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STATELESSNESS AND FORCED MIGRATION: A STUDY OF ROHINGYA REFUGEES IN INDIA

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ABSTRACT:

Statelessness is a condition where a person or a community finds themselves not considered as a national by any state under the operation of its law. Rohingya community is one such example of a stateless community which is not considered as nationals by their own native country Myanmar due to which they are forced to migrate to neighbouring countries like Bangladesh and India. They have become a serious threat to the countries to which they have migrated. The condition of Rohingya refugees have become a concern of international community. According to the United Nations Rohingyas are the most persecuted ethnic minority in the world. This paper examines the history of Rohingya community and the factors responsible for their stateless condition. The paper also tries to look at the condition of Rohingya refugees in India and response of the Indian government towards them.

KEYWORDS: Statelessness, forced migration, Rohingya, Refugee, Myanmar

INTRODUCTION:

In this age of the nation state, the state has become a representative identity for human beings. The world system is a web of states relationship with citizenship a requirement for the existence of order. The universal declaration of human rights entitled every person with the right to nationality. In this age, if a person becomes stateless, he or she will be deprived of even basic human rights. Statelessness induced crises can not be seen as a states internal issue, it brings many challenges to host countries from the security perspective. The Rohingya refugees crises which have been resulted from systematic state atrocities towards a minority community which have them stateless and resulted in massive wave of forced migration to neighbouring countries. The Rohingyas, the largest stateless population in today's world have no rightful claims to citizenship of Myanmar, the country from which they originate. The Rohingyas, a Muslim minority community of Rakhine state of Myanmar. They have been

exposed to institutionalized systematic discrimination and violence for decades which have forced them to migrate to neighbouring countries and leave their native land, Myanmar. Despite claiming their origin in Myanmar, the Rohingyas hardly experience peace and they are constantly subjected to systematic persecution and violence. The issue of systematic violence towards Rohingyas is not a new one but is continuing for decades but in 1948, after the independence of Burma, the situation of Rohingyas got worse. The situation became unbearable when the military junta took over the control of the state in 1962. During the rule of military junta, the Rohingyas faced persecution such as restrictions of movements, denied education, forced labour, rape, confiscation of property and several other abuses. They were also regarded as aliens. Due to their desperate situation the Rohingyas were left with no other choice but to migrate to neighbouring states and leave their own native state. In 1978 millions of Rohingyas entered Bangladesh fleeing persecution and oppression. Ever since there has been a continuous migration of Rohingyas to the neighbouring states of Myanmar. The Myanmar governments large scale deprivation and denial of Rohingyas citizenship has been a central component of the populations persecution. Myanmar has arbitrarily stripped of the nationality of the Rohingyas and made them stateless and this deprived them of all the basic human rights. Myanmar's 1982 citizenship law is the central legal instrument behind statelessness of the Rohingyas. The law was implemented in a manner that particularly targeted the Rohingya community. their stateless condition has reinforced the states narrative that they are foreigners or in the government terminology "illegal immigrants" who are unworthy of state protection. Powerful nationalist voices outright deny that there is such a thing as a Rohingya ethnic group and instead refer to them as Bengali. The Rohingyas as re left with a status that reinforces the lie that they are not from Myanmar. Many Rohingyas reject being identified as stateless, claiming instead that they are Myanmar citizens, a position that is denied by the Myanmar government.

The concept of forced migration is a internationally debated concept. The term is used to describe the movement of refugees, displaced persons and in some instances victim of trafficking. The systematic persecution and violence faced by Rohingyas is their own native country forced them to migrate to neighbouring countries. The largest migration of this community took place in 2016 and 2017 when episodes of brutal suppression by the military forces of Myanmar caused millions of Rohingyas to seek refuge in neighbouring countries. In 2017 Myanmar security forces and nationalist mobs conducted a violent campaign against the Rohingya population in the north rakhine state by razing villages, killing large numbers of people and dumping their bodies in mass graves. Subsequently hundreds and thousands fled to Bangladesh and other neighbouring countries. That was perhaps the most shocking and brutal atrocities to have been committed against the Rohingyas but they were not the first. While the vast majority of the Rohingyas that fled Myanmar are in Bangladesh. There are an estimated 20000 Rohingyas asylum seekers and refugees registered with United Nations High commissioner for refugees (UNHCR) in India. There are two main patterns of Rohingya migration into India. First is from Bangladesh westward to the state of West Bengal in India and northeast to the Indian states of Mizoram and Meghalaya. But India is not a party to 1951 refugee convention nor its 1967 refugee

protocol. India also does not have any national law regarding protection of refugees. Therefore the Rohingyas can not claim refugee rights in the state. As such Rohingya refugees have been criminalized and treated as illegal immigrants leaving them with ambiguous legal status.

LITERATURE REVIEW:

A range of work have been conducted on issues like forced migration and statelessness. However a very few works have been done in the context of Rohingya refugee crisis in India. Some of the available literatures have been discussed here-

Sabyasachi Basu Roy Choudhury and Ranbir Samaddar in their edited book “The Rohingya in south Asia: people without a state” 2018 looks at the Rohingya in south Asia region primarily in India and Bangladesh. The book explores the broader picture of the historical and political dimensions of the Rohingya crisis and examines subjects of statelessness, human rights and humanitarian protection of these victims of forced migration. The book also discusses the actual process of emergence of a stateless community, the transformation of a ethnic group into a stateless existence without basic rights.

Sachimita majumdar 2015 in the article “Rohingyas languishing behind the bar” discussed the situation of Rohingyas in west Bengal. It is discussed in her paper that the visible number of population is found only in the correctional homes of West Bengal and there is no particular settlement area of Rohingyas in west Bengal. Majumder has conducted her study on 58 Rohingya muslims among whom 38 are men and 20 are women. All those people were in prisons of West Bengal (North zone). In the paper she has presented the identity crisis of Rohingyas because of their statelessness and the resulting complications on the part of judiciary. The missing link between the judiciary, police authorities, department of correctional administration UNHCR and the victims that is the absence of protection regime contributes to vulnerability of a group of the victims of forced migration.

Zawacki, 2013 in his article “Defining Myanmar’s Rohingya problem” has attempted to explain what is actually meant while talking about the Rohingya problem. He mentions three distinct but related areas for examine the crisis of this population. Among these three areas he highlights the first on nationality and inequality which reflects completely on Myanmar. The second area is statelessness and dislocation of Rohingyas and it’s pressure on neighbouring countries and finally the accountability to safeguard deals with the function of the international community in this situation. This indicate that the consequences of this problem are not restricted to Myanmar rather it is felt throughout South East Asia and even beyond but the causes of it are very much within the country.

Supriya Mehta 2021 in her paper “Citizenship amendment act 2019 and Rohingya refugee crisis: A critical analysis” discusses the various kinds of discriminations faced by Rohingya community for ages. The paper tries to discuss the history of discrimination faced by Rohingya community in their own native land Myanmar and how the government denied them of their citizenship. The paper the Rohingya refugee crisis in context of the

citizenship amendment act 2019 and discusses how the citizenship amendment act 2019 impacted the Rohingyas living in the state. The paper also discusses the steps taken by UNHCR to protect the Rohingya refugees.

Aamna mohdin 2017 in the article “A short history of the word ‘Rohingya’ at a heart of a humanitarian crisis” states that Rohingyas are a Muslim ethnic minority community in Myanmar but the Myanmar government refuse to use the word ‘Rohingya’ and instead call them Bengalis, foreigners or terrorists. The author traces the origin of the Rohingyas and stated that they have existed in Myanmar for decades and even before the arrival of British colonial rule. The author tries to highlight the difference of the two terms Rohingyas and Bengalis which is very crucial to understand the crisis unfolding in Myanmar. The author proceeds that words really matters as by referring to the Rohingyas as Bengalis the government is able to designate the persecuted minority as the other and the perception of Rohingya as outsider and illegal immigrants. The author holds that the Rohingyas are original inhabitants of Myanmar even though the government refuses to accept them as their citizens.

Muhammad Abdul Bari 2018, in the book “The Rohingya crisis: A people facing extinction” states that the post independence Burma accommodated Rohingya reasonably well, but after the military takeover in 1962, the Burmese government started discrimination and violence against the Rohingyas. The Myanmar military banned all the socio-cultural organizations of the Rohingya. They even banned broadcasting of radio channels in Rohingya language. According to the author Myanmar has always tried to prove that all Rohingyas are Bengali immigrants which led to a phase of violence, arbitrary arrest and detention, extortion, restriction of movement, discrimination in education and employment, forced labor, organized killing, burning of the people and torturing, sexual assault against Rohingya women. The author discusses that the Rohingyas are desperate and in a squalid condition without proper access to food, water and healthcare.

K Yhome 2018 in the article “Examining India’s stance on the Rohingya crisis” talks about India’s response to the Rohingya crisis. The author discusses that India has always welcomed refugees even though it is not part of the 1951 convention and 1967 protocol. India also does not have any refugee policy to deal with refugees coming to the country, yet it has always provided asylum to refugees from various countries. However the BJP government started to look at the Rohingya refugees in other way and announced a plan of deporting the Rohingyas who have settled in different parts of the country. The author discusses that India has started framing the Rohingya crisis through the security lens and argues that in short-sighted as it could create more security challenges for India. As the Rohingya crisis unfolds, the author believes that there is still a lot that India can do to find the long term solutions to handle this crisis.

OBJECTIVES:

The main objectives of this paper is to

- Examine the historical factors which led to statelessness and forced migration of Rohingya people to the neighbouring states.
- To analyze the condition of Rohingya refugees in India.
- To examine the attitude of Indian government towards the Rohingya refugees residing in the country.

METHODOLOGY:

The paper is based on qualitative method of study. Secondary sources are incorporated to carry out the study. All the information are gathered from secondary sources like books, newspapers, journal articles, internet archives etc.

A BRIEF HISTORY OF ROHINGYA COMMUNITY

The Rohingyas are a Muslim ethnic minority in Myanmar which is the center of a humanitarian catastrophe. The Rohingyas trace their origin since 8th century and they claim that they have been living in the Rakhine state even before the arrival of the British colonial rule in Myanmar. There have been controversies over the identity and the ethnicity of the Rohingyas for many decades. The Myanmar government rejects their claim of citizenship and rather referred to them as illegal migrants from Bangladesh. In the year 1982 Myanmar declared officially the 135 ethnic groups of Myanmar where Rohingyas were totally excluded and have denied their citizenship which ultimately made the Rohingyas stateless. In the year 2012 a communal riot erupted between Myanmar's Rohingya muslims and rakhine Buddhists and since then there have been continuous persecution of the Rohingyas in Myanmar. They also face state sponsored violence and forced displacement which force them to flee to neighbouring countries. Hence the Rohingyas are also known as the world's most persecuted minority.

The existence of political crisis towards the Rohingyas in their own native country forced them to leave their own country and move to neighbouring countries. Millions of Rohingyas migrated to neighbouring countries like Bangladesh and India in search of shelter and protection and many have settled and registered under the UNHCR and settled as refugee in India. The international refugee law provides safeguard to all the refugees, the right to seek asylum and protects all the refugees from being forcefully returned to the country where they faced persecution. But India is not a party to the 1951 convention or the 1967 protocol. India also does not have any specific policy to deal with refugees. However India has been a host country to millions of refugees since it's independence and it has always respected the policy of non-refoulement. But in case of Rohingyas, government authorities termed them as illegal immigrants and they are seen as a threat to the security of the country. The authorities also talk about detaining the Rohingyas and deport them to their native lands. In this context it is very important to understand the issue from both humanitarian perspective and security perspective of the country and it is important to see how the international community will work on the issue.

ROHINGYA REFUGEES IN INDIA:

According to human rights watch there are around 40,000 Rohingya refugees living in slums and camps across India including Jammu and Kashmir, Hyderabad and Delhi. There are about 16,000 Rohingya refugees registered under the UNHCR. But it is important to note that the Indian government's stance on Rohingya refugees has been somewhat complex. While some refugees have been able to enter and reside in India, the BJP led government has not officially recognized them as refugees. Instead they have been considered as illegal immigrants which has led to various challenges to their settlement and access to rights and services. Due to their lack of legal status, Rohingya refugees in india face challenges in accessing basic services such as education, healthcare, employment opportunities etc. Their vulnerable situation can leave them susceptible to exploitation and human rights abuses.

India does not have a specific legal framework for dealing with refugees, including the Rohingyas. As a result many Rohingya refugees in India are often considered illegal immigrants and face the risk of detention. Indian authorities have conducted operations to identify and deport Rohingya refugees, which has raised concerns about their human rights and the principle of non refoulement, which prohibits sending refugees back to the country where their lives or freedoms could be at risk. The Indian government's stance on Rohingya refugees have been cautious. There have been instances of the government expressing concerns about national security and the potential of Rohingya refugees being involved in illegal activities, and this has led to a cautious approach towards their presence.

The United Nations High commissioner for refugees has been working with the Indian government to provide assistance and support to refugees including the Rohingyas. However, the lack of legal framework for refugees limits the scope of UNHCR's interventions.

CONCLUSION:

Today millions of people are forced to flee their homes due to conflicts, systematic violence and many other from of persecution. The Rohingyas have also faced such kind of persecution in their native country and have migrated to the neighbouring states in search of refuge. Some governments have laws to deal with refugees and some don't. Most of the Rohingyas migrated to Bangladesh and India and both of this countries are not part of the 1951 refugee convention. Yet the Rohingyas migrate to countries like India without valid documents and this creates life-threatening situations for them. Rohingyas are termed as the most persecuted community in the world. Their own country does not want to accept them as their citizens and the countries likeb India and Bangladesh where they want to seek asylum do not want them due to their security reasons. Therefore the Rohingya crisis have become a very important global issue. The Rohingya crisis is not limited to only one country but it has become a concern for the whole international community.

The study tries to analyze the historical background and the origin of violence against the Rohingyas in their own native land. The study tries to explain the causes which force them to leave their own native land and migrate to other countries. The study tries to explore the situation of the Rohingyas in India and the attitude and response of the Indian government towards them. The study also tries to explore the steps taken by international community to solve the crisis of statelessness of the Rohingya community under international law.

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