

Kolkata Declaration 2018

Protection of Refugees and Migrants



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The New York Declaration for Refugees and Migrants (2016) recognised that the existing international regime of refugee and migrant protection needed a new push towards strengthening measures for protection. It was decided that two new global compacts – one for refugees and the other for migration will be adopted by the UN. However, questions arise: How different will be the global compacts and what will be the promises and paradoxes they will come with? Through a six day research workshop and international conference organised in Kolkata by the Calcutta Research Group in collaboration with the Rosa Luxemburg Stiftung on The State of the Global Protection System for Refugees and Migrants (25 – 30 November 2018) these questions were explored in the backdrop of global and regional realities of population flows. 101❖academics, activists, functionaries of international humanitarian institutions, and journalists from 18 countries all over the world participated in the event. A resolution, called the Kolkata Declaration was drafted through consultation with experts and adopted at the concluding day of the event on 30 November 2018.

The Kolkata Conference on "The State of the Global Protection System for Refugees and Migrants"

Notes that,

- With global refugee flows manifestly worsening in the last decade and the perceived global migrant crisis appearing deeper and more expansive than ever, international efforts at various levels towards human rights and humanitarian protection remain paltry and inconsistent. The refugee and the migrant remain at the same time a marginal category despite years of efforts to reverse this marginalization. In this situation, the principle of global responsibility as a function of power, framed for instance as the "Responsibility to Protect", seems to have reached an equally striking but inglorious end. Meanwhile, local, regional, customary, bilateral, and other multilateral efforts to provide humanitarian protection and the protection of the rights of the refugees and migrants have continued as ignored but valuable instances of human dignity;
- In a situation where population flows are increasingly mixed and massive in nature and the limits and unwillingness of states to bear primary responsibility of the refugees and migrants are becoming apparent, the United Nations initiative for Global Compacts on Refugees and Migrants with a whole of society approach covering various stakeholders including business and commercial segments, has been considered as opportunity for the world to reconsider old approaches to refugee and migrant protection;

- This situation also being marked by uneven geographies of protection in terms of sanctuaries, third countries, hotspots, border zones, safe corridors, discriminating labour regimes with unequal labour rights, remittance-centric segments of global economy, as well as places characterized by intense financial and security operations, the UN initiative considers refugees and migrants as subjects of global development;
- Discrimination and exclusion based on race, religion, caste, ability, sexuality, gender and resources cannot be tolerated. This situation refuses to privilege majoritarian, male, and monolithic cultural values, which may dispossess refugees, migrants or stateless women undermining their individuality, subjectivity, citizenship and the ability to make political and social choices;
- With all these characterising the refugee economies or the immigrant economies around the world, the situation exhibits (a) close relations between refugees, other victims of forced migration, illegal immigrants, and the IDPs, (b) likewise close connection between the refugee economy and the informal economy as a whole, (c) interface of formal and informal labour; and (d) inclusion of refugee and migrant labour in national economies and global economy accompanied by exclusion from the political sphere of democracy; and (f) the close relations between race, religion, resources, and gender in producing refugees and

aliens; (g) consequently the new urgency of combining labour rights, political rights, and norms of justice; (h) and subjecting the global regime of protection to other parallel at times counter norms of justice and freedom;

- Also, this situation is marked above all by a massive global presence of stateless people, i.e., population groups obliged to live without the protection of a state, while membership of a state remains the norm. Notwithstanding rules in the realm of public international law in response to the problem of statelessness, statelessness has affected refugees, with protracted refugee-hood eventually resulting in statelessness, and the distinction between refugee-hood and statelessness increasingly wearing thin. Besides, long residing residents and nationals of a state are at times becoming stateless without being refugees due to new citizenship policies of a state; thus emerging from succession of states or territorial reorganisations, statelessness has also spread due to persecution of minorities and growing majoritarian bias of states, leading the states at times to expel citizens or inhabitants;
- As in South Asia, with inter-state relations fraught with disputes concerning borders and cross-border movements, the states have progressively tightened their citizenship criteria, thus creating growing pockets of statelessness at their cultural and geographical margins, and occasioning ideal conditions for inducing statelessness. To these conditions has

added another aspect of statelessness in the region - resulting from massive labour migration - official and unofficial - between states. States have demanded migrants' repatriation, which has been refused by the neighbour states, leaving the groups in question stateless;

- Also in this situation the existing legal regime proving inadequate to deal with the problem of statelessness, the experiences of postcolonial regions like South Asia call for greater attention in order to improve the said legal regime; particularly, judicial experiences and the varied nature of the existing municipal and international laws call for framing of distinct regional laws relating to the stateless in different world regions;
- With wars raging from Iraq, Syria, Israel-Palestine, Yemen, and Afghanistan to areas of Central Asia and the Caucasus region and expulsions and stripping of citizenship in South Asia, Southeast Asia, and the Indian Ocean region, the Asian region is now one of the most volatile in terms of population flows with the refugee crisis reaching unprecedented heights - the massive exodus of Rohingyas from Myanmar being the most recent instance. All these have followed the still unparalleled population movements in the wake of the partition of the Indian sub-continent, and have now produced in the last few decades refugees, asylum seekers, immigrant labour, and trafficked girls, children, and women. Added to these has been the issue of migrant labour flows into Malaysia,

India, Turkey, and other countries from other Asian countries – a situation facing strict border controls, violent borderlands, no labour rights, and below subsistence wages. The Asian situation thus calls for greater scrutiny of the state of the global protection regime for refugees, stateless persons and migrants;

- The Asian situation unambiguously calls for further efforts towards upholding the safety, dignity, and protection of refugees, asylum seekers, the stateless persons, labor migrants, and the internally displaced persons, greater dialogues at various levels – state, regional, civil society, bilateral, and city;

Declares that,

1. The right to move is a universal human right and any restriction on that right cannot be subject to policies and measures that violate the dignity of human beings;
2. The refugees, migrants, stateless and other displaced persons are central figures in any protection system, legal regime, government and societal institutions;
3. The idea of a global compact must acknowledge the practices of protection at various regional, country, local, customary, city, and other scales. Any global compact aiming at sustainable resolutions must be based on wide-ranging dialogues involving refugees, migrants, stateless persons and groups defending them;
4. Any protection framework – global and local – must combat discrimination based on race, religion,

- caste, ability, sexuality, gender and class that affect rights and dignity of all human beings;
5. In any redesigning of the global framework of protection, perpetrators of violence and displacement must be held accountable for their actions;
 6. Refugees, migrants and stateless persons working as informal labourers are entitled to social and economic rights;
 7. Stateless persons should be prioritised for protection. Restoration of their citizenship rights is a global responsibility;
 8. In the context of widespread forced migration and statelessness in Asia, a regime of protection along the lines of the African Charter of Human and People's Rights and its regional systems and institutions is imperative. Such a Charter must involve specific provisions of human rights, including labour rights, of migrants, refugees, asylum-seekers and stateless persons to ensure the dignity and rights of all.

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