

Indexed at **Manupatra****Truancy of Refugee policy in India: Its Administration & Legality**By *Rupesh Dutta*¹**Abstract**

This content highlights the spine-chilling situational crisis India has started to witness in terms of the internal disturbances caused by the influx of refugees within its territory which is largely due to the absence of any concrete Refugee policy to regulate the inflow and existence of such population so that it does not trigger any type of geographical, demographical and ethnic clashes in the nation.

The content narrows down the reasons as in why even if the lawmakers do not prioritize bringing up concrete legislation over it, there is still an urgent need to have a legal system where the problems occurring out of the refugee influx can be dissected for the remedial measure to prevent the nation from witnessing what a slew of European nations have undergone over a decade due to the rise in refugees from Africa and central Asian nations after the Arab upspring.

The tip of administrative and legal problems in India over the matter can be better understood with the 2019 violence and protest within the country over the Citizenship Amendment Act (CAA) and lately the Myanmar coup followed by the brutal violence that has caused a lot of its citizens to escape to India to seek asylum, a matter on which India's Union government and several Northeastern states bordering Myanmar have locked horns over polices and granting asylum. All such matters can strictly be dealt with a comprehensive coherent refugee policy.

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¹ Student at Law Centre 1, Faculty of Law, University of Delhi [Batch of 2023].

Indexed at **Manupatra**

Introduction

Migration is inevitable in today's world. May it be during any oppression on the minority within a nation, and political crisis, or an internal disturbance, the population always gets impacted and is bound to move during such crises in quest of a better place. From the international perspective, such situations result in refugees which is when the population of a country escapes to any other nation (or even country of habitual residence) due to a slew of reasons which are fear of persecution based on race, nationality, membership of a political or social group or especially religion. In today's time when several nations across the world simmer in various kinds of internal problems, it is evident that its population will attempt to locate elsewhere in search of a better habitat and life.

Even if we talk about the last one decade, nations such as Egypt, Tunisia, Syria, Myanmar, Ethiopia, and lately Afghanistan have been the latest examples that prove it is always the normal population that is at the receiving end and get compelled to move to some other nations seeking Refuge. Though it's a prerogative of the destination nations, where the refugees arrive, to decide if they would be given the status of refugee however it does not only sum up that, rather the receiving nation needs to further have a comprehensive plan to ensure its slew of matters such as the internal peace, law and order, various of its population peace does not get infringed.

While many nations depending upon the situation come up with a policy to cope with such situations, many do it over time. However, taking a measure both administrative and legally to handle refugees within a country is a must and the regime cannot be apathetic. There can be various international conventions and treaties that a nation can be part of yet having a stringent law within the nation always helps to regulate the situation well.

India has been a witness to the flow of refugees for quite a very long time. Starting from 1989, when nearly up to 3,000 Myanmar nationals sought refuge in India after the pro-democracy movement was suppressed by the nation's Military to the Sri Lankan refugees, precisely the Tamilians from the island nation, during the Sri Lankan civil war crossed into India via the sea. In both situations, India had given them refugee status and admitted them. However, there has never been any clarity on how such situations are to be handled for the later stage. Even if such refugees are to be given citizenship, they don't come easily without giving a price at the cost of internal havoc.

Indexed at **Manupatra**

Some international disturbances and conflicts leave socio-economic and ethnic scars in the long run, inviting the attention of international Human Rights organizations. May it be the arrival of Chakma and Hajongs who came to India in 1964-65 from Eastern Pakistan (now Bangladesh) due to acquisition and religious persecution respectively also have been a matter of grave concern for quite a very long time.

There is a need for a great sense of understanding that in the absence of a refugee law there will always be a sense of insecurity among the local population which on occasions not just cause matters about peace but also violence and disturbance inviting the ire of global bodies and on occasions leading to sanctions. A strategically carved Refugee law in India can help better organize refugees who have been given asylum. With the current volatile situation, the world witness, the chances of such situations might grow more intense.

The United Nations High Commissioner for Refugees, which is a UN agency mandated to aid and protect refugees, has in its reports stated that a record number of people have been forcibly displaced by 2020 end, owing to the ongoing conflicts across several nations driving people out of their habitats. The chances of such people are likely to further go up as the natural emergencies or say drought and flood caused by the climate emergencies, with a meager guarantee of a quick return.

In its clear hard-hitting report of the UNHCR, which was curated after proper surveys, a total of 92 million people were displaced during the same time, becoming asylum seekers and stateless people. Once such quantum of mass moves desperate to have a better life and the destinations having no options, it becomes a must for such nation-state to have a hard strategic Refugee policy to handle them without letting its internal peace gets disturbed. For a nation like India, it becomes a must.

Administrative and Legality of the Refugee Problem in India

Laws and policies pave the way to a coherent regulation of a matter. The existence of laws on a subject helps the regime control and handle a situation in a better way in the absence of any such

Indexed at **Manupatra**

regulatory laws. Similarly, India has been a witness to tens of hundreds of occasions when there have been hard ramifications while attempting to handle refugee matters with a tough administration.

The administration and legal handling of such groups of people have varied on occasion and the nation has failed to have uniformity on ways to resolve the disputes that emerge in regions once we witness a refugee influx, the advantage of having legislation to handle the refugee problems are manifold.

A comprehensive & sustainable refugee policy is utterly the necessity of the hour to logically manage such a population to ensure transparency and predictability in the actions the Indian government takes administrative and legally. The way the government receives and treats the refugees should be uniform no matter which part of the world they come from and what faith they comprise of, and in doing so the government would be abiding by the constitutional emphasis on the country's law.

There has to be an in-depth understanding and consensus that when the refugee policy is framed has to have a touch of security consideration and not just a bureaucratic exercise that is the current situation. The leadership role India will gain from having a standardized mechanism for the Refugee's status will be immense.

The refugee law will also earmark the respective roles of different agencies such as the UN, Security agencies governmental bodies in the protection and laying down of vital procedures for the handling of such population whenever they arrive in India. This can check on the clashes and clamor raised by the existing society against the refugee population.

This will also simply avoid the situation where there is friction over the matter between the host country and the nation of origin of the refugees. Having a potent refugee policy will also help in analyzing the root cause of the problems about such a population. On normal occasions, there are various kinds of demands about proper habitable and other kinds of rights in the host country, and the government gets puzzled if extending similar rights will cause any law-and-order situation or offend the normal public, however, it can be articulately sorted out with the bringing of well-carved legislation.

Such legislation can not only well define what a refugee or migrant is entitled to once he steps onto the territory of the host nation but also not let the matter be politicized in various cases, the finest example being the refugees in the Detention camps of Assam after the publishment of the National

Indexed at **Manupatra**

Register of Citizens (NRC).

India can gain a stature that it has not until now globally in terms of handling the refugee problems, the [NRC being the latest](#) that has brought bad fame in recent time. Other states would recognize the move to grant asylum as a peaceful, humanitarian, and legal act, and not an arbitrary political gesture. The legislation will certainly also extend a platform for deliberations on sharing the responsibility and carve out the search for a long-lasting solution to the root causes of a refugee problem. Refugee legislation can further clarify this discrepancy.

Even though the Honorable courts in India have upheld several rights of the refugees, there certainly has to be greater clarity about the protection they are entitled to. The time has arrived and it's high time that the country comes up with a national law specifying the rights and obligations of refugees and the state, and the procedure to be followed while handling refugees in India.

It is a well-known fact that handling refugees may they be from a friend or a non-friendly nation is not an easy task hence settling the matter is not a mere bureaucratic task rather also a political problem that can be sorted only with the help of potent refugee legislation.

Global Refugee Handling

Let's heed the fact that the refugee problem globally has prevailed since time immemorial. Across the globe, 82.4 million people have been forcibly displaced. That is the highest since the world witnessed the Second World War, says the United Nations Refugee Agency (UNHCR). If we estimate how many people are out as refugees in the world, then the statistics state that 26.4 million people worldwide have fled to several nations as refugees. Apart from that another 4.1 million people have been seeking asylum and are applicants of refugee status but have yet to attain it. Also on average, [42 percent of the refugees are children](#), among whom 1 million children are born as refugees from 2018 and 2020.

About two-thirds of the current figure of [refugees \(68 percent\)](#) come from Syria, Venezuela, Afghanistan, South Sudan, and Myanmar.

Keeping tab of the global situation several nations across the globe have come up cemented their refugee policies which help them tackle the problem of inflow of refugees to a great extent.

Indexed at **Manupatra**

Prominent European nations like Germany and France have very restrictive refugee policies however, in recent years the leaders of the two nations of the refugees very well. This has only been possible due to the existence of a concrete refugee policy.

On the other hand, there are several other nations where refugee matters have been handled very well. Turkey, with its concrete refugee policy, has provided more protection to refugees than any other country in the last decade. Lebanon, which has a population of over 6.8 million, is as of now hosting approximately [1.5 million refugees](#) from Syria. Jordan is also hosting 1 million refugees.

Nauru, a small island nation, is handling boat refugees who wanted to enter Australia but were refused by them.

Given the current global dispensation and the series of events, the number of refugees is likely to rise as people will get displaced as the nations are getting more aggressive on several fronts leading to situational crisis moments. It is evident at such juncture that any nation without a [refugee policy](#) cannot think of confronting such a grave matter of humanity that needs a diplomatic and strategic touch.

Prospect of Refugee Problem in India

No doubt those refugees are not always a burden on the regime of a nation. They can be utilized for boosting the economy and other labor-related work purposes to slump the clamor for the demand for work in the host nation. E.g. the way Sindhis and Sikhs following the India-Pakistan partition arrived in India and have proved to be a great economic support to the nation. Similarly, India even now has to realize how to utilize the refugee population that resides in its territory who entered this host nation on different timelines.

Many argue that though India is always in favor of accepting refugees there would be times when we won't be able to do so or afford it. History has been proof that accepting refugees has been not just about cost but opportunities. Welcoming Refugees generally indicates that though the government might be investing for the welfare of the refugees when they arrive in the country yet once they start working, they can give the host nations very high dividends.

They can very well fill the gaps in the current labor market of the nation and also commence trades that will certainly create wealth and help improve the nation's trade and investments. However, this

Indexed at **Manupatra**

again is possible once the bureaucrats and the legislators work on a comprehensive potent Refugee policy of India where the provisions indicate and pave way for ease of intake of such refugees for several kinds of works and make them contribute to the socio-economic uplifting of the country.

Else the point to be noted is that if such dissemination of employment sources to such refugees has in the absence of a policy, there is a great chance that there is a clash among the residents and the refugees. Some nations initially provide help to the refugees and later are expected to fend for themselves. Only a handful of nations have considered the refugees on a charity basis. However, only the right balance between the two extremes is what a national concrete refugee law can help achieve.

However, whenever such refugee law is in making, the crafters of it need to have clarity in their mind the differentiation between various categories of refugees and migrants and assign both a very relevant kind of protection and protect the most vulnerable.

India by doing so can be a role model for various other nations across the globe. Its traditional experiences and values can serve as a strong catalyst for global humanitarian action and asylum management. The current crisis of the refugees and the economy provides a perfect opportunity for nations like India to hone their management and enact a national refugee law.

Conclusion

Refugee legislation in place will also help India get coherence in its decision on how to handle and try any of the elements from the lot who usually indulge in any criminal activity and become a threat for the county demography and dynamics of the society. In Assam province of India, where lakhs have been declared as illegal, and recently another Indian state of Mizoram where thousands of Burmese have fled to India after the coup in their nation, the respective state governments have extended the basic health and education. Undoubtedly there are cases in the absence of a refugee policy that hinds of Ad-hocism.

Indexed at **Manupatra**

This means that in the absence of any such legislation there are chances that would lead to policy ambiguity whereby the government in the office are enabled to pick and choose the kind of refugees they want to have in their territory for of course a certain political and geopolitical factor. The controversial Citizenship Amendment Act is one such kind.

Such actions of the government deal in an utter discriminatory action that would be a clear violation of human rights and certainly bring the nation into the bad light globally. Such attempts of the government can be checked if there is legislation that defines and points out the provisions on the refugees in White and Black.

The biggest example is the CAA under which the current Indian regime has been selective in terms of giving refuge among the overall communities that have wanted to enter India for a long in search of a better life. The CAA strikingly excludes Muslims from its purview and provides citizenship to mere the Hindus, Christian, Jain, Parsi, Sikh, and Buddhist immigrants persecuted in Bangladesh, Pakistan, and Afghanistan. This created a long stir that led to a massive law and order problem across the country.

The presence of a refugee policy that will define who will get citizenship or asylum in India will eventually evade all such problems for the better good of the nation and its secular society. Also, it will not be condemned for its acts and receive sanctions from the United Nation bodied and global nations for being selective on the refugees.

It's an open fact that India has not been a party to the 1951 Refugee Convention and its 1967 Protocol, yet the nation has been a receiver of the largest refugees from various of its neighboring countries and also from far east and west. It's high time that it needs to understand that with a refugee policy in place it can avoid a situation that can be clear about not accepting any kind of population no matter what. As of now the majority of the neighboring countries' citizens see India as the main option when it comes to shifting to once they face a crisis in their nation. Also, it can deter any oppressive regime in the neighborhood to persecute its citizens and compel them to flee to India.