

STATE'S PLENARY POWERS AND "REFUGEE LAW"

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This paper intends to present an analysis of the plenary powers of the Indian state in the context of its characterization of refugees and their care and management in India. There is no disagreement that the Indian state's powers over matters relating to "aliens" and foreigners stems from the Constitution, and in particular, Article 53 which defines the executive power of the Union. It is flowing from these powers that the Union is empowered to make and unmake policies that apply to foreigners of all classes not only through parliamentary but also through delegated legislation. Thus, the "security" considerations of the State in matters involving foreigners, asylum seekers and refugees in India stems from the plenary powers. By way of this analysis, I argue that while this is so, law and especially, the Constitution does not allow the Indian state to ignore, bypass and whittle down the meaning and effect of constitutional law principles including fundamental rights in Articles 14 and 21.