

Status of Refugees

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Abstract - The problem of refugees owes much importance. In the modern world, being it global in nature, though this problem is as old as the history of humanity. The number of refugees to be exact totaled 12.86 million upto Dec. 1984. This figure is based on the reports from the United Nations High Commissioner for Refugees. There are 19.89 million refugees in the world they are spread across five continents. In Asia, the largest group of refugees is Afghan refugees, where are more than five millions in Pakistan and Iran. In Bangladesh they are approximately 2,45,000. India have also 4,00,000 Refugees in its territory i.e. Tribetans, Chakmas, Shri Lankan, Tamils and Afghani. It is important to mention that India was not a party to 1951 U.N. convention on status of refugees and its protocol of 1967. A basic principle of refugee law in international solidarity is linked to the first Article of universal declarations of Human Rights "All human beings are born free and equal in dignity and rights. They are endowed with reasons and conscience and should act towards one another in sprit of brotherhood.¹

I. INTRODUCTION

The term refugees under the convention of 1951 define it as under of follows. As a result of events occurring before January 1, 1951 and owing to well founded fear of being persecuted for reasons, of race, religion, nationality and membership of a particular social group. Or political opinion is outside the country of his nationality and is unable and owing to such fear is unwilling to aware himself of the protection of that country or who not having a nationality and being out side of his country of his former habitual residence as a result of such events is unable or owing to such fear is unwilling to return to it.² From the perusal of the above mentioned convention relating to refugees, it can be safely said that the persons who has no-nationality either of his own country or foreign country are called refugees.

II. ORIGIN OF REFUGEES

The League of Nations for the first time appointed a High Commission for Russian Refugees in 1921. The decision for such appointment was taken by the league on June 27, 1921 and in pursuance of that decision the High Commissioner was appointed to co-ordinate the action taken in different countries on the problem of refugees.

However it is surprising enough that the same world organization which have now become more powerful and omnipotent that the former league of nations is evading the genocides, to whatever country they may belong to be traced and punished according to international law in the International court of in Justice, where as the refugees problem is increasing day by day due to their genocidal inhuman activities.³ The General Assembly of United National established the office of United Nations for High Commissioner for Refugees (U.N.H.C.R.) in 1949 with a mandate to provide protection to the refugees within the competence of the office.⁴

III. FACTORS RESPONSIBLE FOR REFUGEES PROBLEM

The General Assembly of U.N. Considering the Genocide one of the factor responsible for refugee problem had passed a Unanimous resolution on December 11, 1946, (in which it was affirmed that genocide was a crime under international law for which the wrong doer, whether private. Individual or public officials were punishable.⁵ The United Nations, General Assembly adopted impliedly those acts which are committed with intent to destroy a national, ethnical, racial or religions groups such as killing or causing serious bodily or mental harm to the members of group & deliberately inflecting on the group conditions of life calculated to bring about its total or practical destruction. Even acts of conspiracy, incitement, attempt and complicity are the factors responsible to be a refugee problem.⁶ It is important to mention that punishment of misdeeds of Genocide is primary entrusted to the municipal courts of the concerned countries. It is clear if such kind of acts are committed in obedience to national legislation must remain unpunished, unless and until penalized by way of appropriate laws.⁷

M.P. Tandon quoting Hartley show cross was of the new that there are five types of genocide. For the purpose of destroying national, ethnical racial or religious group and causing serious bodily or mental injury knowingly inflecting/ imposing conditions on the group to bring about its physical destruction imposing measures to prevent births within the groups and forcibly transferring children from one group to another groups that not

only genocide but conspiracy Abetment to commit including attempts to commit Genocide and its complicity in the crime is also pursuable under the convention. Whatever they may be constitutionally liable rulers, public officials, or private, individuals, all are guilty of Genocide and shall be punishable under the convention when came into existence/ force on January 12, 1951.⁸ Statelessness is also the course of refugee problem. Now question arises who is statelessness person. A stateless person is some one under national laws, who does not have legal bond of nationality with any state however article I of 1954 convention relating to the status of state less person indicates that a person not considered a national of (citizen) automatically under the laws of any state is stateless.⁹ The Asylum is also a factor responsible for refugee problem. Asylum means shelter and active protection. Which is extend to a political refugee from another state by A state which admits on his request. A leading case on Asylum is Haya Dela Torra Case. Which is charged with military Rebellion? Columbia granted asylum in her embassy in Peru. The Ambassador of Columbia requested to Peruvian Govt. to extradite out him. The refugees were made on the basis of Bolivian Agreement 1911 & Pan American. Havana Convention on Asylum 1928. But refugee was rejected. The matter had gone to the int. court of justice where it was held that Peru failed to prove that he was a man of ordinary crime and not a political crime despite in Asylum irregularly granted, Columbia was not bound to surrender. Haya Dela Torra.¹⁰ The intervention is also a factor responsible of refugee problem. Intervention may be either in the name of humanitarian grounds or in the name of self defence. It may be militaries as well as diplomatic that on 9th April, 1984 Nicaragua filed a case in the international court of justice alleging that America (USA) is intervening in the internal matters of Nicaragua and is trying to instable the Govt. of the same. The int. Govt. of Justice in its interim order held that U.S.A. must stop its military alliance action against the Nicaragua. On 27th July 1986 the Int. Court of justice gave its verdict/mandate holding that U.S.A. (America's) Action of Intervention is against the provisions of U.N. Charter and U.S.A. is liable to compensate the Nicaragua.¹¹ That on 7th Oct, 2001 the U.S.A. Intervened that Taliban Rulers, in Afghanistan, which compelled a number of peoples (i.e. Thousand, lacs) to leave their own country and to seek refugees status in neighbouring countries like India Pakistan trains etc.¹² There are other factors also which led to the refugee problem; i.e. economic problem social problem, cultural problems etc. Technological development is also one of the factors for refugee problems as the technological development compiles the persons to go at far places for their livelihood. The growth of industrialization is also one of the factors which promote the cones of refugee problems. In December 16, 1985. U.N. General Assembly called upon the govt. experts in International Co-operation to check the new flow of refugee which it had establish in Dec. 16, 1981 to work expeditionary on fulfillment of its mandate in May 1, 1986, unbecoming International places & securing in its study the group suggested that the states must exercise their sovereignty to prevent new massive flows of refugees.¹³

IV. RIGHTS AVAILABLE TO REFUGEES UNDER CENTERED OF 1951

Administrative Rights : The Refugees may exercise the administration rights with the assistant of Authorities of a foreign country to whom he can't have seems the contracting states in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by int. Authorities.¹⁴ The authority or authorities shall deliver or cause to be delivered under then supervision to refugees such documents or certificates as would normally be derived to aliens by or through then national Authorities.¹⁵

V. LEGAL RIGHTS

The contracting states shall not impose penalties on account of their illegal entry or presence on refugee, who coming directly from a territory where their life or freedom was threatened in the sense of Article I of Universal declaration of Human Rights, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.¹⁶

VI. CONCLUSION

There are number of rights which are available to the Refugee under the Int. Convention relating to the status of Refugees, 1951 and its Protocol of 1967.

There are also international conventions relating to the cine political & social rights and also international convention relating to economic & cultural rights vide to high a number of these above mentioned rights are made available to the refugees without any discrimination of race, religion, colour, caste and sex. But the important question is that are they (Rights) available to the Refugee in Practice. The to this question must be in negative because all these Rights are only available to very less number of Refugees for various cause, such as caste, colour geographical barrier, religion, etc. Though many rights have been given by various instruments of international convent enacted by United Nations, General Assembly. But the same remains on the statute book

mercy as a show piece. Much is needed to do for the welfare of the Refugees. In its time sense for the service of humanity being it a human problem.

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