

# Refugee Laws in India with Special Reference to Rohingiyas and National Register of Citizens in State of Assam

## Abstract

Protecting the weakers and providing them shelter is the identity of our rich Indian culture. This generous view gets support from the various human right theories. But when the security of country and its citizens is endangered by few people then they should be caught red handed and should be expelled out of the boundaries even if they are refugee or whatever. And the updation of citizen register in Assam is an attempt in this direction and it does not hampers any of the human rights.

**Keywords:** Refugee, Human Rights, National register of citizen(Assam), Rohingya.

## Introduction

Population is the most important element of a nation. A nation is a stable community of people. The term nation is derived from french word "Nacion"<sup>1</sup>. It meant for naissance i.e. place of birth or place of origin. Thus nationality is attached to the social status of a person. Nationality of a person is his international identity. Nationality and citizenship are used synonymously for each other. But in certain countries like U.S.A. and U.K. nationality and citizenship differs from each other. Thus it can be stated that citizenship is a status of a person which is attributed to him by the law for the reason that he/ she is a legal member of that sovereign state or nation.

Contrary to the concept of citizenship there exists various concepts as stateless person, border-landers, refugees etc. Any person who does not posses the citizenship of any state is called stateless person. Those who lives on the borders of nations are called border-landers. And refugee is a person who has been forced to leave their country due to war, persecution or natural disaster etc<sup>2</sup>. They are also known as displaced persons, asylum seeker, outcaste.

Citizenship of a nation can be acquired by following ways subject to the policies and laws of the nation or country-

1. Citizenship by birth
2. Citizenship by marriage
3. By naturalisation i.e. citizenship is granted to those persons who have been lawfully entered into the country on the basis of stay permit.
4. Citizenship by monetary investment. Certain countries offer such kinds of citizenship for strengthening their economy. It is also called economic citizenship.
5. Citizenship based upon the fulfillment of specific conditions. As Qatar grants citizenship to those who shows their faith in Islam.

Citizenship is very much important for a person, specially when a person resides in a democratic country. In such countries, citizens plays active role in making governments and thus influencing the policy makers. Apart from this a citizen can rightfully claim so many rights and benefits in his country. Contrary to it the stateless person or refugees are those persons who had been forced to leave their country and they cannot return to their homes safely. Till then they are granted the status of refugee by any nation or United Nations High Commission for Refugees they are called asylum seekers. For the first time the modern and legal definition of refugee came to be known under the "League of Nations" in 1921. After the World War II (1939-1945) large number of people started leaving the Eastern European Countries. So the United Nations Refugee Convention



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adopted an exhaustive definition of refugee in 1951. According to such definition refugee is a person, "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or owing to such fear, is unwilling to himself of the protection of that country; or who, not having nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."<sup>3</sup>

In 1967 United Nations passed a Protocol relating to the Status of Refugees. This protocol gave an expansion to the earlier legal concept of refugee. It defined refugee as—"every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality".

In 1984 Cartagena Declaration on Refugees was adopted by the delegates of Latin American countries. Declaration came into existence on the basis of the "Colloquium of International Protection for Refugees and Displaced Persons in Central America, Mexico, and Panama which held in Cartagena, Columbia during 19-22 Nov. 1984. This declaration was inspired by the "Contadora Act on Peace and Co-operation".<sup>4</sup> It defines refugee as "persons who have fled their country because their lives, safety or freedom have been threatened by generalised violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order".<sup>5</sup>

In 2011, United Nations High Commission on Refugees provided that a refugee is a person—"who are outside their country of nationality or habitual residence and unable to return there owing to serious and discriminate threats to life, physical integrity or freedom resulting from generalised violence or events seriously disturbing public order".

#### **International Position**

At the international level there are basically three main documents available which deals with the provisions regarding the refugees.

1. The Statute of the Office of the United Nations High Commissioner for Refugees, 1950
2. The Convention relating to the Status of Refugees, 1951
3. Protocol relating to the Status of Refugees, 1967

All the above documents specifies the legal framework for the betterment of refugees as well as they speak for certain rights in the favour of refugees. These rights are as follows---

1. Right to non-refoulement. Countries to whom asylum was sought by refugees are under an obligation to not to refoul or return these refugees. It is one of the universally accepted human right.<sup>6</sup>

2. Freedom of movement. Host state shall provide refugees a right to choose a place to live and also a right to move freely within the state or territory.<sup>7</sup>
3. Right to security
4. Right to live with family and family life. This right implies that if a single person is granted asylum then his or her dependant persons will also get protection through them.<sup>8</sup>
5. Right to employment, right to justice, right to education etc.<sup>9</sup>

Out of the above mentioned rights the right to non-refoulement lays the basis for asylum.

#### **Position in India**

India is not a party to any convention on refugees. Although it is the country which provided asylum to lakhs of people till now. India is a signatory to the Universal Declaration on Human Rights. UDHR bounds its member states to promote various, humane, civil, economic, political and social rights stating that these rights are the "foundation of freedom, justice and peace of the world". Besides this India is signatory and ratifying country to the "International Covenant on Civil and Political Rights". ICCPR is a multilateral treaty. ICCPR is monitored by the United Nations Human Rights Council. Article 9 to ICCPR provides for the right to liberty and security of person. In the light of all these documents India is bound to protect the rights to stateless person by providing them shelter, long term visa, refugee status etc. UNHCR is working in India since 1981. It is headquartered at New Delhi. It works in co-ordination and co-operation with Government of India and NGO's for providing assistance and support to refugees and asylum-seekers in India. It prescribes a procedure to determine the status of refugees. Though India don't have any firm law on refugees still it is allowing entries to refugees and asylum-seekers in India in consultation with following statutes---

1. The Passport (Entry of India) Act, 1920
2. The Registration of Foreigners Act, 1939
3. The Foreigners Act, 1946
4. The Foreigners Order, 1948
5. The Passport Act, 1967

Infact a Asylum Bill, 2015 was introduced in parliament by Mr. Shashi Tharur but it was not took up. Absence of any established framework on asylum, does not fetters India in providing protection to refugees and asylum-seekers. For eg. Dalai Lama, Sri Lankan tamil refugees, as well as refugees from Afganistan, Bangladesh & Pakistan are residing in India on long term visa.

#### **Rohingya Issue**

Rohingyas are muslim minority groups of Myanmar. They are considered as "stateless entities" because Myanmar Government does not recognises them. They are regarded as refugees from Bangladesh. They speak bengali.

The UNHCR published a report highlighting the fact that more than 1.5 lakhs of Rohingyas fled Myanmar since 2012. Out of that more than 40,000 of Rohingyas illegally entered India. The present Central Government reported before Supreme Court that some of these Rohingyas are of militant background

and they found active in the States of Jammu, Delhi, Hyderabad, Mewat.

According to the report of the Ministry of Home Affairs Government is searching ways for identifying and deporting those Rohingyas who are illegally residing in India. The Central Government also reported to Supreme Court that many of these Rohingyas have acquired the documents like Aadhar card, PAN, and Voter-Id. This attempt on the part of Rohingyas shows their fraudulent intention of acquiring citizenship in India. This will result into many socio-economic complexities in the society. Thus their identification becomes very necessary for maintaining the security of the nation. Updation of National Register of citizens in Assam can be taken as a step in this direction. Updation is being made under the control and strict supervision of Supreme Court in accordance with its own order.

#### **National Register of Citizens in Assam**

National Register of Citizens is a register which is maintained by the Government of India. It was prepared for the first time in 1951 after the first census of India. It contains the names and some basic and relevant informations in detail regarding the identity of all citizens in India. After 1951 this register has not been updated till now. Assam became the first state to update it. But due to amendments made in the Indian Citizenship Act, 1955 it was required that the State register of citizens of Assam in order to be legal must contain the names of all those persons whose names were published in the electoral rolls of the then assembly constituencies within the territory of Assam upto 24 March 1971. It was also provided that such list must contain the names of the descendants of the persons presently having permanent residence in the state of Assam. The process of updating the National Register of citizens in Assam started in 2013 by an order of Supreme Court in this regard.

#### **Objective of the Study**

In this paper an attempt has been made to compile the inter-related issues of human rights and refugees with special reference to Rohingyas in India.

#### **Aim of the Study**

This article is aimed at dealing with the definitions, various rights and International documents available on the protection of refugees alongwith the position of India in this regard. As well as this paper is centrally focused upon the rohingya issue and updation of citizen register of citizens in the state of Assam.

#### **Review of Literature**

On reviewing the existing literature we have come to know that the National Register of citizen is not a newly introduced concept in India, rather it has a long background. Likely granting asylum to refugees on humanitarian grounds is the speciality of our Indian culture since its origin.

#### **Concept and Hypothesis**

Updation of National Register of Citizens in the state of Assam is going on under the supervision and strict orders of Hon'ble Supreme Court of India.

All this is taking place so that the illegal immigrants and illegal infiltrants should be thrown out of the country.

The hypothesis for writing this paper is to check whether the updation of NRC in Assam is in confirmation of human rights theories.

#### **Research Design**

I have gone through Bare Acts, and the study material available in the authentic articles, journals, and websites for writing this paper. Thus, I adopted doctrinal method for writing this article.

#### **Findings**

In the course of writing this paper I found that India is not violating any of the rules of human rights by the updation of its citizen register in the state of Assam.

#### **Conclusion**

On the basis of the study I conclude that those who are refugees and want to live in India should follow the procedure prescribed therefor by the UNHCR. No one should be allowed to steal the resources available in India for its citizens.

#### **Suggestions**

On the basis of above study author would like to suggest following-

1. That NRC should be enforced throughout the country.
2. That the intruders should be expelled from our land.
3. That the persons who became threat to the security of our nation should be dealt with, strictly.
4. Protecting refugees on humanitarian grounds is good but the safety, security and integrity of the country should not be endangered thereby.

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#### **Endnotes**

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5. Article 3 of Cartagena Declaration.
6. Art. 33(1) of Convention relating to the Status of Refugees, 1951
7. Art.12 of International Covenant on Civil and Political Rights; Art. 26 of Convention relating to the Status of Refugees, 1951.
8. Art. 23(1) of International Covenant on Civil and Political Rights.
9. Convention relating to the Status of Refugees, 1951