



STATELESSNESS -THE STORY WHERE A HUMAN IS NOT A HUMAN

*By Namrata Desurkar
From Raja Lakhamgouda Law College,
Karnataka*

The article enumerates the challenges faced by stateless people, the sufferings inflicted on them, the life of millions who are striving hard just for a meal and the sole aim of their life is safety.

It provides the statistics of increasing population of stateless and proposes vital steps which could assist to eradicate the ongoing crisis.

Cate Blanchett Where do all those people go, who don't belong anywhere. Everyone has the right to belong and a demand to belong is *ex aequo et bono*. Human beings are *ejusdem generis*, nevertheless are differentiated on the basis of their nationality. All humans who are nationals of a State, who belong to a State, are entitled to all the rights and privileges conferred by that State and are obliged to perform duties corresponding to the aforesaid rights. This being said, a human is recognized as a person due to his rights and duties similarly all other entities having rights and duties are recognized as artificial persons. Taking into consideration the importance of one's nationality, leads us to question the status of a stateless person, who is neither conferred any rights or duties nor are his rights recognized, nor is liable to the privileges enjoyed by a citizen, is he considered a Human?

Statelessness is a condition where a person is denied of a nationality, denied from being

recognized as a citizen of a country and such denial is a crime against humanity. Under International Law various organisations have taken effective measures to eradicate statelessness. Notwithstanding such efforts, the Global issue of statelessness can only be terminated by abolishing its source.

Article 6 of Universal Declaration of Human Rights states, everyone has the right to recognition everywhere as a person before law. To eradicate statelessness various measures have been taken such as establishment of conventions of UN, Global action plans taken by UNHCR (United Nations High Commission for Refugees), development of PopStats application et al. Notwithstanding the above measures the statistics does not indicate descending rate of stateless individuals.

Some of the measures are listed below:

1) Convention of 1954-Relating to status of stateless person

On 28th September 1954, the convention relating to status of stateless-person was adopted and signed by 23 signatories that include;

- a) Belgium
- b) Brazil
- c) Colombia
- d) Costa Rica
- e) Denmark
- f) Ecuador
- g) Honduras
- h) Israel
- i) Italy
- j) Liechtenstein
- k) Luxembourg
- l) Netherlands
- m) Norway
- n) Philippines
- o) Sweden



- p) Switzerland
- q) UK of Great Britain & Northern Ireland

- c) Israel
- d) Netherlands
- e) UK of Great Britain & Northern Ireland.

However, ratification, accession or adhesion of some countries is subject to certain conditions, for example Antigua and Barbuda have undertaken that only provisions under article 23 (Public Relief), 24 (Labour Legislation and Social Security), 25 (Administrative Assistance) & 31 (Expulsion) are applicable to them. Similarly, Denmark is not bound by article 24 Para 3 and article 31 etc.

Article 1 defines stateless person as a person who is not considered as a national by any State under operation of its Law.

To provide legal protection article 16 provided the access to courts, to earn livelihood art 17 provides for wage earning employment, article 18 self-employment, article 22 public education pertaining the right to elementary education, the most fundamental freedom to movement in article 26, identity papers for travel document in article 27, disburden stateless-person from fiscal charges under article 29, allow valid transfer of his assets under article 30, provide protection from expulsion on grounds of national security or public order under article 31, facilitate naturalization under article 32 and so on.

2) Convention of 1961-Reduction of Statelessness

On 30th August 1961, the convention regarding reduction of stateless-person was adopted and signed by 5 signatories that include;

- a) Dominican Republic
- b) France

The convention of 1961 is a result of decades of negotiation and is a milestone in this era to stop occurrence of statelessness.

Article 1 summons the Contracting State to grant its nationality to persons born in its territory, while article 4 summons the contracting State to grant its nationality to persons not born in its territory. Similarly, protection from deprivation is provided under article 8 & 9, article 10 provides for insertion of clause to protect the nationality during transfer of territory and so on.

3) Rohingya Refugee Crisis in Bangladesh

Rohingya are stateless Muslim minority in Bangladesh. During 2017 violence broke in Myanmar which led 7200000 refugees to seek refuge in Bangladesh. UNHCR provided more than 1500 metric tons of life saving kits to Bangladesh. It relocated 24000 out of 41000 refugees to safer areas.

4) Boko Haram Insurgency in Nigeria

Since 2014 till today the violence of Human Rights, Sexual and Gender based violence, forced recruitment and suicide bombing has lead to 304,582 refugees in Nigeria. The UNHCR is assisting displaced persons, providing protection by monitoring, screening and is also working for returning the dignity of IDP's and striving hard to ensure that rights of persons are respected.

The statistics of Nigerian refugees in Chad, Cameroon and Nigeria is as follows



YE A R	MONTH	DATE	POPULATION
2014	APRIL	23	3069
2016	DECEMBER	31	200168
2019	DECEMBER	31	279328
2020	DECEMBER	31	304562
2021	OCTOBER	31	324948

which it has been successful to accumulate 38% of the required sum. There are 2395911 total refugees and asylum seekers from South Sudan.

The following data indicates the increase in refugees and asylum seekers;

YEAR	MONTH	DATE	POPULATION
2014	MARCH	31	397364
2018	DECEMBER	31	2247960
2020	DECEMBER	31	2167178
2021	OCTOBER	31	2395911

5) Displacement in Central Asia

Increase in socio economic instability and poverty, gang violence, threats, extortion, recruitment into gangs or persecution, SGBV have also led LGBTI to flee from country. Since 2018 890000 people from North Central America and Nicaragua have been uprooted in host countries. There are 470,000 refugee and asylum seekers from North and Central America, 97000 refugee and asylum seekers in Mexico. The UNHCR is providing lifesaving support and cash grant to displaced people, solutions for internally displaced people, refugees, asylum seekers and deporters and to provide fare and efficient refugee status.

6) South Sudan Emergency

To help South Sudanese, UNHCR has been seeking to secure US\$ 1.4 Billion out of

YEAR	MONTH	DATE	POPULATION
2010	DECEMBER	31	184230
2015	DECEMBER	31	517708
2016	DECEMBER	31	478486
2017	DECEMBER	31	1326502
2021	DECEMBER	31	1056326

7) Burundi Emergency

Announcement made by the President lead to violent clashes, economic decline, extreme food insecurity, and upsurge in diseases. Burundi refugees are located in Tanzania, Rwanda, Democratic Republic of the Congo, Uganda and other neighboring countries. There are 2,68,554 refugees from Burundi and it being the lowest funded the UNHCR is seeking to secure US\$ 391 million to provide necessary facilities however it has secured only 33% of the appealed amount.

8) Displacement from Ethiopia's Tigray Region

More than 3000 people are travelling daily from Ethiopia's Tigray region to Sudan. There are total 11,19,292 refugee and asylum seekers in Sudan. The UNHCR is providing shelter, potable water, food, health screening at borders, relief kit items including blankets, sleeping mats, plastic sheeting, hygiene kits, soaps and 50000 face masks.

The statistical data of refugee and asylum seekers in Sudan is as follows



9) Impact of Civil War in Syria

The ongoing multi-sided civil war commenced on 15th march 2011 has made boundless impact on children, economy and the covid-19 pandemic has aggravated the situation. Today out of 3 schools in Syria only 1 are working in poor conditions and around 2.45 million children are out of school. These crises have coerced millions of families to flee from Syria. The estimate indicates 5675343 total registered Syrian refugees, 6.6 million refugees worldwide out of which 5.6 have been hosted in neighboring countries. The UNHCR has been providing lifesaving humanitarian aid, psychological support, cash for medicines, stoves, fuel for heating, insulation for tents, thermal blankets, winter clothing, access to fresh clean water and also supported hospitals and health centers near camps during pandemic. The statistical data indicates the increase in displacement due to the crisis.

YEAR	MONTH	DATE	POPULATION
2013	JANUARY	01	
2018	DECEMBER	31	5667026
2019	DECEMBER	31	5556192
2020	DECEMBER	31	5581039
2021	NOVEMBER	11	5675343

10) Sahel Emergency

Due to violence by armed actors the number of refugees have increased to 919789. Location wise distribution is as follows;

Mali has 1139843 refugees and asylum seekers;

Burkina Faso has 1431757 refugees and asylum seekers;

Niger has 580838 refugees and asylum seekers;

Chad has 1033710 refugees and asylum seekers.

The UNHCR apart from providing basic necessities of life, it is helping people to access education and is also supporting victims of SGBV.

The following statistics indicates the increase in refugees and asylum seekers;

YEAR	MONTH	DATE	POPULATION
2016	JANUARY	01	199033
2016	DECEMBER	31	701334
2019	DECEMBER	31	785715
2020	DECEMBER	31	857931
2021	OCTOBER	31	931667

11) Venezuela crisis

Venezuela which was a host country has now compelled its citizens to flee because of hyperinflation, food shortages, political turmoil, violence and persecution. Since 2014, the number of Venezuelans seeking refugee has increased by more than 8000%, less than 145000 have received refugee status, 800000 asylum claims are pending, 2.5 million have received temporary residence permit, 1.7 million Venezuelans Columbia has granted 10-year temporary protected status and 3200000 Venezuelans US has authorized temporary protected status. UNHCR along with government is striving hard to provide shelter by site planning, tents, relief item, drinking fountain, registration through biometrics etc to host over 6000 VENEZUELAN. In 2019 it has



built temporary reception centres to host 350 individuals in Maicao Colombia.

Issues

Analysing the statistical data, the UNHCR has made recommendable work in providing aid to the people leaving their country, to retain their rights of dignity, provide them with basic necessities et al. But has not been able to eradicate the issue of statelessness, the statistical data shows continuous increase in market. The people leaving their country are either resettled (settled in another country) or integrated (settled in host country) or are sent back to originating country voluntarily. This puts forth the question of status to such people in foreign land. Although the conventions of 1954 and 1961 have been drafted to secure the rights of stateless people and obligations are imposed on member States, nevertheless the number of member States is 23 & 5, whereas the total countries in world are 195. Ergo the States abiding themselves with the principles of the aforesaid conventions are very less. Though there are contracting or host States who have been regularly welcoming the refugees but most of these host States are mostly low income countries such as Bangladesh. These countries are striving themselves to attain economic stability and the burden of refugees and asylum seekers increase subsisting food scarcity. The statistical data indicates the constant increase of refugees and asylum seekers since 2014 to 2021. Although plans have been made by UNHCR to aim zero statelessness in 2024 but the ongoing war, economic crisis, pandemic etc, makes it challenging to end the Statelessness in upcoming three years.

Causes

The common identified causes for rendering a person stateless are as follows

- a) Conflict of laws
- b) Transfer of territory
- c) Marriage laws
- d) Renunciation
- e) Denationalization
- f) Lack of birth registration
- g) Discrimination
- h) Administrative Practices
- i) Gaps in Nationality
- j) Emergence of new States etc

Laws relating to grant of nationality and denationalization vary from State to State. Some States follow jus sanguine, while other States follow jus soli, operation of law for grant of citizenship. Similarly, for there are different norms from loss of nationality such as loss by denunciation on attaining majority, acquisition of nationality of other State, permanently residing in other State etc. Some States denationalize their citizen before the citizen acquires nationality of other States and this leads to Statelessness. Article 1 of the Convention on Certain Questions Relating to Nationality of Laws The Hague 12 April 1930, states that, It is for each State to determine under its own law who are its nationals. This law shall be recognised by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognised with regard to nationality. In other words, States have the discretion to determine the rules for grant and refusal to grant nationality. This discretion is one of the reasons for the evil birth of statelessness, hence demanding for an uniform laws relating to Nationality.

Outbreak of war similar to ongoing civil war in Syria, is a result of improper governance



of political administration which lead to incessant crisis, and as a result the public affected at large is looking for shelter to save their lives and earn a living. The people migrated from Syria and similarly situated other countries have been relocated or resettled but the question is the status of such person, what standing do they have in other country, being a refugee they can seek asylum but are they entitled to the privileges enjoyed by citizens? No. The privileges of Government relating to education, health aid, pension schemes and scholarship for education are limited only to their citizens.

Ergo A person forced to leave his nation along with his family, leaving his assets which are either abolished or forcibly taken away and moving or settling in a new country, which does not place him on equal footing with their citizens, does not grant him citizenship, where he has no knowledge about his whereabouts, doesn't even know if his own country is able to accommodate citizens, provide them basic facilities, enforce their rights, minor orphans who have no knowledge about their citizenship, what has international law planned to provide for these stateless people. Millions existing now and million might evolve later, but do we have corpus juris to define the existence to these stateless people.

Individuals are subjects of State and States are subjects of International law. Hence individuals are ab extra subjects of International Law. The current scenario leading to the ascending ratio of statelessness demands a corpus juris entirely binding on all the Nations in the world and there is no the discretion of ratification or accession to States. The Corpus juris must include fundamental rights to be given to all persons irrespective of their Nationality, the remedies available to them if their rights are violated,

access to courts and determination of jurisdiction, Rights of children to elementary education, Status granted to a person in relocated or host State, access to medical aid, separate funds to be maintained by State to provide aid in such circumstances provisions to be made such that stateless people are located in countries with having high incomes or financial grant to countries providing asylum so that accepting refugees does not slump their economy and significant provision of grant of nationality to such people after a particular period.

Epilogue

Travelling to a period where boundaries not defined, humanity existed and in this era of digitalization, where animals have rights, enjoy protection under the law irrespective of their originating place, humans are questioned their nationality before exercising their rights. Every human has a birth right to live with respect and is not subject to any nationality for exercising his birth right, but the ongoing crisis have endangered and deprived his fundamental right. Refusing to respect their rights is a crime against humanity and there exists no punishment without law as stated in maxim nulla poena sine lege, ergo corpus juris for stateless people is a crucial step to free the world from cries of a stateless person.

Sources

- 1) UNHCR- United Nations High Commissioner for Refugees, established in 1950 after World War II, by General Assembly of the UN
- 2) SGBV- Sexual and gender based violence
- 3) IDP- internally displaced people
- 4) <https://www.un.org/ruleoflaw/files/Nationality%20and%20Statelessness.pdf>



-
- 5) www.state.gov
 - 6) <https://www.unhcr.org/en-in/>
 - 7) Convention relating to status of a stateless person 1954
 - 8) Convention on reduction of statelessness 1961
 - 9) Convention on Certain Questions Relating to Nationality of Laws The Hague 12 April 1930
 - 10) http://data2.unhcr.org/en/situations/nigeriasituation#_ga=2.223351000.27727109.1637347522-2039106600.1637257237
 - 11) https://data.unhcr.org/en/situations/southsudan#_ga=2.186654699.27727109.1637347522-2039106600.1637257237
 - 12) https://data.unhcr.org/en/situations/southsudan#_ga=2.186988395.27727109.1637347522-2039106600.1637257237
 - 13) https://data.unhcr.org/en/situations/syria#_ga=2.186988395.27727109.1637347522-2039106600.1637257237
 - 14) https://data2.unhcr.org/en/situations/sahelcrisis#_ga=2.147855348.27727109.1637347522-2039106600.1637257237

