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RIGHTS OF CHILDREN IN INDIA: A STUDY WITH SPECIAL REFERENCE TO STATELESS CHILDREN IN GLOBALIZE ERA

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I. ABSTRACT

Children are disproportionately affected by statelessness, a serious human rights issue that denies them a legal identity, access to essential services, and the chance to live a life of dignity. In India, the issue of stateless children stems from intricate historical, political, and legal elements, such as partition, migration, and deficiencies in nationality legislation. Despite constitutional rights and international duties under agreements like the UNCRC, children born in former enclaves, border regions, or to refugee and migrant families are frequently left without citizenship. This piece examines the reasons, effects, and difficulties of statelessness in children within India. It analyzes the function of judicial interventions, focuses on the administrative and legal obstacles that keep children from obtaining nationality, and evaluates the effects of new laws like as the NRC. The study also examines the economic and social ramifications of statelessness, including social protection, healthcare, and educational marginalization. This research conducts a comparative analysis regarding the status Stateless Children in India with other countries to know the actual scenario in the South Asian region. The research ends with suggestions for extensive legal changes, enhanced enforcement of birth registration, and compliance with global standards to guarantee each child's right to nationality. In order to create an inclusive society and protect the fundamental rights of all Indian children, statelessness must be addressed.

II. KEYWORDS

Stateless children; right to nationality; legal identity; UNCRC; and NRC Assam.

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III. INTRODUCTION

In today's globalized world, the question of identity, particularly legal identity, has become central to debates on basic rights. Millions of children are stateless, lacking legally recognized nationality, making them vulnerable to abuse, exploitation, and systematic denial of their basic rights. India, the most populous democracy, has ratified the UNCRC, which guarantees rights for participation, survival, development, and protection. However, stateless children are often not considered under these rules, leading to inadequate protection. Recent political and administrative developments, such as the NRC of Assam and the CAA of 2019, have made childhood statelessness in India particularly painful.

The Indian Parliament enacted the Citizenship (Amendment) Act, 2019 in December 2019, however its implementation was postponed because the relevant regulations were not announced until March 2024. The Act's enforcement was severely delayed by this more than four-year lapse, which raised concerns about its practical application at the time. Statelessness transgresses both fundamental human dignity and international legal obligations, as it transgresses both fundamental human dignity and international legal obligations.

The lack of a specific framework for identifying and protecting stateless individuals creates significant weaknesses in India's human rights system. This research explores the relationship between children's rights, legal status, and statelessness in the Indian setting, situating it within a global trend. It proposes reforms to align local laws with international standards and critically examines institutional, legal, and policy frameworks that contribute to or fail to prevent children from becoming stateless.

A. RESEARCH PROBLEM

Many children in India are still essentially stateless, without documentation, legal recognition, and access to public services, despite the country's constitutional and legislative obligations to children's rights. This invisibility blocks their access to education, health care, social protection and formal justice, and exposes them to exploitation and marginalization.

Migration, displacement, administrative neglect, gender-biased nationality transmission, intergenerational lack of documentation, and complicated registration procedures are some of the root causes; however, there is a dearth of systematic empirical data on the effects of statelessness on children's legal status, day-to-day lives, and long-term prospects in various Indian contexts. This article examines the legal, administrative and lived realities of stateless children in India, identifies institutional gaps and barriers to remedy, and proposes policy and legal reforms to ensure full rights and inclusion.

B. RESEARCH OBJECTIVES

The research work attempts to scrutinize the main issues interplaying between statelessness and nationality in India and also to study the concept of Stateless children and the importance of nationality.

Thus, this study is primarily intended:

- To provide clarification on what statelessness means in light of international law & to study various international Conventions related to Stateless and stateless children;
- To know Indian legal positions regarding Stateless children & to study the reasons behind statelessness and its implications;
- To ascertain the stateless children's nationality status & to learn about the issues that children, particularly in India, suffer as a result of statelessness;
- To analyze judicial trends towards protection of Stateless children & to propose comprehensive recommendations for addressing childhood statelessness at national and international levels.

C. RESEARCH QUESTIONS

The research intends to analyse the following essential questions:

- Who can be considered stateless children, and what are the circumstances that lead to their statelessness?

- How do India's current laws and policies address the issue of statelessness among children, and what gaps exist in providing legal protection and access to rights?
- What are the rights available to children under Indian constitutional and legal frameworks?
- What legal and policy adjustments are necessary to overcome the problem in an effective manner?
- How might policy changes help India's child statelessness problems, and how has globalization affected this issue more broadly?

D. HYPOTHESIS

Although India has a strong constitutional and legal framework to defend children's rights, this study hypothesizes that stateless children are frequently denied these protections because they do not have legal papers and recognized nationality. Additionally, it is claimed that by preventing people from accessing essential services like healthcare, education, and legal identity, this exclusion violates their basic rights. The study makes the assumption that stateless children's ongoing marginalization is a result of the lack of explicit legal requirements and policy tools to identify and protect them. It is anticipated that an inclusive, rights-based approach to citizenship rules will aid in closing this disparity and guaranteeing justice for India's stateless children.

E. RESEARCH METHODOLOGY

The methodology used in this paper is doctrinal research, which draws material from primary and secondary sources. The primary sources of information used include rulings from higher courts, government reports, official documents, constitutional and legislative regulations, and international conventions. Books, articles, journals, newspapers, and websites are examples of secondary sources of information that are employed. Following a basic analysis of legal books and journals to establish a clear, logical, and cohesive framework, the subtleties of how one set of international laws relates to another are assessed. The study upholds the jurisprudence of international

conventions, such as the 1954 and 1961 Conventions on statelessness and the international human rights, as the normative foundation for analyzing the statelessness status.

The study also looks at court decisions from India and other countries that have an effect on citizenship and statelessness issues. To present a comprehensive analysis of the legal framework from the perspective of statelessness, efforts have been made to consult as many relevant legal texts that deal with nationality as possible, scholarly works on the problematic issue of statelessness, and official reports from the UN and other organizations. Given that UNHCR has the statutory responsibility to address statelessness and its activity in this area is extremely broad. As a result, UNHCR publications and handbooks are useful for theoretical knowledge.

IV. LITERATURE REVIEW

For this research work, the researcher has reviewed literature focused on three main keywords: statelessness, nationality, and children. Furthermore, pertinent subjects were also investigated in order to obtain a thorough comprehension of the primary topics. The researcher reviewed a number of international instruments, books and handbooks that were essential to the current investigation. Furthermore, various organizations and departments' websites, online journals, reports, and newspapers were referenced as needed for this research.

A. Brad K. Blitz and Maureen Lynch, *Statelessness and Citizenship: A Comparative Study on the Benefits of Nationality* (Edward Elgar Publishing Limited, 2nd Edn, 2012).

Brad K. Blitz and Maureen Lynch in *Statelessness and Citizenship: A Comparative Study on the Benefits of Nationality* (2012) provide a significant contribution to understanding statelessness as both a legal and human rights problem. The authors illustrate how the lack of nationality leads to the systematic denial of fundamental rights like education, health care, legal employment, and protection from exploitation through comparative case studies and empirical data, thereby sustaining socioeconomic marginalization across generations. They underscore the differences between de jure and de facto statelessness, emphasizing how political indifference, discriminatory legislation, and

administrative obstacles produce and maintain stateless communities, especially among minorities and displaced groups.

The main contention is that citizenship is an essential means of achieving full involvement and dignity in society, not only a legal status. Despite the book's global reach, its conceptual framework is extremely applicable to the Indian context, where a large number of children are either undocumented or in danger of becoming stateless as a result of complicated registration procedures and intergenerational exclusion. This highlights the critical need for citizenship and documentation policies that are sensitive to children.

B. Brian Opeskin, Richard Perruchoud, et. al. (eds.), *Foundation of International Migration Law* (Cambridge University Press, 2012)

Brian Opeskin, Richard Perruchoud and others in *Foundations of International Migration Law* (2012) offer a comprehensive and multidisciplinary analysis of the legal, political and human rights dimensions of migration, highlighting how gaps in nationality and documentation frameworks often result in populations being pushed into irregular or stateless conditions. With a focus on protecting vulnerable populations like refugees, children, and those at danger of statelessness, the edited collection explores the relationship between state sovereignty, international legal principles, and the practical reality encountered by migrants.

The authors contend that since denying someone their legal status can result in exploitation, exclusion from necessary services, and generational insecurity, migration governance must protect fundamental rights in addition to regulating movement. Their work is extremely relevant to the Indian context, where cross-border migration, displacement, and inadequate birth registration procedures contribute to childhood statelessness and rights deprivation. It is helpful for comprehending the larger global mechanisms that shape citizenship policies and documentation systems.

C. United Nations High Commissioner for Refugees, *Handbook on Protection of Stateless Persons* (The UN Refugee Agency, Geneva, 2014).

The UNHCR presents its Handbook in three sections. This handbook divides itself in the concepts of stateless conventions and how to concerned authority dealt with the

problem of this. In the first part, UNHCR outlines the criteria for identifying Statelessness and who qualifies as stateless. Part two details the processes for determining Statelessness and the evidence required for such assessments. Part three discusses the national status of Stateless persons, international tools for addressing Statelessness, and the status of those not covered by the 1954 Convention.

A list of state parties to the conventions, UNHCR ExCom Conclusions, UNGA Resolutions, and five annexes covering statelessness conventions are also included in the book. The researcher refers the handbook, as this provides an in-depth explanation of Stateless persons, including Stateless children, at the international level, and outlines the procedures for determining Statelessness for both adults and children.

D. Dr. S.C.Tripathi and Vibha Arora, Law relating to Women and Children (Central Law Publications, Allahabad, 6th Edition, Reprint 2017).

This extensively referenced textbook provides a thorough summary of the legal safeguards that Indian women and children have. The authors systematically examine constitutional provisions, statutory safeguards, and international obligations concerning the rights and welfare of these vulnerable groups. Especially pertinent to this study is the examination of India's responsibilities under international agreements, such as the CRC, and the significance of ensuring each child's right to identity, nationality, and safeguarding against exploitation.

The authors point out the shortcomings in enforcement and the difficulties created by poverty, lack of education, and ineffective administration in achieving these rights in reality. While statelessness is not the only topic covered in the book, its focus on the legal need to protect each child's right to nationality and identity serves as a crucial starting point for analyzing the circumstances facing stateless children in India. Tripathi & Arora emphasize the importance of successfully enforcing laws and policies designed to safeguard at-risk children, a notion that strongly relates to the difficulties encountered by stateless children who lack legal recognition and access to their rights.

This study focuses on the second part of the book, which outlines the statutory rights of children in India. Beyond constitutional rights, numerous laws grant various rights

to all children. The author details several key legislations, including the Child Labour Act; the JJ Act; and the POSCO Act. These laws ensure rights for all children and provide remedies for violations of the acts' provisions.

E. Mahabir Prashad Jain, Indian Constitutional Law (Lexis Nexis, 7th ed., 2014).

This book "Indian Constitutional Law" is a definitive, timeless classic on Indian constitutional law. This book is a renowned and respected resource that offers an indepth examination of the principles, framework, and operation of the Constitution of India. With the backing of significant Supreme Court rulings and comparative viewpoints, the book provides in-depth analysis on FRs, DPSPs, the government's structure, judicial review, and federalism.

The book is divided into seven parts, comprising a total of forty-five chapters. The author provides comprehensive details about the provisions of constitutional law. Part V, Chapter Eighteen, explores the idea of "citizenship." The notion of citizenship contrasts with the idea of being stateless. To comprehend the idea of statelessness, one must initially grasp the concept of citizenship. A researcher can understand the importance of citizenship by looking at this text. Chapter Eighteen of Part V discusses citizenship, including how it can be obtained and revoked by Indian citizens and nationals.

V. HISTORICAL PERSPECTIVE ON STATELESS CHILDREN IN INDIA

A substantial number of people currently live or have lived as stateless individuals, thus providing a historical context will enhance comprehension of the issue significantly. The subsequent viable approach involves examining the underlying reasons that contribute to such crises, which is crucial for a deeper understanding of the issue. In order to obtain a thorough grasp of the situation, it is necessary to draw attention to the various causes that contribute to the decline of living circumstances in human society and push people toward an unhappy existence.

The basic concept of childhood without citizenship is not that it is complicated and linked to nationality. This is a major requirement for everyone. It is imperative to

grasp this connection to appreciate its significance and to delineate the boundaries that result in the exclusion of stateless populations. Individuals without nationality frequently find themselves at risk of numerous situations that would normally be protected by various human rights safeguards. knowledge the gap between stateless people and the human rights framework is crucial, and this knowledge should be in line with the changing human rights paradigm, which can provide more light on the denationalization of rights issue.

VI. DEVELOPMENT OF THE CONCEPT OF STATELESSNESS IN INDIA

The bond of nationality, which is a legal relationship between an individual and a state, represents membership that comes with shared rights and responsibilities. *Jus sanguinis*, which is conferred based on one's parents' nationality, and *jus soli*, which is granted based on being born in the nation, are the two main principles for granting nationality at birth. Stateless people are marginalized as a result of not having (effective) nationality, and they are vulnerable to discrimination, bad governance, and other violations of their fundamental human rights.² Although there have been advancements in international law to protect the rights of stateless people, India has been reluctant to incorporate these protections into its domestic legal system. As a result, it is expected that there is a lack of both literature and data regarding statelessness in the nation.

As a matter of fact, Indian nationality laws have gotten stricter since the country's 1947 independence. British India was divided as a result of the decolonization process, creating the separate countries of India and Pakistan.³ This shift set off a massive migratory wave, uprooting approximately 14 million people who either to India (mostly Hindus and Sikhs) or Pakistan (mainly Muslims). The requirements for obtaining nation's citizenship were defined by legal status, which differed according to when they arrived in India.

² H. Steinberger, *Sovereignty*, Max Planck Encyclopedia of Public International Law (1987), available at <http://nationalunitygovernment.org/pdf/Sovereignty-Guidelines-Alessandro-Pelizzon.pdf> (last visited April 05, 2025).

³ *Id.*

Numerous Indians who were relocated to Sri Lanka during the colonial era and became stateless following independence saw their legal status affected by the process of decolonization.⁴ The legal repercussions of decolonization are still being adapted to by many individuals and groups, especially stateless people. Furthermore, in recent years, thousands of refugees, including stateless refugees have come. Tibetans and Rohingyas escaping persecution have found shelter in India. India has a significant history of welcoming numerous refugees and stateless individuals, yet it does not officially acknowledge them, complicating their integration.⁵

VII. REASONS FOR CHILDHOOD STATELESSNESS IN INDIA

This is a complex and challenging issue, although precise numbers are difficult to ascertain. Several factors contribute to statelessness among children in India:

A. Discriminatory Nationality Laws

The Citizenship Act of 1955, which has undergone multiple revisions throughout the years, governs nationality laws in India. However, there are still gaps and discriminatory clauses in the Act that could lead to statelessness, especially for underprivileged groups.⁶

B. Absence of Birth Registration

A child's legal identity and citizenship are established in large part through birth registration. Birth registration in India is fraught with difficulties, especially in rural or impoverished areas. Because a child without a birth certificate may find it difficult to verify their nationality, this could result in statelessness.⁷

C. Migration and Displacement

India accommodates a large population of refugees, asylum seekers, and internally displaced individuals. Children from these populations might encounter challenges

⁴ Chandaru, *Stateless Children* (n. 4), at 3-4.

⁵ *Id* at 5.

⁶ *Id* at 6-7.

⁷ Chandaru, *Stateless Children*, (n. 4), at 8.

in obtaining citizenship or documenting their births, leading to a state of statelessness.⁸

D. State Succession and Changes

Political transformations and territorial conflicts may create ambiguities concerning citizenship for those residing in impacted areas, which could ultimately lead to statelessness among children.⁹

E. Lack of Awareness and Documentation

Numerous families, especially those hailing from underprivileged backgrounds, might not fully understand the importance of registering births and the legal prerequisites for obtaining citizenship for their offspring. The challenges posed by access to government services and complex documentation processes can further complicate this issue.¹⁰

Efforts to address statelessness in India have garnered significant attention. In 2019, the CAA was implemented to ease the process of obtaining Indian citizenship for certain religious minorities from neighboring countries. However, this legislation has faced backlash and concerns regarding potential discrimination.

VIII. INTERNATIONAL MECHANISM FOR THE PROTECTION OF STATELESS CHILDREN

Statelessness emerged during World Wars I and II, prompting initial efforts to address nationality issues. The Cold War (1947-1991) led to the disintegration of the Soviet Union, increasing the number of stateless people worldwide. International organizations emerged to address this issue. Among the international mechanism for Stateless people including children is the UDHR, which provides that every human being has the right to acquire membership of any nation. After that, the international community has the need to have a particular instrument for regulating the Stateless

⁸ *Id.*

⁹ Namitha Melwin, *The Rights of Stateless Children in India: Issue of Nationality*, 4(5) Int'l J. Legal Dev. & Allied Issues 250 (2018).

¹⁰ *Id.*

persons, which led to the enactment of Conventions relating to them. They are discussed below:

A. Convention relating to Stateless Persons¹¹

The UNGA originally developed a Protocol to the 1951 Convention¹² to address the problem of statelessness. But as the threat of statelessness grew globally, the participants concluded that a particular treaty addressing the Stateless population as a whole was required. The ECOSOC called for a diplomatic conference with the goal of regulating the status of stateless people who are not refugees and creating a global accord for their administration.

In this conference the 1954 Convention was adopted. This agreement is the main global treaty that formalizes the rights of stateless individuals and creates a legal structure to safeguard them. The agreement has been ratified by 96 states, with Iceland and Togo joining as the most recent members on January 26, 2021, and July 14, 2021, respectively. Additionally, twenty-three states have signed it as mere signatories. The convention includes a detailed protection framework for stateless individuals and comprises a total of forty-two articles.¹³

B. Convention on the Reduction of Statelessness¹⁴

The ILC first discussed the idea of establishing a convention to reduce statelessness in 1949. The ILC began drafting an international convention on statelessness in 1951, based on ECOSOC recommendations. The convention was approved in 1953 and revised in 1954, with final versions submitted to the General Assembly. The 1961 Convention, ratified by the UN General Assembly, is the primary international convention addressing granting and prohibiting citizenship repudiation to reduce statelessness and facilitate naturalization of stateless individuals. It offers extensive measures to supplement the 1954 Convention and mandates states to facilitate stateless individuals' naturalization.

¹¹ Convention Relating to the Status of Stateless Persons, Sept. 28, 1954, 360 U.N.T.S. 117.

¹² Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137.

¹³ Deepika Prakash & Maanvi Tiku, *India and the Challenge of Statelessness: A Review of the Legal Framework Relating to Nationality* 5–8, National Law University Delhi (2014).

¹⁴ Convention on the Reduction of Statelessness, Aug. 30, 1961, 989 U.N.T.S. 175.

C. Statelessness in other UN Conventions and Treaties

The official regulatory system created in internationally binding human rights agreements is an essential part of the legal framework designed to tackle and minimize statelessness. In the upcoming sections, we will analyze the supervisory systems and their distinct roles for each convention.

D. Convention on Elimination of Discrimination based on Race ¹⁵

This Convention, notably excludes “the specific measures a country implements for its citizens and non-citizens regarding nationality, citizenship, or naturalization.” However, it asserts that the right to nationality is also influenced by racial discrimination.

E. Convention for Child¹⁶

The UNCRC, also known as Convention, is a global framework for child rights, defining a child as a human being under 18. It is based on four key principles, including the guarantee of all rights to every child, and the prioritization of the child's best interests in all actions. These principles are particularly relevant to stateless children.

Statelessness conventions are being incorporated into the human rights system due to international human rights law growth. Polls show improvements in stateless individuals in many countries. Governments must address shortcomings and initiate collective efforts for overall improvement.

IX. NATIONAL LEGAL FRAMEWORK ON STATELESSNESS AND CHILD RIGHTS

India has ratified many international human rights instruments, which serve as the cornerstone of the global human rights regime and address a wide range of human rights concerns. However, India has been hesitant to integrate international advancements regarding the reduction and prevention of statelessness into its

¹⁵ International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, 660 U.N.T.S. 195.

¹⁶ Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3.

national citizenship laws. Thus, there is a gap in the literature and data regarding statelessness in India. Nonetheless, in light of India's domestic law, the basic legal framework concerning migrants, foreigners, or non-citizens also applies to individuals who are stateless within the country. Many of these laws are rooted in the British colonial era and continue to operate under similar principles today.¹⁷

A. Constitutional Provisions for the Protection of Child Rights

The first piece of legislation that specifies who is deemed an Indian citizen is the Constitution. Articles 5–11 of the Constitution establish a fundamental framework for determining who is an Indian citizen, notwithstanding the fact that the Constitution does not define citizenship. Besides the above-mentioned provisions, the Constitution of India has other provisions for the protection of child rights, and they are mentioned below:

- Article 14 of the Indian Constitution guarantees equal treatment and protection for all citizens, including children, without discrimination or arbitrariness. This right protects children's dignity and integrity, as they are at a higher risk of unequal treatment in Indian society. Article 15 prohibits discrimination and allows special provisions for women and children.
- The Constitutional (Eighty-sixth Amendment) Act, 2002, inserted Article 21A, making free and compulsory education for all children aged six to fourteen, a fundamental right. According to this article, the State may choose how to provide all children between the ages of six and fourteen with free and mandatory education.
- This article¹⁸ states that children under the age of fourteen are not allowed to work in factories, mines, or any other dangerous jobs, which may include construction or railway work. However, it does not ban safe work. The article outlines the rules and restrictions regarding child labor in India.

¹⁷ Shahriar Yeasin Khan, *The Partition of British India, Mass Displacement and Related Legislations in Independent India*, Refugee L. Initiative (Jan. 26, 2023), London, available at <https://rli.blogs.sas.ac.uk/2023/01/26/the-partition-of-british-india-mass-displacement-and-related-legislations-in-independent-india/> (last visited Apr. 15, 2025).

¹⁸ India Const. art. 24.

- The DPSPs describe the state's duty to uphold children's rights, which involves guaranteeing their health and welfare, offering avenues for healthy development, and protecting them from abuse and neglect.¹⁹ They also detail the state's duty to offer early childhood care and education to every child under six, until they turn six.²⁰
- The phrase "fundamental duties" refers to an Indian citizen's essential obligations. It lists about eleven responsibilities that Indian citizens have to meet. It is defined as everyone's moral obligation to promote Indian unity and cultivate patriotism.²¹

These are the laws that safeguard children's rights. The aforementioned research makes it clear that India lacks specific laws addressing stateless individuals. Like refugees, however, they are subject to other laws that apply to foreigners, such as "the Foreigners' Act", "the Passport Act", etc. Additionally, there are other regional agreements which exclusively apply to the "Assam Accord" and the "Indo-Ceylon agreements", which only apply to the Assamese and Tamil stateless people.

X. COMPARATIVE ANALYSIS OF CHILDHOOD STATELESSNESS BETWEEN INDIA AND ITS NEIGHBOURING COUNTRIES

All the six South Asian nations (India, Pakistan, Afghanistan, Sri Lanka, Bangladesh, Nepal) have been analysed at length with respect to each of their citizenship laws in this point. None of the South Asian states have sufficient legal frameworks to map statelessness on their own territory, and none of them are parties to any of the conventions that deal specifically with statelessness, such as the 1954 and 1961 conventions, as the analysis makes clear.

However, except of these two international documents, there are many other international conventions like ICCPR, CEDAW, CRC and the like, to which most of

¹⁹ India Const. art. 39(e).

²⁰ Constitutional Provisions Relating to Children and Their Rights, available at <https://ebooks.inflibnet.ac.in/hrdp05/chapter/constitutional-provision-relating-to-rights-of-children/> (last visited Apr. 15, 2025).

²¹ India Const. art. 51(A).

these South Asian nations are either signatory or state party. Owing of being such members, while majority of the nations have incorporated necessary inclusions or have made consequential changes which are in conformity to particular international standards with respect to nationality protection and conferment of citizenship.

However, the region comprises of a country which was practicing women discrimination until recently when the political scenario of the nation demanded or rather induced the government to incorporate necessary changes withering away the specific clause entertaining such discrimination. And in spite of such inclusion, the specific legislation still practices visible discrepancy in providing equal protection of nationality and securing it for the maximum. Another important factor in case of women is independence and equality of nationality in post marital times. Many South Asian countries fall short in establishing clear directives that can uphold and safeguard these principles within their own legal frameworks.

While birth registration is one of the rudimentary factors' which regulate individual's citizenship status in many situations, most of the South Asian states due to their restrictive cultural practices and orthodox sociological pattern, lacks in attaining sound birth registration system. Due to such impediments, most of the South Asian states fail to accomplish an environment where every child has been registered under its respective national registration mechanism.

Additionally, there is a varied response to protecting the citizenship rights of foundlings, a group in society that is particularly vulnerable to falling into the stateless trap. Whereas Nepal has mechanism to address them, Bangladesh is totally silent about this aspect. All six of the South Asian states Bangladesh, India, Nepal, Pakistan, Afghanistan, and Sri Lanka which make up nearly the whole area and population of the region are both sending and accepting refugees and migrants. In order to address statelessness, the 1954 and 1961 conventions are pertinent.

They are complemented by international rights agreements that uphold the right to nationality. Since several of the listed nations have ratified one of these agreements, they are not subject to any international accountability on the matter. All countries are currently held accountable for the much-discussed UN SDGs, but statelessness is not

particularly addressed in them. The movement to revoke citizenship from individuals and render them stateless is troubling and concerning. Not only are millions of communities at peril, but it also provides a justification for the same treatment of other minority populations.

Statelessness is also a consequence of the worldwide efforts to combat terrorism, as demonstrated by recent instances, particularly those involving brides of the militant Islamic State group. Increased statelessness results in more displaced communities looking for safety. In order to live, stateless communities will have to compete for already limited resources in an already overburdened global refugee system. Given how the political interdependence of the nations that contribute to statelessness makes matters worse, this is an even greater problem for South Asia. Bangladesh faces challenges in accommodating the Rohingya and maintains a tense relationship with Myanmar. People who are declared stateless in India are said to be unlawful Bangladeshis. Furthermore, in its 1,100 islets, it's purely Sunni social structure forbids any non-Sunni people from settling there, not even as spouses of its own citizens.

Bangladesh, formerly East Pakistan, has a lengthy history of sending and receiving migrants, including both India and Pakistan. It has been taking in Myanmar refugees lately. Due to its central location, India has sent migrants and refugees to Nepal and received refugees and migrants from Afghanistan, Bangladesh, Bhutan, Nepal, Pakistan, and Sri Lanka. Both India and Bhutan have sent migrants to Nepal, while Nepal has received migrants from both countries. India, Afghanistan, and, to a lesser degree, Bangladesh have all sent migrants to Pakistan. During the Partition, it transported refugees to India.

Despite this extensive experience, the region holds the notable distinction of lacking a legal framework to direct its refugee/migrant policies. However, despite their meagre resources, no South Asian state has ever been unwilling to offer refuge and assistance to its migrant or refugee guests, law or no legislation. This is yet another distinctive feature of the region. But frequently, the terms are confused, and stateless people, migrants, refugees, and illegal settlers are all treated as one and the same. Even a single category's name can change over time, such as from illegal settlers to

undocumented migrants to infiltrators, or from refugee to new refugee to new entrants. Regardless of the benefits of these ambiguities, it is important to understand how these categories have been defined in the international literature for the sake of clarity, as they form the foundation of our study.

XI. JUDICIAL APPROACH TOWARDS THE PROTECTION OF STATELESS CHILDREN

Statelessness in India poses a significant threat to individuals' identity and ability to address their grievances. Children are particularly vulnerable due to their inability to protect their rights. The Indian Judiciary has taken initiative in addressing statelessness by highlighting India's legal obligations and implementing international human rights frameworks. International organizations, Indian organizations, and NGOs also play a vital role in protecting the rights of stateless persons, including children.

A. In Re Aga Begum Case²²

In re Aga Begum, the court determined that, in accordance with Article 5 of the Indian Constitution, a child born in India in 1921 who had never left the nation was an Indian citizen. After taking into account the petitioner's "domicile," or permanent residence, the court concluded that she had made India her permanent home. The court determined that the petitioner was wrongfully charged under the Foreigners Act since he was an Indian citizen at the time the Indian Constitution was drafted. The significance of Indian citizenship was underlined in the court's ruling.

B. In "NHRC v. State of A.P." Case²³

The Highest Court of Nation safeguarded the Chakma refugees, many of whom were minors, from being expelled. The Court determined that even non-citizens possess the right to life and freedom according to the Constitution. Establish the principle that fundamental human rights are not dependent on citizenship status.

²² *In re: Aga Begum*, AIR 1957 J&K 45.

²³ *National Human Rights Commission v. State of Andhra Pradesh*, (1997) 1 SCC 388.

C. Chrisella Valanka Kushi Raj Naidu Case²⁴

The Bombay High Court ruled recently in 2024 that no child should be left without a nationality. The petitioner in this case was a 16-year-old girl who wanted the ruling of the High Commission of India, Passport & Consular Wing, United Kingdom, that she was not eligible for an Indian passport because she was the child of a foreign person and a single parent, to be overturned. The Court ruled that the minor's mother's acquisition of a foreign nationality would not impact the minor's citizenship status and that she was qualified to receive a passport based on her Indian citizenship.

D. Namgyal Dolkar's Case²⁵

Namgyal Dolkar, a Tibetan refugee who was born in Kangra, Himachal Pradesh, India, on April 13, 1986, won her case in the Delhi High Court after the MEA denied her application for a passport. Reversing the denial of her passport application by the MEA, the court stressed that Dolkar is eligible for Indian citizenship by birth since she was born in India prior to the 1986 CAA, 1986. She was granted citizenship when the court ordered the Passport Regional Office to reprocess her passport application in compliance with the ruling.

E. In Mohammad Salimullah Case²⁶

This case pertained to the Rohingya refugee crisis, where numerous children faced the threat of deportation. Although the Court permitted deportation in that case, it recognized the entitlement to dignity and protection under Article 21 for everyone, encompassing children. Initiated discussion regarding India's responsibilities under international law.

²⁴ Chrisella Valanka Kushi Raj Naidu v. Ministry of External Affairs, (2024) Bombay High Court (Goa Bench), Neutral Citation: 2024 BHC-GOA 1409-DB (Aug. 28, 2024).

²⁵ Namgyal Dolkar v. Government of India, Ministry of External Affairs, W.P. (C.) 12179/2009 (Del. H.C. Dec. 22, 2010).

²⁶ Mohammad Salimullah & Anr. v. Union of India & Ors., Writ Petition (Civil) No. 793 of 2017, AIR 2021 SC 1789 (India Apr. 8, 2021).

F. In Moslem Mondal Case²⁷

In the framework of the NRC and hesitant voters, citizenship status was the subject of this case. Children of such people were indirectly affected by the ruling, as they were at risk of losing their citizenship because of problems with their documentation.

G. In Baby Manji Case²⁸

After her Japanese parents, Ikufumi and Yuki Yamada, entered into a contract with Pritiben Mehta, an Indian gestational surrogate, Baby Manji was born in 2008. Following their divorce, Yamada was granted sole custody. Manji was denied a Japanese passport by the Japanese Embassy, which claimed that citizenship transmission was prohibited by the Japanese Civil Code. Manji became stateless after the Indian government also declined to provide her with a birth certificate.

H. In S. Abirami Case²⁹

Justice G R Swaminathan of the Madurai Bench of the Madras High Court determined that the CAA, 2019 is applicable to Sri Lankan Hindu Tamil refugees, even though the nation is not included in the list. The CAA, designed to safeguard Hindu Tamils from ethnic conflict, was considered essential for the petitioner, Abirami, who requested Indian citizenship following the ethnic violence of her parents. The CAA represented a major shift in India's approach to refugees.

In conclusion, the judiciary's role would remain insufficient until it is backed by significant legislative and policy changes, given the stark differences within Indian statelessness jurisprudence. In order to do this, India would need to amend its current citizenship system and specifically permit the quick naturalization of stateless people, in addition to legally ratifying the 1954 and 1961 Conventions. It is hoped that the Executive would quickly catch up and strengthen its commitment.

²⁷ *State of Assam & Anr. v. Moslem Mondal & Ors.*, (2013) 1 GLT 809 (Gauhati H.C. Full Bench).

²⁸ *Baby Manji Yamada v. Union of India & Anr.*, (2008) 13 SCC 518 (India).

²⁹ *S. Abirami v. Union of India & Ors.*, W.P. (MD) No. 12361 of 2022 (Madras H.C., Madurai Bench Oct. 11, 2022).

XII. CONCLUSION AND SUGGESTIONS

The researcher pointed out that although there is a dearth of information on stateless people including children residing in India, the number of unlawful migrants is constantly increasing as a result of massive daily infiltrations over India's borders. In many instances of such infiltrations, no nation is prepared to embrace these individuals as their own, and it is not even simple for India to grant citizenship to everyone.

Furthermore, since India is not a signatory to any convention on statelessness, it has no obligation to develop a legislative framework tailored to statelessness. Even while India is a party to other international accords that guarantee children's nationality rights and other fundamental rights, those conventions are not being properly implemented. It is essential to apply and enforce those principles effectively; otherwise, the stateless children will not be able to experience their rights and enjoy their childhood.

To present my work as thorough research, I am suggesting a number of local and international procedures to truly address the threat of childhood statelessness. A conclusion is simply incomplete without strong suggestions.

The suggestions are:

- Since de jure definitions prevent other categories of stateless persons from exercising their rights under the Conventions, the researcher recommends a global effort to develop a comprehensive definition of statelessness within the context of stateless norms.
- Nations ought to adopt effective legal strategies to recognize and safeguard stateless individuals, in accordance with the international framework on statelessness, and enforce these strategies in both administrative and judicial proceedings.
- Although it does not confer nationality, birth registration is essential for a child's legal identity, age, and place of birth. It deprives children of fundamental rights and minimizes statelessness. Every year, millions of

infants are left unregistered because of exorbitant fees, discriminatory laws, restrictions on late registration, and social barriers.

- Guaranteeing equal educational opportunities for stateless children, removing obstacles such as paperwork demands, and facilitating their reunification with parents, irrespective of nationality or place of birth.
- Nationality campaigns, national verification camps, and a systematic tracking procedure through domestic organizations can all help combat statelessness by making sure people realize the significance of determining one's nationality and citizenship.
- To protect the rights of stateless children, governments, civil society organizations, and the international community must work together to build a future where all children, regardless of their nationality or place of birth, have access to all rights. By implementing these essential measures for their rights and opportunities, we can build a future where statelessness is eliminated and every child's rights are honored and protected.

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