

1. Course Description

State making is much more complex than has been understood. Decolonization followed by inauguration of new nation-states has rendered many people stateless, on the wrong side of the border without access to protections afforded by the state. Decolonization was followed by conflict in areas where political authority is not entrenched and where democratic institutions did not attain a measure of stability. This led to the creation of minorities, often on the wrong side of the border, and solidifying ethnic identities. It inaugurated ethnic cleansing in many areas, forcing people to flee their homeland without movable and immovable property and seek asylum elsewhere. This further created problems of resettlement and assimilation of the stateless people in countries where they sought refuge. Refugees are made as a result of conflict and political instability often problematizing the issue of their rights and access to state institutions. Violation of human rights and violence has created an international and national legal framework for guaranteeing basic rights and led to rise in cases dealing with the issues. Since 1947, India has seen a constant stream of refugees from neighboring states including Sri Lanka, Pakistan, Burma, Bangladesh and Tibet. Despite the huge amount of influx, India is not a signatory to the major international agreements on displaced peoples, the UN Convention (1951) and the Protocol Relating to the Status of Refugees (1967). It retains considerable autonomy on the refugee issue and as a result refugees, the issue of their rehabilitation or even repatriation is politicized to a great extent. Moreover, the state deals with refugees on a case by case basis by using the provisions of the Indian Foreigner's Act 1946. This compounds the problems further and resulting in many observers and activists calling out to the government to take a call on this issue. To this end, this elective will address the following aims:

- This course will introduce students to the historical background to the refugee crisis and its impact on newly emergent nation-states in 21st century. The problem of refugees, their rehabilitation and their contested citizenship has been influenced by many factors, most importantly decolonization and redrawing of national frontiers. It has achieved crisis proportions as a result war in conflict zones whether in South Asia or west Asia and now even in Europe. Within the framework of the Geneva Convention and the Hague Convention, the course will draw comparisons between different set of international laws dealing with violence and abuse of persons without the access to state. Laws dealing with human rights violations were first discussed after experiences of the Jewish Holocaust during the Second World War. Since then, the Holocaust remains the most significant example of atrocities inflicted by the state in war, inadequacies of law to protect people and the larger issue of their rehabilitation post conflict.

- Methodically, the course shall examine the different ways in which the Indian state continues to deal with different set of refugees arriving or fleeing their countries of varying ethnicities. It will also study the various legislations such as Indian Foreigner's Act 1946 and other legal framework in dealing with the issue. This will offer a comparative framework between India and rest of the world in their handling of the refugee and other humanitarian crises.
- It will also examine some key cases relating to illegal migrants in different parts of India, the issue of their repatriation to their home country whether forced or voluntary and why has the refugee issue always been a potent political and electoral tool in the political narrative of the country. Citing the case of Sarbananda Sonowal Vs the Union of India 2005, using the Indian Foreigners Act 1946, the Citizenship Act 1955 and the Illegal Migrants (Determination by Tribunals) Act 1983, and the Immigration Act 1971 (UK), the course aims to provide the legal-theoretical framework to understand its contemporary relevance.
- Theoretically, it will discuss the legal terminologies connected with defining what is understood by the terms 'refugees', 'diaspora', 'abuse' and 'violence' for such definitions have been crucial in defining rights of people in conflict zones. The focus will be on case studies, which will discuss the inadequacies of laws internationally and nationally.
- Closer home, it will discuss making of refugees as a result of partition of the subcontinent in 1947, the issue of migration, rehabilitation and resettlement. Drawing on comparisons with Palestinian crisis, the incoming Hindu refugees from East Bengal between 1950s and 1970s, the issue of Syrian refugees in Europe, and recently the Rohingya issue in India, the elective course will also touch on the inadequacies of law in ensuring justice for victims of displacement.