

GLOBALISATION AND REFUGEES: THE ANTHROPOLOGY OF FORCED MIGRATION AND ITS IMPACT ON THEIR HUMAN RIGHTS

NEETU SINGH¹

¹Research Scholar, Department of Anthropology, Allahabad University Allahabad, U.P. India.

ABSTRACT

As long as Anthropology was associated with well delineated cultures, refugees were limited conglomerates of people sometimes living in tent cities with little that could be called social structure and with their cultures on hold. The recent breakdown of such limitation has brought refugees to the forefront of anthropology. In 1988, the committee on Refugees and Immigrants (CORI) was established within the general Anthropology Division of the American Anthropology Association. The concepts of boundaries and communities are being rethought, as in Anthropology in general, with an emphasis on process over structure, fluidity over stability. The experiences of refugees and displaced persons raise particular issues and concerns in matters pertaining to human rights, citizenship, and racism.

KEY WORDS: Globalization, Refugee, Migration, Human Rights

The refugee problem was acknowledged as having international dimensions and requiring global co-operation as for as 1921-22 in the aftermath of the First world war, the break up of the Austro Hungarian empire and the Russian revolution. However, real movement to protect refugees began only with the 1948 Universal Declaration of Human Rights which proclaimed basic rights for all human beings irrespective of their nationality as citizenship. This declaration was an important first step since refugees face unique hardships and the particularly vulnerable in foreign countries. It is therefore incumbent upon the international Community to protect their rights both in countries of origin and a- sylum.

There is little doubt that the refugee crisis is one of the most dramatic concern of the contemporary world. The number of refugees has risen from under 3 million in 1986 to 11.7 million legally recognized refugees in the world today Afghanistan has the worlds largest community of displaced persons.

The basic dictionary definition of term embraces people fleeing war or persecution for a political or religious reasons . People escaping famine, flood, or earthquake etc, are the environmental refugees and may be subject to the same processes as political refugee.

Refugees must recreate and redefine themselves in unfamiliar settings, where they may be resented or hated. They are denied the so called incontrovertible 'rights of man', which exist so as to be upheld in national communities, but are instead denied the right to exist within a community at all. Their plight is not that they are not equal before the law, but that no law exists for them. The fundamental deprivation of human rights is manifested first and above all in the deprivation of a place in the world which makes opinions significant and actions effective. They are deprived, not of the right to freedom, but of the right of action; not of the right to think whatever they please, but of the right to opinion.

Refugees can no longer be understood merely as people who once had a static traditional culture that has been temporarily disrupted. The environments of refugees were usually unstable for a long time before the period of dislocation, and cross border refugees may have already undergone a period of in county displacement. Refugees must constantly re-create and redefine the themselves – legally, culturally and materially as their settings change. They are called on to create new structures in unfamiliar settings fairly quickly , submit to the authoritarian humanitarianism of camps over seen by bureaucrats or

adapt to asylum countries where they may be resented or hated.

From the initial crisis in post war Europe, through the cold war and the decolonization struggles, to the contemporary identify based conflicts built around religion, ethnicity, nationality, race, clan, language or reign, the nature of the refugee problem has altered dramatically during the second half of the twentieth century⁴. The current wars are more often than not being fought out not between but within nation states, and processes of genocide, ethnic cleansing, and territorial division are intimately connected to the destabilization of national identities associated with globalization. Ethnic groups spanning vast regions and crossing nation state borders challenge the presumed authenticity of those borders, and the cultures they purport to sustain. If processes of globalization threaten these borders in all walks of life, they are particularly challenging for those concerned with the plight of refugees, as the UNHCR (The united Nations High Commissioner for Refugees, was established in 1951) recognizes:

The current structure of refugee protection was designed in and for a state centric system. Under the terms of 1951 UN Refugee Convention, a refugee is a person who cannot avail himself or herself of the protection of his or her own state, and who has crossed an international boundary marking the limits of the sovereign territory of that state. One is forced to question the relevance of notions such as sovereignty and national frontiers as states lose much of their ability to control what crosses their borders as well as what goes on within them(UNHCR). It is time for the international political community to adopt a more structural approach, to deal not with the refugees crises in isolation, but with its intrinsic relationship to other human rights concerns, including political oppression, civil war and poverty, and to environmental concerns as well.

Now let us cast a glance on some Articles of Universal Declaration of Human Rights:-

- (1) Everyone has the right to freedom of movement and residence within the borders of each state.
- (2) Everyone has the right the leave any country, including his own, and to return to his country.

Universal Declaration of Human Rights, Article 13.

- Everyone has the right to seek and to enjoy in other countries asylum from persecution.

Universal Declaration of Human Rights, Article 14 (1).

- (1) Everyone has the right to a nationality.
- (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Universal Declaration of Human Rights, Article 15.

In plainest term Human Rights are the rights to one has simply because one is human. They are held by all human beings. And because “being human” cannot be renounced or forfeited, human rights are inalienable. Human rights imply availability of such conditions, which are essential for the fullest development and realization of the innate characteristics which Nature has bestowed him/her with, as a human being, they are essential to ensure the dignity of every person as human being, Irrespective of one's place of birth, race, religion, colour, sex or any other such factor, each one of us, as a human being ,has an instinct to live and not be deprived of life arbitrarily. As a human being, we instinctively wish to move about freely, to express our thoughts, and so on. Like wise, we need food and shelter. This necessitates a social system, where our humanness finds expression and our day to day needs are satisfied.

Indeed, the genesis of modern concept of human rights can be traced from the dawn of civilization when human beings started living in groups. Nature has bestowed every human being with two related characteristics: first he is an individual, second, he is a social being. Man cannot be his own natural self in solitude; he needs fellow human being around him- living in groups or organized community is natural to him. So at one state or the other of the evolutionary process of human species, man started living in groups. In all areas and eras, they must have, implicitly or explicitly, in legal terms or social terms, agreed on certain norms of social behavior, defining the rights and obligations of the individuals, particularly the nature of socially acceptable claims and the

restriction imposed by the need of maintaining the social order.

Now the question arises as to what approaches must be applied by an anthropologists to understand and analyze the real conditions of the refugees. In contrast to the participant observation of relatively stable communities or networks, refugees challenge anthropologists to research and understand rapid and sometimes chaotic social change. Thus refugee require a reconceptualization of field work: The year or two in a single community will obviously not do for people on the move, nor will even multisite or “traveling” fieldwork be of much use in understanding the dynamics of a camp that may be disbanded in a few weeks or a month. For permanently resettled refugees, decade or more long longitudinal studies already employed for trans-nationals may be the most useful (Krulfeld 1993, Donnelly and Hopkins 1993). Also as we have seen in relation to development anthropology, change agencies themselves may legitimately become the targets of anthropological theorizing.

Basically, there are three anthropological approaches that might be categorized as analytic, organizational and interventionist (Harrell – Bond and Vourtira 1996). While the analytic approach might require some specialized fieldwork techniques, it is basically classical anthropology, that is, force to force observation of and interviews with the people themselves, emphasizing adaptive strategies, social structures, values and beliefs. The organizational approach is more focused on issues of policy and the structures and working of agencies. From this perspective, the researcher is interested in the values and stereo-types held by aid workers, the interactions between immigration authorities and the refugees, and the ways that policy is established and enforced. Become the anthropologists places her self in a position between the refugee and the agencies, she is able to act as culture broker for both. Finally the interventionist approach, which might-or might not embrace the other two, is fundamentally the approach of applied anthropology, that is anthropologists working for aid agencies toward the goal of helping refugees.

Though India has not ratified the 1951 United Nations and 1967 Protocol relating to the Status of refugees, it provides shelter to over 300,000 refugees from neighboring countries. There are over 50,000 Jumma

refugees from the Chittagong Hill Tracts of Bangladesh sheltered in Tripura State of India, over 70,000 Sri Lankan Tamil refugees living in Indian state of TamilNadu and about 121, 143 Tibetan refugees. They are under the protection of the government of India.

Besides the Sri Lankan. Jumma and the Tibetan refugees, the United Nations High Commissioner for refugees (UNHCR) provides protection to 22,000 refugees consisting of the Afghans, Iranians, Somalis, Burmese, Sudanese refugees reside in Delhi.

The non ratification of the 1951 convention and 1967 protocol by the Government of India has reduced the status of fleeing humanities to political arbitrariness. The grant of “refugee status” is discretion of the political authorities. There is no legal framework under Indian constitution to determine the status of refugees and the Government of India has dealt with the refugees on adhoc basis. This led to the use of refugees as pawns in regional geopolitics. Repatriation has always taken place without ascertaining the voluntary character by interviewing individual refugees. The UNHCR and other international agencies were denied access as repatriation always took place after bilateral discussions. Bilateral discussion always involve certain amount of geo-political and economic interest and suspicious between India and the country of origin of the refugees. In the process, refugees have become victim of gross human rights violation.

Over 55,000 Jumma refugees from the chittagong Hill Tracts of Bangladesh fled to the Tripura state of India after a series of massacres by the Bangladeshi security forces and illegal plainmen settlers in 1986. The reoccurrence of more massacre brought more Jumma refugees in 1989 and 1992. The government of India refused to register the Jumma refugee who fled after the logang massacre of 10 April 1992, hence denying refugee status to the fleeing refugees.

The Jumma refugees were put under pressure to agree with the repatriation. The scale of rations has been reduced and the refugees have been provided with only rice and salt since October 1992, as a part of government of India's “Non-violent” pressure upon the helpless Jumma refugees. Medical, sanitation and educational facilities remain non-existent since October 1992.

Nearly 1,846 individual Jumma refugees were reluctantly made to agree to return in the first phase of repatriation in February 1994. The 13 point charter of Demands of the Jumma refugees were set aside and Bangladesh government provided a 16 point Rehabilitation Package to convince the refugees. The United Nations High Commissioner for Refugees and other international agencies were not provided access to monitor the repatriation process. The Jumma refugee leadership was pressurized by Governor of Tripura to agree with the first phase of repatriation on an experimentation basis to test the level of normalcy prevailing in the Chittagong Hill Tracts.

The Chittagoang Hill Tracts Jumma Refugee Welfare Association found a number of anomalies and 16 point package offer were not duly implemented as per the commitments of the Government. The refugee leaders in its report on the visit has cited 103 families of the returnee Jumma refugees who were not given back the land. Moreover the refugee leaders alleged of infringement of general amnesty offered to the refugees.

According to the government sources there are nearly 1,60,000 Sri Lankan Tamil refugees in India of which about 76,000 live in refugee camps in Tamil Nadu and about 30,000 live outside these camps in cities and towns across Tamil Nadu. Other Non-governmental sources believe that there are actually closer to 100,000 refugees outside the camp.

Sadly, the plight of Sri Lankan Tamils has not improved in India. For many refugees, the conditions in the Tamil Nadu camps are worse. Essentially, the Indian Government has been and countries to violate key human rights of the refugees. The Sri Lankan Tamil refugees have been stripped of such basic human rights as the freedom to leave the campsites, proper medical assistance, and perhaps most importantly, non refoulement.

In March 1992, the Indian Government passed an order to "persuade and advise Sri Lankan Tamil refugees to repatriate". By May, 1993, the Indian Government had placed considerable restrictions on Sri Lankan Tamil refugees and on their campsite operations and privileges. As a result, the conditions of the camps have become nearly unbearable. The decision of the refugees who opted to return cannot be termed as purely "Voluntary" is that very many of them may have opted for repatriation due to

the withdrawal of facilities that had been provided them before the repatriation process commenced.

The deprivations include:-

- ❖ Stoppage of doles and rations after the 9th September 1993.
- ❖ Not providing proper educational facilities to refugee children.
- ❖ Not repairing huts and failing to maintain other facilities in camps.
- ❖ Restricting movements of refugees resulting in preventing refugees from going to work to supplement their meager dole to make ends meet.
- ❖ Arresting and locking up refugees in sub-jails designated as (special camps) without stating reasons or inquiry or Trial.
- ❖ Not providing access to information necessary to enable refugees to make a voluntary decision.
- ❖ Failing to provide medical assistance.
- ❖ Prevention of assistance and services to the refugees in camps by Non-Governmental Organization.

A major problems the refugees are faced with while determining whether to repatriate or not is that they are not presented with adequate information's or are presented with misinformation concerning the conditions within Sri Lanka. Additionally, the Tamil Nadu office of the United Nations High Commissioner of Refugees (UNHCR) has been frequently criticized for giving refugees the wrong impression about the status of the war and their ability to aid and protect the refugees once they reach Sri Lanka.

Essentially, the gross deprivations continue and the Indian government chooses to deny it. The police, without giving any reasons for their arrest and detention in special camps, have arbitrarily and illegally acted in a manner by which the refugee protection given to these persons is withdrawn. Most of these persons are languishing in sub-jails for periods up to two years. In most cases, such detention was followed by the serving of orders under the Foreigner's Act without adherence to the principles of natural justice. This is against Indian and

International Humanitarian norms and is a complete travesty of justice.

There are an estimated 121, 143 Tibetan refugees, mostly sheltered in Dharamsala of Himachal Pradesh, Ladhak of Jammu and Kashmir and in Mysore in Karnataka. In 1994, the Tibetan refugees were victims of xenophobia of local people in Arunachal Pradesh and Himachal Pradesh.

A few hundred refugees belonging to the ethnic Nagas have sought shelter in Manipur and Mizoram in 1991 after the Burmese military started a crack down on the Naga and other insurgents on the side of Burma. They were not recognized as refugees by the Government of India but allowed to stay in India.

A large number of ethnic Chin and other Tribal refugees also sought refuge in Indian state of Mizoram to escape from repression by the Burmese military authorities. A large number of the Chin refugees were forcibly repatriated by the State Government in 1994.

The internally displaced Kashmiri pandits received some assistance from the Government, no initiative has been undertaken to alleviate the conditions of the victims of "Naga-Kuki" ethnic conflict in Manipur state of India.

India lacks a cohesive national policy for handling refugee inflows. The lack of a national Indian policy limits the ability of the State Government and Border Security Force to deal with refugees instantly, resulting in mass rejections at the frontier while policy directions are awaited or non-recognition of refugees sneaking into Indian territory. The juridical basis of the international obligations to protect refugees, namely, non-refoulement including non-rejection at the frontier, non-return, non-expulsion or non-extradition and the minimum standard of treatment are traced in international conventions and customary laws. The only treaty regime having near universal effect pertaining to refugees is the 1951 Refugee convention and its 1967 protocol on the status of Refugees which is the magna carta of refugee law. Since India has not yet ratified or acceded to this regime its legal obligation to protect refugees is traced mainly in customary international law.

The Constitution of India contains just a few provisions on the status of international law in India.

Leading among them is Article 51 (C) and is placed under the Directive Principles of State Policy in Part IV of the Indian Constitution, which means it is not an enforceable provision.

As long as International refugee law does not come in conflict with Indian legislations or policies on the protection of refugees, international refugee law is a part of the municipal law.

On the questions of admission and non-refoulement, however, the Indian attitude is rather bleak. Even though India accepted the principle of non-refoulement as including non rejection at the frontier under the "Bangkok principle 1966," it did not observe that principle in its practice. Ignoring the fact that refugees leave their homes suddenly due to threats to their life and liberty, and by the nature of their flight they are unable to get the necessary travel documents from their home States, India deals with the question of admission of refugees and their stay until they are officially accorded refugee status, under legislations which deal with foreigners who voluntarily leave their homes in normal circumstances.

The plight of refugee in India generally depends upon the extent of protection they receive from either the Indian government the United Nations High Commissioner for Refugees (UNHCR.). The three primary categories of the refugees are:-

- 1- Refugees who receive full protection according to standards set by the Government of India like the Tamil Refugees.
- 2- Refugees whose presence in Indian territory is acknowledged only by UNHCR and are protected under the principle of non-refoulement like the Jumma refugees.
- 3- Refugees who have entered India and have assimilated into their communities. Their presence is not acknowledged by either the Indian Government or UNHCR e.g. a large number of ethnic Chin and other tribal refugees have escaped repression from the Burmese military and entered the Indian state of Mizoram.

The refugee is usually photographed or videos taped for the news just after the escape, as she carries her baby

on her back through a thicket of border soldiers to safety. The longer-term life of the refugee is seldom a subject. Resentments and restrictive laws often replace sympathy subjects when the pathetic of the earlier dramatic photographs become next door neighbors.

Anthropologists studying aid agencies have found that stereotypes and deindividualization are endemic among those in refugee work. It may be inevitable that large assistance organizations tend to objectify, simplify, and universalize the people under their care. The larger the mass of humanity, the less the individual can stake a claim to attention. A number of assumptions may be made that limit conceptualization, creating an "Ideal" refugee, a figure who is dehistoricized and apolitical, the universal victim. A primary element of this ideal model, validated in the UNHCR mandate to repatriate as quickly as possible, is that the country of origin represents a home, a place of normality. Another common misconception is that the entire refugee group represents some unified culture that can be reconstituted once the refugees are returned home. Such stereotyping may be inevitable when large masses of people must be dealt with rapidly and with inadequate staffing and resources, often under tense political conditions.

Refugees are often represented in the media by sympathetic photos of women and children and women often make up the majorities of refugee populations. In situations of warfare, women are subject to rape and other violence. Often men are absent - dead, missing, or fighting with one of the opposition forces - so it is up to the women to protect the children and aged and hold together whatever can be salvaged of the household.

The plight of the refugees irrespective of whether they are looked either by the UNHCR or the government of India, is quite alarming. The condition of the refugee who are not recognized either by UNHCR or the government of India is the worst.

The lack of legal mechanism and policies on refugees is one of the fundamental flaws of refugee protection in India. But the courts in India have awarded excellent judgments to abide by international principles on refugee protection including non-refoulement. Great problem arises when both the UNHCR and the government of India violate their own standards and principles. While it is possible to bring the government of India under the scrutiny of the quasi-judicial bodies like the National Human Rights Commission and Judiciary, there is no such mechanism to scrutinize the United Nations High Commissioner for Refugees in New Delhi.

Hence to conclude, we can say that because of their temporary and uncertain status, refugees- whether in camps or resettled in foreign countries- pose a special problem to anthropologists who have not traditionally dealt with transient or newly created social structures. The great number of refugees today and, inevitably, in the future, makes that challenge especially urgent.

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