

Module C

Rohingya Refugees in India

Context:

1. Forced Migration is a critical global issue today. Not merely in academic discourse but in understanding global inter-connectedness and the current profile of insecurity and vulnerability, forced migration plays an extremely important role. From the end of the Cold War, forced migration (involving refugee flows, internal displacement, forced migration of women and children, migration in the wake of human rights violations, natural calamities, and humanitarian disasters, statelessness, illegal immigration of vulnerable people, victims of border violence and militarisation of borders, and trafficking in sex and labour) has emerged as a major phenomenon in the world.
2. Against this backdrop, understanding South Asian or South East Asian forced migration becomes even more crucial. South Asia and South East Asia is a greater migration-producing region. There are many reasons for this, including partition, religion, ethnicity, decreasing status of women, economic and resource crunch, new legal regimes that create marginalization of the vulnerable leading to their migration, new developmental paradigms that leave large groups distressed and destitute; etc. At present, there is no single, coherent theory of South Asian or Southern global migration, but only a fragmented set of theories that have developed largely in isolation from one another, sometimes but not always fractured along disciplinary boundaries.

Origin of the Rohingya Problem:

3. King Dragon Operation of the Myanmar Army in 1977 was aimed at scrutinizing each individual living in the state, designating citizens and foreigners in accordance with the law and taking actions against foreigners who have filtered into the country illegally. This military campaign directly targeted civilians, and resulted in widespread killings, rape and destruction of mosques and further religious persecution.
4. Due to this operation, the Rohingya population amounting to 200,000 living in the State of Arakan fled to Bangladesh in 1987. The Rohingya is a predominantly Muslim ethnic group living in the Arakan State of western Myanmar.
5. Section 3 of the Burma Citizenship Law, 1982 provided: “Nationals such as the Kachin, Kayah, Karen, Chin, Myanmar, Mon, Rakhine or Shan and ethnic groups as have settled in any of the territories included within the State as their permanent home from a period anterior to 1185 B.E., 1823 A.D. are Myanmar citizens.” So the Rohingyas were excluded by this Act as a citizen of Myanmar. This actually made them Stateless as per the 1954 Convention Relating to the Status of Stateless Persons. At present Myanmar has about 800,000 stateless Rohingyas, without access to basic healthcare or education.

Issues of Protection in South Asian Countries:

6. Violent Burmese military campaigns have been waged against the Rohingyas leading to mass influxes into eastern Bangladesh in 1978 and 1991-1992. Faced with its own social and economic development challenges, the Government of Bangladesh (GoB) favored swift repatriation of the refugees and with the agreement of the Government of Myanmar a massive repatriation exercise was undertaken. Between 1993 and 1997 some 236,000 refugees were repatriated amidst accusations of coercion. Since 1992, the GoB has refused to recognize subsequent Rohingya arrivals and has prohibited their access to the two remaining refugee camps. Up to 2009, 29,127 are recognized as refugees with the UNHCR and live in Kutupalong and Nayapara camps. Registered refugees receive basic health services, primary education and food rations but about 4,271 of the camp residents were not properly registered and thus are not considered as refugees by the GoB and consequently are barred from receiving food rations.
7. Rohingyas also faced problems while they were repatriated in Myanmar from Bangladesh. The Burmese authority sanctioned them as they were travelling without any travel documents. Many of the repatriated refugees returned back to Bangladesh and living in un-authorized camps in the Cox's Bazar District. They were not registered with the GoB or with the UNHCR.
8. According to the UNHCR, New Delhi there are about 5,500 Rohingya refugees and asylum-seekers from Myanmar registered in India spread across the states of Andhra Pradesh, Delhi, Jammu, Haryana, Rajasthan and Uttar Pradesh. Most of these people are living in makeshift camps in India. Government of India's decision to provide the registered refugees with long term visa and work permit are still not in place.
9. In the State of West Bengal more than thousand Rohingya people were prosecuted under the Foreigners Act, 1946 and sent to correctional homes. These people will be shifted to refugee camps only when these people get refugee status by the UNHCR.
10. Though India and Bangladesh are not parties to the 1951 Convention Relating to the Status of Refugees, 1954 Convention Relating to the Status of Stateless Persons and 1961 Convention Relating to Reduction of Statelessness, but they are party to several other important human rights instruments like ICCPR, ICESCR, CEDAW and CRC. These human rights instruments create obligation on both the States to provide with basic humanitarian treatment to these people.
11. At this present juncture, detailed research to focus on the origin of the issue, current status of the Rohingyas in Myanmar and in other South Asian countries, issue of human rights and humanitarian dimensions and policy needs for South Asia should be taken into consideration.
12. The workshop will look at the following four themes broadly:

- i. History and Present Situation of Rohingyas in Myanmar, Bangladesh and India- Issue of Camps, Statelessness, Protracted Displacement, etc.
- ii. Human Rights, Humanitarian Necessity and Legal Protection to the Rohingyas under International Law and Domestic Legal Framework
- iii. Gender Perspective of the Rohingya Refugee Crisis
- iv. The Need for a Regional Policy for Protection

13. The draft studies on these issues will be discussed in the workshop keeping the importance of research, legal analysis and advice, advocacy, capacity building, media awareness and network building.