



## DEPORTATION OF ROHINGYAS WITH CONTEXT TO LAW

By *Arnav Sharma*  
From *Chandigarh University*

### ABSTRACT

Rohingya are an ethnic group, largely comprising Muslims, who predominantly live in the Western Myanmar province of Rakhine. They speak a dialect of Bengali, as opposed to the commonly spoken Burmese language. Though they have been living in the South East Asian country for generations, Myanmar considers them as persons who migrated to their land during the Colonial rule. So, it has not granted Rohingyas full citizenship. According to the 1982 Burmese citizenship law, a Rohingya is eligible for citizenship only if he/she provides proof that his/her ancestors have lived in the country prior to 1823. As the illegal migration in countries are not allowed all refugees who migrated from Rakhine to India clearly violates the article 31 of 1951 convention relating to status of refugees. Article 31 states that refugees unlawfully in country of refuge. The countries are not bound to take care of refugees because they are illegal migrants and if someone who is illegally residing in another country in which they are residing are not legally bound to give the rights to illegal migrants United nation high commission for refugees. (UNHCR) they protect the rights of refugees. All the refugees are registered with UNHCR they are having separate identity card which UNHCR had issued to them. The card issued by UNHCR will help to authenticate the population of Rohingya refugee in India.

The research will discuss that how illegal migrants living in India as a refugee will be deported to their respective country, so that they will get the equal rights in their country. India is a diverse country it is impossible to give citizenship to Rohingyas Muslim in India.

### HYPOTHESIS OF RESEARCH

This research is being done to aware readers about Rohingyas who are Rohingyas why they took the refuge in India and nearby countries how Rohingyas are helping the militant groups and affecting the security of country. The 1951 Refugee Convention defines a refugee as a person who has a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country." Article 1 of the UN Convention relating to the Status of Stateless Persons (Statelessness Convention) defines a stateless person as "a person who is not considered as a national by any State under the operation of its law." The Statelessness Convention is the only international instrument that protects the treatment of stateless persons. Article 31 is violated of 1951 convention refugees. As India had not signed 1951 convention for refugees and 1967 protocol in safety of refugees.

### DEPORTATION OF ROHINGYA'S MUSLIMS

Introduction: - Rohingyas are an ethnic group, largely comprising Muslims, who predominantly live in the Western Myanmar province of Rakhine. They speak a dialect of



Bengali, as opposed to the commonly spoken Burmese language. Though they have been living in the South East Asian country for generations, Myanmar considers them as persons who migrated to their land during the Colonial rule. So, it has not granted Rohingyas full citizenship. According the **1982 Burmese citizenship law**, a Rohingya is eligible for citizenship only if he/she provides proof that his/her ancestors have lived in the country prior to 1823. As the illegal migration in countries are not allowed all refugees who migrated from Rakhine to India & neighboring countries clearly violates the article 31 of 1951 convention relating to status of refugees **Article 31 states that refugees unlawfully in country of refuge.** The countries are not bound to take care of refugees because they are illegal migrants and if some group or person which is living illegally in another country, they will be called refugees or illegal immigrants. Countries are not bound to take care like India has not signed 1951 convention of refugees because India does not have a national refugee protection framework that's why convention was not signed & responsibility was not taken refugees which are staying in another country, they got card from (UNHCR). Due to violation of Article 31 of 1951 convention relating to status of refugees they can't be given any kind of citizenship. The Rohingyas are helping some militants outfit to create social unrest & effecting national security of country like India. That's why many countries don't accept Rohingyas's.

The Rohingya, who numbered around one million in Myanmar at the start of 2017, are

one of the many ethnic minorities in the country. Rohingya Muslims represent the largest percentage of Muslims in Myanmar, with the majority living in Rakhine state.

They have their own language and culture and say they are descendants of Arab traders and other groups who have been in the region for generations.

**REVIEW OF LITERATURE:** - After reading 1951 convention of refugees we came to know that India has not signed **1951 convention for refugees nor India has signed 1967 protocol on refugees.**<sup>1</sup> which comprises of 140 signatories due to absence of any domestic law or regional south Asian framework India has desisted from taking its rightful regional leadership role in the increasingly critical matter. Even India has not signed 1951 convention for refugees nor the refugee status protocol despite of this UNHCR has been allowed to operate in India since 1981. India does not have a national refugee protection framework that's why convention was not signed.

That's why India is not bound to protect Rohingyas Muslims in India. As India has not signed refugee convention that's why the refugees which are staying illegally in India clearly violates Article 31 of 1951 convention for refugees as India has not signed both of them nor convention nor protocols in 1981.

**1982 Burmese citizenship law**<sup>2</sup> deprives the Rohingya of citizenship in Myanmar. Under this law, full citizenship in primarily based on membership of the "national races" who are considered by the state to have settled in

<sup>1</sup> India has not signed 1951 convention for refugees nor refugee status protocol

<sup>2</sup> 1982 Burmese citizenship law



Myanmar prior 1824. The date of first occupation of British.

### **What happened in 2012?**

Myanmar state, which was ruled by the military junta until 2011, has been accused of ethnic cleansing in Rakhine by the United Nations. They deported thousands of Rohingya to Bangladesh in the seventies and the citizenship law was also enacted by the junta. Things changed little for the Rohingya even after the political reforms in 2011 that eventually led to the first general elections in 2015, as the democratically-elected government-headed by President Htin Kyaw has been unwilling to grant citizenship.

Sectarian violence between Rohingyas and Rakhine's Buddhist natives began flaring up in June 2012, following the rape and murder of a Rakhine woman in a Rohingya-dominated locality. The riots, which were triggered as a result, went on for almost a month with casualties on both the sides. Another round of riots broke out in October, due to which the govt moved around a million Rohingyas to refugee camps. Thousand fled their houses sought refuge in neighbouring Bangladesh, a Muslim – Majority nation. the ethnic conflict raised as a violence spreading other provinces of Myanmar finally it ended in 2013 after military intervention<sup>3</sup>

### **Now how India has threat with Rohingya's?**

On 25 August Muslim militants in Myanmar

done a very coordinated and planned attack on 30 police post an army in state of Rakhine the group if Rohingya's militants named Arakan Rohingya salvation Army (ARSA)<sup>4</sup>. the attack was instigated by the group claimed the responsibility of the attack later this group usually fought for rights of Rohingya's this group is the biggest threat for India they usually have links with the militants.

(ARSA) is an armed guerrilla outfit, which is active since 2016 claiming to fight for a democratic Muslim state for the Rohingya's the group has been targeting Myanmar armed forces. Bangladesh and India have also claimed that (ARSA) group is creating the problem to us. The adverse effect of this militant outfit is found in the state of Assam.

In India many Indian states comprises of these people they usually trouble by begging on traffic signals and followed by false propaganda is been followed they use to do drama of getting hurt on leg, Arm etc.

When we had done a survey to show sympathy with Rohingya's we found that they were perfectly alright they are acting like they can't walk or are injured.

“India calls Rohingya's as threat to national security because Indian intelligence agencies suspect Rohingya's in touch with Pakistan based militant groups they declined name because affidavit which is to be filled was not finalised yet”<sup>5</sup>

<sup>3</sup> The Data is collected from the article on the Hindu www.hinduarticle on Rohingya's

<sup>4</sup> The Arakan Rohingya's salvation Army (ARSA) Militant outfit of Rohingya's (saves rights of their community)

<sup>5</sup> The statement is given by lawyer in hon'ble Supreme court of India. From Govt. Times of India news.



### STAND OF SUPREME COURT ON DEPORTATION OF ROHINGYA'S

The Supreme Court on 17th April slammed the Assam government for the delay in the deportation of migrants back to their country.

The bench comprising of Chief Justice of India Ranjan Gogoi, Justice Deepak Gupta and Justice Sanjiv Khanna rebuked the government for not complying with its previous order with regard to the deportation of migrants. Prior to that, the Supreme Court had on January 28, 2019, directed the Assam government to disclose the details regarding the number of foreigners detained, who had been deported from the detention centres.

On January 3, 2019, India deported a Rohingya Muslim family of five, which had been in the Tezpur Detention Centre in Assam since 2013, to Myanmar. This was the second such group expelled in four months, after seven men who were lodged at the Silchar Detention centre in Assam since 2012, were deported to Myanmar in October 2018.

The UN has also expressed concern over the forcible repatriation of the Rohingya back to Myanmar. A UN fact-finding mission categorically accused the Myanmar army of committing acts with genocidal intent against the Rohingya in northern Rakhine. The violent military campaign ultimately led to the expulsion of more than 800,000 Rohingya men, women and children into neighbouring Bangladesh, triggering one of the worst humanitarian crises in modern history.<sup>6</sup>

<sup>6</sup> The judgment of Supreme Court is taken from the Hindu newspaper [www.hindunews.in/judgment](http://www.hindunews.in/judgment) by SC

The India don't want to take Rohingya's but they crossed the border it is said that they are threat to national security of country because in India also they are not getting citizenship. It is mentioned in citizenship act 1955 which is made in 1955 in it is mentioned no illegal immigrant will get the Indian citizenship under this act.

The Rohingya's are threat to India as they are associated with ARSA witch use to protect the rights of Rohingya's in India the Rohingya's don't get equal rights for their rights they usually try to create social unrest in the country.

It is necessary to deport Rohingya's from India so that there should be peace in upcoming time there should be no militant attacks in India which are done by ARSA. The Rohingya's are settled in different states mainly in East India followed by Jammu and Kashmir they use create ruckus on roads by begging nearby signals this affect the traffic.

**CRITICAL ANALYSIS:** - What caused Rohingya's crises the main problem of this crises is stated below:

This crisis Beginning was in 2012, the first incident occurred when a group of Rohingya men were accused of the rape and murder of a Buddhist woman (Albert 4). Buddhist nationalists retaliated by killing and burning Rohingya homes. The international community responded by denouncing this "campaign of ethnic cleansing."

After doing research deeply of this topic deportation of Rohingya's I think it is



possible to deport each and every Rohingya from the country if our government and honourable supreme court of India permit to do so Apart from all the sanctions imposed by united nation .As India has not signed the convention of refugees in 1951 followed by protocol of refugees was not signed by India in 1951 that's why India has full authority to deport Rohingyas as they violated article 31 of refugee convention states that refugees unlawfully in country of refuge.

### **Burmese citizenship law 1982**

Rohingya is eligible for citizenship only if he/she provides proof that his/her ancestors have lived in the country prior to 1823 as stated in Burmese law of citizenship.

Rohingya are an ethnic group, largely comprising Muslims, who predominantly live in the Western Myanmar province of Rakhine. They speak a dialect of Bengali, as opposed to the commonly spoken Burmese language. Though they have been living in the South East Asian country for generations, Myanmar considers them as persons who migrated to their land during the Colonial rule. So, it has not granted Rohingyas full citizenship. According to the 1982 Burmese citizenship law, a Rohingya is eligible for citizenship only if he/she provides proof that his/her ancestors have lived in the country prior to 1823. As the illegal migration in countries are not allowed all refugees who migrated from Rakhine to India clearly violates the Article 31 of 1951 convention relating to status of refugees<sup>8</sup>. Article 31 states that refugees unlawfully in country of refuge. The countries are not

bound to take care of refugees because they are illegal migrants and if someone who is illegally residing in another country in which they are residing are not legally bound to give the rights to illegal migrants. United nation high commission for refugees. All the refugees are registered with UNHCR they are having separate identity cards which

are issued by UNHCR. The card issued by UNHCR will help to authenticate the population of Rohingya refugee in India.

On 25 August Muslim militants in Myanmar done a very coordinated and planned attack on 30 police post an army in state of Rakhine the group if Rohingyas militants named Arakan Rohingya salvation Army (ARSA)<sup>9</sup>. the attack was instigated by the group claimed the responsibility of the attack later this group usually fought for rights of Rohingyas this group is the biggest threat for India they usually have links with the militants.

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<sup>7</sup> Burmese Citizenship law

<sup>8</sup> 1951 convention for refugees

<sup>9</sup> The Arakan Rohingya's salvation Army (ARSA) Militant outfit of Rohingya (saves rights of their community)



When we had done a survey to show sympathy with Rohingya's we found that they were perfectly alright they are acting like they can't walk or are injured.

That's why it is necessary to take action regarding the refuge in India so that they don't affect the national security of India. Atleast don't help Pakistani militants to do the activities in India.

### SOLUTIONS ON PROBLEM DEPORTATION OF ROHINGYAS

- It is necessary to have a proper data of Rohingya's so that they can be deported peacefully.
- Talks are going on with the two countries Bangladesh & Myanmar about the deportation plan.
- Both the countries should sit together to solve the extremely important crisis.
- Deportation of Rohingya's is unlikely to control to big population of Rohingya's as both the countries should take initiative from peaceful return the proper data should be scrutinized for it before deporting them.<sup>10</sup>

### Conclusion

Now the research is towards the end of the topic deportation of Rohingya's. Atlast as a researcher I concluded many things the first thing is it is possible to deport Rohingya's who are illegally residing in India what we have to do is to just talk with the government's from where they came in India is necessary to take of their people by the countries on their own as India is developing nation so it is impossible to give the

citizenship to the illegal immigrants and India not in that situation too to feed each and every person who is staying illegally in India . they took the refuge in India and tried to create social unrest in India by giving proper information to the militant groups then were in link of some Pakistani groups followed by their ARSA group also tried to create social unrest in country in state of Assam and sent their militants from Myanmar .Now after noting there activities India decided to deport the Rohingya's to their original country . So that there should be no effect on national security of country. Rohingya's can be deported as Rohingya's have violated Article 31 of refugee convention which was not signed by India and the reason behind it was India does not have refugee protection plans.

### REFERENCES

- 1) India has not signed 1951 convention for refugees nor refugee status protocol.
- 2) 1982 Burmese citizenship Law.
- 3) The Data is collected from the article on the Hindu [www.hinduarticle.com](http://www.hinduarticle.com) on Rohingya's.
- 4) The Arakan Rohingya's salvation Army (ARSA) Militant outfit of Rohingya (saves rights of their community).
- 5) The statement is given by lawyer in honorable supreme court of India. From Govt. Times of India news.
- 6) The judgement of supreme court is taken from [the Hindu newspaper.www.hindunews.in /judgement by SC.](http://www.hindunews.in/judgement%20by%20SC)
- 7) Burmese citizenship law
- 8) 1951 convention for refugees.1967

<sup>10</sup> This data is self-Analysis and the reference is taken from united nation human rights commission

[www.unhcr.org/situation of India on deportation of Rohingya's](http://www.unhcr.org/situation%20of%20India%20on%20deportation%20of%20Rohingya%20s)



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- 9) The Arakan Rohingya's salvation Army (ARSA) Militant outfit of Rohingya (saves rights of their community). the [tribune.in/ARSA](http://tribune.in/ARSA) militants outfits related to Rohingya's.
- 10) This data is self-Analysis and the reference is taken from united nation human rights commission [www.unhrc/situation](http://www.unhrc/situation) of India on deportation of Rohingya's.

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