



Examining India's policy towards Rohingya's crisis with special reference to security perspective

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Abstract

The Rohingya are an ethnic group, the majority of whom are Muslim. To escape persecution in Myanmar, hundreds of thousands of Rohingyas have been fleeing to other countries for refuge. The largest migration of this community took place in 2016 and 2017 when more than 723000 Rohingyas sought refuge in neighbouring countries including India. This paper presents a brief background of the ethnic conflict in Rakhine State in Myanmar, India's constitutional provisions related to non-residents including refugees and international law obligations for India in handling of immigrants and refugees. This paper analyses the security threats to India induced by Rohingyas living in India. This paper is a descriptive study uses qualitative research method. It uses facts and information which are already available in open source to draw the result of the study.

Keywords: Rohingya crisis, ethnic conflict, refugee, security threat

Introduction

The Rohingya Muslims, originally inhabitants of the Rakhine State in Myanmar have been targets of the State for a long time ^[1]. The Buddhist majority State has committed grave atrocities such as mass killings, persecutions and sexual assaults of the Rohingya Muslims ^[2]. The violence first surfaced in 2012 and later intensified in 2017-18 ^[3]. Since then, millions of Rohingya Muslims have sought refuge in neighbouring States of Bangladesh, India, Malaysia, Thailand and Indonesia ^[4]. They have also been called the "most persecuted minority in the world" by the United Nations ^[5]. Described by UN Secretary-General Antonio Guterres as "one of, if not the, most discriminated people in the world", the Rohingya are one of Myanmar's many ethnic minorities. The Rohingya people have faced decades of systematic discrimination, statelessness and targeted violence in Rakhine State, Myanmar. Such persecution has forced Rohingya women, girls, boys and men into Bangladesh for many years, with significant spikes following violent attacks in 1978, 1991-1992, and again in 2016 ^[6].

In addition to the violence against Rohingyas in subsequent years—including the destruction of mosques and schools in Rakhine State—discrimination against them was institutionalized politically with the enactment of the 1982 Citizenship Law. The new law denied them Burmese citizenship making them stateless. Myanmar's government does not recognize Rohingyas among the national races (like it does for Barman or Arakanese) even if there is evidence proving they were born in the country, and thus refers to them as "Bengali," illegal immigrants ^[7].

Myanmar considers them "illegal immigrants" from Bangladesh. Violence in Rakhine State has displaced several hundred thousand Rohingyas within Myanmar and driven out around a million to neighbouring Bangladesh after the military launched a bloody crackdown triggered by militant attacks on security posts in late August 2017 ^[8]. The

crisis has also acquired a security dimension with concerns being raised over the infiltration of Islamic extremism amongst the Rohingya, who have grown increasingly desperate over their plight. The massive refugee outflow has created a serious humanitarian crisis that carries implications on regional stability and security ^[9]. By virtue of being deemed stateless, or even worse, regarded as illegal migrants, Rohingyas have no standing to protest against discrimination before national authorities. Their situation is further compromised by the fact that none of the surrounding states are signatories to the 1951 U.N. Refugee Convention, or its 1967 Protocol; nor has a regional refugee protection framework yet been developed ^[10].

India's policy towards Rohingya crisis

India has been historically known to be benevolent to refugees. During the late 1980s and early 1990s, it welcomed thousands of refugees from Myanmar. Undoubtedly, India has unique history to provide asylum many people came from different countries offered every kind of securities and necessities. But today's scenario has been changed. India being an overpopulated country, struggling for providing bare necessities food, shelter, cloth, education and employments to its own citizens. Though India has followed the notion of "Atithi Devo Bhava". But there is limit to Atithi even. India cannot accommodate the thousands of asylum seekers. India has revealed the opinion on Rohingya immigration that if it will offer asylum to them or accommodate them as refugees that would definitely become the reason of a heavy economic burden in the country ^[11]. Rohingyas have sought refuge in India in small numbers for decades. Most of the 18,000 Rohingyas currently registered with the United Nations High Commissioner for Refugees (UNHCR) in India entered the country after 2012, following a wave of extreme violence against the community in Myanmar. From around 2012, Rohingyas in India have been able to access Refugee Status

Determination (RSD) with UNHCR and receive UNHCR Refugee Cards. Rohingyas are not recognised by the Indian Government formally as “refugees”, though for several years they were a tolerated refugee group permitted to live freely and receive assistance from UNHCR and non-governmental humanitarian organisations. Between 2012-2017, the Indian Government also granted Long Term Visas (LTVs) to the Rohingyas who had been issued UNHCR Refugee Cards. These were renewable annually and, as with other refugee groups, the granting of LTVs provided Rohingyas with legal permission to be in the country, which protected them from detention and deportation as “illegal migrants”^[12].

Protection for Rohingya refugees in India deteriorated further from August 2017. On 9th of August in 2017, the then Minister of State of Ministry of Home Affairs, Kiren Rijju, told the Parliament that there are around 40,000 Rohingyas in India and that “powers to identify, detain and deport illegally staying foreign nationals including Rohingyas have been delegated to State Governments/ Union Territories [UTs] administrations”. A day earlier, the Indian Government issued notice to all state governments outlining the need to identify Rohingyas in anticipation of deportation to Myanmar^[13].

In August, 2022, India’s Minister of Housing and Urban Affairs Hardeep Singh Puri in a tweet said the government will move the Rohingya refugees living in Delhi to flats meant for economically weaker sections. But, later denying this, the Home Ministry said the government would continue efforts for their “deportation” to Myanmar. The Central government reasserted that its policy on the Rohingya refugees in India, who it calls “illegal foreigners”, will not change^[14].

The two school of thought of India’s policy have become very evident in the handling of Rohingya crisis: the first school argues that the dealing of current Rohingya crisis has some “Approach of Continuity” as it is consistent with India’s tradition of “Vasudhaiva Kutumbakam”, which means “The World is One Family”, when it welcomed thousands of refugees from Myanmar during 1980s and 1990s. And the second school of thought is departure from past policy. The central government calling Rohingya refugees as “illegal migrants” and ready to deport them is clear departure from India’s policy from the past.

India’s refugee policy and international law obligations

India is not a signatory to the UN Convention on Refugees, 1951 and also the 1967 Protocol and does not recognize the Refugee Cards issued by the UNHCR^[15]. This implies that Rohingyas within India do not particularly have a right to seek ration, jobs, housing, education etc^[16]. As a result, most Rohingyas are believed to be involved in rag-picking, unskilled and unorganized jobs (Gulati, 2019). However, as a signatory to the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR), it owes obligation to uphold human rights principles nonetheless^[17].

India does not have specific law that is applicable to all the refugees in the country. Due to lack of specific law, judicial system is confined, when dealing with the refugees, to invoke laws that are applicable to foreigners in general, such as Foreigners Act 1946. The exception to this rule is the legislation that has been passed regarding specific groups of refugees, like the Tibetans. Laws have also been enacted

relating to large scale refugee movements during the partition of India in 1947 and the partition of Pakistan in 1971. These acts regulate the movement of refugees relating to their rehabilitation and the award of compensation. Foreigners are entitled to restrained constitutional safety found in Articles 5 to 11, 14, 20, 21, 22, 23(3), 25(1), 27, 51(c) and 253. These provisions of Indian Constitution deal with citizenship, naturalization, extradition, displaced persons, fundamental rights of all the people living within territory of India including non-residents, the right of a person in criminal proceedings, and the power of Parliament to recognize international treaties. These provisions of the Indian Constitution indicate that the acknowledged rules of natural justice in the common law systems applicable to all civilized societies also apply in India, even to refugees^[18].

Security concerns

India being the biggest nation in the region with vast territory, it faces more challenges to its mainland security due to the refugee crisis. The Influx of the Rohingya refugees is not surprise but what they brought along with them was not welcome by India. Immigrants are susceptible to recruitment by terror groups. The disgruntled youths of the community would become an easy target for the transnational Jihadist groups. Once the youths get attracted, they could be used by Jihadists like ISIS and Al-Qaeda in India to push through their agenda. This could prove to be very noxious for India’s security as it is already grappling with insurgency in Northeast and Kashmir. Immigrants infringe upon the rights of Indian citizens which leads to social, political and cultural problems. There is a need to ensure the demographic pattern of India is not disturbed. India has always been sensitive to the refugee problems and effectively integrated various ethnic groups like Tibetans, Muslims from Afghanistan, etc. 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 multifaceted and it is noted by the Intelligence agency since the 2014 Burdwan Blast, in West Bengal; in which Mohammad Khalid, a Rohingya was arrested who confessed to had been trained by Pakistani Taliban and suspected that Jaish-e-Muhammad chief Masood Azhar and Lashkar-e-Taiba founder Hafiz Saeed, both who operate from Pakistan and exclusively target India, have come out in support of the Rohingya. Reports of increasing radicalization among Rohingya community should ring a bell to the Indian security establishment^[19].

According to information provided by security agencies and other reliable sources, Rohingya refugees in India have ties to terrorist organisations based in Pakistan, and their significant influx raises serious security concerns. In an affidavit submitted to the Delhi High Court by the Central government claimed that an organised flood of illegal migrants from Myanmar is passing through Benapole-Haridaspur (West Bengal), Hilli (West Bengal), Sonamora (Tripura), Kolkata, and Guwahati and “seriously undermining the country’s national security”.

According to the affidavit submitted by the Foreigners Regional Registration Office (FRRO), certain of the bordering states’ demographic profiles have already undergone considerable and serious changes as a result of an already existing massive influx of illegal immigrants from the neighbouring countries. According to the affidavit/ this

is already having a significant impact on a number of situations, taking its toll, and directly harming Indian individual's fundamental and basic human rights. "It is respectfully submitted that India is already saddled with a very serious problem of illegal migrants and is attempting to address this situation in the larger interest of the nation and keeping the national resources of the Country, requirements of India's own population, the national security concerns of India and several other facts in consideration which are based upon objective facts derived from empirical data which are in the knowledge and contemporaneous record of the Central Government," the government has submitted ^[20]. Even in Parliament, in response to the questions of opposition Central government admits that illegal migrants (including Rohingyas) pose a threat to national security and there are reports about some Rohingya migrants indulging in illegal activities ^[21].

Conclusion

The Rohingya ethnic conflict is a long history of unresolved political debate for recognition of ethnic identity of Rohingya Muslims and their citizenship in Myanmar. Though the Rohingya crisis is an internal matter of Myanmar, India, as a member of the international community, must fulfil its role to ensure that the roots of the crisis get resolved and the rights of the Rohingyas are secured in their own nation. The recent Rohingya crisis which leads to the influx of hundreds and thousands of Rohingyas in India illegally poses some serious security threats for national security of the country. As we understand that only a peaceful neighbourhood can ensure India's national security. And the matter related to the deportation of Rohingyas is in Supreme Court, and the Supreme Court has long acknowledged that the right to life under Article 21 of the Constitution is available to all persons living in the territory of India, and not just to citizens. It has on occasion also held that refugees cannot be repatriated until the situation in their home countries stabilises, Indian government cannot deport them before the final judgement, it is a high time for India to formulate a strong refugee policy. This would not only help to mitigate the present Rohingya refugee problem but also provide a structure to be used whenever similar situation arise.

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