



## **Legal protection to refugees in India**

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### **Abstract**

The advancement of the society and the country carries with itself a great deal of problems too. There are a great deal of problems faced by India, be it gender issues, neediness, joblessness and so forth one of these consuming issues is the protection of refugees. Refugees are those individuals, who have migrated from other country looking for safe house and protection.

The concept of protection refugees in India goes back to the partition in 1947, which got India a large number of refugees. At that point came the making of Bangladesh which welcomed refugees who settled in eastern states. The absence of uniform law administering the refugees has made tumult and managing the problem.

There are lot of problems being faced by the refugees because of absence of legal arrangements. This paper thinks about the legal protection give by the Indian government to refugees and manages the problem faced by them. At last there is the conclusion and a few suggestions given by the researcher with respect to the issue of legal protection.

**Keywords:** refugees, rights of refugees, laws for refugees, legal protection to refugees

### **1. Introduction**

There are various viewpoints relating to refugees, which are of major importance both to India, as a country and to the refugees, especially with regards to law authorization. Given the security situation winning in the country, especially emerging out of the role of a portion of the neighbors in such manner, an absolutely humanitarian issue like the 'refugees' has come to be affected by contemplations of national security. It is a reality that we can sick stand to ignore this part of the issue in any impartial thought of the subject under survey in this. While law and order is a State subject under the Indian Constitution, international relations and international borders are under the elite domain of the Union government. This has brought about an assortment of organizations, both of the Central and in addition the State governments, managing refugee matters associated with law requirement. Likewise, all policies overseeing refugees are set somewhere near the Union government however the effect of the refugee problem all things considered must be borne by the State organization to a more prominent degree if not completely.

Security forces at the international borders, immigration officials at the land check posts, international airports and seaports, other than a large group of state police faculty, are on the whole personally associated with law enforcement influencing refugees somehow. As the specific term 'security' means, all the above classes of work force are depended with the difficult duty of guaranteeing national and additionally inward security of the country as their as a matter of first importance charge. They need to ensure that the laws of the land are implemented as to refugees without in any capacity overlooking or killing security contemplations. Yet, in the meantime, it is additionally their obligation that the humanitarian suggestions so naturally and indistinguishably connected with refugees when all is said in done, are not dismissed. It is likewise notable that each and every circumstance relating to 'refugees' is packed with human rights perspectives also. Clearly these have likewise

essentially to be taken due consideration of by law enforcement faculty.

A legitimate comprehension of the conditions relating to explicit refugee circumstances by the concerned law enforcement organization or even by an individual authority, would make ready for dealing with both the security and also the others conscious viewpoints from both the humanitarian and in addition the human rights point. In the meantime, information with respect to each one of the individuals, who handle refugees-whether they are a piece of the government hardware or outside it (counting international offices, NGOs etc.) of the laws of the land and furthermore how the security and enforcement work force work, would extensively encourage caring for the refugees.

### **2. History of refugees in India**

India is a boundlessly populated country and is one of the nation's experiencing refugees afterwards. Migrations in the past happened because of the Hindukush Mountains in the west and Patkoi ranges in the east. Partition of India-Pakistan brought about an enormous number of individuals migrating. Right around 20 million came to India after India got its Independence. It needed to set up numerous help camps tending to the enormous number of refugees. Individuals began rolling in from Bangladesh, Pakistan. It passed the Rehabilitation Financial Administration Act in the year 1948 to address these issues with subsidizing. A Huge number were displaced from India to Pakistan and the other way around and the problem was much like Refugees. Another occasion was in 1959 when Dalai Lama and his supporters moved toward India as refugees and India gave them a Political Asylum. The time of 1971 saw numerous refugees venturing out from East Pakistan to India. In 1983 and 1986 India had refugees rolling in from Sri Lanka and Bangladesh individually. Toward the finish of 1992, India has hosted 2,000,000 migrants and 237,000 displaced persons. India dependably has a few or alternate Refugees coming in since its history.

### 3. Problems faced by refugees

Refugees, who required up in various refugee camps or distinctive nations faced any problems with their life. They are liable to cruel living conditions. They have constrained assets, live in tents, have restricted nourishment, water, garments and so on. They live without satisfactory sanctuary and face numerous challenges. The individuals who don't join refugee camps and join nations, regularly confront unforeseen hardships, they likewise confront social, dialect problems. The refugee kids are the ones confronting the a large portion of the problems. They think that its difficult to proceed with schooling and neglect to comprehend and adapt up. Most refugees take up a few or the other work in the country they are living and are misused by the spotters. They feel hazardous in their country, on account of which they go to the new place, however feel miserable and perilous here also. Diverse nations have distinctive arrangement of standards dealing with refugees; a few nations concede citizenship in less number of years than the other. The advantages of being a refugee in one country are not quite the same as the other. They confront segregation, financial challenges, and are mentally influenced.

### 4. Human rights of refugees in India

Swinging to human rights of refugees in India one is ponder struck by the fact that India has neither acquiesced to the 1951 Refugee Convention nor enacted any enactment for the protection of refugees, in spite of the fact that it has dependably been willing to host the persuasively displaced persons from different nations without receiving legalistic ways to deal with the refugees issues. All persons who escape their countries have constantly been given shelter, regardless of the reasons of their flight. Taking a more extensive perspective of the concept of 'refugees' which to some degree looks like the one found in the 1969 OAU Convention, instead of the restricted definition gave in 1951 Refugee Convention, the Government of India perceives Tibetans, Chakmas, Sri Lankan Tamils and Afghans and a large number of individuals of different nationalities from Iran, Iraq, Somalia, Sudan and Myanmar as refugees. Anyway 20,000 refugees are not perceived as refugees but rather outside nationals briefly living in India. These persons are helped by the UNHCR and gave international protection and help under its order. Its policies are unfair and biased, even to members of a similar gathering. In this manner it allowed considerably less help to the Tibetan refugees landing after 1980 than to the Tibetans who touched base here preceding 1980.

Without promotion to the Refugee Convention by India and any national enactment on protection of refugee the legal status of people perceived as refugees by the Government of India isn't clear. Likewise not clear is the connection between refugee status conceded by the Government and relating laws governing the passage and remain of foreigners (i.e. Foreigners Act, 1946).

### 5. Legal protection to refugees in India

India is where there are numerous refugee groups from various nations, significantly from its neighboring nations. India has pursued impromptu policies about refugee settlements since its independence. There are countless in India because of its geographic area, religious society, immense culture. Right now, Rohingya refugees are a noteworthy worry to India. There are various angles relating

to refugees, which are of major importance both to India, as a country and to the refugees, especially with regards to law usage. UNHRC and HNRC are the groups of Human Rights of the UN and India separately. Significant Refugee issue in India was a direct result of the India-Pakistan partition of 1947, when there were millions of populace trades between these recently shaped nations. Some real Refugee groups in India are from Iran, Tibet, Bangladesh, Pakistan, Afghanistan, Sri Lanka, Myanmar.

The India has the Refugee and Asylum (Protection) Bill of 2009, no unequivocal enactment with respect to Refugees is accessible in India yet the fundamental enactment that bolsters is the Foreigners Act of 1946, which on the distinction of Alien and Refugee make further mistreatment of the Refugee. The laws related to refugees are:

- Citizenship Act, 1955
- Extradition Act, 1962
- Foreigners Act, 1946
- Illegal Migrant (Determination by Tribunals) Act, 1983
- India Penal Code Act, 1860
- Passport (Entry into India) Act, 1920
- Passport Act, 1967
- Protection of Human Rights Act, 1993
- Registration of Foreigners Act, 1939

Refugees are accepted under the term 'alien' in India. The term shows up in Constitution of India ( 22), Section 83 of the Indian Civil Procedure Code, Section 3(2)(b) of the Indian Citizenship Act, 1955, and in addition some different statutes. The vast majority of the acts bring on additional entanglements to the refugees. The Foreigners Act, 1946 give the authorities capacity to arrest or keep any foreigner on negligible doubt for non-consistence. The present laws in India are not adequate so as to ensure refugees and need an a lot more noteworthy law for the protection of refugees. As indicated by the Principle of Non-Refoulment, no country will oust, remove or strongly restore the refugee back to his unique region without wanting to or if there is a sensible danger to his life, freedom and freedom.

Judiciary assumes an imperative role in ensuring refugees, numerous cases gave milestone judgements with respect to refugees. The judiciary has made it simple with the concepts of Social Action Litigation and Public Interest Litigation.

### 6. The role of UNCHR and NHRC in India

UNHCR in India is taking an interest actively as the quantity of cases with respect to refugees is expanding step by step. In the event that some refugee returns to his country in the wake of being a refugee in India, UNHCR watches if the individual is returning intentionally. It plays out the capacity of assurance of refugee alongside giving assets to them. UNHCR got included since the issue of Tibetan refugees and the Bangladesh emergency in 1971. The Delhi office of the UNHCR attempts to enable refugees to wind up independent with help and pay producing activates with the assistance of NGO's. The principle role of UNHCR in India is to ensure that the refugees are not compelled to return to their country from which they have fled until the point that the issue rests in their country.

NHRC i.e., National Human Rights Commission in 1994, offered bearings to Tamil Nadu Government to give medical help to Sri Lankan refugees. In 1995, it filed a PIL on Arunachal Pradesh Government with respect to the government not supporting Chakmas, and got the decision of

the court ordering the government to give vital help to the group. It gets associated with all the refugee issues in India and gives a few or the other help required.

### **7. Interplay of human rights law, refugee law, and humanitarian law**

Both Refugee Law and Human Rights law frequently coincide and cover each other in a few fields. International Humanitarian Law and Human Rights law being the unmistakable branches of law cover too, as one manages the protection or an individual from oppressive power and the other one manages the lead of gatherings to an armed conflict. On account of protection of the individual in the power of involved with the conflict both Humanitarian Law and Human Rights Law strengthen each other commonly. Humanitarian Law manages the conflicts and keeping in mind that Refugee Law manages the general population that escape because of the conflicts. They both go connected at the hip because of that. Going to the Interplay of Human Rights Law and Refugee Law, them two portray the Principle of Non-Refoulement which restrict strong repatriation. All in all none of the Laws work autonomously however run inseparably with one another. A portion of the principles or thoughts are borrowed or received from one another too.

Refugee law and Human Rights law are complimentary existing together and covering with one another as their fundamental point is to protect the life, respect and freedom of every person and there is no exemption to this cardinal principle. Article 21 of the Constitution focuses around protection of human rights of all people including non residents. The significance given to human rights by India decides the personal satisfaction of its refugees since we have not approved the Convention. The Principle of Non-Refoulement which restricts powerful repatriation is portrayed under both refugee and human rights law. A solid human rights system in the host country figures out what arrangements will be offered amid refugee emergency; it administers how well or unwell the refugees will be dealt with and what sort of rights will they get.

Humanitarian Law manages conflicts and Refugee law manages individuals escaping from conflicts. As it were, refugee law comes into picture to protect the upset amid armed conflicts in view of the unpredictable murdering and devastation of property of civilians. These individuals must choose the option to escape out of dread or oppression since they never again appreciate protection from the parent govt. In this way, both IHL and refugee law work connected at the hip. It very well may be sensibly presumed that every one of the three laws there are appropriate between conditionally and there are no water-tight compartments. A lion's share of the laws, principles and rules are "borrowed" from one another.

### **8. Need for national refugee law in India**

The Indian legal framework has no uniform law to manage its tremendous refugee populace, and has not gained any ground towards advancing one either; up to that point, it treats approaching refugees dependent on their national source and political contemplations, in light of their national cause and political contemplations, scrutinizing the consistency of rights and benefits conceded to refugee communities. Without a doubt, the National Human rights Commission (NHRC) has presented various reports asking the proclamation of a national law, or if nothing else, making

changes or alterations to the obsolete Foreigners Act (1946), which is the present law counseled by specialists concerning refugees and asylum searchers. So the nonappearance of an all around characterized national refugee law has made various peculiar circumstances.

It is to note that India isn't a signatory to the 1951 convention identifying with the status of refugees or its 1967 convention. This makes India's international position as far as treatment of refugees, debatable. Be that as it may, it is similarly imperative to take note of that India is a signatory to different other international and regional treaties and conventions identifying with Universal Human Rights and refugees. Considering, plainly India regard international treaties on the treatment of individuals living inside its territory. However, without having any refugee policy and any different national enactment on the treatment of refugees and moreover India's wavering to sign any international convention or even acknowledge any regional or national framework to manage refugees for what it's worth of the firm conviction that the issue of tolerating or dismissing refugees is a one-sided decision and, subsequently, there is no genuine need to pass an altogether new law to think about multilateral and bilateral agreement, pointlessly discolors its picture at the international dimension.

### **9. Conclusion**

India has so far managed circumstances of mass convergence without a refugee law yet with a persistently developing population of refugees and asylum seekers, an extensive section of who may not be repatriated sooner rather than later, a uniform law would enable the government to keep up its colossal non-subject populace with greater responsibility and order, aside from enabling them to appreciate uniform rights and benefits. Most likely India has done apparent work concerning refugees, however much increasingly still required to be improved the situation acknowledgment and enforcement of human rights of refugees. Albeit international legal routine have been acknowledged by Indian Legal System to give individuals better laws on human rights. These standards are reflected in numerous decision of Indian Courts, further India has endorsed a few international treaties on Human Rights. Likewise calculable is the role of Indian Judiciary, for translating constitution of India with the principles of international law and Human rights in protecting the fundamental rights of refugees. Further United Nations High Commissioner for refugees, being the fundamental office to handle the refugee matters has assumed a huge role in the protection of refugees in India. The present guard dog of India's refugee policy, the NHRC, has made various proposals informing the detailing regarding such a law, as per the articles of the convention, yet with an Indo driven nature and substance so a national enactment on refugees, consolidating the humanitarian needs of the refugees with the security interests of the state, ought to be enacted.

It tends to be effectively observed from the previous sections that India despite its own security concerns, especially over the most recent few decades, and weight of populace and the orderly financial factors, keeps on taking a humanitarian perspective of the problem of refugees. Despite the fact that the country has not enacted an extraordinary law to oversee 'refugees', it has not ended up being a genuine disable in adapting satisfactorily to the gigantic refugee problems assailing the country. It is in adjusting these interests, which may once in a while have all the earmarks of being

contending with one another, that the security and law enforcement organizations confront everyday difficulties. If and when a different 'Refugee Law' for the country is enacted, it is vital that this viewpoint is given due thought. It is critical that security and enforcement authorities don't neglect both the legal and also the fundamental human edges innate in the 'refugee' circumstance, particularly the last mentioned.

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