

Bill No. 342 of 2015

THE NATIONAL ASYLUM BILL, 2015

By

SHRI FEROZE VARUN GANDHI, M.P.

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BILL

to provide for the citizenship rules of refugees and asylum seekers.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called National Asylum Act, 2015.

Short title,
extent and
commencement.

(2) It extends to whole of India except the State of Jammu and Kashmir.

5 (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, the unless context otherwise requires,—

Definitions.

(a) "asylum seeker" means a foreigner who seeks recognition and protection as a refugee;

10 (b) "country of origin" means the refugee's country of nationality, or if he has no nationality, his country of former habitual residence;

(c) "prescribed" means prescribed by rules made under his Act;

(d) "refugee" means a person who owing to 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; 5

(e) 'Refugee Committee' means Appellate Committee on Refugees constituted under section 4; and

(f) "Refugee Registrar" means Registrar for Refugees appointed under section 4.

Registration of refugees. 3. Where an asylum seeker requests to be recognized as a refugee either at the point of entry of any legally defined Indian borders or subsequently, the Refugee Registrar shall act in accordance with the definition of refugee as laid down in clause (d) of section 2 to determine whether the asylum seeker may be granted refugee status or not. 10

Constitution of Registration Authorities. 4. (1) In order to implement the provision of this Act, the Government shall appoint—
 (a) **a Registrar of Refugees, having such qualification, as may be prescribed, who shall receive and consider applications for refugee status and make decisions; and** 15
 (b) **a Refugee Committee, consisting of three members, namely, a retired High Court Judge designated by Government of India in consultation with Chief Justice of the Supreme Court of India and two independent members who shall have experience of not less than five years in refugee related matters, which shall be an appellate authority to receive and consider applications for consideration of citizenship status if the refugee fulfils the condition as laid down in this Act.** 20

(2) **The salary and allowances payable to, and other terms and conditions of service of Registrar of Refugees and members of Refugee Committee shall be such as may be prescribed.**

Ceasing of Refugee Status. 5. The refugee status shall cease to apply to any person if— 25
 (a) he voluntarily re-avails himself of the protection of the country of his nationality; or
 (b) having lost his nationality, he voluntarily re-acquires it; or
 (c) he acquires a new nationality and enjoys the protection of the country of his new nationality; or 30
 (d) he voluntarily re-establishes himself in the country which he left or outside which he remained owing to fear of persecution; or
 (e) he commits a crime against peace; or
 (f) he no longer refuses to avail himself of the protection of the country of his nationality because of the circumstances in connection with which he was recognized as a refugee have ceased to exist; or 35
 (g) he commits a crime against peace, a war crime or a crime against humanity, as defined in the international instruments drawn up to make provision in respect to such crimes. 40

General obligations. 6. (1) Every refugee shall abide by the laws and regulations and measures taken for the maintenance of public order.
 (2) The Central Government shall apply the provisions of asylum without discrimination to race, religion or country of origin of the refugee.
 (3) The Central Government shall accord to refugees similar treatment and facilities as are available to citizens of India with respect to freedom to practice their religion and freedom as regards the religious education of their children. 45

7. To handle the situation of mass influx of refugees, the Central Government may appoint officers under the Refugee Registrar to register the refugees at the entry point of borders in accordance with the provisions of this Act. Registration in case of Mass influx.

5 **8. (1)** A refugee who has been legally provided the status of refugee by Refugee Registrar and has been domiciled in a region of country for five or more years shall be eligible to apply to Refugee Committee for grant of Indian citizenship. Granting Citizenship rights to Refugees.

(2) The child of a refugee registered under section 3, who has got birth in the territory of India and has been registered with and verified by the Refugee Committee of his actual birth place shall be given the rights of citizenship in accordance with the Citizenship Act, 57 fo 1955. 10 1955.

15 **9.** Nothing in this Act shall prevent the Central Government, in time of war or other grave and exceptional circumstances, from taking such provisional measures as it considers to be essential to the national security in the case of a particular person, pending determination of refugee status of that person and continuance of such measures as are necessary in his case in the interests of national security. Exceptional circumstances.

10. (1) The repatriation of refugees shall take place at their free volition expressed in writing or other appropriate means which shall be clearly expressed. Repatriation at free will.

(2) The voluntary and individual character of repatriation of refugees and the need for it to be carried out under conditions of safety to the country of origin shall be respected.

20 **11. The Central Government shall, after due appropriation made by Parliament, by law in this behalf, provide requisite funds to the Refugee Committee for carrying out the purposes of this Act.** Central Government to provide funds.

12. The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force. Act to have overriding effect.

25 **13. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

30 (2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Since independence, over forty million refugees have crossed Indian borders, seeking refugee status, against a hinterland of political strife, economic inequality and ethnic tensions. Partition of the country led to over seven million refugees being provided emergency relief and resettlement by the Ministry of Rehabilitation. While the issues related to their citizenship rights was, to an extent, dealt of by the Ministry of Rehabilitation, whereas, the issues related to their citizenship rights was, to an extent, dealt with at the time based on provisions of the Citizenship Act, 1955 and subsequent amendments. However, the refugees from other countries were not mainstreamed in the Indian population.

India is a signatory to various human rights conventions on refugees (ICCPR, ICECR, CRC, ECERD, CEDAW)—all requiring adherence to the principle of *refoulement*. However, such international obligations have not translated into legislation at the national level. Refugee conditions in India's urban clusters remain parlous. Housing insecurity remains a significant concern, with most refugees in their areas reporting restricted access to accommodation, discrimination by landlords and eviction due to not having legal documents of citizenship in the country.

The country is a refugee haven absorbing Tibetans in 1959, Bangladeshis in 1971, Chakmas in 1963, Sri Lankan Tamils in 1983 onwards and Afghan refugees in 1980. The largest refugee population in India do not fall under the mandate of UNHCR but are nonetheless considered refugees by the Government. At present, there are over 1,50,000 Tibetans and 90,000 Sri Lankans who have fled violence and persecution and sought refuge in India besides 11000 Afghans and 4621 from Myanmar, etc. This provides the country which maintains the culture of tolerance and forbearance with the grave situation of human rights violations if these refugees have to stay as refugees all throughout their lives with generations to follow.

As per UNRWA report, of the 19.5 million people term refugee, just 126,800 returned to their countries of origin in 2014. In such situation it becomes a responsibility of the country to provide relief to the refugees in the situation of strife to give them freedom from arbitrary detention and protection by regularizing them in the citizenry if certain conditions are followed.

Hence this Bill.

NEW DELHI;
November 18, 2015.

FEROZE VARUN GANDHI

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the appointment of Registrar of Refugee and Refugee Committee for receiving and considering application of refugee states. Clause 7 provides for appointment of officers under the Refugee Registrar to register the refugees at the entry point of border. Clause 11 provides that Central Government shall provide requisite funds to the Refugee Committee for carrying out the purposes of this Act. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees two hundred crore per annum would involve from Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

LOK SABHA

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