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Influx of Refugees and Outsiders in India and Violation of Rights of Citizens of India

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ABSTRACT

Migration is a worldwide phenomenon that will likely continue in the foreseeable future. It has been an important factor determining population change throughout human history. Individuals and groups migrate (more or less permanently) over symbolic or political boundaries into new residential regions and communities³. In earlier times, on exhausting the resources of a particular region, humans migrated to other regions where they could find the means of sustenance in abundance – this nomadic practice virtually ceased when our ancestors, well-versed themselves with the nuances of agriculture and started the tradition of settling near the riverbanks, for perpetuity. This is exactly how the ancient civilizations of Mesopotamia between the Tigris and the Euphrates and the Harappa along Indus. Although the basic needs of humanity were assured owing to such settlements, the ideologies of expansionism, trade and the greed for securing more resources led to several tribes and later, the religious groups to left their homelands, plundered foreign nations, exploited the natives and quite audaciously settled among themselves, attempting to be one. Likewise, a few groups, who fell prey to the wrath of nature or against the savage members of their community, escaped to places where they could expect a dignified treatment – labelled as refugees, these migrants, either legal or illegal, have had a substantial impact on the civilizations where they settled. If the Aryan-Migration theory holds⁴, then, for 5000 years, Refugees, in some form or the other, had been instrumental in crushing the very cultural values for which India has stood for.

I. INTRODUCTION

Dravidians to the South and played a pivotal role in crushing the existing cultures and societies⁵. However, an interesting facet of these foreign races is that they subsequently

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³ Marshal Gordon, “Dictionary of Sociology”, OUP, Oxford and New York, 1998, p. 415.

⁴ Shoaib Daniyal Two new genetic studies upheld Indo-Aryan migration. So why did the Indian media report the opposite? Scroll.in Sep 12, 2019 09:00 AM. As retrieved from: (<https://scroll.in/article/936872/two-new-genetic-studies-upheld-aryan-migration-theory-so-why-did-indian-media-report-the-opposite#:~:text=The%20theory%20of%20the%20Aryan,the%20indigenous%20Indus%20Valley%20Civilisation>). (Accessed June 8 2021 7:10 AM IST).

⁵ Dinsa Sachan Aryan invasion debunked Down to Earth January 31 2012. As retrieved from:

amalgamated with the natives and paved the path for national integration – many believe that such fusion of cultures gave birth to ancient Hinduism. However, unlike this civilization which subsequently assimilated to pave the foundation to form a unique Indian identity, the invasions that followed made it a point to maintain their separate identity, thereby aggravating the misery of the Indian communities. Be it the Greeks, the Kushans or later, the Turks, the Afghans, the Mongols, the Mughals, the Persians, Pathans or the Rohillias, these foreign invaders who later ruled India, subdued the natives and committed unspeakable atrocities against the common masses, besides refusing to be the “sugar in the milk”, as promised and achieved by the Parsis⁶. Where Humayun, the Second Mughal Ruler, who sought refuge with a Hindu King at Amarkot⁷, his descendant Aurangzeb ruthlessly implemented the Jizya Tax upon Non-Muslims⁸! One Najib Khan Rohilia, a first-generation migrant, did not hesitate in inviting the ferocious and the feared Abdali to loot Delhi and even crush the Marathas, who had, by the 1750s, managed to secure complete control over India and were virtually its defenders⁹! The desperation for retention of traditional identities and the consistent efforts for enforcing them upon the localities led to strong and organized efforts by Prithvi Raj Chauhan, Maharana Pratap, Guru Gobind Singh, Shivaji Maharaj and Lachit Bharpukhan against these illegal immigrants. Certainly, the Sikhs and the Marathas were successful in restoring the lost glory of the values for which India stood for, only to fall prey to the traders from the West – the British, who too, made it a point to crush the natives, whose repercussions, we bear to this day. Certainly, migration, in a majority of cases, has deeply impacted the very Indian culture, though, in a few instances, enabled the reformation of the Indian society – even the refugees among these, have joined hands with illegal migrants and stood against India and continue to do so even today. Nevertheless, the lackadaisical attitudes for fortifying the ancient borders and the absence of geographical barriers, these illegal migrants entered, looted and ravished on anything these could find, including the Indian values – the factionalism with regards to the

(<https://www.downtoearth.org.in/news/aryan-invasion-debunked-35674>). (Accessed June 8 2021 7:44 AM IST).

⁶ Amulya B WorldRefugeeDay: How Parsi Refugees From Yesterday Became Citizens of Today The Better India June 20 2017. As retrieved from: (<https://www.thebetterindia.com/105599/refugee-parisi-zoroastrian-india-gujarat/>). (Accessed June 8 2021 8:23 AM IST).

⁷ Abhyudaya Rajiv Kelkar Humayun’s Exile and Return The Custodians March 11 2018. As retrieved from: (<https://thecustodiansin.wordpress.com/2018/03/11/humayuns-exile-and-return/>). (Accessed June 8 2021 8:46 AM IST).

⁸ Mughal emperor Aurangzeb drew the poverty line first Times of India Jul 30, 2013, 07:04 AM IST. As retrieved from: (<https://timesofindia.indiatimes.com/city/ahmedabad/mughal-emperor-aurangzeb-drew-poverty-line-first/articleshow/21475729.cms#:~:text=It%20was%20in%201679%20that,Was%20India%20-%20Part%20II%27.>). (Accessed June 8 2021 9:11 AM IST).

⁹ Ajay Singh Remembering Panipat: Blackest day in Indian history and what we can learn from it Jan 14, 2020 07:11 PM IST. As retrieved from: (<https://www.theweek.in/news/india/2020/01/14/remembering-panipat-blackest-day-in-indian-history-and-what-we-can-learn-from-it.html>). (Accessed June 8 2021 9:26 AM IST).

fate of deciding the status of illegal migrants in India is itself the best example of the extensive brainwashing of the citizenry by certain unscrupulous persons under the guise of “human rights”.

II. INDIA’S HUMANITARIAN APPROACH TOWARDS REFUGEES – AN INSIGHT

According to the main principles of the Citizenship Act, 2019, an illegal immigrant is a foreigner who entered the country without sufficient papers or with legitimate papers but overstayed their visa. Naturalization or registration does not qualify such persons for citizenship. They might be sentenced to 2–8 years in prison and fined. Refugees, on the other hand, are essentially persons who tend to escape a country due to multiple persecutions in their homeland and travel to a distinct place, in the hopes of sustaining in a dignified manner¹⁰. Bearing this fact in mind, the Convention Relating to the Status of Refugees, 1951 assured the provision of all the fundamental rights to such migrants who fear or have been persecuted, besides prohibiting their deportation to their native country. Notably, the State, in their detention centres for refugees are required to assure humane treatment¹¹. However, countries have the complete liberty to deny entry to such persons, who are seeking refuge under the pretext of committing escaping punishment for the commission of serious crimes¹² or for indulging in acts of war against humanity¹³. Likewise, States are free to deal with illegal immigrants in a systematic and humane manner.

The essence of human rights laws lies in their foundations, which, according to several scholars, is indeed flimsy –for instance, it is still unclear whether these privileges are either granted by the State or whether the latter is its guarantor. This is precisely why in the 21st century, countries like Germany, which accommodated refugees from the Middle East and Poland, which refused to grant asylum to them, co-exist together. Notably, the killings in

¹⁰ Convention relating to the Status of Refugees, 1951, Article 1A- For the purposes of the present Convention, the term "refugee" shall apply to any person who:(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization.

¹¹ *M.S.S. v. Belgium and Greece* [GC], no. 30696/09, ECHR 2011, Judgment of 21 January 2011.

¹² *Matter of Carballe*, 19 I&N 357 (BIA 1986).

¹³ Convention relating to the Status of Refugees, 1951, Article 1F (a) - He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes.

Germany¹⁴ and France¹⁵, the Bombings in Spain¹⁶ or the rape in Sweden¹⁷ are certainly linked with these “refugees”. By allowing a great influx of such people, the European nations virtually engendered the bodily dignity and integrity of their people besides failing to provide a safe and secure haven for its citizens and residents, which is also their fundamental right. India stands in the middle of these extremities, as it allows Hindu and Buddhist refugees from its neighbours¹⁸, while on the other hand, it was recently in news for refusing to grant safe passage to Rohingyas, a stance, which was also upheld by the Indian Judiciary¹⁹. Such a stance is indeed reflective of the fact that India places the interests of the sovereignty of the nation, above the rights of a few individuals, quite radically, contrary to the actions of several European nations, which led to the refugee crisis therein. This does not explicitly mean that India accords a similar treatment to all migrants – in fact, India accepted the principle of non-refoulement as envisaged in the Bangkok Principles, 1966 and the Judiciary has gone to the extent of recognizing their dignity²⁰ and upholding the application of this principle and assuring freedom of movement²¹! India has undertaken this stance consistently when it is convinced that such migrants have a reasonable apprehension to fear of life and pose no threat in their nation of origin and are no threat whatsoever to the country²². Laudably persons, whose refugee status is pending with the UNHRC, are also allowed to stay within the territories of India²³ indicating the attempt of the Indian state to act to align its attitude with that of the established international standards on refugee law. The aforesaid is a midway which India has achieved, for balancing its disregard to the Convention of Refugees of 1951 and its obligations under the UDHR²⁴ and the ICCPR²⁵.

¹⁴ Berlin truck attack: Police hunt for Tunisian suspect BB News Dec 21 2016. As retrieved from: (<https://www.bbc.com/news/world-europe-38392128>). (Accessed June 9 2021 10:16 AM IST).

¹⁵ France attack: Three killed in 'Islamist terrorist' stabbings BBC News Oct 29 2020. As retrieved from: (<https://www.bbc.com/news/world-europe-54729957>). (Accessed June 9 2021 09:57 AM IST).

¹⁶ Spain sentences three men who helped jihadists in 2017 Barcelona attacks France24 May 21 2021 10:27 PM IST. As retrieved from: (<https://www.france24.com/en/europe/20210527-spain-sentences-three-men-who-helped-jihadists-in-2017-barcelona-attacks>). (Accessed June 9 2021 10:31 AM IST).

¹⁷ Sinclair Broadcast Group Crime stats show increase in violence against women in Sweden after refugee influx Mar 10 2018. As retrieved from: (<https://wjla.com/news/inside-your-world/crime-stats-show-increase-in-violence-against-women-in-sweden-after-refugee-crisis>). (Accessed June 9 2021 10: 37 AM IST).

¹⁸ T. Ramakrishnan Refugee influx to India will continue, says expert The Hindu Nov 23, 2018 12:58 PM IST. As retrieved from: (<https://www.thehindu.com/news/cities/chennai/refugee-influx-to-india-will-continue-says-expert/article25571540.ece>). (Accessed June 9 2021 11:03 AM IST).

¹⁹ Chander Uday Singh Supreme Court must rethink its order on deportation of Rohingya refugees The Indian Express April 26 2021 9:01 AM. As retrieved from: (<https://indianexpress.com/article/opinion/columns/rohingya-refugees-crisis-india-supreme-court-7288913/>). (Accessed June 9 2021 11:20 AM IST).

²⁰ , National Human Rights Commission v. State of Arunachal Pradesh and Another, 1996 SCC 1 742.

²¹ Syed Ata Mohammadi v. Union of India, Criminal writ petition no.7504/1994.

²² Ktaer Abbas Habib Al Qutaifi v. Union of India & Ors., 1999 Cri.L.J. 919..

²³ P. Nedumaran v. Union of India, 1993 (2) ALT 291.

²⁴ Universal Declaration of Human Rights, Article 14(1) - Everyone has the right to seek and to enjoy in other countries asylum from persecution.

²⁵ International Convention on Civil and Political Rights, Article 7- No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free

III. REFUGEES/ILLEGAL IMMIGRANTS AND THEIR CONFLICT WITH CITIZENS OF INDIA

Nevertheless, India continues to harbour such soft-corner only towards “persecuted” immigrants, and in a plethora of cases, the absence of a record for proving the same coupled with the possibility of danger to the well-being of the nation and the citizenry have compelled the Indian Government to deport them. Through the medium of the Assam Accord, the NRC and importantly, the Foreigners Act, 1948 Citizenship Act, 2019 and The Immigrants (Expulsion from Assam) Act, 1950, a great number of illegal immigrants has been and will continue to be expelled from the nation, in accordance with the due procedure of law. For, as mentioned earlier, illegal immigrants such as Rohingyas, who claim to be refugees (for they fled Myanmar for escaping their genocide²⁶), have no place in India, for they possess a threat to the security of the nation²⁷. In March 2021, the Supreme Court issued a notice in a Public Interest Litigation before it, wherein it directed the identification, detention and deportation of illegal immigrants at the earliest, especially that of Bangladeshis and the Rohingyas²⁸. Such a “despotic” attitude can be best gathered from the following mishaps that manifested in India, due to the direct or indirect participation from the members of such communities:

1. Many refugees and illegal immigrants are believed to have been associated with either aiding or executing several terrorist activities in India- Bangladeshis were said to have been involved in the deadly Ahmedabad²⁹ or Assam Bomb Blasts³⁰ among others, who entered India illegally and got radicalised thereafter. Many Bangladeshis, who enter India under the pretext of escaping violence, are indulged in instigating persons in migrant labour camps throughout the country to join their endeavours in bringing India to its knees³¹. Likewise, several persons are acting as agents for allowing people to enter India illegally, later using them for hampering public order herein. Such atrocious acts not only

consent to medical or scientific experimentation.

²⁶ The Gambia vs. Myanmar, Order, 23 Jan 2020.

²⁷ Mohammad Salimullah And Anr. v. Union Of India And Ors., Writ Petition (Civil) No.793 Of 2017.

²⁸ Jaffar Ullah v. Union of India, WP No 793/2017.

²⁹ Kingshuk Nag Illegal Bangla migrants aiding terrorists Times of India Jul 30 2008 02:34 PM IST. As retrieved from: (<https://timesofindia.indiatimes.com/india/illegal-bangla-migrants-aiding-terrorists/articleshow/3303749.cms>). (Accessed June 11 2021 01:55 PM IST).

³⁰ 'Blasts highlight issue of illegal immigrants' Hindustan Times Oct 30, 2008 04:18 PM IST. As retrieved from: (<https://www.hindustantimes.com/delhi/blasts-highlight-issue-of-illegal-immigrants/story-01v44oaYLMJmuYUt3YrdbL.html>). (Accessed June 11 2021 02:28 PM IST).

³¹ Nidhi Surendranath Steady influx of illegal immigrants into city raises concern The Hindu July 04, 2013 01:14 AM IST. As retrieved from: (<https://www.thehindu.com/news/cities/Kochi/steady-influx-of-illegal-immigrants-into-city-raises-concern/article4878162.ece>). (Accessed June 11 2021 02:41 PM IST).

threaten the sovereignty of India but, to execute any form of violence or put people in a constant state of threat violates the right to live with dignity³².

2. Illegal immigrants are believed to have been involved in petty crimes, smuggling of arms, ammunition, counterfeiting, forging citizenship documents and even drugs³³, all of which, severely conflict with the right of the citizens to live in a peaceful environment³⁴, their economic interests and most importantly, their right to health³⁵. In simple words, the failure of the State to take a bold stance against the refugees would lead to the abrogation of the socio-economic interests of the Indians.
3. In one of the most heinous crimes that could be committed against women, 5 illegal immigrants were arrested for molesting and raping a woman in Bengaluru, which violated her right against being exposed to such an atrocity³⁶- the consistent influx of such persons is likely to threaten the bodily integrity of women in the country³⁷, indicating that strict measures to that effect are the need of the hour.
4. Be it, refugees or illegal immigrants, the major reason for their resettlement is to find and earn a suitable, economic livelihood - unknowingly, they tend to grab the jobs which are essentially meant for the Indian youth and by allowing this, the State is straying from its goal of safeguarding the right to work of the citizen, as enshrined in Part IV of the Constitution³⁸. Furthermore, illegal immigrants wreak havoc on the efforts of the state to assure appropriate education, health care, and housing³⁹ - this, as mentioned above, also collides with the livelihood of the masses of the country⁴⁰.
5. Notably, these illegal immigrants and even refugees are attempting to register themselves as citizens of India⁴¹, and are even involved in securing a Voter ID, which allows them to

³² Sumit Kumar v. State of Bihar, 2020 SCC OnLine Pat 2700.

³³ Anand Kumar Illegal Bangladeshi Migration to India: Impact on Internal Security Manohar Parrikar Institute for Defense Studies and Analyses May 7 2010. As retrieved from: (<https://www.idsa.in/event/IllegalBangladeshiMigrationtoIndia>). (Accessed June 11 2021 02:51 PM IST).

³⁴ K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.

³⁵ Bandhua Mukti Morcha v. Union of India & Ors.,(1997) 10 SCC 549.

³⁶ Rape in Bengaluru: Time to wake up to the grave threat of illegal Bangladeshi crime syndicates in India One India May 29 2021 03:33 AM IST. As retrieved from: (<https://www.oneindia.com/india/rape-in-bengaluru-time-to-wake-up-to-the-grave-threat-of-illegal-bangladeshi-crime-syndicate-in-ind-3266431.html?story=2>). (Accessed June 11 2021 03:24 PM IST).

³⁷ Shri Bodhisattwa Gautam v. Miss Subhra Chakraborty, (1996) 1 SCC 490.

³⁸ Constitution of India, 1950, Article 41 -The State shall within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

³⁹ M Amarjit Singh A Study on Illegal Immigration into North-East India, 2009.

⁴⁰ Olga Tellis v. Bombay Municipal Corporation, [1985] 2 Supp SCR 51.

⁴¹ Vicky Najappa Aggression to crime syndicates: How Bangladeshi migrants are wrecking Bengal OneIndia Dec 11 2020 12:47 PM IST. As retrieved from: (<https://www.oneindia.com/india/aggression-to-crime-syndicates->

cast a vote for the desired candidate, thereby influencing the elections⁴². In doing so, these individuals are violating the right of the citizens to elect a democratic government of their choice, which by far, is one of the greatest transgressions to ever be carried out by them.

Thus, the ability of the illegal immigrants to consistently conflict with the best interests of the citizens and the well-being of the State should compel the State to fasten its process of deporting illegal immigrants from the country, undoubtedly, in accordance with the law.

IV. CONCLUSION

According to V.D. Savarkar, India encompassed everything that lies between the Indus to the West, Himalayas, to the North and the Seas and the Ocean to the East and the South – the failure of appropriate fortifications on the Western front and the lackadaisical attitude towards migrants is the primary reason for the reduction in the geographical extent of India. And as Indian citizens refuse to cooperate with the Government to ward off illegal immigrants in the country, greater harm continues to exist upon the sovereignty and integrity of the country. For, it is no news that illegal immigrants, such as the Rohingyas are believed to have had major links with terrorist organizations such as ISIS⁴³, which is the driving factor for the Government's refusal to take any member of this community within India and instead, ensure their speedy deportation. Many opine that such immigrants also assist several separatist movements in India, especially in Kashmir and Assam, which in itself, is capable of usurping public peace herein. Be it noted, that the Partition of 1947 had led to one of the deadliest refugee crisis worldwide and any ignorance of the State in dealing with the current influx of refugees will only aid certain groups in achieving their goal of destroying India from within, like it did, 70 years ago.

how-bangladeshi-migrants-are-wrecking-bengal-3187961.html?story=4). (Accessed June 12 2021 10:22 AM IST).

⁴² Id.

⁴³ Some Rohingyas found with links to ISI, ISIS: MHA Outlook SEPT 18 2017 8:01 PM IST. As retrieved from: (<https://www.outlookindia.com/newscroll/some-rohingyas-found-with-links-to-isi-isis-mha/1148998>). (Accessed June 12 2021 10:44 AM IST).