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## Political asylum: A universal right of refugees

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### Abstract

The term “refugee” in an ordinary sense means “person who has been forced to leave his country in order to escape war, persecution or natural disorder”. According to ‘Geneva Convention On Refugees, the expression ‘Refugee’, in contrast to a migrant, applied to a person who is outside their home country of citizenship because they have well-founded grounds for fear of persecution because of their race, religion, nationality Syria and Afghanistan in 2014 were the largest source territories of refugees about 120,000 refugees of Tibet have settled in India. The Tibetan diaspora maintains a government in exile in Himachal Pradesh, who coordinates political activities for Tibetans in India. ‘United Nations Convention Relating to the Status of Refugees’ in 1958 has adopted the following term “refugee” (Article 1. A. 2) apply to any person who, “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is ousted the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country. The refugees in India are struggling for their right of asylum. Apex Court, held that refugees could not be discriminated against in any manner pending formal conferment of rights of citizenship. Apex Court directed the Centre and Arunachal Pradesh to finalise the conferment of citizenship rights on eligible **Chakmas** and **Hajongs**. Rehabilitation is an intricate socio-economic issue that invariably assumes political overtones. In ‘**Arunachal Pradesh -Vs- Khudiram Chakma**’ Case, the Supreme Court recognized the right to life of **Chakma** refugees who migrated to Assam from East Pakistan in 1964. Despite resolutions passed by UN and pronouncements of Apex Court, the issue of providing civil rights to refugees is still unresolved.

**Keywords:** Refugee, Asylum, Civil Rights

### Introduction

The heart rendering picture of a Syrian refugee’s three years old son washed ashore at Turkish beach resort, at Bordum published recently in newspaper, magazine and Televisions had drawn the attention of whole world towards tragic story of Syrian refugees. According to United Nations an estimate approximately 220,000 people have died in Syria till Jan 2015. It also aroused a fresh debate on the world wide problem of refugees the world facing and the issue of the rights on humanitarian ground of those who repeatedly over the decades have abandoned their homes, leaving behind their culture and are forced to flee to another foreign country to escape death or physical tortures.

The term “refugee” in an ordinary sense means “person who has been forced to leave their country in order to escape war, persecution or natural disorder”. According to ‘*Geneva Convention On Refugees*, the expression ‘Refugee’, in contrast to a migrant, applied to a person who is outside their home 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, due to such fear, is reluctant to live and/or avail themselves of the protection of that country or unable to return their country owing to fear. Such person may called an “sylum seeker” until considered with the statutes of “refugee” by the country where they formally make a claim for sanctuary or right of asylum.

### II. World’s Scenario

In UN parlance, the definition of term has been elaborated to include descendants of refugees. In the case of two specific groups: ‘Palestinian refugees’ and ‘Sahrawi refugee’. Currently, the UN does not consider refugee status to be hereditary for any other group. Syria and Afghanistan in 2014 were the largest source territories of refugees. As of February 2015,

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Turkey hosts the most refugees of any country, having 1.7 million Syrian refugees; Whilst Lebanon and Jordan have for the largest number of refugees per capita. Pakistan is second hosting 1.6 million Afghan refugees. According to UNHCR, there are 2,00,000 to 5,00,000 Rohingya refugees in Bangladesh and nearly 32,355 of them are registered. In India, about 120,000 refugees of Tibet have been settled today after migrated to India following the abortive 1959 Tibetan uprising. The Tibetan diaspora maintains a government in exile in Himachal Pradesh, who co-ordinates political activities for Tibetans in India. Hundreds of thousands of Sri Lankan Tamil refugees have settled in the states of Tamil Nadu, Kerala, Karnataka, Orissa and Pondicherry after outbreak of Sri Lankan Civil War.

### United Nations Convention on Refugees

'United Nations Convention Relating to the Status of Refugees' in 1958 has adopted the following term "refugee" (Article 1. A. 2) to apply to any person who, "owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is ousted 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."

According to the 'United Nations High Commission for Refugees' (UNHCR) a leading international agency co-ordinating refugees protection, there are 8,400,000 refugees world wide at the beginning of 2006, which was the lowest number after 1980. The major exception is the 4,600,000 Palestinian refugees under the authority of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

### Refugees in India

The refugees in India are also struggling for their rights of asylum. The Supreme Court has recently directed the Central Government and Arunachal Pradesh Government to grant citizenship within three months to *Chakmas* and *Hajong* refugees who migrated to India from Bangladesh during 1964-69 and settled in the state. It is well known that *Chakmas* and *Hajongs* were displaced from the area which became part of East Pakistan (now in Bangladesh) on construction of Kaptal Dam and were allowed to be rehabilitated under the decision of the Government of India. So, they, held Apex Court, could not be discriminated against in any manner pending formal conferment of rights of citizenship.

The Court has passed the order on a petition filed by Committee for Citizenship Rights of the Chakmas (CCRC) alleging that they are still being treated as foreigners despite living for more than 50 years in the State and being deprived the benefits of various Social Welfare Schemes including Public Distribution System. In view of the facts, the Apex Court directed the Centre and Arunachal Pradesh to finalize the conferment of citizenship rights on eligible *Chakmas* and *Hajongs* and also to ensure compliance of directions in judicial decisions for protection of their life and liberty and against their discrimination in any manner. The Court directed to ensure compliance of orders within three months from the date of order.

The issue of rehabilitation of refugees has been repeatedly

raised before Supreme Court from 1970. Rehabilitation is an intricate socio-economic issue that invariably assumes political overtones. Carving out pieces of land for the refugees from the shrinking land bank evokes highly emotional reaction from local residents. It gets further accentuated when the refugees complete for jobs and apply for, the economic benefits.

India has hardly come out of the homo genius task of setting partition refugees that it faced another massive influx from the East Pakistan. The problem was so serious that India was compelled to opt for military intervention. The PM Indira Gandhi explained the situation in Parliament in 1971 and said, "About three-and-half million people have come into from Bangladesh during the last eight weeks.... . They are not refugees in the sense we have understood this word since partition. They are victims of war who have sought refuge from the military terror across our frontiers."

Commenting on the financial burden on the country from, the massive influx of refugees, the PM further said, "on the present estimate, cost to the central exchequer on relief alone may exceed Rs. 180 Corers for a period of six months. All this has imposed an unexpected burden on us." The liberal attitude of Centre and State Government did not last long due resentment of local residents. Agitations erupted in north-eastern states over settlement of refugees, who had in decade readied themselves to compete with the locals, creating social friction and employment insecurities. Such type of financial burden, as narrated by ex-PM, may be enough to break the financial backbone of a developing country. Especially so, when refugee influx becomes massive and unending, as was experienced by Turkey and its neighboring countries. It is one thing to accept refugees temporarily on humanitarian basis but quite another to recognize their rights. The Hon'ble Supreme Court has taken firm stand on this point.

In '*Arunachal Pradesh-Vs-Khudiram Chakma*' [4] Case, the Supreme Court recognized the right to life of Chakma refugees who migrated to Assam from East Pakistan in 1964. In 1966, the Centre has set up a resettlement scheme and rehabilitated them in NEFA, now Arunachal Pradesh. Later, State Government received several complaints about Chakmas encroaching the land and indulging in illegal collection of arms and ammunition in contact with militant groups. The State issued orders to Chakmas to vacate encroached land and move back to their earmarked area. The order was challenged in the Supreme Court. The Supreme Court held that the Chakmas had a right to rehabilitation under Article 21 of Constitution. But it held that it could not scrutinize the government policy providing the procedure for their rehabilitation.

In another case '*Nation Human Rights Commission-Vs-Arunachal Pradesh*' [5], the Apex Court had sternly dealt with the ultimatum given by All Arunachal Pradesh Students Union to the Chakmas to either flee the state or face assassination. The Supreme Court warned against any threat to life of *chakmas* and directed the state that it was the state's duty and obligation to protect "life and liberty" of every human being, be a citizen or otherwise, and it cannot permit anybody or group of persons, like the AAPSU, to threaten *chakmas* to leave the state.

### Conclusion

Despite resolutions passed by UN and pronouncements of

Apex Court, the issue of providing civil rights to refugees is still unresolved. The problem, often caused by socio-political conflicts, should now be taken up serious and a concrete effort should be made to solve the problem which causes concern worldwide.

#### End Notes

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3. [www.wikipedia.org](http://www.wikipedia.org).
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