

DISCLAIMER

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MOOT PROPOSITION

Sindia, a vast and populous country located in the Asia-Pacific region, stands as a beacon of democracy and independence. In the year 1947, after enduring a lengthy period of colonial rule spanning two centuries, the Union of Sindia emerged as a sovereign nation. This monumental achievement was marked by the establishment of a federal democracy, characterized by a bicameral legislature that ensured representation for the diverse regions within the country.

With a staggering population of approximately 1.3 billion people, Sindia solidified its position as the second most populated country globally. This demographic richness has contributed to the nation's vibrant tapestry of cultures, languages, and traditions, making it a melting pot of diversity.

In the economic realm, Sindia has experienced a remarkable transformation. The country's dynamic economy, fuelled by innovation and strategic policies, has become a major player on the global stage. Various sectors, including technology, manufacturing, and services, have thrived, propelling Sindia into a position of economic prominence.

Upon gaining independence, Sindia took a decisive step towards ensuring the rights and freedoms of its citizens by enacting a progressive and inclusive Constitution. Embracing a secular system of governance, the nation guarantees equal treatment to individuals of all faiths and backgrounds. This commitment to secularism has fostered an environment of unity and harmony among Sindia's diverse population.

In the years since its independence, Sindia has navigated geopolitical challenges with resilience, forging diplomatic ties and contributing to international peace and cooperation. The nation's journey from colonial subjugation to a thriving, independent democracy stands as a testament to the resilience and determination of its people, shaping Sindia into a key player in the global community.

The founding fathers of Sindia lay that this country would be a refugee haven for all victims of persecution and those seeking asylum. A vast population from various regions outside Sindia sought sanctuary during partition and have ever since been living here as residents of

Sindia. Ever since its independence the Sindian government have happily welcomed people from other regions of the world seeking protection from persecution,

In 1982 Myanmar, a country adjacent to the south-east region of Sindia, led government passed a resolution seizing the citizenship of one of its community- Rohingya Muslims. Which led to a series of conquest and mass killings in Myanmar, failing to protect themselves the Rohingyas started to migrate into adjoining regions and eventually a vast population paved their way into the Sindian state of Asham and settled illegally. Initially there were no questions raised in concern of safety and security of Sindian populace but eventually with the advent of such a large group, the Central Government took steps to interfere. To tackle the issues of overcrowding and limited resources the Sindian government introduced the policy of the National Register of Citizens.

As the Rohingya Muslims sought refuge in the Sindian state of Asham, the influx of this displaced population brought about both humanitarian concerns and logistical challenges for the local authorities. The Central Government, recognizing the need to address the issues arising from the large-scale migration, initiated a multifaceted approach to handle the situation.

In response to the humanitarian crisis stemming from the persecution in Myanmar, Sindia actively engaged with international organizations and neighbouring countries to garner support for the displaced Rohingya community. Humanitarian aid was provided, and diplomatic efforts were undertaken to address the root causes of the crisis, urging Myanmar to reconsider its discriminatory policies and fostering a collaborative approach to ensure the well-being of the affected population.

The Sindian government, understanding the complexity of the situation, worked in tandem with non-governmental organizations and international agencies to establish temporary shelters and provide essential services for the Rohingya refugees. Efforts were made to integrate them into the local communities while awaiting a more sustainable solution.

Recognizing the long-term implications of mass migration on resources and demographics, the Central Government implemented a comprehensive immigration policy. This policy, while aiming to address the challenges posed by illegal immigration, also focused on protecting the rights of genuine refugees and ensuring that vulnerable populations were not

subjected to further hardship. In parallel, the Sindian government, in consultation with international human rights organizations, worked towards finding a diplomatic resolution to the Rohingya crisis. This involved diplomatic dialogues, peace negotiations, and collaborative efforts to create conditions conducive to the safe return of displaced individuals to their homeland.

The National Register of Citizens (NRC) is a register of all Sindian citizens living in the state of Asham. The NRC was first compiled in 1951, following the influx of refugees from East Chakistan (now Chagladesh) after the Partition of Sindia in 1947. In 2013, the Government of Sindia announced that it would update the NRC in Asham, in order to identify and deport illegal immigrants.

The introduction of the National Register of Citizens (NRC) in Asham, while initially motivated by the need to manage resources and maintain order, underwent continuous scrutiny to ensure that it did not inadvertently target genuine refugees or compromise their rights. The government implemented transparent and fair procedures to identify and address the citizenship status of individuals, with due consideration for the complex circumstances surrounding the Rohingya population.

The NRC update process began in 2015. To be included in the NRC, individuals had to prove that they or their ancestors were living in Asham prior to March 24, 1971, the cut-off date for citizenship under the Asham Accord, a 1985 agreement between the Government of Sindia and the All Asham Students' Union (AASU), which aimed to end the Asham Movement, a period of civil unrest in Asham from 1979 to 1985.

As the controversial NRC update process unfolded over the course of four years, public discourse surrounding its fairness and implications intensified. Civil society, human rights organizations, and advocacy groups actively raised concerns about potential discrimination, arguing that the process disproportionately affected marginalized communities, particularly Muslims and Bengalis.

Protests erupted across the nation, with citizens expressing their dissatisfaction with the NRC update and its perceived biases. Civil rights activists, along with political and religious

leaders, called for a re-evaluation of the criteria used to determine citizenship status, emphasizing the need for transparency and fairness in the process.

International observers, including human rights organizations and foreign governments, closely monitored the developments surrounding the NRC. Concerns were raised about the potential humanitarian consequences of excluding a significant number of people, and diplomatic pressure was exerted on the Sindian government to ensure that the rights of affected individuals were upheld.

In response to the exclusion of 1.9 million people declared as “foreigners,” the government faced a surge in legal challenges and appeals. The Foreigners' Tribunals (FT) were inundated with cases, leading to a backlog in the judicial system. Legal experts and human rights advocates questioned the capacity of the FTs to handle such a large number of appeals in a timely and just manner.

The controversy surrounding the NRC triggered a nationwide dialogue on citizenship, identity, and the balance between national security and individual rights. The Sindian government, recognizing the need for a nuanced and inclusive approach, initiated a public consultation process to gather diverse perspectives and explore alternative solutions.

As the legal battles unfolded, the judiciary played a crucial role in scrutinizing the fairness of the NRC process. Landmark court decisions and judicial interventions sought to address concerns related to discrimination and procedural flaws. The judiciary emphasized the importance of upholding constitutional principles and protecting the rights of all citizens, irrespective of their background.

In light of the widespread criticism and legal challenges, the Sindian government, in collaboration with international partners, reassessed its approach to citizenship verification. This led to the introduction of reforms aimed at ensuring a more equitable and transparent process for determining citizenship, with a commitment to addressing the concerns raised during the NRC update.

Mr. Sarish Halve, a notable jurist and senior advocate working in Supreme Court of Sindia, questioned this action of government declaring it to be discriminatory and biased to the

religion of Muslims. Further Mr. Halve raised violation of Principle of Non-Refoulement in context to non-recognition of Rohingya Muslims. Although few notable jurists started to highlight the recent pronouncement by the Apex Court stipulating that “India is not a signatory to the United Nations 1951 Refugee Convention and Protocol, indicating that this is sufficient for the non-compliance of the non-refoulement policy. Hence, it cannot be compelled to comply with its obligations ... the Court noted that the Courts could refer to the International Conventions and Agreements, as long as they do not conflict with the State Law thereby leaving it to the discretion of courts whether to implement such foreign policies or not.”

the referral of the matter to a constitutional bench added a significant layer of legal scrutiny and constitutional interpretation to the ongoing controversy surrounding the NRC and the refugee crisis. The constitutional bench, comprising eminent jurists, was tasked with deliberating on the actions of the government and assessing the validity of its earlier pronouncements, especially in the context of the principle of non-refoulement.

Legal experts argued before the constitutional bench that matters of such a sensitive nature, involving the status and rights of a large population, required a comprehensive examination of constitutional provisions and international legal norms. Advocates emphasized the importance of upholding principles such as non-refoulement, which prohibits the expulsion or return of individuals to countries where their lives or freedoms could be at risk.

The contention that the NRC process and its outcomes could potentially lead to religious disharmony was presented as a significant concern. Various legal representatives argued that the government's actions might be perceived as discriminatory, particularly against minority communities, potentially fostering social unrest and discord. The advocates contended that protecting minority rights and ensuring social harmony should be integral considerations in evaluating the constitutionality of government actions.

Moreover, the argument was made that the government's approach, if perceived as arbitrary or disproportionately affecting minorities, could have serious consequences not only in terms of legal challenges but also in terms of public trust and confidence in governance. Advocates urged the constitutional bench to weigh the potential ramifications of government actions on the overall stability of the nation.

The constitutional bench, in response to these arguments, engaged in a thorough examination of constitutional provisions, international conventions, and the specific legal context of the refugee crisis. Deliberations focused on striking a balance between national security considerations and the protection of fundamental rights, with particular attention to the principles of equality and non-discrimination.

The constitutional bench's decision would not only shape the resolution of the ongoing refugee crisis and citizenship disputes but also set precedents for future cases involving the intersection of national security, minority rights, and international legal principles. The outcome of this legal process would be closely watched, not only within India but also by the international community concerned with human rights and constitutional governance.

Issues:

1. Whether the Supreme Court has jurisdiction to decide this issue.
2. Constitutional Validity of the National Register of Citizens (NRC)
3. Does the NRC disproportionately impact specific communities, such as Muslims and Bengalis, thereby infringing upon their rights to political participation and representation?
4. Do the actions of the Indian government in relation to the Rohingya community violate international human rights laws or treaties regarding refugees and asylum seekers?

Note:

This moot problem is designed for educational and practice purposes only. This moot problem addresses a pertinent contemporary issue in India, providing a platform for participants to engage in a comprehensive legal debate on the balance between human rights and national security concerns in the digital age.