

and property of the civilians by international organizations. They must admit those actions as of neutral character. The establishment of a Safety Zone is a form of a humanitarian measure by the UN. The action will not violate the sovereignty of the state concerned. It will not affect or threaten the territorial integrity of the State.

- (2) Whether neutral bodies like international organizations should be entrusted with the responsibility for the management of the Safety Zone.

The Safety Zone should be placed under the supervision of the UN as it is established by the decision of the Security Council. The Security Council should designate an international organization to manage the Safety Zone. The designated international organization like UNHCR or ICRC should be responsible for the supply of the shelter, food, medical care and other essential basic civic amenities for the internally displaced persons. It will cooperate with other international organizations like FAO, WFP, WHO, UNICEF etc and Member States for the implementation of its work.

The Safety Zone is desirable to be protected by Security Forces to keep off armed attacks by the conflicting parties. The arrangement must be done by the Security Council.

### (3) The Status of the Safety Zone

The Safety Zone should be an integral part of the country. However due to armed conflicts, actual administrative power of the state is restricted and must be supplemented by the management of a designated international organization.

The area surrounding a Safety Zone should be demilitarized. The armed forces of both conflicting parties should be withdrawn from the area so that the Safety Zone should be immune from hostile activities.

## **Proposed Legal Framework for the Establishment of a Safety Zone for Displaced Persons in their Country of Origin**

### **1. The aim of establishing a Safety Zone**

- (1) to protect the life and property of displaced persons in their country of origin from consequences of armed conflicts, by placing them under a U.N. protection area.
- (2) to prevent the exodus of refugees to neighbouring countries.
- (3) to realise the principle of "burden sharing" in the assistance of displaced persons.

- (4) to develop the idea of the Geneva Conventions for the Protection of War Victims (1949) and the Protocol (1977).

### **2. Conditions**

- (1) The Safety Zone shall be established when a considerable number of displaced persons arises as a result of armed conflicts or civil wars, and their life and property are threatened as the consequences.
- (2) The Safety Zone shall be established by the decision of the Security Council of the United Nations with the consent of the Government concerned and of the parties to the conflicts.
- (3) An agreement should be signed between the U.N. and the Government concerned or among the U.N. and conflicting parties, in case of the lack of unified government, to secure a specified geographical area for the Safety Zone.
- (4) The area should be demilitarized and be immune from hostile activities. The armed forces of the state and the conflicting parties should be withdrawn from the area.
- (5) The establishment of the Safety Zone should not violate the sovereignty of the state concerned. It should not threaten the territorial integrity of the State.

### **3. The supervision and the management**

- (1) The Safety Zone should be placed under the supervision of the U.N.
- (2) The Security Council will designate an international organization to manage the Safety Zone.
- (3) A UN-designated international organization should be responsible for the supply of the shelter, food, medical care and other essential basic civic amenities for the displaced persons. It will cooperate with other international organizations and member states for the implementation of its work.
- (4) The U.N. may provide multinational security forces, if necessary and practicable, for the protection of the displaced persons in the Safety Zone.
- (5) The cost of the maintenance of the Safety Zone should be met by voluntary contribution of:
  - (a) the Member States of the U.N.

(b) the U.N. Agencies

(c) the Inter-governmental and Non-governmental Organizations.

**4. Duties of the Government and the conflicting parties concerned**

- (1) The Government of the State and the conflicting parties should have duties to cooperate with the international organizations to establish and to manage the Safety Zone.
- (2) The life and property of the displaced persons should be guaranteed and be strictly protected by the Government and of the conflicting parties concerned.

**5. Rights and Duties of the Displaced Persons**

- (1) The rights of the displaced persons for receiving fair and just treatments by the officials who supervise and manage the Safety Zone should be respected.
- (2) The rights and duties of the displaced persons in the Safety Zone should, as practicable as possible, be in accordance with those which are applied to the nationals in the state.

**6. Protection of the officials of the International Organizations**

The Safety and Security of the officials of the International Organizations engaged in supervising and managing the Safety Zone should be guaranteed by both the Government of the State and the conflicting parties.

**7. Closure of the Safety Zone**

The establishment of a Safety Zone should be of temporary nature and should be closed down by the decision of the Security Council. In the case of the closure all the displaced persons should be returned safely to their permanent places of residence.

**Some Examples of the Establishment of a "Safety Zone" by the UN in the armed conflicts**

Country	Year	Name of the protected zone	Location	Management	Strength of military forces involved	Remarks
Cambodia	1992	UN Protected Area	West of the country	UN Transitional Authority in Cambodia	22,000	To promote repatriation and resettlement of refugees and displaced persons
Bosnia & Herzegovina	1992	Safe Area	Sarajevo, Serbrenica and other four cities	UN Protection Force NATO Forces also involved	24,000	To protect Safe Areas and Activities of the UNHCR
Rwanda	1994	Protected Zone	South-West of the country	France afterward UN	1,400 6,000	To accommodate mainly displaced persons who lost the government protection

**AALCC's principles which were presented at the Nairobi Session in 1989**

- (i) The Safety Zone shall be established with the consent of the state of origin, through a resolution or recommendation of the United Nations;
- (ii) The Safety Zone should be akin to demilitarized zone or a neutral zone immune from hostile activities and a specified geographical area could be demarcated as such by a government notification;
- (iii) The Zone should be under international supervision, control and management to provide among others international protection to the persons residing therein;
- (iv) The United Nations may designate and authorise an international organization or agency for administration and supervision of the Safety Zone;
- (v) The State of origin and the neighbouring state which might receive the mass exodus could also be associated with the designated international organization or agencies in the supervision of the Safety Zone;
- (vi) The designated international organization or agency shall be responsible for co-ordination and supervision of supply and distribution of food and other essential items and ensure facilities like drinking water, civic amenities and medical care. The cost of operations can be met through voluntary contributions by states, governmental and non-governmental humanitarian organizations;
- (vii) The armed forces of the state of origin should withdraw from the Safety Zone and the status of the zone should be respected by civilian as well as military machinery of the State of origin;
- (viii) The authority in control of the Safety Zone shall provide international assistance/protection to the individuals therein seeking asylum;
- (ix) The United Nations may provide a multinational security force for the purpose of maintaining law and order within Safety Zone.
- (x) Persons seeking asylum in the Safety Zone shall be disarmed and will not be permitted to participate in any military activity or guerilla warfare against any State. Similarly asylum seekers shall not be a military target for any state;

- (xi) The individuals residing in the Safety Zone shall be provided with the facility to seek and enjoy asylum in any other country;
- (xii) If normalization is restored in the state of origin and the international organization or agency in charge of the Safety Zone is satisfied that the conditions are favourable and conducive to return, the persons residing in such zones shall be provided with all facilities to return to their permanent place of residence.
- (xiii) The Safety Zone thus established shall be of temporary nature.

**SUMMARY RECORD OF THE SEMINAR ON THE  
"ESTABLISHMENT OF A SAFETY ZONE FOR DISPLACED  
PERSONS IN THEIR COUNTRY OF ORIGIN" HELD IN NEW  
DELHI ON 23rd SEPTEMBER, 1994**

The Secretariat of the Asian-African Legal Consultative Committee in collaboration with the office of the United Nations High Commissioner for Refugees (UNHCR) organized a seminar on the Establishment of a Safety Zone for Displaced Persons in their country of origin, in New Delhi on the 23rd of September 1994. The seminar chaired by Mr. Chusei Yamada, the President of the AALCC, had for its objective the discussion of the legal guidelines for the establishment of safety zones for the internally displaced by armed conflict or internal disturbances. The seminar was informal in nature, wherein all the participants spoke in their individual capacities, and no formal conclusions or resolutions were adopted. First the panelists gave their presentations followed by General Discussions.

The seminar was attended by participants from 27 member States of the AALCC, viz Arab Republic of Egypt, China, Cyprus, Ghana, India, Indonesia, Islamic Republic of Iran, Iraq, Japan, Kenya, Republic of Korea, Myanmar, Mongolia, Nepal, Nigeria, Oman, Philippines, Qatar, Saudi Arabia, Sri Lanka, Sudan, Syria, Tanzania, Thailand, Turkey, Uganda and Republic of Yemen. In addition, Mr. B. Sen the former Secretary-General of the AALCC, and the officials of the United Nations High Commissioner for Refugee, International Committee of the Red Cross, were also present. Some eminent professors of the Jawaharlal Nehru University and the Delhi University also participated in the seminar.

In his welcome address the Secretary-General of the AALCC Mr. Tang Chengyuan observed *inter alia* that in view of the number of armed conflicts, which the world has unfortunately experienced in the recent years, the problem of refugees and internally displaced persons has assumed serious dimensions. Establishment of Safety Zones has been initiated and used as a temporary and partial solution to tackle this problem. However, such a move involves complex legal and political considerations. He stated that the main purpose of organizing the Seminar was to discuss legal issues related to the Safety Zone in an informal manner.

Mr. Chusei Yamada in his address stated that the reason behind the proposal for the establishment of a Safety Zone was that it would be easier and more effective to protect displaced persons in their country

rather than outside. Though the proposal entails many difficult problems, it was indeed a farsighted proposal while considering the events which followed. The concept of a Safety Zone originally referred to by the Government of Thailand has relevance not only to alleviating the burden of the refugees reaching neighbouring countries but also to extending humanitarian assistance to displaced persons who have not crossed the border. He cautioned that the compatibility of this concept with the right to seek asylum and free movement, what should be the relationship to the sovereignty of the State where such a zone is to be established? Could the neutrality of international humanitarian assistance be maintained. Legal principles for the protection of the internally displaced are not clear and that is the area which should be focussed by the AALCC.

Mr. Toru Iwanami, Deputy Secretary-General of the AALCC presented the basic working paper, which while dealing with the background, proposed a legal framework for the establishment of a safety zone for displaced persons in their country of origin. The guidelines were given under seven headings namely (1) the aim of establishing a safety zone; (2) conditions; (3) supervision and management of such a zone; (4) duties of the government and the conflicting parties concerned; (5) rights and duties of the displaced persons; (6) protection of the officials of the International organizations and (7) the closure of the safety zone.

Dr. K. Cheluget, the Acting High Commissioner for Kenya presented a broad overview of the refugee situation in Kenya. He observed that unrest in Somalia and Rwanda had brought great difficulties and suffering upon the population of the country. The creation of a Safety Zone in Somalia would have definitely helped the fleeing people and would also not have imposed a heavy burden on Kenya. The critical question which needed attention was that in the case of Somalia no government existed, but in a situation where a government does exist, the question of sovereignty would have to be dealt with very carefully. On the other hand in the case of Rwanda the concept of a Safety Zone could prove effective. But if such zones were created they would contradict the principle of non-refoulement as governments would be tempted to send back the fleeing persons to their countries, where perhaps they would not be secure.

Mr. Minabere Tom-George, Minister from the Nigeria High Commission stated that the Fourth 1949 Geneva Convention relating to the protection of civilians in time of war recognizes the protective umbrella of States during belligerency. He was of the view that it was the obligation of the State of origin to create a Safety Zone, but where the State of origin failed to declare a Safety Zone during armed conflict, that State shall be

deemed to have abdicated its sovereign responsibility by failing to take measures necessary for the protection of life, liberty and security of persons, thus violating Article 3 of the UN Declaration of Human Rights, which incorporates the right to life liberty and security of every person. Where the Government failed to establish a Safety Zone the United Nations General Assembly can by a resolution establish a Safety Zone for the displaced person in any territorial area of the State of origin it deemed fit. However, where there was grave threat to "peace and security" during a national armed conflict in or around the State of origin i.e. in that region, the United Nations Security Council can direct the UN Secretary-General to establish a Safety Zone in the country of origin of displaced persons.

Citing the examples in Somalia, former Yugoslavia and Rwanda he stated that experience had shown that during civil war, especially where the Government becomes involved with one of the warring factions, consent for humanitarian intervention had normally been delayed for purposes of political or military scores. Where such a delay situation arose the world community which guarantees global human rights and right to life and security, should on humanitarian grounds assure a Safety Zone authority and act expeditiously. He regretted the frequent violation of Human Rights and emphasized the necessity of creating a Permanent International Criminal Tribunal having jurisdiction over crimes against humanity so that it might have a meaningful impact on those who intend to commit crimes against humanity and war crimes.

The Chief of Mission of the UNHCR Mr. S. Bari stated that the basic objective behind the emergence of the concept of Safety Zone in refugee law is to find an alternative to asylum and protection abroad. The UNHCR had increasingly assumed greater responsibilities for the internally displaced at the behest of the international community. UNHCR's involvement in Sri Lanka, Iraq, Former Yugoslavia and Afghanistan are examples of its comprehensive approach.

How should the international community proceed on the subject? It would appear from recent experience that the existing international legal order is not ready to accept the humanitarian concept of Safety Zone as a full-fledged legal concept yet. It conflicts with too many other legal concepts of contemporary international law. The best course would be to agree on some operational criteria and apply the concept in any situation where the criteria are met. Where conditions are suitable, safety zones can indeed provide a humanitarian alternative to displacement abroad.