basically a patriarchal society, and when they emigrated to the more advanced and liberal countries, many of them struggled to cope with the inter-cultural differences. They were from different socio-cultural backgrounds with distinct family values, lifestyles, faith etc. Bhutan Gautam¹⁷, a resettled

15 Ibid

16 Bhutan News Service (Accessed on 10 April, 2016: from <http://www.bhutannewsservice.com/main-news/lets-share-help-available/>)

17 Bhuwan Gautam is a former refugee from Bhutan, who lived in the refugee camp for 16 years. He came to the United States in 2008 and holds a bachelors degree in arts from Western New England University. He is currently the president of Bhutanese Society of Western Massachusetts.

refugee living in the USA observed that some refugees have experienced post-traumatic stress disorder and other psychological disorders, including “cultural shock, language barriers, financial problems, social isolation, family role reversal are some of the stressors refugees’ experience”¹⁸.

Finding job and continuing it were yet another problem they faced due to poor command over English language and other factors relating to the socio-cultural differences. Their poor language and low-academic background as well as lack of work history in their resume’ made it hard for them to get employment in their new found home¹⁹. In some cases, Bhutanese could speak some level of English but could not grasp the local accent and that led towards confusions and frustrations. Getting formal and higher education was another challenge; continuing formal and higher education for children and adults.

Nevertheless, the alarming rate of suicide cases among the Bhutanese community spoke volumes about their difficulties. According to a report by the Centre for Disease Control and Prevention, a federal U.S. government agency, as many as 16 suicide cases were reported from 2009 to early 2012 in the USA alone (four in 2009, six in 2010, five in 2011, and one as of February 2012), which was the highest suicide rate among the resettled communities²⁰. Annual rate of suicide in the USA is

18 Gautam, Bhuwan. *Bhutanese community grateful for welcome in Springfield*. January 20, 2014. (Accessed on March1, 2016: http://www.masslive.com/opinion/index.ssf/2014/06/viewpoint_bhutanese_community.html)

19 Ibid

20 A report carried out by The Office of the Refugee Resettlement, United States Report, October 2012: Suicide and Suicidal Ideation Among Bhutanese Refugees—United States, 2009-2012

10.4/100,000 population and for the Bhutanese refugees both in the camps as well as in the US the rate was double of that figurefile:///C:/Users/DHAKAL/Downloads/Chhabi Inetrview-final %2811%29.docx-edn3.²¹ This rate was almost double that among the U.S. general population and exceeded the global suicide rate of 16.0 per 100,000, according to figures from the World Health Organization²².

Chhabilal Timalsina, a Bhutanese physician working for the cause of resettled Bhutanese refugees in the United States, observes that causes behind the suicides were post-migration difficulties, communication trouble with their host communities, worries about their family back home and unemployment among others²³. Besides, external stressors like inability to adjust to new and challenging environments, separation from loved ones, job loss, depression, acute stress disorder, domestic violence were other reasons behind suicidal tendencies among the resettled Bhutanese²⁴. Such cases were also frequent in other receiving countries as well, although officials claimed that such disturbing

21 Timalsina, Chhabilal. Let's all campaign to treat mental illness without secrecy and taboo: Dr.Chhabi. December 21, 2013 (Accessed on April 5: <http://www.bhutannewsservice.com/main-news/lets-all-campaign-to-treat-mental-illness-without-secrecy-and-taboo-dr-chhabilall/>)

22 Mishra TP. *American Dream Becomes Nightmare for Bhutanese Refugees*. January 7, 2017 (Accessed July 5, 2016: <http://blogs.wsj.com/indiarealtime/2014/01/07/american-dream-becomes-nightmare-for-bhutanese-refugees/>)

23 Timalsina, Chhabilal. Let's all campaign to treat mental illness without secrecy and taboo: Dr.Chhabi. December 21, 2013 (Accessed on April 5: <http://www.bhutannewsservice.com/main-news/lets-all-campaign-to-treat-mental-illness-without-secrecy-and-taboo-dr-chhabilall/>)

24 Ibid

trend had seen a decline as they gradually started adapting to a new environment.

Prospects of resettled Bhutanese

Despite many challenges while adjusting in new places, the resettlement of over 104,000 Bhutanese refugees was largely a success. “This is one of the largest and most successful programs of its kind and the resettlement of nearly nine out of 10 Bhutanese refugee is an extraordinary achievement”²⁵, UNHCR Representative in Nepal Craig Sanders said while addressing a function held on the departure of 100000th Bhutanese refugees in Kathmandu on November 2015.

The future of resettled refugees seems bright. Despite initial hardships, they are getting adjusted into their new society. Many have got opportunities of education, employment, and better lifestyle in the developed countries. Refugees are not only ensured safety, but health, education and job opportunities as well. They seem happy now than being at the camps in Nepal, where they were unable to hold legal jobs. Because of their hard work in resettling at foreign countries, they have started earning good money. Even, the United States has introduced policy of funding new comers so as to launch and promote small-scale entrepreneurship.²⁶

25 Shrestha, Deepesh Das. Resettlement of Bhutanese refugees surpasses 100,000 mark. [Unhcr.org/news/latest/2015/11/564dded46/resettlement-bhutanese-refugees-surpasses-100000-mark.html](http://unhcr.org/news/latest/2015/11/564dded46/resettlement-bhutanese-refugees-surpasses-100000-mark.html)

26 Robbins, Liz. *From Bhutan to New York's Dairy Heartland*. January 26, 2016 (http://www.nytimes.com/2016/01/27/nyregion/from-bhutan-to-new-yorks-dairy-heartland.html?_r=0)

Now, resettled Bhutanese's living have been changed; some have acquired private homes, vehicles and even firms, which were like a far-fetched dream a decade ago. Their relatives in Bhutan are getting dividend off their well-being overseas; they have started sending remittances to their relatives and friends in Bhutan. It received 8 million US\$ (Nu 508 million) as remittances in 2014²⁷. The remittances from Australia and the U.S. comprised 91 percent of the total remittance receipts for Bhutan. This figure does include money sent by resettled Bhutanese to their friends and families back home. Of late, Bhutanese government has allowed the refugees to transfer their money to Bhutan directly and even money transferring companies like Western Unions are permitted to do business there. Earlier, the Bhutanese diaspora were not allowed to send money to their relatives in Bhutan directly and had to dispatch it through money transferring agencies based in India.

Most importantly, now Bhutan and plight of Bhutanese are now being heard across the globe. However, until recently, most people outside the Indian sub-continent had not even heard of Bhutan. Due to its small size, insignificant economy and lack of reliable information about it, Bhutan largely remained as an obscure country.²⁸

Bhutanese diaspora is being larger, organized and active now. They have been supporting each-other in finding jobs, lending money for new-comers and raising voices strongly against the ethnic cleansing of their government. More than 20,000 Bhutanese

27 Gautam, Bhuwan. Bhutan recognizes importance of NRB (Non-Resident Bhutanese) <http://nrbbhutan.org/nrb-talks-inside-bhutan-can-bhutan-seize-this-opportunity/>

28 Phustsho K, Preface xii, 2013).

lives in Ohio of USA and has become influential for local politics and policy making²⁹. Earlier, their voice was largely ignored, but now, they have started raising their issues through leading international media, including *The New York Times* and *The Guardian*. The Bhutanese organizations' lobbying in US Senate and State Department can be taken a case in point. Recently, the Bhutanese diaspora in the USA urged the State Department to encourage Thimphu to allow all the political parties, including those in exile, to participate in the election process. These organizations have also demanded to repatriate all those refugees, who wish to return with honour, safety and dignity; recognize resettled Bhutanese refugees as Non-Resident Bhutanese (NRB) and establish U.S. diplomatic presence in Bhutan. Sooner or later, the U.S. government and other receiving countries can't ignore the voice of the Bhutanese diaspora as they have now become their own naturalized citizens.

So far the Bhutanese government has been able to conceal their atrocities against the Lhotshampas under the veil of its Shangri La image and the so-called Gross National Happiness mantra. Once the international community starts taking up this issue seriously; at that time, Bhutan's so-called Shangri La would be exposed. It also won't be able to resist the genuine demands the Lhotshampas.

Concerns of remaining refugees

As of June end, there are still 14,750 registered refugees in UNHCR camps and at two camps in Jhapa district: Sanischare (2,851) and Beldangi (11,869), and 30 refugees are living Out-of-

29 An Interview with DNS Dhakal, Acting Head of Bhutan

Camp³⁰. Among the remaining refugees, some 8000 have expressed desire for the resettlement and are expected to be departed overseas by early next year. The remaining refugees wish to return to their homeland. Some of them are even ineligible for resettlement as they are facing ‘various charges’ in Bhutan.

The Government of Nepal has consistently maintained its position that Bhutan should not consider the third-country resettlement as a permanent solution, but only as an option to the refugee crisis. Therefore, it has reiterated that the remaining refugees— whatever their number will be—should be repatriated with dignity and honor and without any condition. UNHCR and the receiving countries also share the same view. But it seems they are now busy in resettling as much refugees as possible.

Now, it’s the responsibility of the international community, including Nepal, UNHCR, and other resettling countries, to pressurize the Government of Bhutan and to ensure the remaining refugees’ safe and dignified return home. DNS Dakal, Acting President of Bhutan National Democracy Party (BNDP) and a senior fellow at Duke University, USA, views that the international community has to make a sincere effort in solving the refugee problem for long-term political stability in Bhutan³¹.”

Conclusion

The refugee resettlement project is largely a success story despite initial hardships in their new homes. It is one of the largest

30 UNHCH Nepal's updated report as of June, 2016

31 Dhakal, DNS. International community must take concrete steps for lasting solution of Bhutanese ([http://nrbbhutan.org/international-community-must-take-concreate-steps-for-lasting-solution-of-bhutanese-refugee-problem/ublished Thursday, April 21, 2016](http://nrbbhutan.org/international-community-must-take-concreate-steps-for-lasting-solution-of-bhutanese-refugee-problem/ublished%20Thursday,%20April%2021,%202016))

resettlement programs of its kind. The resettled ones are very unlikely to return Bhutan for permanent living as most of them have been used to liberal, open, competitive and prosperous societies. However, they still want to be connected with their homeland, in one way or another. They have their properties, relatives, families and friends in Bhutan and can't leave them behind. Despite brutal crackdown and subsequent eviction, they didn't stop sending money to their kin back in the Himalayan nation, even long back when they were at shelters in Nepal and now they have started sending remittances.

Since almost 90 percent refugees have already been resettled and most of the remaining ones have also applied for the same, it seems that only a few thousands Bhutanese will remain at the camps. Bhutan, as it had pledged earlier and as per its international obligation, has to repatriate all the left ones with dignity, respect and without any condition. Besides, nothing would be wiser for Thimphu to give a status of Non-Resident Bhutanese (NRB) to the resettled citizens and allow their homecoming when they wish to meet their relatives and families in Bhutan. As DNS Dhakal notes, it is a matter of principle and issue of residual justice that the Non-Resident Bhutanese option should be given to the resettled Bhutanese community. It would an opportunity for the Himalayan kingdom to improve its tarnished image and ensure the ways to continuously attract remittances from the citizens, it had once forcibly evicted. Otherwise, just pushing its pet agenda of gross national happiness won't ensure the happiness of almost one-sixth people of Nepali origin.

Mumbai - A Magnet for Migrants: Assessing the Legal Framework

Kunal Kulkarni¹

Mumbai (formerly Bombay), a city where everyone believes dreams come true, was once made up of seven marshy islands off the west coast of the subcontinent of India, and was originally inhabited by fishermen, known as kolis. The islands were ruled by the Silahara Hindu rulers of Puri (810-1260 CE), who also built the city's medieval Walkeshwar temple complex. It appears the islands became part of the maritime trading network of the north Konkan ports that the Silaharas controlled. This overseas trade brought in a floating population of traders and seafarers, including Hindus, Muslims, Arabs, Persians and Jews.

Prosperity came, and since then, Bombay has been a magnet for migrants, from the arrival of the Muslims of the Gujarat sultanate in 1348, to the Portuguese in 1534 who became the Roman Catholic converters of large swathes of Mumbai's population, to the English in 1661.

Everyone came to Bombay— from the Gujarati-speaking trading and artisan communities to the Parsis (weavers, shipbuilders, carpenters, brokers), Bohri, Khoja, and Kutchi Bhatias. By the 18th century other communities, like the Bene-Israel Jews from the mainland Konkan, Baghdadi Jewish and Armenian traders from Surat, West Asia and Armenia

1 Senior Researcher, Gateway House, Mumbai, India.

respectively, made Bombay their home. These communities were largely seeking Bombay out for work (Bene-Israel), a refuge from persecution (like the Baghdadi Jews from West Asia), and from drought and political instability.

By the mid-19th century, Bombay became a major trading hub and port in India, second only to Calcutta (now Kolkata). By the time India got independence in 1947, Bombay was the financial capital of India and more than 50% of its population was made up of migrants.

The story of Mumbai and migration revolves around three sets of laws: laws related to housing – rent control, slum rehabilitation etc.; Company and Industrial laws; and Criminal laws – anti-trafficking, anti-terrorist and organised crime.

The Housing Laws

Rent Control was put in place in the city in 1918 to protect tenants from exorbitant rents. But post World War II, rents were frozen to 1940 levels which led to non-profitability of these housing units. This took place across other parts of the western world including New York where rent control was introduced in 1942. The landlords couldn't afford to maintain their properties, which led to their deterioration.

The Bombay Rents, Hotel and Lodging House Rates (Control) Act, 1947 allowed the landlords to a one-time increase in the rents, with a maximum of 10% increase in rent for residential premises.² Providing housing at low cost led to these

2 Bombay High Court, The Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, <<http://bombayhighcourt.nic.in/libweb/acts/1947.57.pdf>>

accommodation units, which were meant for a single person, being used by the entire family of the migrant worker.

In 1960, the state of Maharashtra was created to include Marathi speaking districts of the erstwhile states of Bombay (which included Gujarat), Hyderabad and Central Provinces, with Bombay (now Mumbai) as its capital.

The city's manufacturing industries boomed – textiles, pharmaceuticals and also the film industry. Mumbai became a major job destination for people not only from other parts of Maharashtra, but also other states. Some of the biggest stars of Bollywood today migrated from other states into the city to seize opportunities. The poor migrant may have many issues, but many of the poor migrants also became enormously rich. One of them was Dhirubhai Ambani, who was from Gujarat and went to Aden at the age of 17. He then came to Mumbai and started a textile trading business and later went on to establish Reliance.

By 1971 census data, almost 57% of the population of Mumbai was born outside the city and almost 50% lived in the slums. This led to the state government bringing in the Slum Rehabilitation Act, 1971, which was intended to facilitate the redevelopment of slums. The government began aggressively clearing the slums of Bombay. In 1976, an official census of slum dwellers was carried out which identified 2.8 million persons in 1680 settlements. This had risen to 4.3 million people in 1980 settlements and included natural increase³. Various plans and schemes were carried out but none were fruitful.

3 Patel, Sujata and Alice Thorner, *Bombay: Metaphor for Modern India*, Oxford India Paperbacks, 1996

In 1981, the government announced evacuation of some slum and pavement dwellers and a plan to send them back to their hometowns or outside the city. This led to a Public Interest Litigation against the state for its action. The matter went all the way to the Supreme Court of India which observed that Article 21 of the constitution covers Right to Life and included Right to Livelihood as well. It ordered the government to take the due procedure of law to evict illegal occupants.⁴

This did not change much as the migrants continued to live on the pavements and slums of the city. Some famous stars and successful businessmen started their careers on the streets of Mumbai. Kailash Kher, a renowned singer, slept at a suburban station for a month when he first came to the city. Bollywood has made many a movie on the lives of poor migrants coming to the city and making good. The Oscar winning movie *Slumdog Millionaire* is also based on the slums of Mumbai!

As per the 2001 census, more than 54% of the population lives in slums and this covers only about 6% of the city's area. Some slums, such as Dharavi, are home to one million people who occupy an area that is less than one square mile and is one of the most densely populated areas in the world. Yet it is one of the most productive places in the city, being home to a billion-dollar industry, covering leather, garments, pottery and plastic, which is a source of livelihood for millions, despite many illegal activities also taking place simultaneously. It has also become the hub of a rather more recent phenomenon, that of slum tourism, and many NGOs find it a useful lab from which to observe India's urban sociological conditions.

4 Olga Tellis & Ors vs Bombay Municipal Corporation & Ors. 1986 AIR 180

The Industry Laws

The late 1960s and 1970s saw the rise of a regional political party, the Shiv Sena, which attracted hordes of unemployed Marathi speaking youth with its emphatic propagation of the ‘Sons of the Soil’ ideology. They targeted south Indians, who, they claimed were taking away the white-collar jobs that the locals deserved. This nativist movement had to be controlled, which the government did by making reservations for locals in the jobs it offered.

The textile industry, which gave jobs to many migrants and local Maharashtrians, started declining in the 1980s as they became uncompetitive. Many lost their jobs when they closed. The National Textile Mill, empowered under the central legislation, Sick Textile Undertakings (Nationalisation) Act, 1974, took over more than a dozen mills in Mumbai. This made life very difficult for both migrants and the sons of the soil, who worked in these mills. With no income nor job prospects on the horizon, many returned to their villages. Others refuse to vacate the chawls – or one-room tenements, provided by the mills and many took to illegal activities.

In the first half of the 20th century, structures called chawls were built by industrial units to accommodate labour coming into the city at nominal rents. Because of the collapse of the textile mills, and the extensions to the Rent Act, real estate became scarce, prices sky-rocketed, there was no affordable housing, and Mumbai became the slum capital of India. First-time migrants no longer had access to chawls, so illegal slums became the *de facto* choice of housing.

The Criminal Laws

Mumbai now became a crime capital, with builders and greedy politicians at the centre of mafia gangs. Crimes were committed when land was the bone of contention. A series of real estate magnates and mill owners were killed by underground gangs. The famous supari — or contract killing — is often conducted by a poor migrant from U.P. or Bihar with a knife or a country-made pistol. Slums are therefore often considered the dark under-bellies of the city that become havens for criminals and their activities. During the 1980s and the 90s when the Bombay underworld had an unapologetic presence in the city, many of the gangs' henchmen were migrants living in the poor parts of the city, including slums. Detecting them in such a densely populated area would therefore be quite a task for the city police, which has been described as being second only to Scotland Yard. There have been numerous occasions when politicians, scholars, elites and also the middle-class have either demanded or agreed to the need for some kind of restriction on those entering the city.

The density of the city, the nativist movement, the crime, and the changing idea of India, also brought to Mumbai religious conflict – a first ever in its annals. It was in the aftermath of the Babri Masjid demolition in Ayodhya by Hindus in 1992 that communal riots took place in Mumbai. The Hindus in Mumbai retaliated, with full support from the local party, the Shiv Sena, whose partymen stood guard on the streets of Mumbai twenty four seven. In March 1993, the Muslim underworld responded with serial bomb blasts across the city, including prominent locations, such as the Bombay Stock Exchange, the jewellery district and even on the suburban local trains – the city's very lifeline.

Those arrested in connection with the blasts were charged under the Terrorist and Disruptive Activities (Prevention) Act, 1985 which was the first anti-terror law in the country. This Act lapsed in 1995, but the underworld, which continued with its contract killings and extortions and gang wars, became a menace for the police to control.

In 1999, to tackle organized crime in the city, the Maharashtra Control of Organised Crimes Act was passed. This Act allows tapping of phones and confessions before a police officer as evidence in court, which are not otherwise admissible. The police's crackdown on underworld gang members whose leaders had fled the country led to a decline in their criminal activities. They aligned their capital flow within the real estate market and the Bollywood film industry, which makes an average of one movie every single day.

The proliferation of slums and the rise of Bollywood, has made Mumbai a major destination for human trafficking. People from across the country and also beyond the borders are being traded, forced, coerced either into forced labour or prostitution, with promises of entry into the film industry or dreams of making it rich like Dhirubhai Ambani. Most trafficking victims come from poor and rural backgrounds and are lured to the city by the promise of work, and in some cases, marriage. In terms of geography, many trafficking victims come from West Bengal and Bangladesh.

The Ministry of Home Affairs, Government of India along with the United Nations Office on Drugs and Crime jointly undertook a project to strengthen law enforcement against

trafficking through training and capacity building.⁵ In 2008, Anti-Human Trafficking Units (AHTUs) were set up under the police department and officers were trained to deal with offences related to human trafficking with assistance from civil society to provide a multi-disciplinary victim-centric approach. However, the working of these units has been less than satisfactory. It has been generally observed that the AHTUs as well as the police are not interested in addressing the problems in their respective jurisdictions. Much of the working of these units is contingent upon whether the police officer in charge initiates proper action, including raiding of brothels and arresting traffickers.

In 2013, based on the Justice J. S. Verma Committee Report⁶, Section 370 of the Indian Penal Code was amended and the definition of trafficking was inserted. However, the definition left out trafficking for forced labour which is included in the 'Palermo Protocol'. Incidentally, the SAARC Convention on preventing and combating trafficking in women and children for prostitution also has a narrow definition of the term 'trafficking', limiting it to prostitution.⁷

5 Ministry of Home Affairs, Government of India, Comprehensive Scheme for Establishment of Integrated AHTUs and ToT, (New Delhi: Ministry of Home Affairs), <[http://stophumantrafficking-mha.nic.in/writereaddata/Scheme-AHTU-SS-271011\(1\).pdf](http://stophumantrafficking-mha.nic.in/writereaddata/Scheme-AHTU-SS-271011(1).pdf)>

6 Verma, Justice J.S., Justice Leila Seth, and Gopal Subramaniam, Report of the Committee on Amendments to Criminal Law, 23 January 2013, <<http://www.prsindia.org/uploads/media/Justice%20verma%20committee/js%20verma%20committe%20report.pdf>>

7 South Asian Association for Regional Cooperation, SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, <<http://www.saarc-sec.org/userfiles/conv-traffiking.pdf>>

Meanwhile, those migrants who had come with stars in their eyes, had to find work till they got their break in the movies. Being extras in Bollywood films was one way, but so was the marvelous new concept of dance bars. Here, young girls would dance in bars at night, and earn a decent living, so they could audition during the day in Bollywood. This was a good livelihood for a migrant girl. But in 2005, the government banned dance bars by introducing an amendment to the Bombay Police Act. Almost 75,000 bar dancers lost their jobs overnight. Many of them were then forced into prostitution to survive. The government claimed to have rehabilitation programmes in place, but no one applied for them. In 2013, the Supreme Court held that the legislation was in contravention to Article 19 of the constitution which guarantees the right to carry on one's profession. The dance bars, which became a major tourist attraction of Mumbai, are now slowly returning to life.

The same provision, that is, Article 19, also allows free movement of citizens across the country, but Mumbai was witness to something quite contrary in 2007. The regional political party, the Shiv Sena, broke in two, and one of its leaders, Raj Thackeray, formed a separate party, the Maharashtra Navnirman Sena (or the Maharashtra Renaissance Army). The party gained national fame when it attacked youth from the northern states of Uttar Pradesh and Bihar coming into the city for railway jobs. It was the return of the 'Sons of the Soil' movement, and once again, being a migrant in the city was not something one wore on one's sleeve. There were cases registered against the leaders, but no strict action was taken.

In 2008, the city witnessed one of its darkest episodes when 10 terrorists from Pakistan entered Mumbai via the sea and held

the entire city hostage for three days. They were able to make ingress into the city through the densely populated fishing villages on Mumbai's coast. The entire nation held its breath as the police and army carried out counter-terrorist operations for three long days. We all know what happened then – the Mumbai attacks are now considered a landmark event in the annals of global terrorism, sparking many similar attacks subsequently in different parts of the world.

Clearly, Mumbai has holes in its security system — both maritime and land. The 2008 attack was a wakeup call for not only the city, but the entire country. The central government immediately introduced security measures, such as the creation of a multi-agency centre, introducing stringent money laundering laws to choke terrorist financing and also declaring counterfeiting of currency as a terrorist act. On the maritime security front, the coast guard was placed under the control of the Indian Navy and it was also given the responsibility of overall maritime security. Fast receptor boats were acquired to strengthen coastal surveillance. In the city too, measures, such as the creation of Force One— a specialized unit of the state police with trained commandos — and installation of more than 4,500 security cameras in the city was done. The establishment of the National Intelligence Grid (NATGRID), an intelligence gathering mechanism which could be accessed by the central security agencies of the government to track terror suspects, was proposed after the 2008 terror attacks in Mumbai.

Looking at the ever increasing size and number, it is necessary to improve the governance of the city and a step towards this is the involvement of citizens in this effort and giving them the power to effect change. The Maharashtra Municipal

Corporation and Municipal Council (Amendment) Act, 2009 implemented the Model Nagar Raj Bill in Maharashtra, but did not include many of the features recommended by civil society. Some of the recommendations were: election of 'area sabha representatives' for every 1500 citizens who would instead be nominated by the municipal corporation; formation of ward committees with representatives as their members whose functions and duties would be laid down. The exclusion of some crucial provisions has diluted the effect of the Model Bill and will not help the overall objective.

Over the last century, the city has grappled with many issues, but it is still the number one migration magnet for India. While Delhi gets migrants in large numbers from the populous states of the north, Mumbai gets them from everywhere, because Mumbai attracts the country's best talent – in media, in finance, in film, in advertising, in music, in technology. Mumbai is still, as Suketu Mehta says, a "sone ki chidiya" or golden bird. The city gives a nobody a chance to become somebody. It's the story that Bollywood tells the world from the city of India's migrant dreams, Mumbai, every day, one film at a time.