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On

“Protection of Refugees under International Law: A Study on Rohingya Refugees in Bangladesh”

Research Monograph Submitted for the partial fulfillment of the award of the degree

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Submitted To

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Letter of Transmittal

To

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Subject: Submission of Research Monograph on “**Protection of Refugees under International Law: A Study on Rohingya Refugees in Bangladesh**”

Dear Sir,

This is a great pleasure to submit the Research Monograph on “**Protection of Refugees under International Law: A Study on Rohingya Refugees in Bangladesh**” as a partial requirement for the fulfillment of my LL.B course under the Department of Law of the Sonargaon University (SU).

I have given due efforts to make this Research Monograph as fruitful one and to make it as informative as possible. I hope that this paper will not be the formality of academic course completion rather it will be a source of information for other purpose on this topic.

Yours sincerely

.....
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Declaration

I do hereby declare that the Research Monograph Title “**Protection of Refugees under International Law: A Study on Rohingya Refugees in Bangladesh**” prepared solely by me and which has been submitted to the department of Law, Sonargaon University (SU) for achieving the LL.B (Hon’s) Degree. This is an original work of mine. No part of this research, in any way or in form, has been submitted to any University or Institution for any Degree, Diploma or for other similar purposes.

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Supervisor Certificate

This is to certify that the work presented in this dissertation is based on the work, carried out by the author herself under my supervision in Department of Law, Sonargaon University (SU).

It is also certifying that the work presented here is original and suitable for submission as the style and contents, for fulfillment of LL.B. program.

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Naimul Razzaque

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Thank you

Azizul Hakim

ABSTRACT

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 he is known as a refugee. The paper offers a conceptual framework on refugees in Bangladesh for the rights sociological study of refugees under International Laws. It is centred on the migrants and the social world in which they are embedded. The social world is the sum of all the migrants' relationships and of the forces impinging on them at any moment. It can be explored through the social networks of migrants and the changes they undergo during migration and resettlement. The argument is illustrated by examples taken from ethnographies of migration and social change. I have discussed different elements about the refugees in my research such as- objectives of the study, research of methodology, conceptual analysis of refugees, criteria of refugee and their status, different rights of refugees, major problem of refugees, Present status of the refugees in Bangladesh, findings and recommendations etc.

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Chapter 1

INTRODUCTION

1.1 Introduction

A refugee, according to the Geneva Convention on Refugees is a person who is outside their country of citizenship because they have well-founded grounds for fear of persecution because of their race, religion, nationality, membership of a particular social group or political opinion, and is unable to obtain sanctuary from their home country or, owing to such fear, is unwilling to avail themselves of the protection of that country; or in the case of not having a nationality and being outside their country of former habitual residence as a result of such event, is unable or, owing to such fear, is unwilling to return to their country of former habitual residence. Such a person may be called an "asylum seeker" until considered with the status of "refugee" by the Contracting State where they formally make a claim for sanctuary or right of asylum.

In UN parlance, the definition of the word has been expanded to include descendants of refugees, in the case of two specific groups: Palestinian refugees and Sahrawi refugees. Currently, the UN does not consider refugee status to be hereditary for any other groups.

At the end of 2014, there were 19.5 million refugees worldwide (14.4 million under UNHCR's mandate, plus 5.1 million Palestinian refugees under UNRWA's mandate). The 14.4 million refugees under UNHCR's mandate were around 2.7 million more than at the end of 2013 (+23%), the highest level since 1995. Among them, Syrian refugees became the largest refugee group in 2014 (3.9 million, 1.55 million more than the previous year), overtaking Afghan refugees (2.6 million), who had been the largest refugee group for three decades. As of February 2015, Turkey has become world's biggest refugee hosting country having 2.2

million Syrian and 300.000 Iraqi refugees and had spent more than US\$7.6 billion on direct assistance to refugees.¹

1.2 Objectives of the Study

The objectives of the study are following:

1. To discuss about position and legal status of refugee under 1951 convention.
2. To narrate issue of refugee and Bangladesh.
3. To indicate the main causes for the increase of refugees.
4. To discuss about criteria to refugees.
5. To analysis of refugee rights and protection under international law.

1.3 Methodology

Methodology is very important for any research. The work of this research includes both Primary and Secondary sources. Without adopting any methods, it is difficult to contribution in a research. As it is a necessary to optimum methods create anything. The optimum outcome of the research depends largely on the adopting of the proper methods related to the topics in the held of the proper investigation and sufficient care. I also got help from my teachers, internet, books and Acts of refugee convention, 1951.

1.4 Limitations

- Dr. Momen of the kutupalangrefuge camp said congested living is the reason for quick spread of diseases like malaria, diseases, skin and venereal diseases among refugees. He mentioned that 15 to 20 refugees are treated every month for venereal diseases.
- A KG-1 student of the refuge, Taslima, 10. Who was born in the refugee camp? Told BDNEES in plain Bangles Sir. When it rains, we experience water inside our rooms.

¹ [<http://www.unhcr.org.uk/about-us/key-facts-and-figures.html>], UNHCR, Facts and Figures about Refugees, last visited date 02 July, 2016].

- The floors get muddy we spend the whole night sleeplessly; putting plastic papers in our heads,"

1.5 Definition of Refugee

Article 1 of the Convention, as amended by the 1967 Protocol, defines a refugee as:

A refugee, according to the Geneva Convention on Refugees is a person who is outside their country of citizenship because they have well-founded grounds for fear of persecution because of their race, religion, nationality, membership of a particular social group or political opinion, and is unable to obtain sanctuary from their home country or, owing to such fear, is unwilling to avail themselves of the protection of that country; or in the case of not having a nationality and being outside their country of former habitual residence as a result of such event, is unable or, owing to such fear, is unwilling to return to their country of former habitual residence. Such a person may be called an "asylum seeker" until considered with the status of "refugee" by the Contracting State where they formally make a claim for sanctuary or right of asylum.²

1.6 History

The idea that a person who sought sanctuary in a holy place could not be harmed without inviting divine retribution was familiar to the ancient and ancient Egyptians. However, the right to seek asylum in a church or other holy place was first codified in law by King Ethelberht of Kent in about AD 600. Similar laws were implemented throughout Europe in the Middle Ages. The related concept of political exile also has a long history: Ovid was sent to Tomis; Voltaire was sent to England. By the 1648 Peace of Westphalia, nations recognized each other's sovereignty. However, it was not until the advent of romantic nationalism in late 18th-century Europe that nationalism gained sufficient

² Convention and protocol relating to the status of refugees (PDF), Geneva Switzerland:office of the United Nations High Commissioner for refugees (UNHCR),Communications and public information service,1967./<https://en.wikipedia.org/wiki/refugee>

prevalence for the phrase "country of nationality" to become practically meaningful, and for people crossing borders to be required to provide identification.³

The first international co-ordination of refugee affairs came with the creation by the League of Nations in 1921 of the High Commission for Refugees and the appointment of Fridtjof Nansen as its head. Nansen and the Commission were charged with assisting the approximately 1,500,000 people who fled the Russian Revolution of 1917 and the subsequent civil war (1917–1921), most of them aristocrats fleeing the Communist government. It is estimated that about 800,000 Russian refugees became stateless when Lenin revoked citizenship for all Russian expatriates in 1921. In 1923, the mandate of the Commission was expanded to include the more than one million Armenians who left Turkish Asia Minor in 1915 and 1923 due to a series of events now known as the Armenian Genocide. Over the next several years, the mandate was expanded further to cover Assyrians and Turkish refugees. In all of these cases, a refugee was defined as a person in a group for which the League of Nations had approved a mandate, as opposed to a person to whom a general definition applied. The 1923 population exchange between Greece and Turkey involved about two million people (around 1.5 million Anatolian Greeks and 500,000 Muslims in Greece) most of whom were forcibly repatriated and denaturalized from homelands of centuries or millennia (and guaranteed the nationality of the destination country) by a treaty promoted and overseen by the international community as part of the Treaty of Lausanne.

The U.S. Congress passed the Emergency Quota Act in 1921, followed by the Immigration Act of 1924. The Immigration Act of 1924 was aimed at further restricting the Southern and Eastern Europeans, especially Jews, Italians and Slavs, who had begun to enter the country in large numbers beginning in the

³ "Nansen International office for refugee: Nobel peace prize 1938". The Nobel Foundation. [https://en.wikipedia.org/wiki/refugee, last visited date 15 July, 2016].

1890s. Most of the European refugees (principally Jews and Slavs) fleeing Stalin, the Nazis and World War II were barred from going to the United States.

In 1930, the Nansen International Office for Refugees (Nansen Office) was established as a successor agency to the Commission. Its most notable achievement was the Nansen passport, a refugee travel document, for which it was awarded the 1938 Nobel Peace Prize. The Nansen Office was plagued by problems of financing, an increase in refugee numbers, and a lack of co-operation from some member states, which led to mixed success overall.

However, it managed to lead fourteen nations to ratify the 1933 Refugee Convention, an early, and relatively modest, attempt at a human rights charter, and in general assisted around one million refugees worldwide.

1.8 Literature Review

"Asylum seeker" redirects here. For other uses, see Asylum seeker (disambiguation).

"Seeking asylum" redirects here. For the 1979 Italian film, see Seeking Asylum (film).

Signatories to the Refugee convention recognize persecution "on account of race, religion, nationality, political opinion, or membership in a particular social group" as grounds for seeking asylum. Until a request for refuge has been accepted, the person is referred to as an asylum seeker. Only after the recognition of the asylum seekers protection needs is he or she is officially referred to as a refugee and enjoys refugee status. This carries certain rights and obligations according to the legislation of the receiving country.

The practical determination of whether a person is a refugee or not is most often left to certain government agencies within the host country. This can lead to a situation where the country will neither recognize the refugee status of the asylum seekers nor see them as legitimate migrants and treat them as illegal aliens.

Signatories to the refugee convention create their own policies for assessing the protection status of asylum seekers, and the proportion of asylum applicants

who are rejected varies from country to country and year to year. Failed asylum applicants are most often placed in immigration detention before they can be deported. The burden of substantiating an asylum claim lies with the claimant, who must establish that they qualify for protection. In many countries, asylum applicants can challenge a rejection by challenging the decision in a court or migration review panel. In the United Kingdom, more than one in four decisions to refuse an asylum seeker protection are overturned by immigration judges.

1.8 Conclusion

Persons who have participated in war crimes and massive violations of international humanitarian law. Even any person against whom there are serious grounds of suspicions of this nature will be excluded. A soldier cannot be considered a refugee if he or she continue use to pursue armed action against the country of origin from the country of refuge. A refugee is a civilian. Persons who have been refused under an equitable procedure, refugee status. A migrant who leaves his or her country voluntarily to seek a better life in another country is categorized as an economic migrant and is not a refugee.⁴

⁴ Rashid Harun-Ur, *ibid*.

Chapter 2

BANGLADESH AND REFUGEE ISSUE

2.1 Criteria of Refugees

The inclusion clauses define the criteria that a person must satisfy in order to be a refugee. They form the positive basis upon which the determination of refugee status is made. To be a refugee four basic conditions must be met. The applicant must be –

- a. outside of his country of nationality or if he has no nationality the country of his former habitual residence,
- b. have a well-founded fear of persecution,
- c. this fear must be based on of five grounds, e. g. race, religion, nationality, membership of a particular social group, or public opinion,
- d. unable or unwilling to avail himself of the protection of that country, or to return there, for reason of fear of persecution.⁵

2.2 How to Loss of the Refugee Status

According to the Convention Relating to the Status of Refugees 1951, and Statute of the Office of the UNHCR 1950 a person shall cease to be a refugee if:

1. he has voluntarily re-availed himself of the protection of the country of his nationality; or⁶
2. having lost his nationality he has voluntarily re-acquired it; or
3. he has acquired a new nationality, and enjoys the protection of the country of his new nationality; or
4. he has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution.

⁵ Rashid Harun-Ur, *ibid.*.

⁶ Rashid Harun-Ur, *ibid*, p. 44-48

5. he can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;⁷

The case of the Biharis comes under clause (3), for firstly many of them migrated to East Pakistan in 1947 using their option for Pakistan and secondly they were full-fledged citizens of Pakistan after 1951.

In a nutshell, the series of communal riots and the resultant uprooting of millions of people in 1947 did not however, create 'refugee situation' as the states concerned had to take immediate measures to accommodate the new arrivals into their freshly defined and demarcated territories. Nevertheless, the UNHCR gave some assistance to the Biharis till 1951.

2.3 Whether the Biharis were Muhajirs

The march of Hazrat Muhammad (Sm) from Mecca to Medina in 622 is regarded as 'Hizrat' and those who accompanied him in that march are known as Muhajirs. Although the Hindus and Sikhs migrated from Pakistan to India were regarded as refugees, Muslims migrated from India to Pakistan were regarded as Muhajirs. Thus religious sentiments of Muslims were used by the leaders of Muslim League to encourage the Muslims of India to migrate to Pakistan and to encourage the people of Pakistan to accept them cordially and to provide them with all kinds of facilities. In the Census of Pakistan 1951 those who migrated to Pakistan because of Partition and religious feelings were regarded as Muhajirs. Gradually the term 'Muhajir' came to be applied to the Urdu-speaking migrants, to the exclusion of others who were similarly uprooted at independence. However, devoid of any legal connotation, the word 'Muhajir' is hardly relevant for purposes of this study.

2.4 Whether the Biharis were Migrants

International migration is the movement of person from his or her country of origin to country of destination with the intent to remain for an extended stay.

⁷ Rashid Harun-Ur, *ibid*.

According to Black's Law Dictionary, migration means movement from one place to another, from one country or region to another country or region.

There are primarily two generic types of population movements. First, 'involuntary' or 'forced' migration in which people are compelled to move out of their home in large numbers in situation of conflict. People flee or are obliged to leave their home or habitual residence out of fear of persecution or events threatening their lives or safety. There are numerous reasons behind forced migration such as persecution, human rights violations, repression, conflict, military aggression, natural and man-made disasters. Sometimes people also leave their home in their own initiative to escape from these life-threatening situations. But a large number of them also are forced out of their home by 'groups', often armed, to fulfill some objectives such as 'depopulating' an area or 'ethnic cleansing'. Those who are forced to leave their home either cross international borders in search of refuge or move to another place within the state-borders. The first group is known as 'refugee', whereas the second group of people is termed as 'internally displaced persons'(IDP). Thus involuntary migration creates refugee situation when people are forced to cross international borders.

Second, Voluntary migration, in which people move out in search of a better livelihood. The voluntary migration is a part of people's strategies to enhance or diversify the livelihood. The decision to migrate is often guided by the wider and brighter opportunities abroad. People who migrate are known as 'migrants', 'labour migrants' or 'economic migrants'. The term 'migrant covers all cases where the decision to migrate is taken freely by the individual concerned, for reasons of personal convenience and without intervention of an external compelling factor. But people also migrate because of poverty, lack of employment opportunity, and disaster.

If we look back to the reasons behind the exodus of Biharis from 1947 to 1964, we can come to the conclusion that some of them were 'voluntary migrants' while the others were 'involuntary migrants'. Railway workers, particularly from Bihar and UP who being influenced by the invitation by Mr. Mohammad Ali Jinnah to be designated as Central Government's employee migrated to East

Pakistan, fall under the category of 'voluntary migrants'. Besides, Muslim civil servants posted in Bengal and Bihar and opted to serve east.

2.6 Legal Status of Refugee

The definition of a 'Refugees' in international law is of critical importance for it can mean the difference between life and the death for an individual seeking asylum. Definitions in international law it may be noted depart from the ordinary meaning of the word 'Refugees'. In everyday speech the word 'Refugees' is used to describe a person who is forced to flee his or her home for any reason for which the individual is not responsive, he it persecution, public disorder, civil war, famine,. Earth quake or environmental degradation. Different Definitions.

Several attempts to define the term 'Refugees' have been made in the course of the twentieth century. The definition contained in different international instruments during the period of the League of Nations is the subject of reading I.A. It provides the historical backdrop against which contemporary definitions need to be considered. These include the definitions contained in the 1951 convention on the status of Refugees (hereafter the 1951 convention), the 1969 OAU convention Governing the specific aspects of Refugees problems in Africa (hereafter the OAU convention) and the Cartagena Declaration on Refugees 1984 (hereafter the Cartagena declaration). The 1951 Convention Definition, the most widely accepted definition of a 'Refugees' is that continued in the 1951 convention. The mandate of the convention intends to any person who as a result of events occurring before 1 January 1951 and owing to 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 for his nationality and is unreels 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 this former habitual residence as a result of such events, is unable or owing to such fear, is unwilling to return to it.

The key feature of the protocol of 31 January 1967 relating to the status of Refugees (hereafter the 1967 protocol) was that it removed the temporal and

geographical limitations contained in the 1951 convention. However, as reading iii. A points out, there was no attempt to reconsider the definition of term 'Refugees'. This meant that most third world Refugees continued to remain de facto included, as their flight is frequently prompted by natural disaster, war, or political and economic turmoil rather than by persecution, at least as that term is understood in the western context. The OAU convention and the Cartagena declaration.

At the regional different definitions of 'Refugees' have been adopted, namely, the OAU convention and the Cartagena declaration. Reading IV.A examines the conditions under which the different definitions were adopted in Africa and Latin America and their salient features. Stateless persons 'Refugees' are to be distinguished from the stateless persons. Whether or not this distinction stands to reason. While the 1951 convention addresses the problem of Refugees alone, the international legal rights of stateless person are addressed in the convention relating to the status of stateless persons, 1954, which came into force in 1960. It defines a 'stateless person' as a 'person who is not considered as a national by any state under the operation of its law.' Are we all Refugee?

The final reading of chapter one is included to encourage reflection on the 'Striking Similarities between the universal condition and the plight of Refugees. It is perhaps important to emphasize that Warner is not questioning the usefulness of the legal category of Refugees but merely pointing towards certain parallels between the Refugees condition and the existential condition of humankind.⁸

⁸ [<https://en.wikipedia.org/wiki/refugee>, last visited date 07 July 2016].

Chapter 3

REFUGEE CRISIS AND DURABLE SOLUTION TO SOLVE THIS PROBLEM

3.1 Some Positive Approaches

In 1951 the United Nation Convention relating to the status of refugee is an International Convention that is the key legal document for refugee. It was adopted by General Assembly, in 1951 by passing the resolution 429(5) of December, came into force on April 22, 1954. The World Community has been facing a greatest challenge. It is a challenge the problem of refugee and for adopting it to be protected refugee problem. The main purpose of it was to promote the further development of refugee law . It is the most important and effective instrument for the protection of refugee and also development of refugee law for the refugees.

3.2 UNHCR

After establishment of United Nation Organisation, 1945 for the protection and development of Human Rights and fundamental freedom of human being peacefully the UN have decided to constitute a body for the protection of refugee problem in world wide and supporting and assisting in their return or resettlement. It was established in 1950 under the supervision of the United Nation named was UNHCR in the replacement of International Refugee Organisation which deals the protection for the refugee and came into force 1st January 1951. It has a statute and its official name such as United Nation High Commissioner for Refugee, UNHCR is non-political character, Asylum, internal displace person, refugee, the protection of refugee are the individual subject matter of UNHCR. In accordance with Statute the work of the High Commissioner is like humanitarian law and it is constituted for the better protection and assessment to them as human being. It contains 22 Article and 3 chapters.

Chapter 1 includes General Provisions. Chapter 2 states Function of High Commission and Chapter 3 contains the organisation of this body.

3.2.1 Appointment of High Commissioner

The High Commissioner shall be elected by the General Assembly based on the nomination of the Secretary General. The tenure of the High Commissioner in the office will be three years under the Article 13 of the Statute of the UNHCR.

Article 14 provides that the High Commissioner shall appoint a Deputy Commissioner other than his own nationality for the same time.

Article 15 provides the High Commissioner shall appoint the staff of the office of High Commissioner for assisting in the exercise of their function based on limited budget.

3.2.2 Appointment of Representative

Based on the Article 16, The High Commissioner shall consult with the refugee host country for appointment representative to serve on the behalf of High Commissioner Office therein. There may be appointed a representative approved by the Government of the Country. The same representative may serve in more than one Country.

3.2.3 Budget of the High Commissioner

Article 20, the fund of High Commissioner Office for the protection, supporting and assisting the refugee shall be financed under the budget of United Nation. It is to be noted that the High Commissioner cannot appeal for the fund without authorization of United Nation. But al the cost of High Commissioner for activities in the office shall be financed by the voluntary contribution.

3.3 Refugee Movements in the Americas

More than one million Salvadorans were displaced during the Salvadoran Civil War from 1975 to 1982. About half went to the United States, most settling in the Los Angeles area. There was also a large exodus of Guatemalans during the 1980s, trying to escape from the Civil War and genocide there as well. These people went to Southern Mexico and the U.S.

From 1991 through 1994, following the military coup d'état against President Jean-Bertrand Aristide, thousands of Haitians fled violence and repression by boat. Although most were repatriated to Haiti by the U.S. government, others entered the United States as refugees. Haitians were primarily regarded as economic migrants from the grinding poverty of Haiti, the poorest nation in the Western Hemisphere.

The victory of the forces led by Fidel Castro in the Cuban Revolution led to a large exodus of Cubans between 1959 and 1980. Dozens of Cubans yearly continue to risk the waters of the Straits of Florida seeking better economic and political conditions in the U.S. In 1999 the highly publicized case of six year old Elián González brought the covert migration to international attention. Measures by both governments have attempted to address the issue; the U.S. instituted a wet feet, dry feet policy allowing refuge to those travelers who manage to complete their journey, and the Cuban government have periodically allowed for mass migration by organizing leaving posts. The most famous of these agreed migrations was the Mariel boatlift of 1980.

It is now estimated by the US Committee for Refugees and Immigrants that there are about 150,000 Colombians in "refugee-like situations" in the United States, not recognized as refugees or subject to any formal protection.viatnam

During the Vietnam War, many U.S. citizens who were conscientious objectors and wished to avoid the draft sought political asylum in Canada. President Jimmy Carter issued an amnestySince 1975, the U.S. has resettled approximately 2.6 million refugees, with nearly 77% being either Indochinese or citizens of the former Soviet Union. Since the enactment of the Refugee Act of

1980, annual admissions figures have ranged from a high of 207,116 in 1980 to a low of 27,100 in 2002.

Currently ,ten national voluntary agencies resettle refugees nationwide on behalf of the U.S. government: Church World Service, Ethiopian Community Development Council, Episcopal Migration Ministries, Hebrew Immigrant Aid Society, International Rescue Committee, US Committee for Refugees and Immigrants, Lutheran Immigration and Refugee Service, United States Conference of Catholic Bishops, World Relief Corporation and State of Iowa, Bureau of Refugee Services.

The U.S. Office of Refugee Resettlement (ORR) funds a number of organizations that provide technical assistance to voluntary agencies and local refugee resettlement organizations. RefugeeWorks, headquartered in Baltimore, MD., is ORR's training and technical assistance arm for employment and self-sufficiency activities, for example. The nonprofit organization assist refugee service providers in their efforts to help refugees achieve self-sufficiency. RefugeeWorks publishes white papers, newsletters and reports on refugee employment topics.

3.3.1 Afghanistan

From the Soviet invasion of Afghanistan in 1979 through the early 1990s, the Afghan War (1978–92) caused more than six million refugees to flee to the neighboring countries of Pakistan and Iran, making Afghanistan the greatest refugee-producing country. At the peak of the Soviet invasion of Afghanistan, close to seven million Afghan refugees sought refuge within Pakistan, making Pakistan the only country to have hosted such a huge number of refugees. The number of refugees fluctuated with the waves of the war, with thousands more fleeing after the Taliban takeover of 1996. The U.S. invasion of Afghanistan in 2001 and continued ethnic cleansing and reprisals also caused additional displacement. Though there has been some repatriation sponsored by the U.N. from Iran and Pakistan, a 2007 UNHCR census identified over two million Afghan refugees still living in Pakistan alone.

Since late April 2007, the Iranian government has forcibly deported back to Afghanistan nearly 100,000 registered and unregistered Afghans living and working in Iran. The forceful evictions of the refugees, who have lived in Iran and Pakistan for nearly three decades, are part of the two countries' larger plans to repatriate all Afghan refugees within a few years. Iran says it will send one million by next March, and Pakistan announced that all 2,400,000 Afghan refugees, most living in camps, must return home by 2009. Experts say it will be 'disastrous' for Afghanistan

3.3.2 Sri Lankan Tamils

The civil war in Sri Lanka (1983 to the present) has generated millions of internally displaced as well as refugees. Sri Lanka Tamils have fled to India, Europe (mostly France, Denmark, the United Kingdom, and Germany), and Canada (over 800,000 people).

3.4 Present Possession of Refugee Problem

In the present time, the refugee cannot exercise their full fledged rights which are ensured by the several Conventions. Even they are not treated as a human being also. They are victimized in different ways. Because they are not strong like as the other citizen in the societies. They are frightened about the threat of the other people. But among them some of are involved with the serious offence. Because of they are not get preference like as other citizens of that state in getting a job. All over the world a person become as a refugee for many of reasons. Among them the war is very much responsible for rapidly growth of refugees' people. So, we find the refugees in different countries as well as all over the world.

3.4.1 Darfur

Since the 1950s, many nations in Africa have suffered civil wars and ethnic strife, thus generating a massive number of refugees of many different nationalities and ethnic groups. The division of Africa into European colonies in 1885, along which lines the newly independent nations of the 1950s and 1960s drew their borders, has been cited as a major reason why Africa has been so plagued with intrastate warfare. The number of refugees in Africa increased from 860,000 in 1968 to

6,775,000 by 1992 (Encyclopedia Britannica, 2004). By the end of 2004, that number had dropped to 2,748,400 refugees, according to the United Nations High Commission for Refugees. (That figure does not include internally displaced persons, who do not cross international borders and so do not fit the official definition of refugee.)

Many refugees in Africa cross into neighboring countries to find haven; often, African countries are simultaneously countries of origin for refugees and countries of asylum for other refugees. The Democratic Republic of Congo, for instance, was the country of origin for 462,203 refugees at the end of 2004, but a country of asylum for 199,323 other refugees.

Countries in Africa from where 5,000 or more refugees originated as of the end of 2004, arranged in descending order of numbers of refugees are listed below. (UNHCR, 2004 Global Refugee Trends, Table 3.) The largest number of refugees are from Sudan and have fled either the longstanding and recently concluded Sudanese Civil War or the Darfur conflict and are located mainly in Chad, Uganda, Ethiopia, and Kenya.

The refugees at darfur are come from Sudan. It is one of the big population as refugees all over the world. Some 2.5 million, roughly one-third the population of the Darfur area, have been forced to flee their homes after attacks by JanjaweedArab militia backed by Sudanese troops during the ongoing Darfur conflict in western Sudan.

3.4.2 Rohingyas

There is a refugee which name is Rohingyas are staying at the place of Cox's Bazar. Near at Cox's Bazar, there is a river which named Naaf and the crossing this river they are entered into the Bangladesh. The short descriptions of Rohingyas are mentioned below:

3.4.3 Crime rate

They have an involvement in serious crimes like murder, kidnapping Robbery etc. They have also an involvement in minor crimes like theft, extortion, assault, hijackings etc.

The police records of the Rohingyas are so high.⁹

3.4.4The Life Style of Rohingyas

The living style of the Rohingyas is totally unhygienic. The water supply is insufficient and sanitation system is under developed. They established a slums residential system at their living area. The birth rates of the Rohingyas are very high. They cut down the trees and forest destruction in a huge percentage. So they are created massive environment pollution. They have no educational facilities overall. So they are a group of illiterate people. They are intolerant to cross culture.

Finally we can say that they are not acquainted with the lifestyle of Bangladeshis.

⁹ Source: Taknaf Police Station, Cox's Bazar.

Chapter 4

MAIN CAUSES FOR INCREASING OF REFUGEE

4.1 Rights of Refugees

Articles 12 - 30 of the Refugee Convention set out the rights which individuals are entitled to once they have been recognized as Convention refugees:

- All refugees must be granted identity papers and travel documents that allow them to travel outside the country
- Refugees must receive the same treatment as nationals of the receiving country with regard to the following rights:
 - Free exercise of religion and religious education
 - Free access to the courts, including legal assistance
 - Access to elementary education
 - Access to public relief and assistance
 - Protection provided by social security
 - Protection of intellectual property, such as inventions and trade names
 - Protection of literary, artistic and scientific work
 - Equal treatment by taxing authorities
- Refugees must receive the most favorable treatment provided to nationals of a foreign country with regard to the following rights:
 - The right to belong to trade unions
 - The right to belong to other non-political nonprofit organizations
 - The right to engage in wage-earning employment
- Refugees must receive the most favorable treatment possible, which must be at least as favorable to that accorded aliens generally in the same circumstances, with regard to the following rights:
 - The right to own property
 - The right to practice a profession
 - The right to self-employment
 - Access to housing

- Access to higher education
- Refugees must receive the same treatment as that accorded to aliens generally with regard to the following rights:
 - The right to choose their place of residence
 - The right to move freely within the country
 - Free exercise of religion and religious education
 - Free access to the courts, including legal assistance
 - Access to elementary education
 - Access to public relief and assistance
 - Protection provided by social security
 - Protection of intellectual property, such as inventions and trade names
 - Protection of literary, artistic and scientific work equal treatment by taxing authorities.¹⁰

4.2 Discrimination from the Majority Population

The Refugee community being one of the minority communities in Bangladesh has numerous problems from to job facilities. As they are a minority community in Bangladesh having no defined legal and political identity, they are discriminated by the majority population. Again, there is discrimination among the refugees themselves. The Refugees who enjoy voting rights have some extra facilities and opportunities than others and thus they enjoy some extra privileges and the influential refugees are also dominant over the common refugees. When the refugees are discriminated by the majority population, they have no remedy as they do not have any voice in any committees or bodies regulating and controlling their file.

The discrimination from the majority population is fund in various aspects. A large number of refugee alleged that when they go to particular schools to admit their children then the school authority refuses to admit them, given in the Schools, discrimination is made by the teachers. It is alleged that often the

¹⁰ [http://www.umn.edu/humanrts/center/asylum/ref_legal.html, last visited date 07 July 2016].

teachers neglect the refugee's students. Specific instances of discrimination have been found in different areas, specifically in the field of education, job, and business. In some fields, as mentioned below, discrimination is acute.¹¹

4.3 Discrimination in the Field of Education

Right after our independence many refugee students were expelled from the schools. Role of the refugees in 1971 was the single largest reason for this. But after more than 30 years they are getting the same treatment from the school authorities. A Refugee resident of football ground camp in Mipur complained that his son was expelled from a local government school for his being a Bihari. Another person complained that his son preferred to go to school for admission with his Bangalee neighbour to conceal his refugee identity. That saved him from being humiliated by other boys and teachers. If a boy or girl wants to get admitted into a government school they need a certificate on the respective Ward Commissioner, who is found reluctant to issue such a certificate to a refugee boy or girl and which the refugees people consider a major obstacle in getting into a government school.

4.4 Political Identity of the Refugee or Biharis

The Bihari community is sharply divided between those in favor of repatriation to Pakistan and those in favour of rehabilitation in Bangladesh. The youth is mostly in favour of rehabilitation in Bangladesh. Comparatively older ones are for the second choice though the denial of repatriation over three decades has created doubts in the mind of the Pro-Pakistan Biharis. Over the years, the Biharis have formed some forums to raise their identity grievances and to devise a settlement of the issue. Among them, SPGRC and the Bangladesh Muhajir Welfare and Development Committee (BMWDC) are the most popular ones. Nasirn Khan was one of the exponents of keeping up the spirit of repatriation to Pakistan and EjazAhmcd prefers to settle permanently in Bangladesh with full recognition

¹¹ [<https://en.wikipedia.org/wiki/refugee>, last visited date 07 July 2016].

foreseeing little hope of repatriation. But basically they remain busy with collecting money from their own community in the name of either repatriation or rehabilitation and thereby run their personal life comfortably. Another organization named Rabeta-Ai-Alm Al- Islami has already created a 300 million dollar fund for the Biharis repatriation to Pakistan. But the fact is that they have not been repatriated with the help of this fund. Again, another forum named SPYRM comprised of young members prefers to call them Bangladeshi and demands the citizenship of Bangladesh. In fact, the Biharis seem to lack proper leadership to implement the community's will. So all these forums have proved to be ineffective in resolving their identity crisis.¹²

4.5 Bangalee turned Bihari

Md. Shamshed Alam (34 years old at present) was born of a Bangalee father and a Bihari mother. The family lived in Thakurgaon. After Shamshed's father was killed in the war of 1971, he and his mother came to Rangpur with his maternal relations and started residing in Ispahani Camp no.3. They have been exercising their right to vote till 1991 when their names were omitted from the new voter list. It is alleged that the omission was based on political considerations. Since then, Shamshed introduces himself as a Bihari, the reason for dropping his name from the list. Shamshed now struggles with a peculiar status and political identity. At present, identity crisis of the Biharis has become the root cause of humiliation of this community. So long as their identity remains undetermined, their politico-economic rights will be denied again and again.

4.6 Citizenship Judgment of the High Court

The decision of the election commission in February 2006, to enable the refugee living in the settlement as voters can be seen to further confirm citizenship. There are two recent Judgment of the High Court, about the legal status of refugees. On 19th May the High Court Decision that, 300000 Biharis or refugees stranded in

¹² [http://www.umn.edu/humanrts/center/asylum/ref_legal.html, last visited date 17 July 2016].

Bangladesh after the partition of Pakistan, have finally become Bangladeshi citizen over 36 years after the country's birth. The High Court decision roles order speaking non Bengali Muslims who migrated from different parts of India. On the partition took place in 1947 are now Bangladeshi citizen. The Court also defamed valid the claim of the Urdu Speaking resident known as Biharis or refugee eligible to become voters as citizen of Bangladesh.

4.7 Rohingya problem in Bangladesh

The Rohingya people are an Indo-Aryan ethnic group from the state of Rakhine (also known as Arakan, or Rohang in the Rohingya language) in Burma. The Rohingya are ethno-linguistically related to the Indo-Aryan peoples of India and Bangladesh (as opposed to the majority Sino-Tibetan people of Burma). The region of Rakhine was annexed and occupied by Myanmar in the 1700s, thus bringing the Rohingya people under Burmese rule. As of 2012, 800,000 Rohingya live in Burma. According to the United Nations, they are one of the most persecuted minorities in the world. Many Rohingya have fled to ghettos and refugee camps in neighbouring Bangladesh, and to areas along the Thai-Burma border. Their plight came to international media.¹³

4.8 Religion of Refugees

The Rohingya people practice Sunni Islam with elements of Sufism. The government restricts educational opportunities for them; many pursue fundamental Islamic studies as their only educational option. Mosques and madrasas are present in most villages. Traditionally, men pray in congregations and women pray at home.¹⁴

4.9 The major problem of refugees

There are many problems. They (Refugees) are not absolute rights to sign or voter registration. It is not be grant citizenship to refugee who are attain the

¹³ [<https://en.wikipedia.org/wiki/refugee>, last visited date 10 July 2016].

¹⁴ *Ibid.*

refugee status. With national, local and non-government organizations are not to ensure their (Refugees), enough basic amenities, including clean water, latrines and access to schools and medical clinics, to accommodate its population. It is not to develop a strategy to help integrate refugees who wish to live as citizens, respecting full rights.

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4.10 Protection of Refugee and Their Rights Under International Law

Introduction

Under traditional international law, States have a sovereign right to allow or refuse entrance of foreigners on their territory, to impose conditions to their entry, and to expel them from their territory. In accordance with their duty to protect the lives and the security of the public, States also have a legitimate interest in controlling irregular migration.

States are devoting more and more energy and resources outside their national territory, in order to prevent, interrupt or stop the movement of persons without the required documentation crossing international borders by land, air or sea, and making their way to the country of destination. Since the early 1980s, securization of borders has become the major component of migration management policies of

¹⁵ [http://www.umn.edu/humanrts/center/asylum/ref_legal.html, last visited date 07 July 2016].

many Western States which increasingly seek to project enforcement of their immigration laws beyond their borders.

States foster efficient repressive policies through bilateral, international and regional cooperation. Numerous international treaties have consequently been adopted, regional efforts have been undertaken and a number of consultative processes have been initiated at regional level in stemming irregular migration. The outcome is the emergence of sophisticated and diversified non-entrée politics which create 'security perimeters' as a means to ensure greater protection of States' borders.

Non-entrée politics are aimed at the blocking of free mobility to the North. They are directed indiscriminately against all irregular migrants including refugees and asylum-seekers. They result in asylum-seekers and refugees being denied access to international protection or being returned directly or indirectly to the frontiers of territories where their life or freedom would be threatened. As such, the politics of non-entrée ultimately erode the institution of asylum, especially the principle of non-refoulement.

Non-entrée politics also leave desperate people with no option but to rely on more disruptive informal networks or people-traffickers in their search for a better life.

States that enforce non-entrée measures violate their obligations under international refugee law and international human rights law.

The dichotomy between the State's legitimate interest to ensure national security and its international obligations has become more apparent since the terrorist attacks of 9/11 on the USA.

The purpose of this article is to analyze the impact of the politics of non-entrée on States' obligations of non-refoulement under international refugee law.

1. Principle of non-refoulement: State responsibility and extraterritoriality Article 33(1) of the 1951 Convention relating to the Status of Refugees codifies the non-refoulement principle which is the cornerstone of international refugee protection. This principle underpins the right to seek and enjoy asylum from persecution as enshrined in Article 14(1) of the 1948 Universal Declaration on Human Rights.

Non-refoulement is also considered as a principle of customary international law. Several international treaties prohibit the return of persons to particular kinds of harm including the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the African Charter on Human and People's Rights, the American Convention on Human Rights. The Charter of Fundamental Rights of the European Union contains an explicit and absolute obligation of non-refoulement in its Article 19(2). Likewise, the obligation of non-refoulement under Article 3 of the European Convention on Human Rights, Article 7 of the International Covenant on Civil and Political Rights and Article 3 of the Convention against Torture is absolute. No exceptions and no derogations are permitted.¹⁶

4.10.1 Different organizations play key roles in assisting and protecting refugees worldwide

The following organizations play key roles in assisting and protecting refugees worldwide.

United Nations High Commissioner for Refugees. The United Nations High Commissioner for Refugees (UNHCR) was created in 1951 to assist in the international protection of refugees. The organization's primary objective is to ensure that all persons can exercise the right to seek asylum and find safe refuge in another state, and to return home voluntarily. One of the agency's pressing tasks is to encourage governments to adopt fair and flexible processes to promote just and effective refugee law. When UNHCR was first established, material aspects of refugee relief (e.g., housing, food) were seen to be the responsibility of the government that had granted asylum. As many of the world's more recent major refugee flows have occurred in less developed countries, however, UNHCR has acquired the additional role of coordinating material assistance for refugees and returnees. Although this was not UNHCR's original mandate, coordination of material assistance has become one of its principal functions alongside protection

¹⁶ *Ibid.*

and the promotion of solutions. The International Organization of Migration (IOM) assists with the return of rejected asylum seekers and refugees referred by UNHCR.

International Committee of the Red Cross. The International Committee of the Red Cross (ICRC) is an independent humanitarian organization that acts as a neutral entity in assisting and protecting victims of war, from providing medical care to victims to arranging exchanges of family messages. As members of the civilian population, displaced persons benefit from ICRC protection and assistance activities including the protection of civilians; visits to detainees; medical assistance; food aid; and restoration of family links between persons separated by war. The ICRC does not have a general mandate to provide protection and assistance to internally displaced persons. Over the years, however, it has provided limited assistance to certain groups of internally displaced persons.

4.10.2 International and Regional Instruments for Protection

- International legal instruments take the form of a treaty (also called agreement, convention, protocol) which may be binding on the contracting states. When negotiations are completed, the text of a treaty is established as authentic and definitive and is “signed” to that effect by the representatives of states. There are various means by which a state expresses its consent to be bound by a treaty. The most common are ratification or accession. A new treaty is “ratified” by those states who have negotiated the instrument. A state which has not participated in the negotiations may, at a later stage, “accede” to the treaty. The treaty enters into force when a pre-determined number of states have ratified or acceded to the treaty.
- When a state ratifies or accedes to a treaty, that state may make reservations to one or more articles of the treaty, unless reservations are prohibited by the treaty. Reservations may normally be withdrawn at any time. In some countries, international treaties take precedence over national law; in others, a specific law may be required to give an international treaty, although ratified or acceded to, the force of a national

law. Practically all states that have ratified or acceded to an international treaty must issue decrees, amend existing laws or introduce new legislation in order for the treaty to be fully effective on the national territory.

- Many international treaties have a mechanism to monitor the implementation of the treaty. The Refugee Convention does not have such a body that monitors state obligations and commitments towards asylum seekers.
- The following international and regional treaties determine standards for the protection of refugees and displaced persons:¹⁷

4.10.3 United Nations

Universal Declaration of Human Rights (1948) (article 14)

The first international document that recognizes the right to seek and enjoy asylum from persecution.

Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949) (article 44, 70)

This treaty protects refugees during war. Refugees cannot be treated as “enemy aliens”.

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1) (1977) (article 73)

"Persons who, before the beginning of hostilities, were considered as stateless persons or refugees ... shall be protected persons..., in all circumstances and without any adverse distinction."

Convention Relating to the Status of Refugees (1951)

This was the first international agreement covering the most fundamental aspects of a refugee's life. It spelled out a set of human rights that should be at least equivalent to freedoms enjoyed by foreign nationals living legally in a given country and in many cases those of citizens of that state. It recognized the

¹⁷ [http://www.umn.edu/humanrts/center/asylum/ref_legal.html, last visited date 07 July 2016].

international scope of refugee crises and necessity of international cooperation -- including burden-sharing among states -- in tackling the problem. As of 1 October 2002, 141 countries had ratified the Refugee Convention.

International Covenant on Civil and Political Rights (1966) (article 2, 12, 13)

The main international treaty on civil and political rights stipulates that states should ensure the civil and political rights of all individuals within its territory and subject to its jurisdiction (article 2). The Covenant also guarantees freedom of movement and prohibits forced expulsion. Protocol Relating to the Status of Refugees (1967)

Removes the geographical and time limitations written into the original Refugee Convention under which mainly Europeans involved in events occurring before 1 January 1951 could apply for refugee status.

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) (article 3)

Article 3 (2) states that a consistent pattern of gross and massive violations of human rights are circumstances which a state should take into account when deciding on expulsion. The monitoring body of this convention, the Committee Against Torture, has established some fundamental principles relating to the expulsion of refused asylum seekers. It offers important protection to refugees and their right not to be returned to a place where they fear persecution.¹⁸

Convention on the Rights of the Child (1989) (article 22)

Article 22 of this convention stipulates that “States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee ... shall ... receive appropriate protection and humanitarian assistance in the enjoyment of ... rights.... States Parties shall provide ... cooperation in ... efforts ... to protect and assist such a child and to trace the parents or other members of the family of any refugee child ... for reunification with his or her family. In cases where no parents or other members of the family

¹⁸ [<https://en.wikipedia.org/wiki/refugee/> , last visited date 07 July 2016].

can be found, the child shall be accorded the same protection as any other child ... deprived of his or her family environment....”

Declaration on the Elimination of Violence against Women (1994)

Recognizes the particular vulnerability of refugee women.

Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the status of refugees

This handbook is widely accepted by practitioners and most governments as an authoritative interpretation of the Refugee Convention.

Guiding principles on Internal Displacement

A set of 30 recommendations for the protection of internally displaced persons. The Guiding Principles define who the internally displaced are, reiterates the large body of international law already in existence protecting a person's basic rights and outlines the responsibilities of states. It is made clear that internally displaced persons have the right to leave their country, seek asylum and be protected against forcible return to their homeland.

4.10.4 African Union (Formerly Organization of African Unity, OAU)

Convention Governing the Specific Aspects of Refugee Problems in Africa (1969)
Accepted the definition of the 1951 Refugee Convention and expanded it to include people who were compelled to leave their country not only as a result of persecution but also owing to: external aggression, occupation, foreign domination or events seriously disturbing public order. This definition is a wider definition than the one found in the UN Refugee Convention and adapts the definition to the reality of the developing world. The African Union's definition also recognizes non-state groups as perpetrators of persecution and it does not demand that a refugee shows a direct link between herself or himself and the future danger. It is sufficient that the refugee considers the harm sufficient to force her/him to abandon their home.

African Charter on the Rights and Welfare of the Child (1990) (article 13)

This treaty stipulates special provisions of refugee children that are unaccompanied by parents or guardians.¹⁹

4.10.5 Council of Europe

Convention for the Protection of Human Rights and Fundamental Freedoms (1949) (article 3, 4, 5, 6, 8, 9, 10, 13, 14, 16)

The European Convention on Human Rights does not contain any right to asylum and it makes no direct reference to asylum seekers or refugees. A very important case by the European Court of Human Rights (*Soering v. the United Kingdom*, 1989), however, established that states were indeed responsible, in certain instances, for the well being of individuals in other countries. The case concerned article 3 of the European Convention that "No one shall be subjected to torture or inhuman or degrading treatment or punishment". In recent years the European Court has again stressed the unconditional nature of the prohibition against ill-treatment and established the principle that a state wishing to deport even an individual found guilty of a serious criminal offence or constituting a threat to national security must first make an independent evaluation of the circumstances the individual would face in the country of return. Although article 3 is most often called upon to protect asylum seekers and refugees, other articles may also be invoked to ensure that their human rights are respected. In particular article 4 (prohibition of forced or compulsory labor), article 5 (deprivation of liberty), article 6 (right to a fair and impartial hearing "within a reasonable time"), article 8 (respect for private and family life), article 9 (right to freedom of thought, conscience and religion), article 10 (right to freedom of expression), article 13 (right to the grant of an effective remedy before a national authority) and article 16 (no restrictions on political activity of aliens) can offer substantial protection.

¹⁹ *Ibid.*

Chapter 5

ANALYSIS OF REFUGEE RIGHTS AND PROTECTION UNDER INTERNATIONAL LAW

5.1 Education

The poor condition of education has added much to the grievances of the refugees community. Most of the refugees feel that they have no access to basic education even in those exceptional cases when they avail these rights. They also viewed that they are often subjected to different forms of discrimination.

Refugees living in different camps in different parts of Bangladesh cannot avail education. For instance, during our field visit some people told that there is about four hundred school going aged children in the Geneva camp in Mohammadpur. There is only one primary school capable of facilitating about 150 students. That primary school has its own problems such as shortage of books and other facilities. However, an NGO named Social and Economic Enhancement Programmed (SEEP) provides for some other students free education up to class three. The rest of the school going aged children does not get this opportunity.

The school authorities show reluctance and at times refuse to admit Refugees students only for the reason of being camp dwellers. Mr. Hasan also claimed “Urdu speaking children are not admitted in the government schools if they use their camp addresses. Therefore, it has become a common trend for the Refugees not to disclose their identity. These school goers have been found to persuade their parents not to visit their school in fear of their identity being disclosed. The discrimination continues even after their admission. They are ignored in the class by the teachers and students. Bangalee students do not behave friendly.

The Refugees community cherishes and aspires to retain its culture and community values. Most of the refugees families want their children to learn Urdu and religious education in addition to conventional subjects studied in typical Bangla medium schools. As a result they are not satisfied with the curriculum followed by the schools. They want that, besides this curriculum Urdu should be taught. Akbar Ali, 50 years old Bihari of MunshiparaMazar camp in Saidpur

argued that Bangalees had sacrificed their lives in 1952 in protecting their mother language, so they should be more positive in protecting the language of the Bihari community.

The Bihari community in general suffers from a deep-rooted sense of instability, social, economic and even identity crisis. As a result they cannot concentrate on securing their economic and social footing resulting in their own reluctance to accessing education. The young generation has their own problems. Most of them are suffering from inherited frustration arising from this instability. They are often found wasting their time with other fellows in playing cards, gambling and gossiping rather than contributing to their families and continuing with their education. They often involve themselves in drug addiction.²⁰

During our field visit, we found a different scenario in Adamjee Jute Mill camps. There is an International Islamic Relief Organization (IIRO), which runs a school providing education up to class six. This school is affiliated with Dhaka Education Board where Urdu is a compulsory subject.

5.2 Food and Nutrition

Once ‘Rote’ was more popular to the Biharis. But nowadays they eat rice. It has become their main food like the Bangalees. However, a considerable number of families in the camps subsist at a food intake below the required level. The field survey reveals that the majority of the inmates of Mirpur Camp Dhaka and also a considerable people of Geneva camp, Mohammedpur, Dhaka, Bashbari camp and Baluresh camp at Saidpur lives in extreme poverty. These families often fail to manage two meals in a day. The closure of Adamjee jute mill has left the Bihari families in trouble. Without job and the slightest financial security they are suffering and facing many new problems. Now they are not able to manage two meals in a day.

Since their concentration in camps, there was a monthly relief-distributing program provided by the government of Bangladesh for the sustenance of the

²⁰ [<https://en.wikipedia.org/wiki/refugee>, last visited date 07 July 2016].

Biharis. But now it is postponed for the last nine to ten months in most of the camps for various reasons. The camps in which such program is going on like Adamjee camps in Narayanganj and five out of twenty two camps in Saidpur do not even get the allotted amount. The Government officially allotted 3.23 Kg wheat to each Bihari adult. During our field visit, we came to know that they actually get 2.5 Kg. Corruption among the distributors is also seen. The relief is not regular, either. At times it arrives to the community after 2-3 months delay.

The Biharis have a lack of knowledge about nutrition. This unawareness is manifested in the choice of food they consume. The childbearing women, however, require particular attention. But they do not get the minimum modern facilities of treatment.

Apart from these, the existing camp environment and hygiene practices of its inhabitants keep them constantly vulnerable to threats of diarrhoea, Sexually Transmitted Diseases (STD) and various infections. This has an evident adverse affect on their nutrition status. Lack of access to adequate and hygienic sanitation, high human density and poor health practices contribute equally to the problem of nutrition in this community.

5.3 Power Supply

All the camps have electricity supply funded by government through NGOs namely Rabeta-AIAIm Al-Islami, Concern etc. But no camp has gas supply. In Geneva camp the government funds the existing power supply; the management is however run by some local persons selected by the committee. These representatives are responsible for collecting monthly fees from the inhabitants according to power usage. Unlike this, some of the camps in Mirpur share a different picture: private individuals with parent lines from the Power Development Board (PDB) provide power to other individuals within the camps.

In Rangpur Ispahani camp, PDB is maintaining the power distribution system. But we were informed that, only 4 families out of 517 families are the beneficiaries of this system. The rest of the families enjoy the benefit of this system by being a sub-consumer of these four families and have to pay according to their demand. It is to be mentioned that the residents, in most of the camps, use

heaters, which keeps the whole camp under risk of accident and puts heavy pressure on the national grid.

5.4 Maternity Rights and Reproductive Health

The Refugee community appeared to be mostly unaware and uninformed about the fundamental maternity needs and rights. The Refugee women are unconscious about their vaccination programme before and after giving birth to a child although concerned governmental bodies, namely, 'SabujChata', 'ShurjerHashi' and other local authority provide free vaccination. This is widespread and women are largely persuaded to undergo frequent and unexpected pregnancies. The pregnancies cannot be in any way termed as safe as the maternal healthcare issue is mostly overlooked. The nutrition requirements of the childbearing women are often neglected. The ante and post-natal services dedicated to the community are either inadequate or unavailable. The unskilled handling of the delivery instances makes both the mother and the infant vulnerable to reproductive infections.

Yet the most alarming practice is perhaps early marriage leading to risky teenage pregnancies. This results in fatal incidents like miscarriage, high morbidity and short life expectancy. The women are not able to take decision in their family matters because of the traditional patriarchal society.

5.5 Child Rights

Although child rights are important rights of the people but the refugee community does not seem to be aware of the child rights. A number of child rights are directly or indirectly affected by rampant child labour practices. An alarming number of children are engaged in various forms of child labour. They are in the worst forms of child labour e.g. working in welding factories or tanneries etc. They work mostly in small shops and industries within and around the community. Female children usually remain within the community and engages themselves in family activities, small crafts etc. The wages they receive are obviously very little but to them it is still vital.

The existing community environment is not favourable to the children's development. The camps are perhaps the worst places for children to grow within, The camps scarcely have any free space for the children's recreation. They cannot play outside either, as they are not treated properly. Within their homes they do not enjoy the rights of privacy and housing. They share their tiny rooms with family members making the living conditions unhealthy.

It is the liability of the state, according to the our Constitution, to secure the child rights. Article 28(4) of the Constitution reads as under:

“Nothing in this Article shall prevent the state from making special provision in favour of women or children or for the advancement or any backward section of citizens.”

5.6 Discrimination in the Job Market

Though generally no discrimination is made in the job market, isolated incidents of discrimination are not totally out of question. A cook of Geneva camp shared his grief with us: he had set business in the camp Bazaar he does get no work orders from the Bangalee Community unless accompanied by Bengali cooks. Ultimately despite his superior quality, he is compelled to work as an assistant to Bengali cooks and close down his own business.

5.7 Discrimination in the Field of Business

Refugee living in the camps is mostly business oriented. Though they did not complain about any discrimination for being refugees, but their identity crisis undoubtedly puts them into difficulty situation. Refugee businessmen face extortion on a larger magnitude than their Bangalee counterparts. They complain of lack or total absence of credit facilities.

5.8 Refugee Studies Centre

The Refugee Studies Centre (RSC) was established in 1982, as part of the University of Oxford's Department of International Development (Queen Elizabeth House), in order to promote the understanding of the causes and consequences of forced migration and to improve the lives of some of the world's most marginalized people. Its philosophy is to "combine world-class academic

research with a commitment to improving the lives and situations for some of the world's most disadvantaged people.

5.9 World Refugee Day

Main article: World Refugee Day

World Refugee Day occurs on 20 June. The day was created in 2000 by a special United Nations General Assembly Resolution. 20 June had previously been commemorated as African Refugee Day in a number of African countries.

In the United Kingdom World Refugee Day is celebrated as part of Refugee Week. Refugee Week is a nationwide festival designed to promote understanding and to celebrate the cultural contributions of refugees, and features many events such as music, dance and theatre.

In the Roman Catholic Church, the World Day of Migrants and Refugees is celebrated in January each year. It was instituted in 1914 by Pope Pius X.²¹

5.10 Refugee Absorption Solutions

(i) Camps

A refugee camp is a place built by governments or NGOs (such as the International Committee of the Red Cross) to receive refugees. People may stay in these camps, receiving emergency food and medical aid, until it is safe to return to their homes. If it becomes safer they can make use of voluntary repatriation programmes. In some cases, often after several years, other countries decide it will never be safe to return these people, and they are either resettled in "third countries" or, in some cases they may be naturalized by the country they fled to. However, more often than not, refugees are neither resettled nor naturalized. In the meantime, they are at risk for disease, child soldier recruitment, terrorist recruitment, and physical and sexual violence. There are estimated to be 700 refugee camp locations.

²¹ [<https://en.wikipedia.org/wiki/refugee>, last visited date 07 July 2016].

Not all refugees that are supported by the UNHCR live in refugee camps. A significant number, more than half, live in urban settings (see urban), such as the around 60.000 Iraqi refugees in Damascus (Syria), the around 30.000 Sudanese refugees in Cairo (Egypt), or the around 50.000 Somali, Ethiopian and Congolese refugees in Nairobi (Kenya).

(ii) Resettlement

Resettlement involves the assisted movement of refugees who are unable to return home to safe third countries. The UNHCR has traditionally seen resettlement as the least preferable of the "durable solutions" to refugee situations. However, in April 2000 the then UN High Commissioner for Refugees, Sadako Ogata, stated "Resettlement can no longer be seen as the least-preferred durable solution; in many cases it is the only solution for refugees." Politicians in some western countries have shown a preference for Christian refugees over those of other religions.

Resettlement involves a number of difficulties, most of them involving the often extreme cultural transition needed to adapt to life in the country of resettlement. For the many refugees going from rural undeveloped countries to life in urban centers, public transport, education, health care systems, job applications, and even grocery shopping can be difficult to navigate. Language barriers also frequently pose a problem. Even aside from material problems, resettled refugees can struggle with issues of identity and belonging, as societal integration can be very difficult in a completely different culture, and discrimination frequently further inhibits the process.²²

(iii) Right of return

Even in a supposedly "post-conflict" environment, it is not a simple process for refugees to return home. The UN Pinheiro Principles are guided by the idea that people not only have the right to return home, but also the right to the same property. It seeks to return to the pre-conflict status quo and ensure that no one profits from violence. Yet this is a very complex issue and every situation is

²² [www.ibiblio.org/obl/docs/CMP2003-11-07.htm, last visited date 07 July 2016].

different; conflict is a highly transformative force and the pre-war status-quo can never be reestablished completely, even if that were desirable (it may have caused the conflict in the first place). Therefore, the following are of particular importance to the right to return:

- may never have had property (e.g. in Afghanistan);
- cannot access what property they have (Colombia, Guatemala, South Africa and Sudan);
- ownership is unclear as families have expanded or split and division of the land becomes an issue;
- death of owner may leave dependents without clear claim to the land;
- people settled on the land know it is not theirs but have nowhere else to go (as in Colombia, Rwanda and Timor-Leste); and
- have competing claims with others, including the state and its foreign or local business partners (as in Aceh, Angola, Colombia, Liberia and Sudan).²³

(iv) *Right to non-refoulement*

Non-refoulement is the right not to be returned to a place of persecution and is the foundation for international refugee law, as outlined in the 1951 Convention Relating to the Status of Refugees. The right to non-refoulement is distinct from the right to asylum. In order to respect the right to asylum states must not deport genuine refugees. In contrast, the right to non-refoulement allows states to transfer genuine refugees to third party countries with respectable human rights records. The portable procedural model, proposed by political philosopher Andy Lamey, emphasizes the right to non-refoulement by guaranteeing refugees three procedural rights (to a verbal hearing, to legal counsel, and to judicial review of detention decisions) and ensuring those rights in the constitution. This proposal attempts to strike a balance between the interest of national governments and the interests of refugees.²⁴

²³ [www.ibiblio.org/obl/docs/CMP2003-11-07.htm, last visited date 07 July 2016]

²⁴ [www.ibiblio.org/obl/docs/CMP2003-11-07.htm, last visited date 07 July 2016].

Chapter 6

RECOMMENDATIONS AND CONCLUSION

6.1 Recommendations

After all of this study I suggest the following matters to the proper authority:

To The Government of Bangladesh and International Organizations

1. To grant citizenship to refugees who wish to remain in Bangladesh and develop programs to integrate them into the larger community. To assist in securing a resolution of the refugee situation by facilitating an agreement between United Nation Agencies and Bangladesh resulting in citizenship for all in one or both of the countries.
2. To honor the decision of individuals to sign or refuse voter registration. To prepare plans and programs for either of these outcomes for part or all of the population of concern about it.
3. With national, local and international non-governmental organizations, to ensure that each camp has enough basic amenities, including clean water, latrines, and access to schools and medical clinics, to accommodate its population.
4. To develop a strategy to help integrate refugees who wish to live as citizens, respecting their full rights (i.e., to register the birth of their children, pursue an education, own property, serve in the military, and enter the professions).

6.2 Conclusion

Refugee law is the branch of international law which deals with the rights and protection of refugees. There are differences of opinion among international law scholars as to the relationship between refugee law and international human rights law or humanitarian law. The discussion forms part of a larger discussion on fragmentation of international law. While some scholars conceive each branch as a self-contained regime distinct from other branches, others regard the three branches as forming a larger normative system that seeks to protect the rights of all human beings at all time. The proponents of the latter conception view this holistic regime as including norms only applicable to certain situations such as armed conflict and military occupation (IHL) or to certain groups of people including refugees (refugee law), children (the Convention on the Rights of the Child), and prisoners of war (the 1949 Geneva Convention III).

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