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**Refugee Rights and Legal Challenges in Assam: A Socio-Legal Analysis**

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**Abstract**

The Assam refugees problem is a multifaceted interplay of the elements of migration, citizenship, human rights and legal governance. Traditional, politico-economic, and socio-economic factors have resulted in high cross-border migration of Assam and thus debates on the status of refugees, identity and national security. This paper discusses the right of refugees and the legal issues that have been encountered by the displaced people in Assam under a socio-legal lens. It analyses critically the constitutional provisions, the citizenship provisions, the provisions of the National Register of Citizens (NRC) and the judicial intervention with reference to its implication on the protection of refugees and human rights. The study examines the socio-economic status of refugees, the problem of identity and belonging, legal ambiguity and effects of state policies on marginalized groups. It also analyzes how well the current legal systems are in ensuring the right of refugees and at the same time upholding the issue of national security. The research points to the gaps in the policy implementation, the issues of administration and the necessity of the complex system of refugee protection in India. The study combines legal and social realities to add to the argument on governing the refugees, citizenship issues and human rights safeguards in Assam.

**Keywords:** Refugee Rights, Socio-Legal Analysis, Assam, Citizenship, National Register of Citizens (NRC), Migration, Human Rights, Legal Challenges, Displacement, Refugee Policy.

**Introduction**

The problem of refugees has become one of the most important humanitarian, political and legislative questions of the modern world. Persecution, economic difficulties, environmental catastrophes and political instability have triggered forced migration where many populations across the national borders are displaced. Access to fundamental human rights, protection and societal acceptance of refugees in host nations is usually a dire challenge. Another question of significance in the international human rights discourse and national policy frameworks is thus the protection of the rights of refugees. The refugee situation in the Indian context is subject to some peculiarities given that there is no special law on refugee, varied migration tendencies and socio-political sensibility of the issues of citizenship and identity. Assam is also one of the most sensitive and difficult areas in India in terms of refugee movements because of its historical migration, demographic and socio-political conflicts. Assam is a region in the northeast of India which has a historical background of cross-border migration due to its closeness to the international borders especially the Bangladesh. It has witnessed various migration processes over other periods of history such as the colonial age, the Indian partition

of 1947 and the Bangladesh Liberation War in 1971. These are the migration flows that have impacted a lot on the demographic, culture and political structure of the state. Mitigation of migrations and refugees have been a source of conflict over identity, citizenship, allocation of resources and political representation. This means that the problem of refugees in Assam is not only a humanitarian issue but a socio-legal and political problem that influences administrative practices, security and social cohesiveness.

The principle of protecting the refugees is closely related to the principles of human rights and international law. It is stated that according to the international standards, refugees are people who are expelled out of their country because of fear of victimization based on race, faith, nationality, belonging to a certain social circle, or political views. International laws like the 1951 Refugee Convention and the 1967 Protocol give a guideline on protection of refugees including the principle of non-refoulement that is the prohibition of sending refugees to places where they are exposed to danger of getting killed or feel endangered in respect to their lives or freedom. Yet, India is not a party to the 1951 Refugee Convention or the Protocol and thus, in India, the protection of refugees is directed more by domestic laws or administrative policy and judicial interpretation. This lack of a holistic legal framework is a source of ambiguity as to the status and rights of refugees, especially in some of the states such as Assam which have a very politicized migration issue. In socio-legal sense, the Assam refugee case provokes significant questions regarding the connection between law, the community and the state policy. The socio-legal approach looks at the way the legal systems and structures relate to the social actualities, the cultural lives and political agendas. The citizenship, identity and national security issues are closely related to the questions of refugees in the context of Assam. Legal measures like The National Register of Citizens (NRC), The Foreigners Act and citizenship laws have played a major role in determining the legal status of people who are suspected of being illegal immigrants. Even though these measures are meant to control migration and safeguard the national interests, they have also brought a concern over due process, upholding human rights and the threat of statelessness. Citizenship determination is a major problem especially in Assam where very high population of people have difficulties in establishing their nationality because they are not documented, are poor and also due to administrative complications. The illegal migrant identification process has led to both legal challenges and detention and social exclusion of a good number of people. Deportation processes and limitations to access of basic amenities like education, healthcare and jobs make things more complicated among the refugees and migrants. These concerns demonstrate the clash of state sovereignty and human rights and the questions about the power of the legal mechanisms to provide justice and safety to the vulnerable groups remain critical.

Besides legal complications, the refugees in Assam are also experiencing great socio-economic and cultural problems. A number of refugees are marginalized, discriminated and have restricted accessibility to economic opportunities. They are not able to get stable jobs, property rights and social welfare benefits as their uncertain legal status does not allow it. This vulnerability condition results in social and economic insecurity, which further places them in a marginal position in society. Besides, the existence of refugees has also raised issues over competition among local communities on matters relating to the availability of resources,

identification and political representation, thus, leading to social tensions and conflicts. The national integration and regional stability also have more implications to the refugee issue in Assam. Migration, ethnicity and politics have interacted in a complex way resulting to movements and protests that are used to defend the indigenous identity and cultural heritage. All these are indications that the issues of refugees are ingrained in the socio-political reality of the region. Consequently, explanations of the rights of refugees in Assam have to be explained in terms of both legalistic provisions and social realities, the opinion of the state, local society, and refugees themselves. Moreover, the judiciary and the civil society in India have played a major role in ensuring that the rights of refugees are upheld. Courts have usually interposed in order to preserve basic rights like the right to life and personal liberty under the Article 21 of the Constitution that extends to every individual including the non-citizens. The judicial rulings have focused on the humanitarian factor in the handling of refugees, and this has helped to build a rights-based approach. Meanwhile, other non-governmental organizations and human rights groups have been significant in supporting populations in need and advocating on behalf of their protection as refugees. Nevertheless, there are still difficulties in making sure that the legal safeguards and policy provisions are properly implemented.

Socio-legal analysis of the refugee rights in Assam is thus a necessity to comprehend the issues of the migration governance, human rights protection and legal responsibility. This type of analysis assists in the study of the strength of the current laws, finding the gaps in the policy and any potential reforms that may be undertaken to enhance the protection mechanisms of the refugees. It is also adding to the wider debate on whether national security considerations and humanitarian interests and social justice are compatible. This work seeks to look at the legal framework involved in protecting refugees in India with particular reference to Assam, study socio-economic and human rights issues associated with refugees and assess the degree to which government policies and institutional responses have worked. The paper is also aimed at investigating the socio-legal consequences of the citizenship determination processes, detention and access to the basic rights. The research offers an overall picture of the refugee problems as a multi-dimensional phenomenon that consists of legal, social and political aspects through the adoption of a socio-legal view.

### **Conceptual and Theoretical Framework**

The intellectual conceptual and theoretical framework of this study offers the intellectual basis of conceptualizing the rights of refugees and the legal issues involved in the process of protecting the rights of refugees especially in Assam. It describes the main ideas and principles as well as theoretical perspectives, which govern the social-legal examination of refugee matters. The idea of a refugee is mainly based on the international law, which refers to refugees as people who are compelled to leave their country of origin, as they are afraid to be persecuted, in conflict, or be subjected to violence or any other situation that upsets a regular order. The protections of refugees are based on the principles of human rights, humanitarianism and international cooperation and focus on the principles of life, dignity and fundamental freedoms of schooled individuals. To this extent, the international legal provisions like principles of non-refoulement influence, prohibition against arbitrary arrest and access to fundamental human

rights constitute the main conceptual foundation involved in protecting refugees. Theoretically, this study will focus on a socio-legal approach, which will be the study of law-society interaction in defining the refugee rights and policies. The socio-legal paradigm underlines that legal provisions cannot be conceptualized outside of social relationships and have to be viewed through the light of social realities, political contexts and institutional practices. In Assam, social identity, citizenship, ethnicity and regional politics are directly associated with the problem of refugees. Thus, the socio-legal approach assists in comprehending the impact of the legal restrictions, including citizenship laws, migration regulations, and administrative processes, on the daily life of refugees and migrants and the way of the social attitudes and political interests reflect in the application of these regulations. The migration theories and the citizenship theories are also used in the theoretical framework to explain the dynamics of the movement of refugees and the legal recognition. The push and pull theory of migration is said to be the cause of people being forced to go out of their own countries due to the forces like conflict, economic instabilities and the persecutions of a country and the forces like safety, economic opportunities and social security of countries motivate the immigrants. In the same manner, citizenship and state sovereignty theories reveal how modern nation states govern membership, identity and legal status using laws of citizenship and state control of the border. The theories are especially pertinent in Assam where the issues of citizenship and belonging and national identity are playing the biggest part in establishing the legal status of refugees. Moreover, the human rights framework is also part and parcel of this study as it highlights that refugees, irrespective of whether they are citizens of a particular country or not, have the right to the fundamental human rights, including the right to life, liberty, equality and dignity. This theory brings out the issue of tension between the sovereignty of states and humanitarian responsibilities especially when the national security interests are at odds with the safeguarding of the rights of refugees. The theoretical framework will thus combine both the law, societal facts and theoretical views to create an all-encompassing perspective of the rights of refugees, as well as the issue of the law in Assam. Generally, this theoretical and conceptual framework can be used to analyze the problems of refugees as a multidimensional phenomenon of the legal norms, social structures, political relations, and human rights. It offers a systematic foundation of exploring the efficiency of the current legal provisions, the awareness of the socio-economic realities of refugees, and policy reaction of managing the challenge of refugees in Assam.

### **Legal Framework Governing Refugees in India**

The absence of a specific and explicit law concerning refugees in India has been termed as the refugee protection being largely based on the provisions of the constitution, the domestic common legislations, the administrative policies and the judicial interpretations. India had no signature to the United Nations Convention on the refugees in 1951 and Protocol in 1967 and, therefore, has no shared meaning of refugees. The majority of those who fled to India are governed by the law of foreigners mainly the Foreigners Act, 1946, that enables the government to act in matters of entry, stay and deportation of foreign nationals and citizenship Act, 1955, which regulates the citizenship determination, naturalization and nationality. These legislative clauses are highly critical in regulating migration and legal establishment of identity

especially in states such as Assam where the citizenship and illegal migration are very delicate matters. Though, no specific law on the protection of refugees exists, Indian Constitution provides certain basic rights, the rights applicable to all, including non citizens. Article 14 guarantees equality in the presence of the law and 21 grants right to life and personal liberty. The Indian courts have played a very crucial role in the interpretation of the same constitutional provisions where they have sought to protect the rights of refugees and the incorporation of humanitarian principles to the law in home country.

The legal precedent of this nature is the NHRC v. one. Chakma refugees which were in the state of Arunachal Pradesh (1996) 1 SCC 742. The local groups attacked the forcible eviction of the Chakma refugees, which led to the arrival of the Supreme Court, which issued an order to the state government to defend them. The Court argued that the state has a constitutional responsibility to safeguard the life and liberty of every human being in its borders irrespective of whether an individual is a citizen or not. It validated the fact that non-citizens do not have to be forcefully displaced and deprived of protection simply because he or she happens to be a refugee. This decision affirmed the relevance of Article 21 to the refugees and it also provided that the state is expected to ensure that it prevents violence, discrimination and threats to refugees. The case is significant because it recognized the constitutional safeguard of non citizens and created a strong jurisdiction to the rights of refugees in India. Similarly, in *Louis De Raedt v. The case of Union of India* (1991) 3 SCC 554 involved the boundaries of the authority of the state when it comes to the deportation of foreigners. The Court did confirm that the government had the sovereign authority to expel foreigners but it was only on the basis that this right cannot be absolute and must be exercised in the context of the constitutional protection. In the ruling, it was made clear that the right to life and personal liberty under the article 21 applies to all individuals, a citizen or a foreigner and therefore, any deportation process must be carried out in due process of law. Even though the Court confirmed that the state is free to regulate the foreign nationals, it underlined that the administrative measure should not be arbitrary or it should not violate basic human rights. The case illustrates the sovereignty of states versus rights of individuals as regards as much as regulating refugees is concerned.

An international principle of non-restriction in the form of non-refoulement is the opposite of the principle of non-restriction, namely the non restriction of the individual to the country where he/she will be persecuted or even his/her life faced with danger, which has been indirectly applied to the Indian judiciary. *Habib Al Qutaifi, v. Ktaer Abbas*. According to the Gujarat High Court in *Union of India* (1999 Cri LJ 919), life and liberty as provided in the Article 21 include against forced deportation in cases where the individual is facing severe threats in the motherland. The court realized that the international humanitarian principles and human rights norms should guide the state action in the matter of refugees. The case indicated that the judiciary was willing to read the international standards based on the constitution even though India is not signatory to the Refugee Convention. Further legal counsel was provided in *Dongh Lian Kham v. The high court in Delhi* in the case of *Union of India* (2016 SCC Online Del 5504) was anxious about the deportation of refugees of Myanmar descent. The Court is concerned with the necessity to have a fair process, due process and humanitarian

considerations in as far as deportations are concerned. It observed that the refugees protection must be based on the constitutional protection and the international human rights law and authorities must consider the danger of persecution or injury before deportation. The decision focused on procedural fairness and protection of vulnerable individuals who are vulnerable to people displaced. Other than the constitutional and judicial protection, administrative resources such as the National Register of Citizens (NRC) are also an important institutional resource in defining the citizenship status and defining illegal migrants in Assam. The NRC renewal process conducted on the authority of Supreme Court has people proving their citizenship through the assistance of documentary proofs. Although the mission of the NRC is on regulating the migration and protecting national interests, it has been a point of concern in the area of due process, exclusion as well as the risk of statelessness. The presence of Foreigners Tribunals as the quasi-judicial bodies in determination of the question of nationality also presents the institutional context that governs the refugee and migration procedures in India. In addition, the refugee policy of India is in some way influenced by the international human rights standards and customary international law, though it is not formally committed to any treaty. India has generally complied with the concepts of humanitarianism and cooperated with the other international organizations such as the United Nations High Commissioner of refugees (UNHCR) in the provision of education and assistance to refugees. These international standards are usually formulated in court decisions with the conception of the constitutional provisions with an aspect of the common international human rights. Hence, the laws of the refugees in India are a complex interaction of the constitutional defense, legislative remedies, judicial interpretation, administrative practices and principles of the international humanitarian. Despite the fact that the judicial system has gained more protection to refugees through progressive interpretation of the fundamental rights, the unspecified law on refugees has posed ambiguity on issues about the legal status, rights and protection provisions. This highlights the relevance of the effective and standardized legal framework that will assist in offering an efficient protection of refugees, as well as responding to the national security concerns, and the humanitarian concerns.

### **Important Case Laws**

#### **1. National Human Rights Commission v. State of Arunachal Pradesh (1996) 1 SCC 742**

The case is assumed to be a landmark case in the jurisprudence of protection of refugees in India. The case involved threats and efforts by the local groups to forcibly evict Chakma refugees who are settled in Arunachal Pradesh. The Supreme Court determined that the state has a constitutional duty of safeguarding the life and liberty of all people, refugees, and non-citizens, according to Article 21 of the Constitution. The Court instructed the state government to provide the Chakma refugees and their safety and security and avoid expelling them forcefully. The case provided an interpretation that the basic rights in the constitution like right to life and equality shall be extended to all individuals regardless of whether they are citizens or refugees and this has enhanced the constitutional support of protection to refugees in India.

#### **2. Mohammad Salimullah v. Union of India (2021 SCC OnLine SC 296)**

This case concerned deportation of Rohingya refugees who live in India. The Supreme Court acknowledged the fact that fundamental rights in Articles 14 and 21 apply to everyone, even refugees; it also thought that only citizens have a right to live and reside in India. The Court permitted deportation without violation of due process of law and also stated that national security and state sovereignty was of significance in the regulation of foreign nationals. The ruling reveals the conflict between humanitarian protection and the concerns of national security and illustrates how low the legal protection that refugees can receive is in the given situation when there is no special refugee legislation.

### **3. Ktaer Abbas Habib Al Qutaifi v. Union of India (1999 Cri LJ 919, Gujarat High Court)**

Here, the Gujarat High Court looked into the case of deportation of Iraqi refugees and highlighted the safety and liberty in relation to life in Article 21 of the Constitution. The Court declared that the concept of non-refoulement that does not allow a person to be returned to a country where he is in danger of life or liberty is part of the constitutional clause that states the right to life. The ruling acknowledged that state action on refugee issue is to be informed by international humanitarian principles despite the fact that India is not signatory to the Refugee Convention. The case played an important role in ensuring that international refugee law principles are also used in interpreting the Indian constitution.

### **4. Sarbananda Sonowal v. Union of India (2005) 5 SCC 665**

This case is especially applicable to the Assam situation and the problem of illegal migration. The Supreme Court reviewed the validity of the Illegal Migrants (Determination by Tribunals) Act, 1983 and found that the act of illegal migration into the Assam state was a danger to national security and demographic equilibrium. The Court ruled invalid the Act, saying that it was not effective in combating illegal migration. The case law helped to underline the role of the state in identifying and removing the illegal migrants and to remind the issues connected with the national sovereignty, territorial integrity, and security. The case had an important role to play in determining the process of migration governance and the determination of citizenship in Assam.

### **5. Louis De Raedt v. Union of India (1991) 3 SCC 554**

The Supreme Court, in this case, explored the scope of rights of the foreign nationals in India. The Court ruled that though the government had the sovereign authority to expel foreigners, it should be done in a manner that would not violate constitutional protection especially the right to live and personal liberty as a guarantee of Article 21. The decision made clear that foreigners have no right to settle and stay in India but they can be offered protection against unreasonable state action. The principle underlying this decision is a balance between the sovereignty of the state and the rights of individuals when considering the issue of protecting refugees.

## **Refugee Situation in Assam**

The Assam problem of refugees is one of the most complicated and delicate migration problems in India because of its historical and geographical background and socio-political dynamics as well as it is strictly regulated by numerous constitutional clauses, statutory legislation and policy interventions. Assam is found in northeast of India and has an international border with Bangladesh and Bhutan thus making it a popular migration

destination in cross-border migration over decades. There are various times of migration experienced in the state at various points in history such as the colonial era, the partitioning of India in 1947 and the Bangladesh Liberation War in 1971. These migration flows have changed the demographic make-up of the state greatly and led to some worries regarding identity, cultural conservation, political representation and distribution of resources. Legal and administrative reaction to migration in Assam is largely influenced by the identification of citizenship under the Citizenship Act, 1955, which regulates the establishment of the citizenship and forms the legal basis to identify the citizens and strangers. The Act was also updated to cover the migration related matters especially in Assam where the issues of nationality and belonging are one of the most debatable. One of the significant political and legislative changes made towards resolving the refugee crisis in Assam was the Assam Accord of 1985 which was signed between the Government of India and leaders of the Assam Movement to resolve the illegal migration issue. The Accord established 24 March 1971 as the cut-off date to identify citizenship in Assam and established provisions as to how the illegal migrants in the state, who had entered the state after this date, would be detected, deleted and deported. It also sought to defend the cultural, social and linguistic identity of the Assamese natives. The Assam Accord provisions subsequently informed the changes in the citizenship laws and updating of the National Register of Citizens (NRC) process and, therefore, it determined the governance of migration in the area.

One of the major administrative interventions, which deal with the refugee situation in Assam, is the implementation of the National Register of Citizens (NRC), which is carried out under the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003. The NRC procedure demands people to submit the documentary proof of the citizenship and this process has the aim of screening the real citizens and determining the illegal migrants. This process has however led to the marginalization of many people as they have not been documented, as a result of poverty, illiteracy and administrative challenges and posed serious questions in the context of statelessness, detention and human rights protection. The non-nationals of the NRC are in the dark about their legal status and can be taken through the Foreigners Tribunals under the Foreigners act, 1946 to ascertain nationality and legal identity. In constitutional sense, there is also the application of the basic rights of the Constitution of India under the Articles 14 (Right to Equality) and Article 21 (Right to Life and Personal Liberty) that extends to all the parties, even non-citizens, in the situation of refugees in Assam. These constitutional rights demand the state to provide the basic human rights, humane treatment and due process even when it comes to migration control and deportation. The judicial interpretations have underlined that the governance of refugees should be able to strike a balance between the interests of national security and the concern of humanitarian and the protection of human dignity. The issue of national security, border management and demographic change also play a role in the refugee situation in Assam. The demand of government policies to control migration and safeguard the native identity influenced the administrative practice such as detention acts and deportation processes. Meanwhile, humanitarian issues of protection of displaced individuals, statelessness and the right to basic rights are the main arguments of the discussion. The existence of refugees has created social

conflicts between the local communities and migrant groups especially when there is a situation of resource competition like land, jobs and government services. In such a manner, the current refugee crisis in Assam is a complicated combination of historical patterns of migration, the law including Citizenship Act, 1955, Assam Accord, NRC regulations and the Foreigners Act, 1946, as well as constitutional and administrative protection and policies. It reflects the ongoing conflict between migration regulation and human protection and reminds of the necessity of the legal and policy balance that would guarantee national and human security as well as humanitarian justice.

### **Legal Challenges Faced by Refugees**

In India, more so Assam, the legislations that regulate and safeguard the refugees have been found to be a problem given that there is no legal provision of refugee protection, and the migration and citizenship system in India is complex. The former legal concern is related to the determination of citizenship and legal personalities due to the fact that a significant portion of refugees lack the relevant documents due to displacement, poverty and bureaucracies. This normally makes them become illegal migrants and they are exposed to detention, deportation and statelessness. The problem is particularly acute in Assam, as such measures as the National Register of Citizens (NRC) and Foreigners Tribunals require citizens to present a documentary, proving their belonging to a specific group. There is also the uncertainty of the rights of refugees, both the legal protection and the access to the system of justice because of the lack of a legal system that is definite in determining the status of refugees. Interpretation of the constitution has also played a significant role by the judiciary in addressing some of these legal issues. National Human Rights Commission against. The Supreme Court determined the issue of threats and forced eviction of the Chakma refugees in Arunachal Pradesh in the case of the State of Arunachal Pradesh (1996) 1 SCC 742. The Court felt that the state has a constitutional obligation of protecting the life and liberty of all people on its territory irrespective of whether they are citizens or otherwise. It emphasized the fact that the refugees are entitled to safety according to the Article 14 and 21 of the Constitution and the state authorities must ensure their safety and exclude forced expulsion. The case established a landmark on the fact that the provisions of basic rights such as the right to life and the right to equality can be applied to refugees and non citizens and this strengthens the constitutional protection of the rights of refugees in India. The other case that is significant to consider the concern of refugee protection is Mohammed Salimullah v. This is the case of the proposed deportation of Rohingya refugees in India, in the case of the Union of India (2021). The Supreme Court took into consideration that the basic rights which are provided in Articles 14 and 21, are applied to all individuals, as far as the refugees are concerned; still, the Court also was able to mention that only the citizens have the right to live and to have the residence in India. The Court authorized the deportation to be done with due process of law, the state is in the right of taking control of the foreign nationals in the name of national security and the state order. The case highlights the dilemma between humanitarian considerations and state sovereignty in handling refugees and the degree of legal safeguards that the refugees are afforded in the absence of specific legislations on refugees. Despite such judicial interventions, the problem of the refugees remains unsolved

when it comes to the issues of detention, deportation, and provision of the basic rights such as education, healthcare, and employment due to their uncertain status in the law. Particularly, they are susceptible due to complexity in the procedure, lack of legal representation and administrative obstacles. Therefore, the legal challenges of the refugees in India also reflect some of the more general strains between the matters of national security and the protection of human rights and shows the urgent need of a comprehensive legal framework to offer consistency, clarity and effectiveness of protection of the rights of refugees.

### **Socio-Economic and Human Rights Issues**

Socio-economic and human rights of refugees can be considered as one of the most important aspects of refugee research, especially in Assam where the migration and identity status are closely associated with the social and economic background. The socio-economic vulnerability of refugees in Assam is usually great because of the uncertainty regarding their legal status, resource availability, and social exclusion. Their displacement uproots the usual livelihoods and tends to leave long term difficulties in finding jobs, education, health and proper housing. This is even worsened by the fact that they lack legal recognition or citizenship which means that their access to any form of public welfare scheme, property rights, and even social security benefits is hampered. Therefore, immigrants are often forced to reside in the state of poverty, economic insecurity and social exclusion, which is a major consequence in the account of their human dignity and overall living standards. There is also discrimination and social stigmas and integration block among refugee groups into the host society especially in cases where there is competition over the few available resources like land, jobs and government services. Socio-economic vulnerability of refugees has close relations with the violation of basic human rights including the right to equality, dignity and personal liberty. Access to education and healthcare is often a hindrance to immigrants and refugees because of the absence of identity documents and state restrictions. The refugee children experience difficulties when it comes to accessing formal education and women are especially susceptible to exploitation, gender based violence and economic dependence. Inadequate living standards, inadequate sanitation and access to health care facilities also contribute to health hazards among the refugee groups. These circumstances indicate the more general issues of human security and social justice where the right to a basic socio-economic right is denied, compromising the ideas of equality and human dignity enshrined into the Constitution.

The judiciary has been significant in curbing the human rights issues of the refugees and displaced individuals. In *National Human Rights Comm vs. The Supreme Court in the State of Arunachal Pradesh* (1996) 1 SCC 742 pointed out that the right to life and personal liberty as provided in Article 21 of the Constitution is entitled to every individual including refugees. The case was of threats, which were social discrimination and forced eviction to Chakma refugees. The Court instructed the state to secure the safety of the refugees against violence and safeguard them which confirmed that refugees have the right to live with pride and security. This decision is important in identifying that socio-economic safety and anti-discriminatory security constitute a vital component of human rights protection of refugees. Similarly, in *Olga Tellis v. Although it is not a refugee case, Bombay Municipal Corporation* (1985) 3 SCC 545,

the Supreme Court determined that the right to livelihood was a constituent of the right to life under the Article 21. The principle has a wider sense regarding the protection of refugees because it has created the rule that the right to access basic means of survival, shelter and livelihood was a fundamental human right. The ruling supports the fact that refugees being human beings have a right to the minimum socio-economic protection to a dignified life. In such a way, the socio-economic and human rights concerns of refugees in Assam are the result of the intricate interplay of the legal status, economic vulnerability, social exclusion, and the institutional issues. Humanitarian protection has been enhanced by the judicial interpretations of constitutional rights since dignity, livelihood and personal security are considered as an important element of human rights. Nevertheless, the lack of a multifaceted system of refugee protection remains a constraint to the effective observance of these rights, and it is necessary to implement the inclusion of policies and institutional impetus to the fullness of social justice and protection of refugees.

### **Government Policies and Institutional Response**

The government policies and institutional actions are significant in the resolution of the problems of refugees in India, especially in Assam where issues of migration and citizenship are strongly interrelated in the context of national security, stability in the region, and human rights safeguarding. With the lack of detailed national law on refugees, the Indian government deals with refugees by incorporating a mixture of both constitutional clauses, and domestic statutes, executive policies and administration. The state takes a case-by-case policy on the various categories of refugees depending on their considerations of humanitarian, political and security. This policy framework can be seen as the evidence of the government trying to strike the balance between national sovereignty and border regulation and humanitarian responsibilities towards the displaced population. The policy of the Assame government is highly influenced by the issues of illegal migration, demographic shifts and safeguarding of the local identity, which in turn impact greatly the institutional reaction to the challenge of refugees. The introduction of National Register of Citizens (NRC) is one of the most important governmental programs in Assam in order to identify real Indian citizens and identify illegal migrants. The process of NRC which was revised by the Supreme Court of India demands people to submit documentary evidence of their citizenship on the basis of particular requirements. Although NRC aims at controlling the migration and safeguarding national interests, its execution has produced immense obstacles, such as the marginalization of vast populations, the organization complications and issues of statelessness. The administrative bodies, verification authorities, and Foreigners Tribunals that determine the citizenship status of individuals are the institutional response towards the implementation of NRC. The critics however hold that the process has cast a dark cloud on due process, transparency and protection of human rights.

The other noteworthy policy reaction is the law enforcement which includes the Foreigners Act, 1946 and the Citizenship Act, 1955 which control the entry, stay, and deportation of foreigners. These laws give the legal authority to profile an illegal migrant, initiate investigations and administrative measures like detention and deportation. The Tribunals of

foreigners are considered to be a quasi-judicial entity to arise on the question of whether a person is a foreigner or not before the law. Although these institutions are created to promote legal accountability, their operations have been challenged by the complexity of the procedures, lack of support of the law in vulnerable persons and discrepancies in the decision-making. Such problems demonstrate the necessity of more open and equal institutional practices in the management of situations involving refugees. The government has also set up detention centers where those individuals who are declared as illegal migrants await deportation or determination of their status on whether they are legitimate or not. The state authorities run such detention facilities and are meant to have administrative uses but issues have been raised on the living conditions, length of detention and access to legal redress. The fact that such centers are created indicates that the state prioritizes the control over migration and national security, although it also provokes certain significant concerns related to the human rights protection and humanitarian norms. Such institutional responses include liaison between the law-enforcement agencies, administrative bodies as well as the court in order to enforce the law and to check the detention methods. Besides the regulatory actions, some welfare and administrative policies are also introduced by the government to preserve the social order and introduce some limited help to the displaced population. Such policies involve issuance of temporary residence permits, availability of basic services and relief programs of certain refugees. But access and scope of such support is often determined by political interests, administrative capacity and limitations of resources. Lack of homogenous approach to refugees results in dissimilar treatment of other groups of refugees and hence discrepancies in protection and delivery of services.

Judiciary role has especially been important in influencing government policies and responses at the institutional level in regards to the protection of refugees. In Indian jurisprudence, the protection of the basic rights like the right to life and personal liberty in Article 21 of the Constitution has been stressed severally, whereby it is granted to all individuals regardless of the citizenship status. In a number of occasions, judicial intervention has offered relief to refugees who are being deported or violated of their human rights or strengthened humanitarianism principles in migration governance. The judiciary is therefore a significant institutional tool to accountability and safeguard of vulnerable groups. Also crucial in complementing the government actions and meeting the needs of refugees are the civil society organizations and the non-governmental organizations (NGOs). Such organizations offer legal support, humanitarian support, awareness and lobbying refugee rights. They usually serve as mediators between the refugees and the government bodies and help to get legal solutions and social services. The implication of civil society participation is that there is increased transparency and accountability in the institutional reaction, and aids in facilitating a rights-based strategy of safeguarding refugees. Besides, international agencies like the United Nations High Commissioner for Refugees (UNHCR) are involved in the governance of the refugees in India through technical assistance, registration and humanitarian aid to some sections of refugees. Despite the fact that the role played by international organizations in Assam is minimal considering that the state is a security sensitive area, the international organizations involvement indicates the value of international collaboration in solving refugee problems. The

implementation of humanitarian guidelines by the government in coordination with the international agencies is an indication of the effort made by India to adhere to the humanitarian principles even though it is not bound by formal treaties. There is also an impact of institutional reaction to the problems of refugees in Assam on the wider policy concerns of national security and stability in the region as well as border management. Border control, law enforcement and internal security agencies of governments also make a significant contribution to the control of migration and illegal entry. Such actions are designed to uphold territorial integrity and social order which might have an impact on safeguarding the rights of refugees. Thus, policy execution must be based on compromise that puts into account security issues and humanitarian requirements.

### **Conclusion**

The problem of the rights of the refugees and the law in Assam is a multifaceted nexus of the humanitarian issues, the rule of law, socio-economic conditions and the politics. The paper points out that refugee scenario in Assam is not only an issue of migration, but rather a multi-dimensional phenomenon encompassing issues of citizenship, identity, national security and protection of human right. The geographical setting, migration history and socio political sensitivities of Assam have contributed to a great extent in defining the way refugee governance should be in the area. The influx of migrants and refugees has had a demographic impact, resource allocation and politics in the region, thus rendering refugee matters a significant issue on the state and the whole society. The discussion indicates that India does not have a detailed and consistent legal framework on the protection of refugees. The refugees are generally governed by general laws that apply to foreigners including the Citizenship Act, 1955 and the Foreigners Act, 1946 and administrative bodies including the National Register of Citizens (NRC) and Foreigners Tribunal. Although some guarantees exist because of the constitutional provisions and judicial interventions, through the provisions of equality, life and personal liberty, the lack of a specific law on refugees is ambiguous in terms of the legal status, rights and protection measures. Such ambiguity in law usually puts refugees at risk of detention, deportation, statelessness and restricted access to justice. The paper also reveals that Assamese refugees have a high level of socio-economic and human rights issues. The quality of life is greatly influenced by economic insecurity, absence of job opportunities, limited access to education and health facilities, social discrimination and marginalization. Women and children are among the most vulnerable people in the refugee camps as they continue to be the targets of abuse, violence and denial of fundamental human rights. The legal ambiguity of refugees also reduces their involvement in social and economic activities, which only enhances their marginalization by the mainstream society. These circumstances bring critical issues of guarding human dignity and social justice.

The control of migration, citizenship establishment and sustenance of national security are the main policies and institutional responses of the government in Assam. The NRC process, the policies on detention and border management are some of the measures that are taken by the state to control the migration and safeguard the national interests. Nevertheless, such actions have also created some concern over the issue of due process, transparency and safeguarding

of basic human rights. Despite the success of the judiciary and the civil society organizations in defending the rights of refugees and furthering the humanitarian principles, there are still difficulties in ensuring the successful enforcement of the policies and legal protection. Socio-legal wise, the work highlights the necessity in comprehending the matters of refugees in the wider context of the law, society and governance. The interplay between the law and social attitudes and institutional practices plays a major role in determining the lives of the refugees and the efficiency of the protection systems. Thus, the refugee challenges should be resolved in a moderate way that will appeal to the national security issues and humanitarian needs and human rights values.

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