

**PROTECTION OF REFUGEES: A LEGAL
STUDY IN HUMAN RIGHTS
PERSPECTIVE**

ABSTRACT OF THESIS

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1. INTRODUCTION

Every year millions of people are forced to leave their homes and seek refuge from conflicts, violence, violations of human rights, persecution, and human made or natural disasters. That is why there is a continuous increase in the population of fleeing people. The number of forcibly displaced persons has continued to rise throughout 2016, calling for increased humanitarian assistance worldwide. According to the United Nations High Commissioner for Refugees Global Trends Report 2017, up to 85% of the forcibly displaced find refuge among people who already struggled with poverty in low- and middle-income countries like Turkey, which is the world's leading refugee-hosting country with a population of 3.5 million refugees, mainly Syrians. Lebanon meanwhile hosts the most significant number of refugees relative to its national population. The survival of displaced persons depends on the availability of assistance provided by local communities and international organizations. So the role of these communities becomes very crucial.

Refugees are victims of gross human rights violations. They are a distinct group of individuals without the protection of the National States. The protection of the Refugee is a tragic phenomenon, which has always been a matter of concern at the international, regional, and national levels. Protecting refugees is primarily the responsibility of states. When governments are unwilling or unable to protect their citizens, individuals may suffer severe such violations of their rights that they are forced to leave their homes and often even their families to seek safety in another country. When the government of their harm countries no longer protects the rights of refugees, the international community then steps in to ensure that those fundamental rights are respected.

The 1951 Refugee Convention is the principal international instrument of refugee law. The convention spells out who a refugee is and the kind of legal protection they have what assistance and social rights she or he should receive from the countries that have signed or ratified the document. The convention also defines refugee's obligations to host governments and specific categories of people such as war criminals who do not qualify for refugee status. The 1967 Additional Protocol to the Convention Relating to the Status

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of Refugee expanded the scope of the convention as the problem of displacement spread around the world. The 1951 Convention's definition differs from the earlier UNHCR statute's definition that includes membership of a particular social group in addition to race, religion, nationality, or political opinion as a reason for persecution. The convention initially limited application of the definition of persecution arising out of events occurring before 1 January 1951. However, the Protocol Relating to the Status of Refugees, 1967, has removed this restriction.

It is important to note that India is not a signatory to the 1951 Convention Relating to the Status of Refugees or the 1967 Protocol. It is making India's international position in terms of treatment of refugees, disputable. However, it is equally important to note that India is a signatory to various other international and regional treaties and conventions relating to universal human rights can also be applicable for refugees. In the absence of the statutes regarding refugee protection, the Indian judiciary has played a significant role in protecting refugees. The Supreme Court has taken recourse to Article 21 of the Constitution in the absence of legislation to regulate and justify the stay of refugees in India.

The durable solution is the only long-term way out for improving the status of refugees across the world. The international cooperation for durable solutions seems too vital for the protection of refugees at both the national or international levels. The mandate of the UNHCR has been mentioned in Article 1 of the UNHCR Statute, which emphasises the task of finding a durable solution. There are three options available as permanent and one temporary solution to the refugee problem. The three permanent solutions are; resettlement in the third country, voluntary repatriation and local assimilation, and the protective zone is a temporary solution.

2. STATEMENT OF PROBLEM

India has seen a massive influx of refugee populations throughout history but does not have specific domestic law governing the treatment of refugees and asylum-seekers. Despite being a non-signatory to the refugee convention, India has an obligation under international law to protect asylum-seekers, which it has traditionally honoured. However, India does not have a national framework related to refugees while the

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Supreme Court has said in its many decisions that the right to life and personal liberty as enshrined in the Indian Constitution protects refugees from forced repatriation.

Hence there is a need for the compressive protection of the rights of refugees and improve their situation in India with a mission to assist asylum seekers in realizing fundamental human rights and accessing the justice system.

The problem of refugees now a day has become a global issue. Refugees have been forced to count a life without dignity across the world. Their standard of living is deficient. Their health, education, and employment levels are also horrible. Fundamental human rights such as health, education, and employment have very much needed for the development of any person. However, the fulfilment of these fundamental human rights is also complicated. At the same time, the system of durable solutions to protect refugees has not been adequately followed at the international level.

For the protection of the human rights of refugees both at national and international levels, it is necessary to adopt durable solutions, asylum security, and the principle of the non-refoulement by the different countries. Refugees are also human beings with the requirement of basic facilities to live their life with dignity. Therefore, socio-legal, economic, medical, psychological, educational, vocational protection of the refugees is the need of the hour.

3. OBJECTIVES OF THE STUDY

The main objective of the present study is to examine and evaluate the law, policy, and mechanism of the protection of refugees in India in particular and at the international level in general. To achieve the main objective of the present study, several other objectives have also been framed which are discussed as follows:

- To discuss and understand various human rights related to the refugees.
- To explore the conceptual and historical development of the definition of a refugee.
- To discuss and analyse the grounds for the determination and termination of the status of refugees.
- To study the international legal framework for the protection of refugees.

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- To study and explore the national legal framework for the protection of refugees.
- To review the national and international judicial decisions relating to the refugees.
- To emphasize upon contemporary issues and challenges relating to the protection of refugees in India.
- To conclude the whole work on the basis of the analysis of the condition of refugees.
- To give suggestions to be the part of the policymaking for improving the status of refugees both at national and international levels.

4. HYPOTHESIS

- The increasing refugee crisis is the result of a very narrow and confined definition of the United Nations Convention Relating to the Status of Refugees, 1951.
- Law relating to the protection of refugees in India is not capable enough to stop the violation of the human rights of refugees.
- NHRC and the Indian judiciary are playing a vital role in the protection of the rights of refugees.
- Lack of national and international political will to improve the socio-economic and legal status of refugees creates hindrances to improve their situation.

5. RESEARCH METHODOLOGY

The present work is a doctrinal study where the qualitative method has been used, besides descriptive, exploratory, and analytical methods have also been applied, mainly to analyse the legal provisions and judicial decisions. The information has been collected through both primary and secondary sources. The secondary data is availed from various journals, internet, government publications, earlier studies, media reports, and books.

For collecting the information from primary sources, international documents like conventions, declarations, and various resolutions have been studied. Similarly, various national acts, statutes have also been analysed by the researcher.

6. TESTING OF HYPOTHESIS

The researcher has tested the following hypothesis on the basis of his research work.

6.1 HYPOTHESIS - 1

The increasing refugee crisis is the result of a very narrow and confined definition of the United Nations Convention Relating to the Status of Refugees, 1951.

On the basis of the research work, it is found that the definition of refugee given under the 1951 Refugee Convention was adopted about 70 years ago. However, still, the status of the refugee is determined only based on persecution caused on five grounds like race, religion, nationality, membership of a particular social group, and political opinion, whereas since 1951, the present-day national and international situation has changed. According to these changes, many grounds have arisen, which have led to an increase in the number of refugees such as, gender-based persecution, sexual violence, geographical degradation, climate changes, internal and external aggressions, poverty, disturbances of public order, civil war, occupation, foreign domination, massive human rights violation, famine or flood, and international conflicts.

Besides, harassment has not been defined due to which harassment is difficult to ensure. Due to which the scope of the definition of a refugee has reduced. As a result, many people leave their country for fear of persecution and do not receive the benefits of refugee protection due to the limited definition of refugees. Therefore, due to which the refugee problem has increased. Hence, it can be said that the hypothesis has been proved.

6.2 HYPOTHESIS - 2

Law relating to the protection of refugees in India is not capable enough to stop the violation of the human rights of refugees.

On the basis of research work, it is found that India has not adopted any specific law relating to the refugee. Moreover, it is also not the party of the 1951 refugee convention. This means that refugees in India are not receiving any legal status. Refugees in India are considered as other nationals or foreigners, and they have protection on an ad-hoc basis. Refugees in India have the same rights as a foreigner. India protects the

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refugee on humanitarian grounds, even when there is no refugee law. They are protected in India according to the Indian Constitution, the law relating to foreigners, and the human rights laws accepted by India. Some communities in India enjoy refugee status by the United Nations High Commissioner for Refugees. Protection of refugee rights, despite being a refugee certificate, depends on the will of the government in the absence of any refugee law due to which government officials get a free hand to commit atrocities against refugees. Apart from that, the fundamental human rights of refugees are not protected as these laws do not oblige the government to protect the human rights of refugees if there is no refugee law. In the absence of the refugee law, it is challenging to determine the actual status of the refugees and the rights they receive, by the present law. Apart from this, it is difficult to identify a refugee from the displaced people.

Therefore, despite the laws that exist in India, there is no hesitation in saying that whatever measures are in place to deal with the refugee problem are not sufficient. Hence, it can be said that the hypothesis has been proved.

6.3 HYPOTHESIS - 3

NHRC and the Indian judiciary are playing a vital role in the protection of the rights of refugees.

On the basis of research work, it is found that Indian courts and the National Human Rights Commission have played an essential role in protecting the human rights of refugees, even in the absence of any specific law relating to refugees in India. The Indian Court has given several decisions to protect the refugees in the light of the Indian Constitution, the international human rights instruments accepted by India, and law related to foreigners. The courts have also declared rights of refugees recognized in the Indian Constitution, such as the right to equality, the right to life and personal freedom, the right to religion, the right not to be persecuted, a stranger has enjoyed. Courts have taken the following decisions through their proceeding.

In the case of *Luis De Raedt v. Union of India*, Article 21 guarantees the protection of life and personal liberty to foreigners and refugees, and they can be deprived of life and person liberty by the only procedure established by law.

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The high court of Gujarat held in the case *Ktaer Abbas Habib Al Qutaifi v. Union of India* that Article 21 of the Constitution included the principle of non-refoulement, so long as the presence of the refugee is not exempted from prejudice to the law & order and security of India. The court further stated, the right of non-refoulement also available related to the person awaiting determination of status by the UNHCR.

In the case of *NHRC v. state of Arunachal Pradesh*, the Supreme Court held that where the refugees had been in India for a long time, they were entitled to protection and appropriate treatment until the matter was determined.

In the case of *Malavika Karlekar v. Union of India*, the Supreme Court directed a stay of deportation of Burmese refugees because their claim for refugee status was the pending determination by UNHCR. Moreover, in another case, *P. Nedumarany v. Union of India*, the court held that concerning the Sri Lankan refugees in Tamil Nadu, there exists a right not to forcibly repatriated, and repatriation was not to be undertaken in these cases unless the return was found to be voluntary.

These decisions are based on two aspects of the refugee problem—first, the expulsion of the refugees by the government and the refugee's demand for attaining refugee status. Second, the safeguarded return to the refugee's home should be voluntary, and they should not force to return to their country of origin.

Apart from these, there are many other decisions in which the court protects the human rights of refugees. The National Human Rights Commission established by the Protection of Human Rights Act, 1993, has also played an active role in the protection of the human rights of refugees. The Commission investigates the violation of the human rights of a person by suo-moto or by petition. The Commission has taken specific steps concerning the protection of Chakma refugees and has effectively intervened in the illegal detention of Sri Lankan refugees in the state of Tamil Nadu. The Report of National Human Rights Commission in the year 2000-01 directed the Government of India that there should be a comprehensive national refugee law to deal with the problem of refugees.

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Therefore, it can be said that the Courts and Human Rights Commission has played an essential role in preserving the right of the refugee.

But now a day a change can also be seen in the attitude of the Supreme Court in recent deportation cases of certain refugees to Myanmar by giving references to national security and maintaining peace and order.

6.4 HYPOTHESIS – 4

Lack of national and international political will to improve the socio-economic and legal status of refugees creates a hindrance to improve their situation.

On the basis of research work it is found that, currently, one reason for the increasing number of refugees and their pathetic status is the lack of political will at the national and international levels for the exhorate of refugee's condition. The status of a refugee living in any country depends on the political will of that country. Many countries have neither adopted the international refugee law nor created any specific refugee law at the national level, because of which they have to bear many socially, economically, and legal problems in that country.

An example of this is observed from India, where no refugee law has been accepted due to the government's lack of political will. As a result, the social, economic, and legal status of its refugees is exceptionally pathetic, Especially Rohingya refugees whose social, economic, and legal status is incredibly pathetic due to lack of any facility from the government. Due to the unwillingness of political will, many countries prevent refugees from entering the country and try to force the evacuated refugees out, which does not improve their social, economic, and legal status.

The United Nations High Commissioner for Refugees requires international cooperation for its better functioning however, some countries, due to political reluctance do not cooperate in the work of the United Nations High Commissioner for Refugees, which makes it extremely difficult to provide protection and assistance to refugees. Because of which their condition remains pathetic.

Therefore, it can be said that the social, economic, and legal status of the refugees depends entirely on the political will of the countries, because where the political will is

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right, the condition of the refugees is respectable, such as in Turkey. Moreover, in some countries because of the lack of political will the refugee situation is pathetic, e.g., India, Bangladesh, Kenya, Pakistan, and America.

7. SCHEME OF CHAPTERS

The Ph.D. thesis on “*Protection of Refugees: A Legal Study in Human Rights Perspective*” is a doctrinal study. The whole thesis is divided into seven chapters.

7.1 Chapter I: INTRODUCTION

Chapter one is introduction with an endeavour to summarize the entirety of the thesis, which has been discussed at length in the subsequent chapters. This chapter includes the refugee crisis at the global and national levels, causes of refugee's problems, the meaning of refugees, and the human rights of refugees, provided by the International Refugee Law and the International Human Rights law. The human rights of refugees such as Right to non-refoulement, Right to seek asylum, Right to equality and non-discrimination, Right to peaceful assembly, Right to religion, Right to education, Right to life and personal security, freedom of movements, and Right to work have been mentioned in international human rights law as well as in refugee law. Further, keywords relating to refugees like asylum seekers, migrants, immigrants, IDPs, and stateless have been discussed and explained. Lastly, the researcher has discussed the literature review, statement of the problem, objectives of the study, hypothesis, research methodology, and scheme of chapters.

7.2 Chapter II: EVOLUTION OF DEFINITION AND DETERMINATION OF REFUGEE STATUS

This chapter looks into the meaning and definitions of refugees given by various researchers and provides a historical overview of the evolution of the definition of refugees in international refugee law before and after 1950, as well as regional instruments and Asia's position about that. This chapter also provides information about the criteria for acquiring refugee status and the procedure of refugee status determination by the states and the UNHCR.

Refugee status determination is a process by which a person receives a refugee status if he fulfils the conditions given in the refugee convention 1951. However, the

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procedure related to the refugee status determination is not provided in the refugee convention. The procedure of Refugee status determination is conducted by the United Nations High Commissioner for Refugees or by the states. The process of determining refugee status requires the fulfilment of certain conditions even when no procedure has been mentioned.

- Procedure for the examination of refugee claims
- Specialized asylum authority
- Access to the determination of refugee status
- The use of translators and interpreters
- Fair hearings
- Access to legal services provided by an independent legal profession
- Allowing the presence of legal or other counsel
- Assessment of each application on the individual basis and personal interview
- Confidentiality
- Giving written reasons if the application has been rejected
- Appeal or review
- Manifestly unfounded applications

A refugee is a very vulnerable person in the world who is compelled to live a disastrous life outside of their country or leave the permanent residence. Thus, refugees are immensely mentioned to get protection thoroughly. Therefore, it is also necessary to have a proper legal definition of refugees that can be applied universally so that they can spend their life with dignity.

The 1951 UN Convention Relating to the Status of Refugees not only limited the scope of the definition of refugees to persons fearing a relatively narrow range of human rights abuses but also restricted its scope to migrants in Europe who fled because of events occurring before 1951. The Convention's definition of a refugee is out-dated. It confers no right or assistance on refugees unless and until they reach a signatory country.

Therefore, for proper protection of the refugee, the scope of the refugee definition should be expanded by amending the definition of refugee given in the 1951 Refugee Convention, in the same way as the definition of refugee given in the Organization of

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African Unity, 1969 and the Cartagena Declaration 1984. The Organization of African Unity in 1969, and the Cartagena Declaration, 1984, adopted a more comprehensive definition of refugees.

7.3 Chapter III: INTERNATIONAL LEGAL FRAMEWORK FOR THE PROTECTION OF REFUGEES

This chapter describes international instruments for refugee protection, including international human rights law, international humanitarian law, and international refugee law, and also focuses on regional instruments relating to the protection of refugees.

Articles 13, 14, and 15 of the Universal Declaration of Human Rights are used to protect refugees. The Genocide convention, 1948 also served as the basis for refugee protection. Article 12 (2), 12 (4), and 13 of the International Covenant on Civil and Political Rights 1966 explains the human rights of refugees. International Covenant on Economic, Social, and Cultural Rights, 1966 provides economic, social, and cultural rights to all individuals, including refugees.

International Convention on the Elimination of all Forms of Racial Discrimination, 1965 prohibits any discrimination based on race, colour, descent, or national or ethnic origin. This Convention also applies to refugees as refugees face racial discrimination.

The Convention on the Elimination of all Forms of Discrimination Against Women, 1979 is a women specific treaty that directs all people and states to stop all types of discrimination against women and ensures a secure life for every woman. A woman refugee is included in this.

The Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, 1984 prevents any person and state from using any inhuman, cruel, or degrading act or sentence on a human being. Article 2 and 3 of this Convention are used to protect the human rights of refugees.

Further, the Convention on the Rights of the Child, 1989 is the world's first binding Convention that protects the human rights of children, including refugee children.

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Though the Declaration on the Human Rights of Individuals who are not Nationals of the Country in which they live, 1985 is not binding, it imposed rights and obligations on the states and on the foreigner to respect the law of nations.

The chapter further discussed the regional human rights instruments, especially the American Declaration on the Rights and Duties of Man, 1948 and the African Charter on Human and People's Rights, 1981 have been explained.

Besides the provisions of international humanitarian law, which may be applicable for refugee protection, have also been explained. Under this, the provisions of the Fourth Geneva Conventions, 1949 have been described, which is related to the protection of civilians. The Fourth Geneva Convention prohibits the forced transfer of an individual or a collective. Protocol I of the Fourth Geneva Convention is also explained, according to the protocol refugee has been included in the category of protected persons.

The chapter further emphasises the provisions of International Refugee Law following to achieve the objectives of the study. The Statute of the Office of the United Nations High Commissioner for Refugees, 1950; Convention Relating to the Status of Refugee, 1951; Protocol Relating to the Status of Refugees, 1967; OAU Convention on the Specific Aspects of Refugee Problems in Africa, 1969; the Cartagena Declaration on Refugees, 1984; New York Declaration for Refugees and Migrants, 2016 the Comprehensive Refugee Response Framework, 2018 the Global Compact on Refugees, 2018 are the sources of contemporary refugee law.

The chapter also discusses some international organisations or institutions, which worked for the protection and assistance of the refugees in the world such as the office of the United Nations higher commissioner for refugees. It is a non-political essential institution working for the protection and assistance of refugees. It seeks to improve the situation of refugees by entering into agreements with governments.

The United Nations Relief and Works Agency for Palestinian Refugees in the near east has worked mainly for the protection and assistance of the Palestinian refugees. Later the United Nations Office for the coordination of humanitarian affairs, the International Organization for Migration, and the International Committee of the Red Cross are discussed.

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Further laws and policies related to refugees from seven countries representing continents have been studied, including South Africa, Australia, Canada, Brazil, Germany, Turkey, and China.

Lastly, the enforcement of these provisions has been viewed with the lens of International criminal law available for refugee protection. The Rome Statute informs the interpretation of the refugee definition under the 1951 Convention. It helps to determine which acts attain the threshold of persecution and guides the delineation of excludable criminal acts under Article 1 F.

Despite the numerous laws protecting refugees internationally, the status of refugees remains miserable. Due to the lack of an international enforcement agency, it is challenging to implement these methods at the international level. If a country violates or fails any provisions of the 1951 Refugee Convention or the Refugee Protection Act, there is no provision for taking any punitive action against that country. Due to which, many countries avoid completely following these methods with some excuse.

This can only be solved with the collective efforts of all the countries to incorporate refugee law at the national level. At the same time, states should improve their political conditions so that the situation of displacement of people does not arise.

7.4 Chapter IV: NATIONAL LEGAL FRAMEWORK FOR THE PROTECTION OF REFUGEES

In this chapter, the researcher has examined the legal provisions relating to the refugees in India and the Human Rights Instruments ratified by India. The national legal framework for the refugee is divided into Constitutional protection and other legislative provisions. The Indian Constitution describes the rights of refugees such as equal protection of the law, right against ex-post-facto, double jeopardy and self-incrimination, right to life and personal liberty, right to education, protection against arbitrary arrest and detention, right against exploitation, right to freedom of thought, conscience and religion, and enforcement of fundamental rights as well as human rights.

In addition, the other legislations like the Indian Penal Code, 1860; the Passport (entry into India) Act 1920; the Registration of Foreigner Act, 1939; the Foreigner Act, 1946; the Passport Act 1967; the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1947; and the National Security Act 1980; the Illegal Migrants

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(determination by tribunals) Act, 1983; Protection of Human Rights Act 1993; Model National law on Refugees (MNL), 1997; the Protection of Refugees and Asylum Seekers Bill, 2015 and the Citizenship (amendment) act, 2019 have been discussed. After that, India's international obligations to the protection of refugees are also described.

Further, the working of the United Nations High Commissioner for Refugees in India and the National Human Rights Commission was discussed in this regard.

India is playing a significant role in dealing with the problem of refugees. Because of its position as a spearhead in South Asia, India sets a model for other countries in the area, and it shelters one of the leading refugee people in the world. India does not have a specific national refugee law, and it is also not a signatory to the UN's Refugee Convention. Thus, it does not legally recognize refugees or distinguish between them and other foreign nationals entering the country's territory. In the absence of any statutes related to the refugee, the Indian judiciary has stepped in and guaranteed them protective rights, in line with the Constitution.

The Supreme Court of India, in various judgments, held that the Constitutional protection of life and liberty also includes the right to leave the place of habitual residence for third-country resettlement, and recognized and enforced the principle of non-refoulement under article 21.

In India, the refugees are treated on ad hoc policy. However, India's ad hoc policy has led to inconsistency in dealing with refugees of different nationalities. India's absence of clear standards for the treatment of refugee groups, however, is resulting in contaminations of the international standards for the treatment of refugees. For India to bring its refugee law into conformity with the international community, only improving its domestic laws is insufficient because it will continue to reject international assistance and monitoring of refugee groups. India should reform its refugee policies and accede to the Refugee Convention or its Protocol. Besides, there is a need for a proper formal structure for asylum management with the rising number of refugees in India and develop own policy on refugees that adapts to the situation in South Asia without imitating those models designed in the West. It is important to ensure legislated rights, freedoms, and basic standards of living for refugees. Recently the Citizenship (Amendment) Act, 2019 enacted by the Indian government guarantees citizenship to religious minorities like

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Buddhists, Sikhs, Jains, Parsis, and Christians from three countries, Pakistan, Afghanistan, and Bangladesh respectively is welcome. Though it is the hope of giving a good life to the refugees living in crisis, this law deprives citizenship of the Muslim community. In contrast, it has been an Indian policy to provide asylum without any discrimination, which must have been taken into consideration for maintaining our Constitutional oaths in high spirits.

7.5 Chapter V: JUDICIAL RESPONSE TO REFUGEE PROTECTION

In this chapter, the researcher deals with the various judicial decisions given by both the international and national judiciary for the protection of refugees. At the international level it discusses the various international cases related to the refugee such as *Cruz-Varas v. Sweden* and others, *Pashupanathan v. Canada* (Minister of Citizenship and Immigration) and another, *Babar v. Secretary of State for the Home Department*, *Alex Ruta v. Minister of Home Affairs*. The international court's decisions have been discussed in some headings like the right to seek asylum, well-founded fear of persecution, racial persecution, religious persecution, persecution related to nationality, membership of a social group, political persecution, 'sur place' refugee, non-refoulement, and detention.

The chapter further discussed the various decisions of the Indian Supreme Court, High Court, and some non-registered cases of refugees like *Luis De Raedt v. Union of India*, *Dr. Malavika Karlekar v. Union of India*, *Dongh Lian Kham, and others v. Union of India and Others*, *Zothansegpuri v. the State of Manipur*, *National Human Rights Commission v. The State of Arunachal Pradesh*, *State of Arunachal Pradesh v. Khudiram Chakma, Chairman Railway Board and others v. Chandrima Das and others*. These decisions of the national courts are explained under the some headings such as Deportation and protection of civil rights for the refugees; the principle of non-refoulement and refugee status, right to equality, right to life and personal liberty including personal security, acquisition of citizenship, deemed citizenship of refugees, application of international law, and judicial interpretation for protection of non-citizen's rights, repatriation or resettlement of refugees, humanitarian assistance, detention, Chakma refugees, other nationalities, and unreported cases.

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While discussing the international perspective, there are so many decisions on the protection of refugees like the decisions taken by the European Court on Human rights, the Australian Supreme Court, the Canada Supreme Court, the American Supreme Court, and others. Therefore, at both national and international levels, the courts are playing an essential role in refugee protection because many countries have not yet ratified the 1951 UN Refugee convention and its 1967 Protocol.

The Indian government has not signed the 1951 UN Refugee Convention or the 1967 protocol. Nevertheless, the Indian judiciary recognizes refugee and refugee laws to a certain extent, and it has been playing an active and creative role in recent years. The judiciary of India has introduced refugee law into our legal system through the back door. Indian judiciary adopted a method by creative interpretation of Article 21 of the Constitution of India, which guarantees the right to life, and liberty to all persons and not merely to citizens and refugees may not be citizens. However, they are specific persons, and hence they too are entitled to the protection of Article 21.

The Supreme Court of India has interpreted the word life in Article 21 to mean not merely an animal life but a dignified life, and hence refugee being persons are also entitled to the same. There are many decisions of the Supreme Court and high courts where refugees have been given protection by evoking Article 21 of the Constitution. In the case of Chakma refugees and National Human Rights Commission v. State of Arunachal Pradesh, the Supreme Court held that Chakma refugees who had come from Bangladesh due to persecution could not be forcibly pushed back to Bangladesh as they may be killed there and thus they would be deprived of their rights under Article 21 of the Constitution. There are various other decisions also of our courts in his connection.

However, currently, the Indian court's attitude towards refugees is changing, especially Rohingya refugees. Recently, the Supreme Court invalidated the residence of seven Rohingya refugees in India and ordered their repatriation.

7.6 Chapter VI: STATUS, ISSUES, AND CHALLENGES OF REFUGEES

This chapter provides information about the situation of refugees in the world as well as in India. An overview of forced displacement including refugees has discussed. It further mentions the topmost refugees' origin countries and conditions of refugees in the European, African, Asian region with a particular emphasis on India. Further, this

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chapter discussed the historical perspective of the refugee problem in the Indian perspective and their kinds such as mandate and non-mandate refugees. The status of refugees, along with the social and legal present status in India, has also been described in such titles livelihood, health and education, exploitation and security, deportation, detention, repatriation and resettlement, permanent stay, treatment, and management of refugees. Lastly, the chapter discusses the issues and challenges faced by the refugee in India and the world related to the right to return, Xenophobia, Racial discrimination, security, Language, identification, burden-sharing, and durable solution.

Today's refugee problem is fundamentally different from before. Besides the traditional reasons for the refugee problem, many new causes have increased in forced displacement, such as wars between nations, internal wars of armies, environmental change, poverty, geographic degradation, and governments emphasizing their sovereignty lead to creating the refugee problem.

Since the consequences of the causes related to the contemporary refugee crisis, it has been strongly felt that the diagnosis of refugee issues and other problems has to be explored in an integrated manner. There should be a detailed action plan that includes the country of origin of the refugee and the host country of the refugee, and prevention, protection, and solution should be included in their periphery and supplemented by regional efforts. In other words, something can be done to solve the contrasted refugee problem only when there is a full international contribution.

Along with international participation, the following tasks are also mandatory.

- Do Agreement on the obligations to the first refugee country whose ultimate goal is to establish common areas for asylum for humanitarian reasons.
- Initiative to initiate mediation and reconciliation in case of conservative conflict, thereby preventing it.
- The principle of burden sharing should be followed by all developed and developing nations.
- Encourage all nations to use the durable solutions by UNHCR.

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7.7 Chapter VII: CONCLUSION AND SUGGESTIONS

In this chapter, the researcher provides the concluding summary of all chapters of the thesis and described some findings based on research work, and tested the hypothesis on the ground of findings. Further, some suggestions have been given for the improvement of refugee's status and the protection of the human rights of the refugees.

Which are mentioned as follows.

- The Indian government must take the initiative to enact a unique and exclusive law related to the refugees.
- Cooperation between destination and transit countries should be promoted in order to increase the protection of refugees.
- A legal cell should be established for taking care of the issues relating to refugees like sexual exploitation, trafficking, atrocities, and other issues relating to the violation of human rights.
- An individual department at both central and state levels should be established to look after the protection of refugees.
- A special unit should also be established to provide a border security force for the humane treatment of refugees both at the national and international levels.
- The provisions related to asylum and protection for refugees should be followed as per the due process at borders.
- The United Nations Convention relating to the status of refugees, 1951, should include some more grounds of persecution in the present time like; human rights violation, internal and external conflict, climate change, natural disaster, external aggression. Moreover, gender-based persecution should also be included, like the female, third gender, and LGBTs.
- The principle of non-refoulement should be made the necessary part of the Constitution of every country by adopting any convention or resolution.
- An early warning system should be developed to identify the threatened nations and react to them.
- The awareness relating to the protection of refugees should be spread through the seminar, symposium, and debate at the national and international levels.

ABSTRACT

- The durable solution should be adopted and followed by all nations to protect and support refugees, and asylum seekers.
- A responsibility-sharing formula should be developed to prevent the mass migration of refugees.
- The temporary protection should be used on a large-scale to protect people who are displaced due to natural disasters.