

Notes of reference refugee / Stateless people protection in Bangladesh

In Bangladesh, government deals with Bihari refugee at both the political and administrative levels. The result is that Bihari refugees are treated under the law applicable to aliens. In the case of Bihari refugee protection, the Constitution of Bangladesh guarantees certain fundamental rights, which are applicable to all non-citizens, namely, the right to equality (Article 27), the right to life and personal liberty (Article 32) and the freedom to practice and propagate their own religion. Any violation of these rights can be remedied through recourse to the judiciary as the Supreme Court has held that refugees or asylum seekers cannot be discriminated against because of their non-citizen status.

Stranded Pakistani General Repatriation Committee (SPGRC) is working effectively as a watchdog for the protection of stateless people. They have approached the Supreme Court under Article 102 read with 44 of the Constitution and obtained protection for illegal eviction, supply of Relief was granted by the Supreme Court on the basis of the rights of aliens under Articles 27 and 32.

The Supreme Court, in couple of writ petitions filed by the SPGRC it was argued that the State is bound to protect the life and liberty of every human being. It was also pointed out that the rights of refugees under the Constitution of Bangladesh were confirmed by Article 32, which also included the right to non-refoulement. In doing that we have relies upon Indian court decision in the case of Khy Htoon and Others vs. State of Manipur, the bench of the Guahati High Court ruled that refugees have fundamental rights under Articles 10, 21 and 22 of the Indian Constitution. Justice V. R. Krishna Iyer considers Article 14, which provides equal protection of the law, as being applicable to all persons, not merely citizens.

In Bangladesh Bihari refugee people policy is further governed by certain administrative regulations. The standard of humane treatment set by these administrative regulations flows from the ethos that persons displaced from their homes need both protection and economic sustenance. The administrative experiences of the government department responsible for rehabilitation and the laws adjudicated at the time of partition have contributed towards a refugee policy for Bangladesh. In Bangladesh, refugees are registered under the 1939 Registration Act, which is applicable to all foreigners entering the country. Under the Foreigners Act/ Rules, the government is empowered to regulate the entry, presence and departure of aliens in India, though the word alien itself is nowhere defined. Entry is also governed by the Passport Act. Entry can be restricted if a person does not have a valid passport or visa, though the government can exempt persons when it so desires. These procedures are linked at this stage to

individuals who enter borders without a valid visa or any other document. Though it is related to illegal migrants, the exemption provision is applicable to refugees. It should be noted that refugees in developing countries. Under these circumstances, refugee determination becomes an administrative task to oversee the relief and rehabilitation process rather than to supervise who stays or does not stay.

As mentioned previously, the government alone determines refugee status and has no specific legislation to deal with refugees. It is further noted that despite this lacuna Bangladesh need to apply in practice certain articles of the 1951 U.N. Refugee Convention. These include:

Article 7 as provides refugees the same treatment as all aliens,

Article 3 as fully applies a policy of non-discrimination,

Article 3A as no penalty is imposed on illegal entry,

Article 4 as religious freedom is guaranteed,

Article 16 as free access to the courts is provided,

Articles 17 and 18 as work permits have no meaning and refugees do work, thus, complying with these articles on wage-earning rights,

Article 21 as freedom of housing is allowed and refugees need not stay in camps, for freedom of movement is guaranteed to all aliens, except in certain areas where special permits are required not only for aliens but also for all and

Articles 27 and 28 as identity and travel cards are issued to refugees.

To conclude, though Bangladesh is not a party to the 1951 U.N. Refugee Convention or its Protocol, its domestic laws have not been found to be in conflict with international laws. While it can be justifiably proud of having followed a programme of humane treatment of refugees, there is still an absence of uniform treatment of different refugee groups with respect to refugee rights, resulting in discrimination in terms of assistance and opportunities. To protect refugees by means of the activists' approach has its own limitations, however. Thus, there is a need for the enactment of a national law to provide for refugees in a systematic manner.