



Migration and refugee rights

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Abstract

This research paper contains a very subtle topic. A motif which is so salient that the rights of such group of people should know to all. The refugees are those, whose rights should also be counted and accepted by others. As the time changes, those who are refugees had made themselves and their communities strong. They brought uniqueness in their religion and culture as well, as they knew that they are only the one those who can bring changes for them and can make their lives better. It's a saddest thing in our country that, not only migrants or refugees but also, there are other sectors of people those who have been spurned.

This research paper, is a small contribution so that their voice can be heard by all and the torture and mental harassment that these people had faced can be crystal clear through it. Also, it contains various factors through which the government had implemented laws were made for them. So, let's see what all accouterments are there for these people. So, here we discuss about some prominent articles, like the right to freedom under article 19 to 22 which states that how every group or every community should get freedom in every aspects of their life. Along with this we had even discussed in detail about article 26 and article 31 of the refugees in this paper.

Keywords: Refugee rights, government implemented laws for refugees, migrants rights, constitution, refugee communities

Introduction

Migrants and Refugees rights, should be specifically protected by laws and somewhat it is been protected. Even, the asylum seekers rights have been secured not only in India but, all over the world. Hopefully, in our constitution a right is been given to the migrants if in case they want to move to any part of the country. They even treat foreigners equally. Though, there are no discretely laws for refugees but, there is an existence of Refugee and Asylum (Protection) bill of 2009. If we talk about migrants, no one can violate their basic rights which includes to live their own life the way they want to which is equality, no differentiation through castes, religion, racism, creed, sex, etc.

Apart from these above mentioned basic rights, they have a condign to be protected against arbitrary incarceration, into the very common thing that refugees faced were torture and a non-acceptable treatment. They have full right and also they fully deserve to be treated respectfully. There are no laws made for them in India, as it was not a part of its convention in 1967 wherein the moral imperatives were given in order to safeguard their rights. Constantly, they were living in threats. Current scenario is such that, they are now being treated as foreigners. Here we have to analyze as to what extent it can be improved and what evolution can be introduced furthermore, for both migrants and the refugees.

Research Methodology

To formalize the motive and the objective of a research question, it is prominent to strategically understand and create a methodology. All are aware that, we have two formats of research methods:

- a. Empirical; or
- b. Non-doctrinal study and Doctrinal method of study.

Particularly, in this paper we had focused on understanding what laws are already exist for refugees and migrants in India and what laws should be implemented for them. It throws a special light to witness the challenges and improvements that had happened in their standard of living.

Lawful Implications

The rights about which we are talking about is with regards to the human rights. Each and every rights are connected and co-related with every citizen of our nation. The issue that is going on with the refugees since the pre-independence era, needs an attention. Recently, on 11th of October, 2023 the Supreme Court had seek release of illegally detained Rohingya refugees.

Now, the question comes that who were Rohingya refugees? So, it is a group who had faced a lot since past decades in terms of discrimination, torture, etc. in Myanmar. Hence, many of them hid themselves in Bangladesh where two official refugee camps were existed. Thanks to UNICEF, who were providing them all needful items like food, water even approximately 4,00,000 lakh refugee children were given free education by them. In late 1980, they had denied citizenship due to which they were considered as illegal immigrants from Bangladesh.

What implementations must be made by the government

All this chaos happens only when a group of people are not treated equally. Like we all had witnessed that, how during Dr. B.R Ambedkar's time the dalit people were fully ignored, just because of their caste. Similarly, refugees and the migrants are being homeless because they have been treated in such a way that if they are like aliens and not from the world of the common people. Also, here it should be noted that, Dr. Ambedkar had worked hard for him being a dalit himself, giving such people reservation quota including both scheduled caste and scheduled tribes but, what about

the refugees? No one is willing to become their voice. The only body left for them is the governmental body, which is interlinked with UNHCR (United Nations High Commissioner for Refugees). India still needs to be awake for making certain laws for them, active.

Legislative structure to handle refugees

There are certain criterias and a set of rules as to how one can deal with the refugees. Following are some of them

1. Passport Act, 1920;
2. Registration of Foreigners Act, 1939;
3. Foreigners Act, 1946;
4. Citizenship Act, 1955; and
5. Citizenship Amendment Act, 2019.

A. Passport Act, 1920

Under the authoritative section 5, it says that they can suspend any illegal foreigner by compel as stated under article 258(1) of the constitution.

B. Registration of Foreigners Act, 1939

This registration is a necessitation for each and every foreigner who visit India for more than 180 days. They need to register themselves with the help of a registration officer within 14 days, after arriving in India.

C. Foreigners Act, 1946

If there are any Illegal foreign nationals, then section 3 shall be applicable on them, wherein the central government is enfranchised to ascertain, arrest and exile, them.

D. Citizenship Act, 1955

Under this said Act, there are provisions for termination, abnegation and expropriation of citizenship.

E. Citizenship Amendment Act, 2019

This Act prescribes citizenship only to the Christians, Hindu, Jain, Parsi's and Sikh immigrants tyrannized in countries like Bangladesh, Pakistan and Afghanistan.

Recently, a movie on the similar issue was released named "Dunki", wherein the immigrants entered another country without passport approval and visa. That movie is a good example when we talk about the illegal migrants residing, without a proper and a valid documentation.

Need of Giving Equal Treatment

The Government needs to welcome both refugees and migrants as we are living in the democratic world and we need to be lived without being threatened. Also, each and every citizen of our country have this right to secure themselves, to live in the present society. There are few laws made for migrants, refugees and asylum seekers like Universal Declaration of Human Rights (UDHR), UN Refugee Convention, followed by the Migrant Workers Convention, 1990. Because, these group of people are homeless and that is the reason why the rate of poverty is reaching the heights. This is the reason why dignity is lacking behind. Because, people's mindset are still the same. It's high time that it should be changed.

As per the UN's Worldwide Organization for Movement, 281 million individuals, or 3.6% of the world's populace, made up the worldwide transient populace in 2020. Migration over the past few decades has recognizably risen for migrants from creating countries dwelling in more

progressed nations and is particularly clear for profoundly sought-after gifted experts who have been in tall request recently. The benefits of migration amplify well past the person benefits and envelop a few benefits for both the nation of root and goal. Gifted vagrants can regularly act as proficient conduits for a assortment of worldwide trades in a organized world, counting exchange, outside coordinate speculation, fund, information, innovation, business enterprise, social standards, and political belief systems.

Review Questions

1. Should the gap between the rights of refugees and migrants be settled down?
2. What lawful implications or contributions can be done to prevent them to be homeless?

Review literature

The statement of problem or the review of literature suggests that, there is a gap in the available literature regarding the comparative study of the rights of refugees and that of the migrants. The study aims to find out as what all lawful implications can be taken along with contributing for their comeuppance. It is necessary to find out the reasons for the betterment and that of the other common people, as to what extent they accept it, as it is more important for them to be aware.

Critical Analysis

A deep analysis that I had made throughout this paper is, refugees or the immigrants are facing a biggest predicament at present and that is related with unemployment, even if they work they get work on a very low wages. They live either without shelter or else find a home in which they hide themselves, usually with other refugees. Sometimes, they are forced to live in a single room. Also, I had witnessed that they face more concern in raising their children.

Through this paper, I wanted that the other people to be aware to bring this to an end. It is a high time now, when people should make their mind more open. Refugees are not criminals, or I would rather rephrase it by saying "All refugees are not criminals". They can be a criminal only when their needs are not fulfilled, as such.

Suggestion

Suggestion, for a healthy relationship and an environment I would suggests that these refugees should get free education on religion. They should get free ingress to the courts. Gratitude to the UNHCR, as hitherto mentioned prior that, they are the one who are atleast providing them with basic stuffs like health, nutrition, education and other homy items, which can fulfill their peculiar needs. Recently, there was an article published in Hindustan times wherein their needs were discussed. The Mizoram government, are any of the which ways bolstering up the camps for them, despite the Aizaul been objecting about the scarcity of economy and other services. For enhancing the lawful principle, it is required to be explicit that can aid these migrants and refugees in India. It will be helpful to bring everything on path which encompasses courts, government, UNHCR that certifies equal protection for all. Rohingya refugees have emerged amid rising anti-Muslim sentiment in India and attempts to redefine citizenship along religious lines. In violation of past Supreme Court judgments protecting the right of non-refoulement of refugees, in addition to applying

Articles 14 and 21 of the Indian Constitution to non-citizens, the current government They are also highly selective about the protections available to them. The lack of an internal refugee law has become increasingly problematic in recent years, given the Indian government's harsh administrative measures (such as deportation and non-recognition of vulnerability) that have harmed some refugee groups such as the Rohingya.

In the case of *R vs. Secretary of state for the Home Department*, the judicial review plays a pivotal role where the applicant moved for the same and was also a citizen of India. He was not given the right of political asylum. He claimed that how he was oppressed by the police in the State of Punjab, who had utilized incongruous means to effectuate decorousness.

The 2024 Solutions and Implications for Refugees

In the upcoming year, the UNHCR will implicate six said Regional Refugee Response Plans (RRP's) in order to help the government for presuming, abetting the refugees and also to those communes that receive them. The provisions in India mostly sway the law pertaining to the citizenship or nationality. There are vast facets that help India as well. All the methodologies, that governs refugees are abdicated by the by the union government though its impact as such has to be borne by the state administration. In such a context, India has also rooted to adopt the UDHR, which asserts the rights for all mortals, citizens and non-citizens.

There are numerous factors that compel individuals worldwide to strive for a fresh start in a foreign nation. Certain individuals choose to depart from their homes in pursuit of employment opportunities or to acquire academic qualifications. Some individuals are compelled to escape because of persecution or instances of human rights abuses like torture. Arm conflicts, crises, or acts of violence force millions of people to seek refuge or escape. Certain individuals no longer experience a sense of safety, as they might have become victims solely based on their identity, profession, beliefs, such as their ethnic background, religious affiliation, sexual orientation, or political views.

The anticipation of a brighter tomorrow initiates these expeditions, but they can also be fraught with peril and apprehension. There are people who put themselves in danger of becoming victims of human trafficking and various other forms of exploitation. According to Article 10 of the International Covenant on Civil and Political Rights in 1976, it is mandatory to treat all individuals respectfully and acknowledge their dignity. The State is obligated to refrain from treating individuals in a cruel manner and must also take proactive actions. If the State does not implement any such actions, it will be accountable for the breach of Article 7 of the International Covenant on Civil and Political Rights, which forbids torture and cruel, inhumane, and degrading treatments. India has not given official approval or endorsement to either the 1967 Protocol on the Status of Refugees or the 1951 Refugee Convention. Due to the absence of legislation, India lacks a prescribed procedure for handling refugees, resulting in an absence of a uniform approach towards their treatment. Nevertheless, the broader concerns regarding human rights and humanitarian law, alongside other facets of international law such as State accountability and peacekeeping, have become intricately interconnected with the field of refugee law.

Currently, India provides shelter to individuals seeking refuge from various countries including Tibet, Sri Lanka, Myanmar, Afghanistan, Somalia, and Palestine, albeit in smaller proportions when compared to the others. An approach rooted in compassion, national protection, and adherence to the law could address and resolve the refugee crisis.

India is the second most populous country in the world and is the source of most immigration. Although foreigners make up less than 0.4% of India's population, there are nearly 5 million foreigners in the country, most of them from large neighboring countries. Even more important is internal migration, which involves more than 450 million people, or 40% of India's workforce, although statistics are sparse. The absolute majority of migrants are women, the main reason for this movement in India itself is marriage, and apart from the pandemic, this movement has mainly been from rural states to large cities and other more urbanized areas. It has spread.

The main difficulties for immigrants are not only housing conditions, difficulty in accessing services, and discrimination, but also barriers due to the great heterogeneity of Indian culture and lifestyle. India accounts for just over 1% of the population, but is also the world's largest source of immigrants. The number of immigrants from India is approximately 18 million, most of whom are men. Most of them live in the Middle East.

High population density and dependence on agriculture exacerbate the effects of natural disasters. Many refugees result from internal conflicts and tensions between different ethnic and religious groups within a country. Although India is not a party to the 1951 Refugee Convention, there are at least 200,000 refugees and stateless persons in the country. In addition to poor living conditions, these people also suffer from a lack of documentation and resulting difficulties in accessing public services and legal employment, as well as the risk of trafficking and exploitation. Unfortunately, human trafficking is a widespread phenomenon in India. Labor exploitation is the most widespread form, leading to high debt for families and forcing women and children into forced labor.

Conclusion

Loopholes in the law mean refugees in India can be subject to arbitrary treatment, from protection to detention to deportation, largely determined by political whims. The risks associated with this ad hoc treatment have been exacerbated by the influx of Afghan refugees following the Taliban takeover in August 2021, and more recently by the flight of Sri Lankan asylum seekers from Colombo's severe economic crisis. It's getting worse. Although India has never publicly stated its reasons for not signing the UN Refugee Convention, some experts argue that the treaty is considered a Eurocentric document.

Some argue that India is resisting membership because its national infrastructure and resources are already strained by South Asia's porous borders. However, the consequences of violating the Convention lead to a significant decline in refugee protection standards. The United Nations Refugee Convention requires countries not to forcibly return asylum seekers to countries where there is a risk of persecution, under the principle of non-refoulement. India is not a signatory to this Convention and therefore does not consider itself legally bound by these principles. The lack of a

national legal or administrative framework for refugees reinforces an ad hoc and inconsistent refugee system. However, India does not have a consistent national law to protect refugees and asylum seekers, making interventions in refugee flows essentially ad hoc. Moreover, the treatment of different refugee groups was inconsistent and selective. For example, refugees from Tibet received material support, land, and housing rights, while Tamil refugees from Sri Lanka were housed in camps and eventually returned to Sri Lanka. However, although India is not a party to the Refugee Convention and its protocols, its refugee protection practices have long demonstrated adherence to the principle of non-refoulement enshrined in the Refugee Convention. However, this has recently changed.

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