

# Refugees Status in India: A Special Reference to Rohingya Refugees

D.L Marshilong

**Abstract:** *Refugee crisis is one of the foremost human rights problem faced by the world community today. A gross human rights violation is a major cause to the plight of refugees and as had happened in the past; the modern day refugee crises have resulted in many other problems. For India refugee is not a new issue. India has been quite tolerant to refugee and asylum seeker alike. When dealing with this problem, India has taken it as a basic part of bilateral relation with other states, and applying the principles of Humanitarian Traditions, International legal obligations and the Constitution of India, 1950 alongside with other Non- Government Organisation NGOs and the United Nation High Commissioner for Refugee (hence forth to be known as "UNHCR") have help to give protection, security and guarantee to the basic human rights of the refugees in India. At present there are about 420,400 refugees in India coming from neighbouring country like Bangladesh, China, Tibet, Bhutan, Sri Lanka and Myanmar. Apart from these, there are new refugees who set foot in India who came from Myanmar and are known as the Rohingya Refugee. The Rohingya Community have been struggling more a less like stateless people for more than 35 years. After a riot and conflict broke up in 2012 the Rohingya Muslim have found to be in constant oppression and violence which can even be said as a case of genocide in which cause them to flee their home land altogether. They entered illegally through Bangladesh and into West Bengal and Assam to which they would travel up to Delhi and Jaipur to get them registered under the UNHCR refugee status. However only a few were registered and most of them are considered by the Government as illegal migrant. From the last two years they have seen the increase of these Rohingya refugees which are recorded to be more than 40,000 are in India particularly in the state of West Bengal, Jammu, Uttar Pradesh, and Assam. It is no doubt that when it comes to refugees cases is a geopolitical domain of the Government of India and must be bases on that manner and the relationship of India and Myanmar might hit the rock if it is question by the court in its executive decision. However, it also serve as a reminder to the Government that it should not take a blind approach to the situation when humanitarian basis are also in question, provided it has obligations toward every international customary norm to uphold and not to withdraw from those principles even though it is not yet a signatory to the Convention on Refugees, 1951. Therefore, Rohingya refugees should be accorded the same as other refugees in India and should not deprive them of any fundamental aids and assistance on a humanitarian basis. It should take into consideration the threat that will be put to Rohingya Refugees if they are to deported back to Myanmar when the situation in Myanmar are in violence and bloodshed and there is no progress in controlling the situation are not ready to promise any protection and safety to the Rohingya Refugees on their return to their home Country.*

**Keywords:** Refugees Status in India

## 1. Introduction

Refugee crisis is one of the foremost human rights problem faced by the world community today. Gross human rights violations is a major cause to the plight of refugees and as had happened in the past, the modern day refugee crisis have resulted in many other problems and concerns which have become highly complex and has become one of the central issue in the international community. As refugee is an age-old problem in the global community, the framework on International Refugee Law has provided a comprehensive and universal basis for refugees. [1]

Article 1 of the *Convention relating to the Status of Refugee, 1951* defines Refugee as "someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion." [2] The definition was designed to address the consequences of the World War II, targeting only those who were compelled to leave their country of origin and with the passage of time and other development, this definition became limited and narrow. The definition was never made to tackle huge refugee inflow of the world nor was not ready for the migration of the mass asylum seeker claiming for refugee status which resulted to too many set back such as the illegal migrant and indulging in criminal activity and smuggling. [3]

The principle of non-refoulement, i.e., not forcing refugees to a country in which they are liable to be subject to persecution was held central to the convention but what is more important is whether their home country is able to provide a safe and stable environment for the refugees is not mention. The problem arose when determining the status of refugee itself as the definition provided only limited scope, "fear of persecution" in which the test of such persecution was based on the convention guidelines where only five grounds as expressly stated, i.e., religion, race, nationality, political opinion, and social group was mentioned, however in reality there are other factors which may led people to leave their home country such as war and conflict, economic or ecological or climatic factors. [4] This gave the opportunity for some states to close the door on refugee rather than giving them refuge. Moreover, it provides no obligation to states to provide any assistant to refugee until and unless they are signatory to the convention and provide no account of the effect on the receiving state which resulted in the irregular migration of people.

The convention also concerned itself on the individual case-by-case basis which is mostly a practice of the Cold war period. However, circumstance changes in which most refugees and asylum seeker come in groups. The principle of burden sharing was also absent amongst states which made some state reluctant to give any assistance to refugee problems. [5] Against the backdrop of prolonged conflicts and the emergence of new conflict and other diverse factors that have been said as the reason for the growing of refugee

crisis, the role of the states to the international legal standards on this matter cannot be disregarded, [6] in upholding and protecting their human rights.

For India refugee is not a new issue. For centuries the country has been holding a great number of refugees from different countries without being a signatory country to the Convention of 1951. India has been quite tolerant to refugee and asylum seeker alike. When dealing with this problem, India has taken it as a basic part of bilateral relation with other states,[7] and applying the principles of Humanitarian Traditions, International legal obligations and the Constitution of India, 1950 alongside with other Non-Government Organisation NGOs and the United Nation High Commissioner for Refugee (hence forth to be known as "UNHCR") have help to give protection, security and guarantee to the basic human rights of the refugees in India. [8] At present there are about 420,400 refugees in India coming from neighbouring country like Bangladesh, China, Tibet, Bhutan, Sri Lanka and Myanmar. Majority are from Tibet and Bangladesh which estimated more than 110,000 and 36,000 respectively, and the more than 102,300 are the Sri Lankan Tamil. [9] There are 100,000 from Myanmar and 30,000 from Afghanistan, Iran and Syria as estimated during 2008 figures.[10] Now the record has hike up to over 2,00,000 refugees and an estimate of some 4,718 cases of asylum seeker which are pending before the courts in 2014 first few months in India due to many violence that took place across Africa and the Middle East as stated by the United Nation High Commissioner for Refugees, (henceforth known as 'UNHCR'). [11]

Apart from these, there are new refugees which set foot in India who came from Myanmar and are known as the Rohingya Refugee. They are originally from the Arakan region in the Rakhine province, however the Myanmar Government does not recognise them as the ethnic community of the country justifying that they have their roots in Bangladesh and are commonly known as Bengali. The Rohingya Community have been struggling more a less like stateless people for more than 35 years. [12] After a riot and conflict broke up in 2012 the Rohingya Muslim have found to be in constant oppression and violence which can even be said as a case of genocide in which cause them to flee their home land altogether. They have tried knocking the door to Thailand and Malaysia but due to high security measure could not harbour in their land, even though they did give them health and food benefit. This led them straight to Bangladesh and India, which they entered illegally through Bangladesh and into West Bengal and Assam to which they would travel up to Delhi and Jaipur to get themselves registered under the UNHCR refugee status. However only a few were registered and most of them are considered by the Government as illegal migrant. From the last two years they have seen the increase of these Rohingya refugees which are recorded to be more than 40,000 are in India particularly in the state of West Bengal, Jammu, Uttar Pradesh, and Assam. [13]

The International community have tried to convince the Indian government not to deport the Rohingya refugee from the country as they are one of the most prosecuted groups at that time especially when the situation in Myanmar does not

allow them to come back at all. When dealing with refugee problem there is no doubt that the complex question of legal and political aspect along with moral lines in the way. While India is grounded by the principle of non-refoulement which is a customary law of all states, [14]it is also bounded to protect its citizen from national threat and consequences which may arose of giving such refuge.

## 2. India's Approach towards Refugees

### a) Status of Refugee-

In order for a person to gain the protection and security of a refugee he must have the status as one. To determine a refugee, one must look from the circumstances and factor which led to the state of being a refugee. The legal status of refugee is defined on the basis on which the legal instrument is given. Thus, one has to fit the criteria in which these factors might fit to gain the status and protection as a refugee. The status of refugee is defined in various international and regional instrument, and lastly domestic legislation and constitutional safeguard of each state in determining their own concept refugee[15]. However, the problem of refugee status and their protection is the issue of implementing the international legal instrument which renders it a challenge as for the protection of refugee, depends on the legal process and law of the present state which they seek refuge. [16]

### b) India's status towards Refugee

In India, there is no definition of refugee as there is no law regulating the protection of refugee. Refugee in India are regarded as "Foreigners", where it is defined under section 2(a) of the Foreigners Act, 1946 simply as "a person who is not a citizen of India" but there are many different types of foreigners which may be distinguish from refugees, such as tourist or travellers, internally displace persons, illegal migrants, [17] or in other words an "alien" which is very much define in the Citizenship Act, 1955, "*either his father or mother possesses such immunity from suits and legal process as is accorded to an envoy of a foreign sovereign power accredited to the President of India and he or she, as the case may be, is not a citizen of India; or his father or mother is an enemy alien and the birth occurs in a place then under occupation by the enemy.*"[18]and Article 22 of the Constitution of India, 1950. Thus, the current status of refugee in India are the same as "alien" and are dealt under the same existing laws applicable to aliens whether general or specific laws.

For India, refugee status is determined on the circumstances of each case. They often take the help of the UNHRC in verifying the people's background and circumstances which may lead to their situation and help in their resettlement as well. [19] Thus, India do take into consideration of the five principles grounds given of the definition given by UNHRC, i.e. well-founded fear of persecution on the basis of race, nationality, religion, or member of a social or political group or other cases such as armed conflict or climatic conditions in their country. Other principles which can be look upon is the principles of "genuinely at risk" which have to pass the test of "substantial and real danger of persecution"[20] However, the Government of India treated every case of refugee status differently from cases to cases dependent of

the circumstances of each case and is often seen as a bilateral policies of state. For e.g. the Afghan Refugee who came to India during the 1993 era were granted refugee and protection without any proper documents. However, the later refugees who many of them were Afghan Hindus and Sikhs were not granted refugee status by the Government on top of which they have fulfilled the UNHRC criteria grounds on refugee status.[21]

### c) Refugee Claim of Identity in India

In cases the government of India does grant the refugee status, they are issued valid identity card by the Government of India, these cards can be employment card or their home country, or an identity card of any membership of any group of their country of origin. They have to provide all the information in detail of which caused them to flee and if there is any persecution then the name of the persecutors, where it is held and why. This information given by them must be verified and confirmed with the general information available and if there is any contradiction, then the refugee status will be rejected. For the test of prosecution, it will not be taken on an emotional basis but to the measure of risk and harm that will cause them. [22]

Thus, the core element of determining a refugee depends on the careful process in considering the claimant's evidence whether documentary or oral. They are given the opportunity to be heard and to present their evidence to prove their claim. This information are reaffirmed or clarified by their country of origin or the UNHCR office. While refugees are making their claim, they can seek basic redressal for their problems, such as shelter and food. Here, the UNHCR has a huge part in providing "subsistence allowance" to certain cases and to find legal aid and shelter. They also play a huge role in requesting and influencing the government in cases of deportation of refugee who are at risk and to help them try to resettle in some other country where they might be safe. [23]

### India's Approach towards Rohingya Refugee

India was quite silent when the Rohingya refugee first laid foot in the country, but this does not mean that the refugee can actually rest now. Even though the refugee camped in many state they don't know what their future holds for them. Some are allowed to work for small wages for survival but that is also a problem face by them as most of them don't have their documents at hand and only a few have the UNHCR refugee card, even which is only limited help to them. They don't have the aids for health nor education and nor a proper shelter home, they are all cramp up in the Camps that the NGOs provides for them. Nonetheless they were content with this then the horror back at Myanmar.

However, this lasted only a while, when the Indian Government and the Indian intelligence agency was always at their tail and putting up security surveillance around them as they have a lot of doubt the vulnerability of the Rohingya refugee.[24] It was alleged by the government that Rohingya refugee are illegal migrant who came crossing the borders northeast India illegally, and smuggling of people, movement of hawala, and indulge in human trafficking. They do not have any document and detail that will qualify as a foreigner under the Foreigner Act, 1946 moreover they provide fake Indian Identity Card like Voters ID or PAN

card under the Government of India. The Government also expressed concerned that Rohingya will use up the national scheme and resources which are made available for the Indian Citizen only which will in turn deprive the citizen of resources such as medical, employment, housing and educational facilities.[25] The Government also fears that the Rohingya might be associated with other terrorist group and that the national security of the citizen is the foremost priority to India, especially when a large number are concentrated in Jammu and Kashmir region where there is continuous unrest of conflict and violence.[26] Thus, lead to the decision of the Indian Government to decide to deport the Rohingya refugee back to Myanmar on August 9, 2017, on which 40,000 Refugee are said to be deported except a few 14,000[27] who were registered under the UNHCR. This decision of the Indian Government was deeply criticised by the United Nation as well as the World Community. The National Human Rights Commission also intervened on August 18, 2017 in the matter standing against the deportation of Rohingya refugee as it is believe that this will cause harm and treat for them which is a violation on humanitarian ground.[28] On the other hand, an appeal was filed by two Rohingya Refugee against their deportation to the Supreme Court by Mohammad Shaqir and Mohammad Salimullah who are registered refugees under the UNHCR. [29]

### A National threat:

The Influx of the Rohingya refugees is not surprise but what they brought along with them was not welcome by India. With the step to deport the Rohingya refugees from the country, imply that India will not remain silent to issues such as national security of the country which it is non-negotiable to yield to. The threat of Rohingya is multifacets and it is noted by the Intelligence agency that noted since the 2014 Burdwan Blast, in West Bengal; in which Mohammad Kahlid a Rohingya was arrested who confessed to had been trained by Pakistani Taliban [30] and suspected that Jaish-e-Muhammad chief Masood Azhar and Lashkar-e-Taiba founder Hafiz Saeed, both notorious terrorists who operate out of Pakistan and exclusively target India, have come out in support of the Rohingya. The threat arising from this backing can be divided into two parts: Ideological and operational, which gave aids to the Arakan Rohingya Salvation Army (ARSA) and some of them are hiding in the refugee's camp.[31] Most of the Muslim terrorists have vowed to take revenge for muslim people oppression in Myanmar.

However it is also seen that there is little truth to any of what is claimed by India, as Rohingya refugees are in no condition to have any access to any terrorist group, as they are poor and mostly uneducated with little access to basic needs while ISIS and other terrorist group would need technology and internet which is the main method to recruit them. There is no chance of them to direct contact the Rohingya refugee with the high security and surveillance by India. Moreover, the Arakan Salvation Army, ARSA seems to be perception-savvy and has rejected the jihadist label for fear of losing credibility on the world stage as well as condemned groups such as al Qaeda and ISIS. [32] There are no evidences or prove to such connections and the only crimes recorded so far are petty crimes of theft and



fraudulent cases. Thus, to allege them of such hideous crime need strong prove and evidence before India deport them back to the place which will actually be a threat to their life .

### Legal Framework towards Protection of Refugee in India:

India does not have any statute or framework for the protection of refugees in India and mainly depends on the circumstances of each individual case which is suitable for the status of refugee. [33] In India a refugee is given the same status as a "Foreigner" under the Foreigner Act, 1946 which states, "a person who is not a citizen of India" [34] which is also refer to an "alien" under the Article 22 of the Constitution of India, 1950 and Section 3 of the Citizenship Act, 1955. Under the India laws, an alien is given all the protection which is given to a citizen on human right basis, thus, some of the legal protection available for a refugee are-

### Constitutional Framework-

Refugees in India are considered as Foreigners or Alien under the India law is given protection of fundamental rights under the Constitution of India. These includes Right to equality under Article 14, Right to life and Personal Liberty under Article 21, Right to profess their own religion under Article 25, and Right to Educational and Social Security.[35] Refugees are well given the basic protection when they take refuge in India, however, the problem arose before they arrive in India as the Foreigner Act, 1946 is concern and it is very thorough with its procedures to the entry and exit of Foreigners.[36] However, the Supreme Court in this case intervened and gave liberal interpretation of the law and said that refugees are a group of people who differ from the general class of foreigners which needs special protection.[37] The Indian Judiciary has upheld the principle of natural justice and right to life are applicable to all irrespective of them being a foreigner or a citizen of India.[38]

Some other legislation which may apply are Mysore Administration of Evacuee Property (Emergency) Act, 1949, East Punjab Evacuee (Administration of Property) Act, 1947, East Punjab Refugees (Registration of land Claims) Act, 1948, UP Land Acquisition( Rehabilitation of Refugees) Act,1948, The Influx from Pakistan (Control) Repelling Act, 1952, The Foreigner Law (Application & Amendment) Act, 1962, Refugee Relief Taxes (Abolition) Act, 1973.[39] Some of the general legislation on refugees are Constitution of India, 1950, the Citizenship Act, The Foreigner Act, 1946, the Passport Act, 1967, and the Registration of Foreigner Act, 1937.[40]

### International Standards-

Though India is not a signatory to the Convention of Status of Refugees, 1951, it is however bound by other international instrument and treaty, such as other International Conventions- which provides human rights protection and security to refugees which it must uphold.

1. Convention Against torture and other Cruel, Inhuman or Degrading treatment or Punishment, under Article 3 of this convention provides a strong basis of the principle of Non-refoulement.
2. International Covenant on Civil and Political Rights, under which Article 7 and article 13 of the

convention provides for proper human treatment and right to be heard in due process of law.

3. Article 14 of the Universal Declaration of Human Rights, in which everyone has a right to asylum and no action, shall be against the principle of human rights in the charter.

4. Under Article 22 of the Convention of the rights of Child, India should make sure to provide assistance and protection on women and children while taking refuge in India.

5. It is also a part of the UNHCR's Executive Committee and recognized the Bangkok Principles which have provided certain standard for determining the refugee status. Some of these standards are as follows [41]

- States shall adhere to the principle of Non-refoulement and refer the asylum seeker and refugee to competent authority with appropriate jurisdiction to determine refugee status.
- Refugees and asylum seeker should receive guidance of the procedure and should be inspected by only a single authority.
- They should be allow to take refuge in any country as long as their cases are be considered as well as provided with all the basic aids and infrastructure for an interpretation, the right to be informed of such case and their right to reach out the UNHCR.
- Cases which are rejected should be allowed for reconsideration or an appeal if needed under reasonable time period.

### Legal Protection towards Rohingya Refugee in India:

The Indian Government has set its mind to deport the Rohingya refugees due to security reason and threat; knowingly they may face threat and persecution by the Myanmar Government. However, while their stay in India they are entitled to some basic rights and protection which are given all refugees in India.

- The Constitutional Rights and the a principle of "Non- refoulement"- The Constitution of India has provided the citizen and foreigners alike the basic fundamental rights guaranteed in the Part III of the Constitution. Thus, Rohingya refugees have the right to equality (Article 14), Right to life (Article 21), Right to Religion and Right to Freedom of Movement. The Indian judiciary have time and again upheld the fundamental rights to provide the refugees with rights and liberty protection under the Constitution of India. Thus, under the Constitution of India the right of "non-refoulement" is also covered under the ambit of right to life[42]. "Non-refoulement" is the principle of customary international law which means that asylum seekers and refugee should not be force to be return to the country which they might be likely to be persecuted or face any threat to their life.[43] Thus, Rohingya refugees should not be deported knowingly they might be prosecuted, especially when the situation in Myanmar does not allow them to return back.

- Principle of natural justice- Even thought India has the right to deport and give permission to stay to refugee without being question, however, if the refugees are decided to be deported, they should be given the right to be heard according to the due process of laws. This is the basic principle of natural justice and if Rohingya refugees are being asked to be deported without availing this right to

them will be a violation of “*audi alteram partem*” or the principle of natural justice.[44]

- Bias classification – Rohingya people also face discrimination even in India in which they are segregated from the rest of the refugee in India. There is no rational reason for classifying the Rohingya from the other refugees group and depriving them of the same refugee protection as have given to others. The segregation of the Rohingya refugees if solely on communal grounds is a gross discrimination on the rights to equality and religion.[45]

## Conclusion

India since its independence, it has apply *ad hoc* policies when it come to settling refugee problems. “Bilateral” and “administrative” policy makes it easy for India to decide on refugee settlement. It sometimes adheres to a “do-nothing” policy which puts it in a safe spot, though it is sometimes often questioned and in case of Rohingya refugee crisis, India has taken the same approach. India has always have a good relationship with both Myanmar and Bangladesh, it needs Myanmar as it is a gateway to South Asia and for cooperate with the patrolling the Southern Indian Ocean. So also, Bangladesh has always been in a friendly relationship with India. However, India’s relationship towards Myanmar may have been beaten up by China, all of its strategic toward economic and political issues are concerned did not yield any good result. [46] But since the inflow of Rohingya Refugee are becoming out of hand and the Myanmar Government are giving a silent respond, India is force to take action to deport the illegal migration of 40,000 Rohingya who were taking refuge in India, reasons being that they are illegally crossing the borders of India without any proper document that may verify them and thus violates the Foreigners Act, 1946 and more importantly they poses a threat to the security and peace of the country as it was found they might have some connection and harbouring terrorist activities in the Country. However, India is widely criticised by the world community due to this decision on humanitarian basis.

The Supreme Court on the case said that a balance should be made between national security and human rights. Case of Rohingya refugees is sensitive and should be taken in utmost care and caution and the Government should not be oblivious especially when most of the refugees are innocent children and women. Refugees or not, all person have a right to life and personal liberty and the issue of the question of the national security of India, there is no prove as such that all Rohingya refugees are terrorist. With the contingency of the case, the bench comprise of Chief Justice Dipak Misra and Justice Chandrachud and Khanwilkar have delay the deportation of Rohingya refugee as long as the case is still pending in the court. [47] The Central government however is not please by the decision of the court and has further said that the Supreme Court cannot intervene in the matter of the central as they is not contingency at hand and will not stand India to be a “World Refugee Capital” anymore. [48] In 2019, 5-7 Rohingya were deported in January 2019, again when the Supreme Court heard the case on July 2019, Chief Justice Rajan Gogoi and Justice Deepak Gupta, felt that since Myanmar have identified them as citizen of Myanmar, there is no reason not to deport them. [49]

It is no doubt that when it comes to refugees cases is a geopolitical domain of the Government and must be bases on that manner and the relationship of India and Myanmar might hit the rock if it is question by the court in its executive decision [50]. However, it also serve as a reminder to the Government that it should not take a blind approach to the situation when humanitarian basis are also in question, provided it has obligations toward every international customary norm to uphold and not to withdraw from those principles. It is not likely for the Rohingya refugees to actually have any connection to terrorist activity, provided there was no strong evidence as such and India even though is concerned with security issues it should not made such allegation so lightly only on the basis of instability of situation in Jammu and Kashmir, when the instability of Jammu and Kashmir has always been there even before Rohingya Refugees arrived in that state. India has taken many refugees under its belt and the question of economic burden has not arisen [51] therefore Rohingya refugees should be accorded the same as other refugees in India and should not deprive them of any fundamental aids and assistance on a humanitarian basis. It should take into consideration the threat that will be put to Rohingya Refugees if they are to deported back to Myanmar when the situation in Myanmar are in violence and bloodshed and there is no progress in controlling the situation [52] are not ready to promise any protection and safety to the Rohingya Refugees on their return to their home Country. Rohingya refugees are considered to be the most persecuted group in modern world and situation in Myanmar is an “ethnic cleansing” of the minority which is deeply condemn by the world community. They have gone through many hardship and discrimination for many years and for India to turned a blind eye is a morally and humanitarially wrong.

Instead for better protection of refugees in India it should have a codified law on refugees status, as depending on the Foreign Act, 1946 is not relevant to refugees, as refugees characters and needs are completely different from a mere foreigner, which will provide protection and security to the refugees in India. It should provide proper guidelines and procedure of refugee’s management in the country, on the basis of their nature and circumstances rather than on individual basis.

## References

- [1] P. Sreedevi, *The Refugee Definition and Link to Human Rights*, Refugee and Human Rights, First Edition, 2008, p.54
- [2] *The text of the 1951, Convention relating to the Status of Refugees and the text of the 1967 Protocol relating to the Status of Refugees*, Office of the United Nations High Commissioner for Refugees (UNHCR), available in <http://www.unhcr.org/3b66c2aa10.pdf>
- [3] Adrienne Millbank, *The Problem with the 1951 Refugee Convention*, Parliament of Australia, available in [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp0001/01RP05](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp0001/01RP05)

- [4] Liela Nasr, *International Refugee Law: Definitions and Limitations of the 1951 Refugee Convention*, available at <http://blogs.lse.ac.uk/humanrights/2016/02/08/international-refugee-law-definitions-and-limitations-of-the-1951-refugee-convention/>,
- [5] Adrienne Millbank, *The Problem with the 1951 Refugee Convention*, Parliament of Australia, available in [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp0001/01RP05](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp0001/01RP05)
- [6] Dejo Olawu, *Refugee, Asylum-Seeker and the Legal Obligations of States for their Protection: Critical Reflections on the South African Approach*, Refugee and Human Rights, First edition, 2008, p.37
- [7] P. Sreedevi, *The Refugee Definition and Link to Human Rights*, Refugee and Human Rights, First Edition, 2008, p. 57
- [8] Akansha Malhotra and Akshay Kumar, *Indian Perspective on Protection of Refugees*, Refugee and Human Rights, First Edition, 2008, pp. 8-9
- [9] *Refugee Law: The Indian Perspective; Law teachers; Law Teacher*, available in <https://www.lawteacher.net/free-law-essays/international-law/refugee-law-the-indian-perspective-law-essay.php>
- [10] *Human Rights of Refugees in Indian Legal Regime and Role of Judiciary*, available in [http://shodhganga.inflibnet.ac.in/bitstream/10603/128419/15/12\\_chapter%204.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/128419/15/12_chapter%204.pdf)
- [11] *India home to 2,00,000 refugees in first half of 2014: UNHCR*; The Hindu, available in <http://www.thehindu.com/news/national/india-home-to-200000-refugees-in-first-half-of-2014-unhcr/article6771040.ece>
- [12] Sharadha Devanath, *Understanding the problems created by the Rohingya Refugees in India*, Indian News, available in <https://indiansnews.com/india/understanding-problems-created-rohingya-muslims-india/>
- [13] *Ibid.*
- [14] Jayanth Jacob, *Five reasons why India is cagey about Rohingya violence, refugees*, Hindustan Times, available in <https://www.hindustantimes.com/india-news/five-reasons-why-india-is-cagey-about-rohingya-violence-refugees/story-jJEjOPK6cSVhy6tmzht9nN.html>
- [15] Manik Chakrabarty, *International Humanitarian Rights Assistance for Refugee, An Analytical Study with Special Preference to Indian Law and Practice*, available at <http://hdl.handle.net/10603/68492>, also see file:///D:/Refugee/Sdngnga/part%204/08\_chapter%202(1).pdf
- [16] *Ibid.*
- [17] T. Ananthachari, *Refugees in India: Legal Framework Law and Enforcement and Security*, available at <http://www.worldlii.org/int/journals/ISILYBIHRL/2001/7.html>
- [18] Section 3 (2) (a) and (b), *The citizenship act, 1955*, <https://indiankanoon.org/doc/1935787/>
- [19] Divya Sharma, *Protection of Refugee Rights in India*, available at <http://hdl.handle.net/10603/172260>, also see file:///D:/Refugee/Sdngnga/protection%20of%20refugee/09\_chapter\_1.pdf.pdf
- [20] *Case of Sivakumaran, House of Lord Decision, 1988, Imm. L.R (2d) 169*
- [21] *Supra note 32*
- [22] *Ibid.*
- [23] *Ibid.*
- [24] Umber Beigh, *India's Rohingya Refugees Living in Fear for their Lives*, The New Arab, available at <https://www.alaraby.co.uk/english/indepth/2017/9/12/indias-rohingya-refugees-living-in-fear-and-squalor>
- [25] Krishnadas Rajagopal, *'Illegal' Rohingya refugees pose Security Threat, Centre tells SC*, The Hindu, available at <http://www.thehindu.com/news/national/rohingya-refugees-illegal-pose-security-threat-centre-tells-sc/article19708554.ece>
- [26] Guari Naithani, *Explainer: Who Are Rohingya Muslims, Why India Want to Deport Them & is it Ethical?*, Scoop Woop News, available at <https://www.scoopwhoop.com/rohingya-muslims-deport-india/#.zwtf1ld3j>
- [27] *Supreme Court bars Deportation of Rohingya Muslims until case hearing, says govt can't be blind to plight of women, kids*, First Post, available at <http://www.firstpost.com/india/supreme-court-bars-deportation-of-rohingya-muslims-until-case-hearing-says-govt-cant-be-blind-to-plight-of-women-kids-4139369.html>
- [28] Mrinmoy Bhowmick, *NHRC to Plead against Deportation of Rohingyas on 'Humanitarian Ground'*, Ibtimes, available at <https://www.ibtimes.co.in/nhrc-plead-against-deportation-rohingyas-humanitarian-grounds-video-742334>
- [29] *Supreme Court bars Deportation of Rohingya Muslims until case hearing, says govt can't be blind to plight of women, kids*, First Post, available at <http://www.firstpost.com/india/supreme-court-bars-deportation-of-rohingya-muslims-until-case-hearing-says-govt-cant-be-blind-to-plight-of-women-kids-4139369.html>
- [30] Mohammed Sinan Siyech, *India' Rohingya Terror Problem: Real or Imagine?*, South Asian Voices, available at <https://southasianvoices.org/indias-rohingya-terror-problem-real-imagined/>
- [31] Sreemoy Talukdar, *Rohingya crisis: Humanitarian grounds cannot undermine national security; India must defy coercive pressures*, Firstpost, available at <https://www.firstpost.com/india/rohingya-crisis-humanitarian-grounds-cannot-undermine-national-security-india-must-resist-unhrcs-coercion-4035877.html>
- [32] Mohammed Sinan Siyech, *India' Rohingya Terror Problem: Real or Imagine?*, South Asian Voices, available at <https://southasianvoices.org/indias-rohingya-terror-problem-real-imagined/>
- [33] Sagarika Chandel, *Need for Codification of Refugee Laws in India*, Law Octopus, available at <https://www.lawctopus.com/academike/need-codification-refugee-laws-india/>
- [34] Section 2(a), The Foreigner Act, 1946, Act No. 31, of 1946,



- <http://mha1.nic.in/pdfs/The%20Foreigners%20Act,%201946.pdf>
- [35] Aman Prasad, *Socio-legal Aspects of Refugee in India*, available at [http://www.probono-india.in/Indian-Society/Paper/26\\_Socio-Legal%20aspect%20on%20Refugees%20in%20India%20by%20Aman.docx](http://www.probono-india.in/Indian-Society/Paper/26_Socio-Legal%20aspect%20on%20Refugees%20in%20India%20by%20Aman.docx).
- [36] Santhy.S.Pallai, *Legal Condition of Refugees in India*, Boris Paul, available at <https://borispaul.wordpress.com/2010/09/11/legal-conditions-of-refugees-in-india/>
- [37] *National human Rights Commission V. Andra Pradesh*, 1996 SCC (1) 742; Writ Petition (C) No. 720 of 1995, India: Supreme Court, 9 January 1996, available at [http://www.refworld.org/cases,IND\\_SC,3f4b8de54.html](http://www.refworld.org/cases,IND_SC,3f4b8de54.html)
- [38] Aman Prasad, *Socio-legal Aspects of Refugee in India*, available at [http://www.probono-india.in/Indian-Society/Paper/26\\_Socio-Legal%20aspect%20on%20Refugees%20in%20India%20by%20Aman.docx](http://www.probono-india.in/Indian-Society/Paper/26_Socio-Legal%20aspect%20on%20Refugees%20in%20India%20by%20Aman.docx).
- [39] *Ibid.*
- [40] *Human Rights of Refugees in Indian Legal Regime and Role of Judiciary*, available at [http://shodhganga.inflibnet.ac.in/bitstream/10603/128419/15/12\\_chapter%204.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/128419/15/12_chapter%204.pdf)
- [41] Aman Prasad, *Socio-legal Aspects of Refugee in India*, available at [http://www.probono-india.in/Indian-Society/Paper/26\\_Socio-Legal%20aspect%20on%20Refugees%20in%20India%20by%20Aman.docx](http://www.probono-india.in/Indian-Society/Paper/26_Socio-Legal%20aspect%20on%20Refugees%20in%20India%20by%20Aman.docx), (29-03-18/ 13:18 PM)
- [42] *Ktaer Abbas Habib Al Qutaifi v. Union of India & others*, 1999 Cri.L.J. 919, <https://indiankanoon.org/doc/1593094/>
- [43] Brihad Ralhan, *The Rohingya Refugee Crisis In India*, Vol. 3, Issue 9, 2017, available at <http://jcil.lsyndicate.com/wp-content/uploads/2017/10/Brihad.pdf>, p. 5, see also file:///D:/Refugee/CHAP%204/Brihad.pdf
- [44] *Ibid.*
- [45] *Ibid.*
- [46] Shreya Upadhyay, *The Future of india's Do- nothing Policy Towards the Rohingya*, The Diplomat, available at <https://thediplomat.com/2017/12/the-future-of-indias-do-nothing-policy-toward-the-rohingya>
- [47] *Ibid.*
- [48] *India Can't become World's Refugee Capital*, Centre tells Supreme Court in Rohingya Deportation Case, The Scroll, available at <https://scroll.in/latest/867058/india-cant-become-worlds-refugee-capital-centre-tells-supreme-court-in-rohingya-deportation-case>
- [49] Taboola, *Top Court the hear Deportation Plea on Illegal immigrant*, Rohingyas, Available at <https://www.ndtv.com/india-news/top-court-to-hear-plea-on-deportation-of-illegal-immigrants-rohingyas-2064204>
- [50] Brihad Ralhan, *The Rohingya Refugee Crisis In India*, Vol. 3, Issue 9, 2017, available at <http://jcil.lsyndicate.com/wp-content/uploads/2017/10/Brihad.pdf>, p. 7, see also file:///D:/Refugee/CHAP%204/Brihad.pdf
- [51] *Ibid.*
- [52] *U.N Official Warns "Major New Emergency Looms" in Rohingya Refugee Crisis*, CBS news, available at <https://www.cbsnews.com/news/u-n-official-warns-major-new-emergency-looms-rohingya-refugee-crisis/>