

## **Tension Between States and Humanitarian Efforts\***

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In the modern world, "there are few human dramas more compelling, or more revealing of the troubled times in which we live in, than the plight of millions of refugees around the globe".<sup>1</sup>

In total, about 50 million people around the world are victims of forced displacement from their countries of origin or nationality or habitual residence and out of these 50 million people about 22 million are the concern of humanitarian efforts by the UNHCR and of these 22 million people, "refugees" in the conventional sense form 58% (about 13 million people), "internally displaced people" 21%, "returnees" 15% and others including "asylum seekers", "economic migrants" etc., 6%. In addition, according to the United Nations figures, there are about 30 million people around the world who have been forcibly displaced and who remain, whether by necessity or their own choice, within their country of origin. UNHCR looks after 5 million of them.<sup>2</sup>

Humanitarian efforts are necessarily confined to protection of the rights of the refugees when they enter into the territory of a state until they can be safely returned to their home state or otherwise rehabilitated, to taking steps for creating conditions in their home state for their safe return or for otherwise rehabilitating them, and, lastly, to removal of the causes behind forced migration.

All these aspects of the efforts are "of an entirely non-political character" and "humanitarian and social".<sup>3</sup>

The impact of tension generated between the state from which and the state to which movement of population takes place is, however, enormously obstructive to the process of bringing succour to the displaced.

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<sup>1</sup> Senator Edward Kennedy, *Introduction in U.S. Committee for Refugees*. World Refugee Survey, New York, 1980, p. 5.

<sup>2</sup> *The State of the World's Refugees, 1997-1998*, UNHCR, Oxford University Press. P. 2.

<sup>3</sup> Statute of the Office of the United Nations High Commissioner for Refugees. Chapter 1, para 2.

According to the Convention Relating to the Status of Refugees, 1951, hereinafter called the Convention, a state-party to the Convention must guarantee certain rights to persons entering into it as refugees as defined in Article 1 thereof read with Article 1 of the Protocol Relating to the Status of Refugees, 1967, hereinafter called the Protocol. States, not parties to the Convention, are not bound by its provisions but, nonetheless, they can also follow its principles.

The Statute of the Office of the United Nations High Commissioner for Refugees, 1950, hereinafter called the Statute, creating the office of the UNHCR vests the UNHCR with certain specific functions for "providing international protection, under the auspices of the United Nations, to refugees who fall within the scope of the present Statute and of seeking permanent solutions for the problems of refugees by assisting governments and subject to the approval of governments concerned, private organizations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities."<sup>4</sup>

The Statute does not provide any machinery to the UNHCR to enforce its decisions. It may, however, be assumed that all the members of the United Nations will allow the UNHCR to function within their territories in view of their obligation arising from Article 2(2) of the U.N. Charter. The other compelling factors may be pressure from the international community and practice having gained the status of international convention and custom.

The functions of the UNHCR and other humanitarian agencies become easy, if the states concerned can establish relationship of cordiality.

The situation would be reverse if the relationship between the states concerned remains tense. Several consequences that flow from such relationship make the tasks of the UNHCR and other humanitarian organizations very difficult, if not entirely impossible. The consequences arising out of tense relationship between the states concerned may be summarized in the context of the Indian Sub-continent as follows.

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<sup>4</sup> Supra note 3.

From 1947, the year in which British India was divided into two states, India and Pakistan, to 1971 in which Bangladesh was born, mainly the members of the minority communities, the Hindus and the Sikhs or the Muslims, as the case might be, were victims of forced displacement and invariably these displaced persons took refuge in India, if they were Hindu or Sikh minorities of Pakistan and in Pakistan, if they were Muslim minority of India. In view of the tense situation prevailing between these two states, no step was taken by either of them for return of the refugees to their respective home state, as enjoined by the Convention. Instead, the forced influx of refugees from one of these states to the other was always followed by forced influx of refugees the other way round as a retaliatory measure. So each and every instance of forced displacement by one having been invariably retaliated by forced displacement by the other resulted in aggravation, instead of mitigation, of the refugee problem in the Indian Sub-continent rendering any humanitarian efforts in terms of the letter and spirit of the Convention nugatory.

If the relationship between the states concerned is other than cordial, the receiving state is apt to encourage the displaced persons from the other state to indulge in insurgent activities inside that state in order to destabilize the Government therein. In such case, the receiving state acts as the base and supply depot of the insurgents. The case of the Afghan refugees in Pakistan before the Taliban regime and the case of the Bangladesh tribal refugees in India before assumption of office by the present Government in Bangladesh are instances in point. In such circumstances, the task of the humanitarian organizations even in providing aid to the refugees becomes not only difficult but hazardous. In recent times, the massacre of U.N., NGO and Red Cross personnel, engaged in relief operations in Burundi, Chechnya and Rwanda, cannot be overlooked. Employees of humanitarian relief organizations are exposed to much greater psychological stress and physical danger in areas of tension than in tension-free areas.

It has been observed in a number of cases that prevalence of tension between the host state and the state from where migration of refugees has taken place often stands in the way of their peaceful return and