

INDIA'S REFUGEE REGIME AND RESETTLEMENT POLICY

CHAKMA'S AND THE POLITICS OF NATIONALITY
IN ARUNACHAL PRADESH



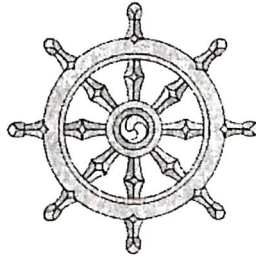
Chunnu Prasad

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(Chakma's and The Politics of Nationality
in Arunachal Pradesh)

Chunnu Prasad





DEDICATED TO:

Master Buddha

and

ALL THE REFUGEES OF THIS UNIVERSE WHO
ARE FIGHTING FOR THEIR SURVIVAL

“Happy indeed we live, friendly amidst the hostile.
Amidst hostile men we dwell free from hatred”

-Dhamapada. 197

“We may have different religions, different languages, different colored skin, but we all belong to one human race. We all share the same basic values”

- Kofi Annan

Contents

<i>Preface</i>	9
<i>Abbreviations</i>	15
1. Introduction	21
2. Refugee Laws and Policies	31
3. India's Refugee Regime and Resettlement Policy	71
4. Exclusion and the Question of Livelihood	99
5. Citizenship An Issue between Two Nations	129
<i>Conclusion</i>	172
<i>Appendices</i>	182
<i>Bibliography</i>	270
<i>Index</i>	305

Preface

India's refugee regime and resettlement policy is not simply a book but a reality of life. Refugees are an integral part of the international system in ways that we do not usually realise in India. The current international refugee regime, embodied in core legal documents such as the *Refugee Convention*, the *Refugee Protocol*, institutions such as the United Nations High Commission for Refugees and the International Organization for Migration, and prominent non-governmental organizations, represents only the most recent manifestation of what, in fact, is a fundamental institution of the international system. Refugees matter because of a substantive change in the nature of the state-citizen relationship and one of the most important concerned to any state system, which saw a mutually constitutive relationship created between states and their citizens in which states guaranteed sets of rights in exchange for legitimacy.

The refugee problem continues to be a major international concern. This study is based on the situation of Chakma refugees in Arunachal Pradesh in particular and northeast in general. It provides some general insights in the on-going debate about the notions of home, trans-nationalism, issue of citizenship and return migration. The thesis examines the factors that influence the decision of refugees in concerning their status and various rights for survival and possibilities of return to their origin. Different sources of data and several methods of data collection have been used. These include participant observation as well as interviews with refugees and certain officials. A central question is, what or where is "home". The notions of home and of exile are continuously negotiated, contested and transformed in the context of ever-changing socio-economic and political conditions in the refugees' country of asylum and their country of origin. The study shows that the decision concerning return migration is not only influenced by socio-economic conditions, but also by human rights violations in both countries, the arrival of new

asylum-seekers, and the hope for resettlement in countries. One of the most significant findings is that whether refugees return to their country of origin or not has little or nothing to do with the initial factors that prompted them to flee.

As we know India has been the home for a large number and different types of refugees throughout the past. India has dealt with the issues of 'refugees' on a bilateral basis. India's 'refugee regime' generally conforms to the international instruments on the subject without, however, giving a formal shape to all practices adopted by in a form of separate statute. The current position in India is that they are dealt with under the existing Indian laws, both general as well as special, which is, applicable to all the foreigners who came to India over a period of time. This is only because there is no separate law and policies to deal with 'refugees'. India does not have on its statute book a specific and separate law to govern refugees. India is also not a signatory to the 1951 convention on refugees and also the 1967 protocol, but a signatory to a number of United Nation and world Conventions on Human Rights, Refugee Issues and other related matters. Generally refugees are allowed freedom concerning their movement, practice of religion and residence. In case of refugees whose entry into India is either legal or is subsequently legalised, there is limited interference by the administration regarding these basic freedom. Those refugees who enter India illegally or over stay beyond permissible limits, have strict restriction theoretically impose upon them in accordance with the statutes governing refugees in India, i.e. the Foreigners Act of 1946, Foreigners Order, Passport Act and etc.

India is home to over 320,000 refugees and various reports say some of the refugee camps in India were well maintained, but others were neglected. Shelter and sanitation facilities were inadequate. Indian authorities gave camp residents cash grants and provided them some items at subsidised rates. The refugees were allowed to work, but restrictions on their movement made it difficult for them to keep their jobs. It says the Indian government keeps the international community at bay regarding refugees on its soil, discourages discussions of refugee issues and bars access to some regions where refugees live and does not permit the UNHCR access to most refugees. Of the more than 323,000 refugees in India, only some 18,500 receive UNHCR protection and even they experience many difficulties. This examines the question as to whether international refugee law is in conflict in any way with Indian legislations or, in the absence of such legislations, with Indian attitude and policy on refugees. India never had a clear policy as to whom to grant refugee status. There is a need

for a change in the law. The model law has not been sufficiently considered by the Union government. For the last so many decades, the NHRC has been requesting the government to provide refugee protection. The argument of terrorism and numbers having been met, there is no reason why the minimal protection against non-refoulement should not be enacted. This can probably be done even through rules.

India's refugee regime is yet to evolve a transparent framework linking rights, laws and policies. It results in great prevarication between policies and practices. Treatment of refugees widely differs in India from state to state and is subject to much pressure from civil society groups. Largely research would be focused on the India's refugee regime, its re-settlement policies, laws, working of civil society and etc.

Largely, research focused on the India's refugee regime, its settlement policies as well as the socio-economic and political conditions of the Chakmas in the region. The genesis of this refugee groups and their treatment has to be looked out. Also, review the shifting ad-hoc and confusing stands of the state machineries through the various laws and policies over time to time. The inadequacies of the national as well as international regime for the protection of the Chakma refugees particularly in Arunachal Pradesh and Northeast India in general would have been examined. The study would like to address a wide range of research questions relating to the refugees of the Indian state of Arunachal Pradesh like; Who is a refugee and what are his or her rights under international law? What are the rights of those asylum seekers who fail to qualify as refugees under the 1951 Convention and the 1967 Protocol? What are the determinants of India's refugee regime in general and Arunachal Pradesh in Particular? How state government and civil society groups dealing with the refugee situations in Arunachal Pradesh? How can refugees be distinguished from economic and other migrants? Can the International community deny protection to those who claim not to receive protection from their country of origin? Are the refugees in India treated well and fair? Moreover, what exactly is the link between India's refugee regime and resettlement policies? In what ways can the rights of refugees be violated in the process of asylum-seeking in host countries? Can repatriation be truly voluntary when the country of origin is unable, or unwilling, to guarantee respect for the civil, political, economic, social and cultural rights of its citizens? India needs to review its ambivalent refugee laws and policies, evolve a regional approach and enact rules or legislation to protect persecuted refugees.

This is one step towards supporting a humanitarian law for those who need it. As a refugee-prone area, South Asia requires India to take the lead to devise a regional policy consistent with the region's needs and the capacity to absorb refugees under conditions of global equity.

Research is largely based on two broad hypotheses firstly; India's refugee regime is yet to evolve a transparent framework linking rights, laws and policies. It results in great prevarication between policies and practices and secondly, the treatment of refugees widely differs in India from state to state and is subject to much pressure from civil society groups.

Every research needs help and support not only from various institutions but also from people who support as a supervisor and contribute directly or indirectly to bring a concrete research based on new findings and interpretations. Considering all this I urged many institutions and individuals to support my research and successfully I got positive response and all type of support in all areas except some difficulties which every researcher generally faces particularly at the time of field work. First of all I take an opportunity to thank *Professor Rakesh Gupta*, Centre for Political Studies Jawaharlal Nehru University, New Delhi, who deserves special thanks for his guidance and help from the very inception to the production of the work. He has taken all the pain with me to suggest many things timely and guided not just like a teacher but as my guardian and rendered his full cooperation to enable me to produce before scholars.

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University and Sussex University, United States of America and all Grade- A officers (APPSC) with whom I had an opportunity to discuss the problem of Chakmas related issues in detail. I should also not forget to thank National Human Rights Commission for providing official documents and courts judgments, United Nation and World Bank, South Asian Human Rights Commission and SNEHA for producing relevant materials time to time related to the Chakmas and their problems. I personally, thanks to Council for the Development of Social Science Research in Africa (CODESRA) and The South-South Exchange Programme for Research on the History of Development (SEPHIS) for giving me an opportunity to visit African countries like Ethiopia and Senegal to participate in a workshop on social history where I received lots of suggestions to improve my work.

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Apart from this I personally remain indebted to my family members and very close friends for their consistent encouragement and support who have been a great source of inspiration and assistance.

CHUNNU PRASAD

Abbreviation

AAPSU	:	All Arunachal Pradesh Student Union
AASU	:	All Assam Student Union
AC	:	Arunachal Congress
ADC	:	Additional Deputy Commissioner
ADC	:	Autonomous District Council
ADSU	:	All Adi Student Union
AERO	:	Assistant Electoral Registration Officers
AL	:	Awami League
AMSU	:	Arunachal Mismi Student Union
ANSU	:	All Nishi Student Union
AP	:	Arunachal Pradesh
APCC	:	Arunachal Pradesh Congress Committee
APCSU	:	Arunachal Pradesh Chakma Students Union
APSCW	:	Arunachal Pradesh State Commission for Women
BJP	:	Baharatiya Janata Party
BLW	:	Bangladesh Liberation War
BPL	:	Below Poverty Line
CBSE	:	Central Board of Secondary Education
CCRCAP	:	Committee for Citizenship Rights of the Chakmas of Arunachal Pradesh

CESCR	: Covenant on Economics, Social and Cultural Rights
CHR	: Commission on Human Rights
CHT	: Chittagong Hill Tract
CHTSP	: Chittagong Hill Tracts Solidarity Party
CI	: Circle Inspector
CM	: Chief Minister
CO	: Circle Officer
CRF	: Central Relief Fund
CRRF	: Central Relief and Rehabilitation Fund
CSPE	: Civil, Social and Political Education
DC	: Deputy Commissioner
DHC	: Deputy High Commissioner
EA	: Excluded Area
EAC	: Extra Assistant Commissioner
EC	: Election Commissioner
ECI	: Election Commission of India
EGS	: Employment Grantee Scheme
EL	: Electoral Law
EO	: European Office
EPG	: Eminent Persons Group
ERO	: Electoral Registration Officers
ESCAP	: Economic and Social Commission for Asia and the Pacific
ESCR	: Economic, Social and Cultural Rights
FRRO	: Foreigners Regional Registration Office
FSP	: Federal State Party
GIA	: Government of Indian Act
GoI	: Government of India

HRD	: Human Resource Development
HRL	: Human Rights Law
HSZ	: High Security Zone
IAS	: Indian Administrative Services
IC	: Identity Card
ICA	: Indian Citizenship Act
ICJ	: International Court of Justice
ICRC	: International Committee of Red Cross
IDP	: Internally Displaced People
IHL	: International Humanitarian Law
IHRL	: International Human Rights Law
ILO	: International Labour Organization
ILP	: Inner Line Permit
ILRA	: Inner Line Regulation Act
IMC	: International Magna Carta
INR	: Indian Rupee
IRL	: India Rule of Law
IRO	: International Refugee Organization
JUMNAPA	: Jumma People's Network of Asia Pacific Australia
LoC	: Line of Control
LTTE	: Liberation of Tamil Tiger Eelam
MFA	: Ministry of Foreign Affairs
MHA	: Ministry of Home Affairs
MLA	: Member of Legislative Assemblies
MoU	: Memorandum of Understanding
MP	: Member of Parliament
MSU	: Mizo Student Union
NCCHT	: National Committee on Chittagong Hill Tract

NEFA	: North East Frontier Agency
NGO's	: Non Government Organizations
NHPCL	: National Hydroelectric Power Corporation Limited
NHRC	: National Human Right Commission
NRRP	: National Relief and Rehabilitation Policy
OAUC	: Organization for African Unity Convention
OHC	: Office of the High Commissioner
PBD	: Pravasi Bhartiya Diwas
PCJSS	: Parbattya Chattagram Jana Sanghati Samity
PDS	: Public Distribution System
PHC	: Primary Health Centre
PIL	: Public Interest Litigation
PIO	: Persons of Indian Origin
PO	: Political Officer
PRC	: Permanent Residence Certificate
PTA	: Parent Teacher Association
PUCL	: Peoples Union for Civil Liberties
RIL	: Relevant Indian Legislation
RP	: Residential Permit
SAARC	: South Asian Association for Regional Cooperation
SAHRC	: South Asian Human Right Commission
SAHRDC	: South Asia Human Rights Documentation Centre
SC	: Supreme Court
SDO	: Sub Divisional Officer
SLIC	: Socio-Legal Information Centre
SSA	: Sarva Siksha Abhiyan
ST's	: Scheduled Tribes
TAWS	: Tapun Area Welfare Society

UDHR	: Universal Declaration of Human Rights
UHM	: Union Home Ministry
UK	: United Kingdom
UN	: United Nation
UNDP	: United Nation Development Programme
UNHRC	: United Nation Human Rights Commission for Refugees
UNR	: United Nations Relief
UNRC	: United Nation Refugees Convention
UNRRA	: United Nations Relief and Rehabilitation Administration
UNRWA	: United Nations Relief and Works Agency
UPA	: United Progressive Alliance
USA	: United States of America
WGIP	: Working Groups on Indigenous Populations
WRD	: World Refugee Day
ZPM	: Zila Parishad Member

Introduction

The problem of refugees is among the most complicated issues before the world community. Much discussion is taking place at the United Nations (UN) as it continues to search for more effective ways to protect and assist these particularly vulnerable groups. While some call for increased levels of cooperation and coordination among relief agencies, others point to gaps in international legislation and appeal for further standard setting in this area. Everyone, however, agrees that the problem is both multidimensional and global. Any approach or solution would therefore have to be comprehensive and to address all aspects of the issue, from the causes of mass exodus to the elaboration of responses necessary to cover the range of refugee situations from emergencies to repatriation. In this debate, some facts remain beyond dispute.

The first is that while some mass displacements may be preventable, none is voluntary. No one likes or chooses to be a refugee. Being a refugee means more than being an alien. It means living in exile and depending on others for such basic needs as food, clothing and shelter. Information on the number of the world's refugees, their geographical distribution, and the causes of their exodus is generally available. The refugee problem has undergone drastic quantitative and qualitative changes in the past five decades. Since its creation, the UN has worked to protect refugees around the world¹. It is surprisingly true that the international refugee regime has not been given greater prominence in international relations².

There is a fundamental contradiction between the principles of sovereignty and human rights, but argued that this conspiracy is mitigated by the practice of granting rights of asylum to foreign political refugees? Refugees actually buttressed a territoriality based conception of sovereignty because states could allow unwanted

populations to flee without taking more extreme actions, and the international community could assist refugees without direct intervention. Refugees were, in essence, a necessary relief regulator for the system of sovereign states. Refugee regime represents a salient case for exploring the role of interconnections between issue-areas as an independent variable in cooperation. The absence of a binding normative framework on burden-sharing, and the fact that states have few interests in contributing to burden-sharing for its own sake, mean that the prospects for international cooperation have been determined largely by the ability of United Nations High Commissioner for Refugees (UNHCR) to use linkages to connect refugee protection to states' interests in issue-areas outside the immediate scope of the regime.

In 1951, the year in which the office of the UNHCR was established, there were estimated one million refugees within UNHCR's mandate. In 2005 the total number of persons of concerned office of the UNHCR rose by 8 per cent to 20.8 million from 19.2 million in 2004, an additional 2.5 million refugees cared for by the United Nations Relief (UNR) and Works Agency for Palestine refugees in the Near East and more than 25 million Internally Displaced Persons (IDP). In 1951, most of the refugees were European³. The majority of today's refugees are from Africa and Asia. Current refugee movements, unlike those of the past, increasingly take the form of mass exoduses rather than individual flights. Eighty percent of today's refugees are women and children. The causes of exodus have also multiplied and now include natural or ecological disasters and extreme poverty. As a result, many of today's refugees do not fit into the definition contained in the Convention relating to the Status of Refugees. This refers to victims of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion. The UN system has also been very concerned by the rise in the number of mass internal displacements in recent years. The '*internally displaced*' are persons who are forced to flee their homes but remain within the territory of their own country. Since they remain inside their own countries, these persons are excluded from the present system of refugee protection⁴. In India the total IDP is about 600,000⁵ looking for a durable solution.

Millions of people crossed over from one country to another when India got partitioned into two viz., India and Pakistan. These have been recorded as the largest mass migration in history. Roughly seven million people each; Hindus, Sikhs and Muslims in Punjab and Bengal. The burning towns and villages, blood-soaked trains, the dead and dying in huge foot convoys, 40,000-50,000 strong, with desperation

and fear as constant companions⁶. On the issue of their rehabilitation and development India's first prime minister Pt. Jawaharlal Nehru stated in the parliament that, *"You will notice that we call it the 'Rehabilitation and Development board', meaning thereby that we are combining the two functions or rather, looking at the two problems-rehabilitation and development together"*⁷.

On the other hand the Minister for Relief and Rehabilitation, A.P. Jain put it like these, *"I consider rehabilitation to be a psychological question, and a person who feels that he is living well, that he can educate his children that he is a citizen of India like any other person, well, I treat him as rehabilitated. Unfortunately, no psychologist has yet been able to measure psychological rehabilitation"*⁸.

Further, K.C. Neogy, another minister for relief and rehabilitation, of the Government of India drew the attention towards the problem of planning and development by saying that, *"we may have to be grateful to the refugees for having drawn our attention to the urgency of the problem of planning and development of this country, and perhaps future generations will acknowledge their gratitude to the so-called refugees for having punished the man power which is necessary for the purpose of developing the resources of the country as a whole"*⁹.

Whatever the case may be, the relief and rehabilitation were the first major administrative challenges of independent India. It would test its capacity to cope with disaster, formulate policy with regard to migrants and refugees, provide itself as a humane, welfare oriented government organised relief on a massive scale, and at the same time engaged in rebuilding the nation's economic, social and political life¹⁰.

Nationally, a number of bills were introduced in the parliament to cover practically every aspect of refugee rehabilitation and resettlement. The evacuee property act in 1947; the finance administration bill dealing with loans to small business and urban refugees, was introduced in February 1948; the displacement persons (institution of Suits bill) in August 1948; the resettlement of displaced persons (land acquisition) bill in September 1948; the influx from Pakistan (control) bill April 1949; the administration of evacuee property bill and displaced persons (claim) act in August 1950; the interim compensation scheme in 1953; and finally, the displaced persons (compensation and rehabilitation act) in 1954. These acts were largely made to resettle the refugees who migrated to India just after partition or before the commencement of the Indian constitution in 1950. No doubt many refugees other than Muslims who came to India

before 1950 got the Indian citizenship status but the second influx of those refugees who come to India after 1950 but before 1971 are still fighting for their status and basic human rights¹¹.

India has played the role of big brother with its neighbouring open border South Asian countries which is a refugee-prone region. India discovered this while absorbing the Tibetan Refugees in 1959, the Bangladeshi refugees in 1971, the Chakma influx in 1963, the Tamil influx from Sri Lanka in 1983, 1989 and again in 1995, the Afghan refugees 1980s, the Myanmar refugees for a similar period migration and refugee movements from Bangladesh over the years. India's ambivalence towards the UNHCR is characterised by its act of indirectly seeking its assistance through the Red Cross in the 1960s, and later allowing the UNHCR to determine the refugee status of those from beyond South Asia, asking the UNHCR to assist in verifying the volunteers for repatriation of the Tamils to Sri Lanka, and permitting an office in Delhi through the United Nation Development Programme (UNDP).

In 1995, India, following Pakistan's example, joined the Executive of the UNHCR. Though welcome, this halfway house seems odd since India refuses to sign the 1951 Convention. Meanwhile, a series of judgments by the Supreme Court and the Gujarat, Punjab, Gauhati and Tamil Nadu High Courts has reinforced the need for a humane due process for the Chakmas, Sri Lankan and other refugees. Some of the judgments expressly recognise the value and worth of the UNHCR and invite it to involve itself more in the refugee questions in India. Unfortunately, this pro-refugee jurisprudence sits uneasily with the normal law relating to foreigners, which grants the government near-arbitrary powers of deportation. Following the Law Commission's 175th Report of 2000, the law was made stricter to treat '*illegal entrants*' harshly, irrespective of the cruel circumstances that may occasion their migration. India blows hot and cold when dealing with the UNHCR, making policy statements at its UNHCR meetings in Geneva and negating either joining the Convention or changing its law to provide reliable legal entitlements to refugees in India¹².

By contrast, Article 17 of the Additional Terrorism Protocol of the South Asian Association for Regional Cooperation (SAARC) of January 2004 permits SAARC nations not to extradite and, perforce, to protect those being prosecuted or punished on account of their race, religion, nationality, ethnic origin or political opinion. This stand is mystifying. Thus, in South Asia, India agreed to the SAARC protocol in 2004. Globally, India steadfastly refuses to join the Convention of

1951 even though it is on the Executive Committee of the UNHCR without being a signatory to the Convention under which the Committee is constituted. Indeed, from 1997, its envoys to the UNHCR have been pleading for a more equitable global regime to participate in a discourse that India does not carry any further.

One needs to examine what India's doubts about protecting refugees are all about. The *Cold War* reasons for not having a global refugee policy have gone cold. Refugees are a global problem. The latest UNHCR statistics show that in 2003, there were 20.55 million displaced persons of international concern, including 10.34 million refugees. Refugees are being created all the time no less due to America's Afghanistan and Iraq wars. But even otherwise, this is a problem that permanently haunts Africa and South Asia. Europe and Australia want to tighten their immigration walls with all kinds of sophisticated arguments to deal with refugees on a regional, rather than a global, basis. India, instead of leading the debate, is being evasive.

So far humanitarian definition is concerned on refugees it is said that, a refugee is someone who has fled his country because he has a well-founded fear of persecution if he remains. The major obligation of refugee protection is the principle of non-refoulement, which ensures that a person is not returned to a life-threatening situation. For India to evade such a principle appears subversive of its constitutional principles unless there are weighty reasons for doing so. New Delhi's reasons for resisting refugee protection are paradoxical. On the one hand, its track record in dealing with the Tibetan, the Sri Lankan and the Chakma crises has been exemplary. Its hesitation to provide an intelligible and comprehensive protection to refugees seems to stem from two major considerations, which are artificial ghosts in the machine.

If India wants to play a role in global affairs and make SAARC a success, it must act as a global player entitled to its just seat in the Security Council of the UN. But it cannot do so as long it pursues narrow policies. The South Asia Region deserves better treatment. For strategic reasons, India was surprisingly quiet when virtually one-sixth of Bhutan's population was forced to leave the country for camps in Nepal. In 2003, Nepal and Bhutan entered into a kind of agreement whereby Bhutan agreed to take back about three to five percent of its citizens of Nepali origin whilst offering illusory promises to some of the rest.

India's refugee regime needs a strong change in its law. The model

law has not been sufficiently considered by the Union Government. For the last five years, the National Human Rights Commission (NHRC) has been requesting the Government to provide refugee protection. The argument of terrorism and numbers having been met, there is no reason why the minimal protection against non-refoulement should not be enacted. This can probably be done even through rules. But the argument is not just over the Sri Lankan refugees, the Bangladeshis, the Afghans, the Bhutanese or the Myanmarese. It is whether India wants its voice on the world's most persecuted to be heard so as to mould future policy. If India is waiting for a cue from its neighbour, China has joined the convention and enacted refugee protection legislation. African countries have got together to devise both national and regional solutions. India needs to review its ambivalent refugee law policy, evolve a regional approach and enact rules or legislation to protect persecuted refugees. This is one step towards supporting a humanitarian law for those who need it. As a refugee-prone area, South Asia requires India to take the lead to devise a regional policy consistent with the region's needs and the capacity to absorb refugees under conditions of global equity.

The various reports say that some of the refugee camps in India were well maintained, but others were neglected. Shelter and sanitation facilities were inadequate. Indian authorities gave camp residents cash grants and provided them some items at subsidized rates. The refugees were allowed to work, but restrictions on their movement made it difficult for them to keep their jobs. It says the Indian government keeps the international community at bay regarding refugees on its soil, discourages discussions of refugee issues and bars access to some regions where refugees live. It does not permit the UNHCR access to most refugees.

The Indian Government deals refugees with at both political and administrative level which is largely applicable to the aliens. In the case of refugees' protection, the constitution of India guarantees certain fundamental rights, which are applicable to non-citizen, namely the right to equality (Article 14), the right to life and personal liberty (Article 21) and the freedom to practice and propagate their own religion (Article 25). Any violation of these rights can be remedied through recourse to the judiciary as the Indian Supreme Court has held that refugees or asylum seeker can not be discriminated against because of their non-citizen status.

India refugee's policy is further governed by certain administrative regulations. The standard of humane treatment set

by these administrative regulations flowed from the ethos that persons displaced from their home need both protection and economic sustenance. The administrative experience of the ministry/department of rehabilitation and the laws adjudicated at the time of Partition contributed towards a refugee policy for India. India's refugees are registered under the 1939 Registration act, which is applicable to all foreigners entering in India. Under the 1946 Foreigners Acts, the Government is empowered to regulate the entry, presence and departure of aliens in India, though the word 'alien' itself is nowhere defined. Entry is also governed by the Passport Act 1967. Entry can be restricted if a person does not have a valid passport or visa, though the government can exempt person when it so desires. These procedures are linked at this stage to individuals who enter India without a valid visa or any other document. Though it is related to illegal migrants, the exemption provision is applicable to refugees. Under these circumstances, refugees become an administrative to oversee the relief and rehabilitation process rather than to supervise who stays or does not stay.

As mentioned, the government of India alone determine refugee status and has no specific legislation to deal with refugees. Despite this lacuna India does apply in practice certain articles of the 1951 Convention. This includes:

Article 7. India provides refugees the same treatment as all aliens,

Article 3. India fully applies a policy of non-discrimination,

Article 3A. No penalty is imposed on illegal entry,

Article 4. Religious freedom is guaranteed,

Article 16. Free access to courts is provided,

Articles 17 and 18. It provide wage-earning rights and as work permits have no meaning and refugees do work, this article is complied with,

Article 21. Freedom of housing allowed and refugees need stay in camps. Freedom of movement as guaranteed to aliens except in certain areas where special permits are required not only for aliens but also all Indians.

Article 27 and 28. the issuing of identity and travel cards.

India is not a party to the 1951 United Nation Refugees Convention (UNRC) or it's Protocol and domestic laws have not been found to be in

conflict with international laws. It followed a program of humane treatment of different refugees, with respect to refugee's rights; there is still an absence of assistance and opportunities. To protect the refugees by means of the activists' approach has its own limitations.

Brief History of Arunachal Pradesh

When the Constitution of India came into force in 1950, another change was effected in the administrative set up. The Government of Assam was relieved of its responsibility of looking after administration of the 'Excluded Areas'. However, the discretionary power was vested in the Governor of Assam, who served as the agent of the President of the Republic of India. In 1954, all these tracts formed into the North East Frontier Agency (NEFA). On the enactment of North Eastern Area (Reorganization) Act 1971, NEFA was made Union Territory of Arunachal Pradesh on 21st January 1972. On 20th February 1987, Arunachal Pradesh was made a full fledged state within the Indian Union.

The Scheduled District Act 1874

This area was declared as '*Scheduled District*' under the provisions of the Scheduled Districts Act, 1874. The Governor-General In-Council had power to make laws for these territories.

The North-Eastern Areas (Re-organisation) Act and Central Act 81 of 1971

The Governor of Assam who until then administered the area as the agent of the president under Para 18 of the Sixth Schedule ceased to function as such with effect from 21st January, 1972, the date when this Act came into force. The 'Tribal Areas' which formed this Territory was granted the status of a Union Territory from 21st August, 1972.

On 15th August, 1975 the provisions of the Government of Union Territories Act 1973 made applicable and the existing 'Pradesh Council' was constituted as the Union Territories Legislature. The first general election was held on February 1978 and the Chief Commissioner of the territory came to be known as '*Lt Governor*' in 20th February, 1987 this area become a full fledged state under the provisions of the state of Arunachal Pradesh Act, 1986 compassing the territories which immediately before that day were comprised in the existing Union Territory of Arunachal Pradesh. Keeping in view the sensitivity of the area, the ILP was introduced to restrict the entry of outsiders in the area and it continues to be in force even now. The employees of the State Government, Central Government, Public Enterprises, Business

Communities and Working Labourers who are all Indian citizens, by virtue of their service within the state have been given the ILP and have to leave the area when the contractual work is over, in view of the fact that they cannot reside or settle as per the laws applicable to the area, principles for Administering Tribal Areas¹³.

Arunachal Pradesh, the youngest (21st) State of the Union of India which has been the most peaceful state in the northeastern region of India. Much credit for it goes to Jawaharlal Nehru, the first Prime Minister of India who spelt out '*Panchasheela*'- five fundamental principles for administration of tribal areas.

1. People should develop along the line of their genius and we should avoid imposing anything on them.
2. Tribal rights on land and forest should be respected.
3. We should try to train and build up a team of their own people to do the work of administration and developments.
4. We should not over-administer these areas or overwhelm them with multiplicity of schemes; we should rather work through and not as rivals to their own social and cultural institutions.
5. We should judge not by statistics or the amount of money spent but by the quality of human character that is evolved.

The above principles have been underlined as the policy of the Government in the various developmental activities in the tribal areas¹⁴.

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12. See Law Commission's 175th Report of 2000.
13. White paper on Chakma-Hajong, issued by the Government of Arunachal Pradesh, Itanagar, 12 March 1996.
14. *Ibid.*