

A study of efficiency of International Refugee Law in Dealing with Displaced Populations

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Abstract: The refugee problem today is global, international, multi-dimensional and humanitarian which has challenged the international community and become a classic example of the inter-dependence of the international community. Considering the uncertain status of displaced populations in India and importance of protection of their rights, the researcher has selected the topic “A study of efficiency of International Refugee Law in Dealing with Displaced Populations”. It is found that the satisfaction level of refugees from the initiatives taken at national and international level is found to be high among the refugees.

Keywords: Refugees, International Law, Resettlement, etc.

1.1 Introduction:

Why should someone choose to abandon his or her home, livelihood and social ties in favour of an uncertain future elsewhere, is a moot question. It points towards the issue that what are those causes which force the people to leave their home, their place and their country? Generally, the historical movements were limited to the movement of people because of persecution based on race, religion, ethnic conflict, etc, but the current dynamics of displacement is more complex. These causes, individually or in combination, may be responsible in varying degrees for particular refugee flows. The 21st century has been proving to be a century of people on the move. Present displacement patterns are very different. Population growth, urbanization, climatic change and food, water and energy insecurity are all interacting with each other to compound instability, to trigger conflicts and to create new patterns of forced displacement. Some causal agents affect the whole region, others only specific localities; some affect the whole population or at least entire ethnic group, while others only specific persons. The causal agents have been broadly classified into the following viz.,

- (i) Conflict-Induced Displacement;
- (ii) Development-Induced Displacement and
- (iii) Disaster-Induced Displacement.

1.2 Persons in Need of International Protection:

Refugees: The history of refugees before the 20th century reveals the existence of destitute persons, but there were few early provisions of material assistance on an international basis. The refugee regime was characterized by the elements of modern state system established at Peace of Westphalia in 1648, firmly entrenching the concept of refugees within the territorial notion of boundaries.

After the end of World War II and the establishment of United Nations, the international legal regime for the protection of refugees was evolved and developed to cater primarily the situation of refugees displaced from their home countries by the war. When the United Nations replaced the League of Nations, it established the International Refugee Organization (IRO) to deal with the —last millionl in Europe.

The 1951 Refugee Convention was confined to the people who had become refugees as a result of events that occurred during and after World War II. But the subsequent decades demonstrated that the movement of refugees was by no means a phenomenon confined to World War II and its immediate aftermath. As new refugee groups emerged, a Protocol Relating to the Status of Refugees, 1967 (Protocol-I) was adopted. Besides international efforts to overcome the problem of refugees, initiatives were also taken at regional level. In addition to 1951 Refugee Convention, Protocol-I and Statute of Office of UNHCR; there are number of regional agreements, conventions and other instruments relating to the refugees particularly in Africa, America and Europe.

Stateless Persons:

Nationality is the legal bond between a person and a State. It provides people with a sense of identity but, more importantly, enables them to exercise a wide range of rights. The lack of nationality that results in statelessness can therefore be harmful, in some cases devastating to the lives of the individuals concerned. Despite international recognition of the right to nationality, new cases of statelessness have continued to arise. Tackling statelessness still poses a major challenge in the 21st century. All refugees are either de facto or de jure stateless persons in that their nationality links with their country of origin have been severed either because they refuse or cannot avail themselves of the protection of their nationality or because, as a consequence of having brought refuge abroad, they have been deprived of their nationality by legislative act. Stateless persons who are refugees are entitled to the international protection afforded by the 1951 Refugee Convention.

2. Statement of Problem:

The flight of people in quest of refuge is as old as history and so are the inevitable sufferings of the uprooted and homeless. One of the biggest political and human tragedies of the 20th century has arisen in the shape of more than 50 million refugees and displaced persons in the world today. This century is referred to by many as the century of uprooted and the homeless. In a world grappling with natural and man-made disasters, we are faced with refugee emergencies of unprecedented scale and complexity. In a world of nation states, refugees are seen as a threat. They are seen as „uprooted“ because they do not have their own place and territory, which they lost because of their expulsion. Because of uprootedness and deterritorialization, refugees have lost their identity, their value system and their culture. All these elements contribute to the fact that they become an uncontrollable, irresponsible and even pathological element in the host society. The refugees and displaced persons are the people of concern as they are the victims of gross human rights violations which is the main reason for their flight as well as an obstacle to their safe and voluntary return home. The refugee problem today is global, international, multi-dimensional and humanitarian which has challenged the international community and become a classic example of the inter-dependence of the international community. Considering the uncertain status of displaced populations in India and importance of protection of their rights, the researcher has selected the topic “A study of efficiency of International Refugee Law in Dealing with Displaced Populations”.

3. Objectives:

The major objective of this study are:

- a. To understand the norms for determination of refugee status
- b. To identify the main reason of refugee flows in India.
- c. To study the satisfaction level of refugees from regional, national and international initiatives taken for them in India.

4. Research Methodology:

Study relating to refugee laws and fate of displaced populations involves in-depth understanding of principal legal instruments, Conventions and Protocols relating to the status of refugees and internally displaced persons at national, international and regional level. The present study is descriptive in nature as it describes the reasons of refugee flows in India and role of judiciary. For the present study, the researcher has opted for the “Stratified Random Sampling Technique”. The primary data for the present study were collected through direct contact with the respondents at different places of the area chosen as the locale for study. The secondary data needed for the purpose of present study were scanned through the books on Refugee Law, Internet, etc.

5.1 Initiatives taken in India:

Besides conflict-induced displacement, more than 19.3 million people in 110 countries worldwide were displaced by rapid onset disasters triggered by hazards such as storms, earthquake, and floods. Since 2008, an average of 26.4 million people have been displaced by disasters each year equivalent to one person every second. China, India and the Philippines experienced the highest levels of displacement.

Finding durable solution is the ultimate goal for IDPs. Solutions may be achieved when displaced persons resume secure and stable lives by returning to their place of origin or setting in other location. For such purpose Guiding

Principles under Section V pointed out durable solutions. IDPs are provided with the right to return voluntarily, in safety and with dignity, to their homes or to resettle voluntarily in another country

Since the adoption of Guiding Principles, a small but growing number of national governments have begun to express their commitment to addressing internal displacement, protecting the rights of displaced persons and implementation of guiding principles through national legislations and policies. African States are among the first to develop such law based on the Guiding Principles for the better protection of IDPs.

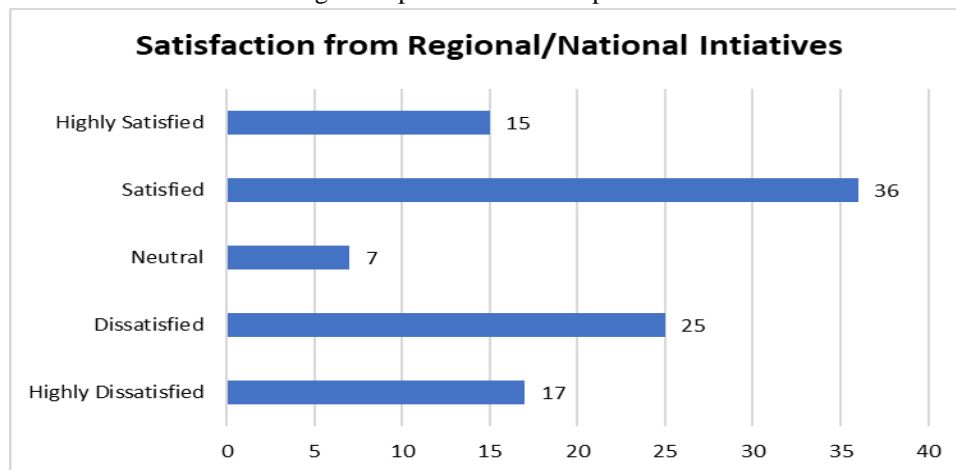


Fig. 1 Satisfaction from Regional/National Initiatives

A survey has been conducted from the refugees regarding the initiatives taken by regional/national agencies for their rehabilitation and resettlement, it is found that majority i.e. 36% refugees are satisfied with the initiatives which are supported by 15% of refugees who are highly satisfied. 7% of the refugees are neither satisfied nor dissatisfied, whereas, 25% of them are dissatisfied and remaining 17% are highly dissatisfied.

5.2 Initiatives at International level:

It was not until 1990s that the absence of international system for IDPs began to be noticed and more traditional notions of sovereignty questioned. The need for international standards to protect and assist IDPs arose directly from the explosion of civil wars in the last decade of the 20th century that left tens of millions uprooted within the borders of their own countries. When first counted in 1982 only 1.2 million people could be found forcibly displaced in eleven countries. By 1995 there were an estimated 20 to 25 million in more than forty countries, almost twice as many as refugees. However, the end of the cold war helped bring the plight of internally displaced populations to the fore. As superpower competition waned, possibilities opened up for crossing borders and for reaching people in need, reinforced by changing nature of sovereignty. The view that people inside their own countries should be a legitimate concern of the international community had long been championed by the human rights movement. Humanitarian organisations began to demand international access to people whose survival was at stake. With international concern mounting about the growing numbers and desperate needs of IDPs, a group of NGOs-the Friends World Committee for Consultation, the Refugee Policy Group and the World Council of Churches undertook a joint campaign in 1990 to spotlight the legal and institutional gaps in the international system and to mobilise support both for the appointment of UN Representative on IDPs and for the development of international standards to protect them.

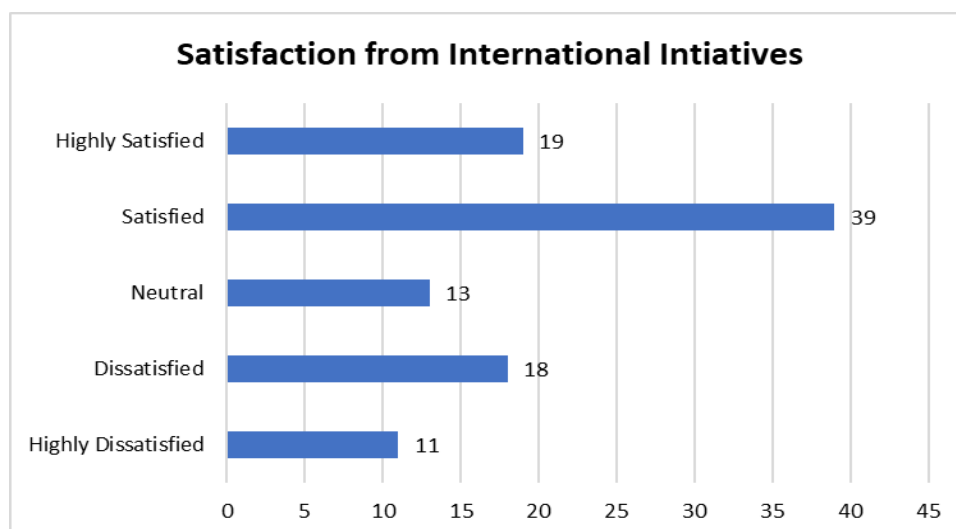


Fig. 2 Satisfaction from International Initiatives

A survey has been conducted from the refugees regarding the initiatives taken by international agencies for their rehabilitation and resettlement, it is found that majority i.e. 39% refugees are satisfied with the initiatives which are supported by 19% of refugees who are highly satisfied. 13% of the refugees are neither satisfied nor dissatisfied, whereas, 18% of them are dissatisfied and remaining 11% are highly dissatisfied.

6. Conclusion:

The protection of refugees dates back to a few centuries. International recognition of the need for global coordinated action on behalf of refugees started only after the horrific consequences of World War I, Balkan War and Greco-Turkish War that caused upheaval in the States involved especially in Russian Empire. Organized international action on behalf of refugees began when the League of Nations was faced with the problem created by about a million of refugees who had left Russia in consequence of Russian Revolution. Over the years, the League of Nations established a succession of organizations and agreements to address new refugee situations as they emerged. When the United Nations replaced the League of Nations in 1945, it recognized from the onset that the task of caring for refugees was a matter of international concern, and that, in keeping with its Charter, the community of States should assume collective responsibility for those fleeing persecution.

Uniform comprehensive policy should be formulated to deal with displaced persons in the State just as the Displaced Persons Compensation and Rehabilitation Act of 1954 was made applicable to all displaced persons in India. Such policy should consider all displaced persons equally irrespective of the region from where a particular person hails as human pain and sufferings remain the same when such populations leave their home and hearth.

Most recently Honourable Prime Minister Narendra Modi announced full and final settlement of POJK refugees. The settlement includes onetime compensation of Rs 200 Crore. According to this each family will get Rs 5.5 Lakh. This amount is against the losses suffered by displaced persons for the last 69 years. However, the financial package so announced is being termed as insufficient by displaced persons on the ground that the committees that were constituted earlier recommended for Rs 30 Lakh per family as final settlement. The Government should enhance the package as recommended by the committees and time frame be fixed for the final disbursement of payment to the affected families. Above all what is required is the strong political will to resolve the refugee problem.

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