Migrants, Refugees, and the Contested Question of Social Protection

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Introduction

Mobility and migration have been enduring phenomena driven by economic, political, and demographic factors. However, the experiences of such mobility are quite often contentious. Although it is largely agreed upon that migrants are crucial to the economic development of nations/regions, the continual 'othering' of migrants by those who claim themselves as 'natives' complicate the migrants' lives. The rhetoric of 'burden' is invoked, and the contention increases when one engages with the refugees and migrants who encounter overt hostility. The conflict that underlies the experiences of migrants and refugees, who are essentially arrivals in another place, shapes and cuts through multiple dimensions of their relationships with those around them. Their legal status notwithstanding, they are treated as, and most often remain outsiders in several ways, with social rights and social citizenship being restricted. Entrenched in deprivation and social exclusion, their conditions depend on social protection; they attain visibility as subjects of welfare provisioning and are directly impacted by social policies, schemes, and services. Yet, the access of migrants to social security and social protection provided by national and sub-national states has been limited and problematic. The access to social benefits gets restricted- to keep the 'reserve army of cheap labour' in perpetual informality/insecurity and hence keep them docile. It also subtly assures their local constituents that while migrant labour adds to the labour force, they are not necessarily a burden on the welfare and revenue side of the states.

While cross-border migration drew attention around access to welfare and protection mechanisms for the migrant, the concerns of inter-state migrants, internally displaced populations, and those inhabiting camps require closer examination of the availability, access, and affordability of social security and protection. For decades, migrants' social rights and access to welfare have been critical issues within the global north and south; however, with the latest migration crisis, society and polity across the globe seem to be increasingly unsettled. An ILO report[1] estimates that although the 164 million migrant workers of the 258 million international migrants worldwide contribute fully to the economies of their host and home countries, migrant workers are often excluded from social

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protection coverage. They face significant legal and practical obstacles in accessing social protection benefits[2]. Though welfare provisioning in the global south is relatively minimal, the figure of migrant is still positioned as a burden on the state and its welfare and fuels societal anxiety. In terms of international instruments, two ILO standards (the Convention and accompanying Recommendation) cover core issues concerning the entire migratory process, i.e., emigration, immigration, and transit. The Migration of Employment Convention (1949), ratified by 49 countries, covers only migrant workers of regular status. The UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (MWC), which was adopted in 1990, covers all regular and irregular migrants. However, it has been ratified by only 45 countries (van Ginneken 2013).[3]

Though Social Protection is defined and articulated in varied ways, it is primarily a set of policies and programs designed to reduce poverty and vulnerability by promoting efficient labour markets, diminishing people's exposure to risks, and enhancing their capacity to protect themselves against hazards and interruption/loss of income[4]. It refers to the complex assemblages of "strategies to cope with social risks arising in capitalist economies in fields such as employment, health care, and education" (Faist 2013: 3; Levitt et al. 2017)[5]. The ILO recommendation concerning national floors of social protection, adopted in June 2012, constitutes an important step towards the right to social security, including social security for migrants and their families (ILO 2012)[6]. Social Protection Floors (SPF) are nationally defined sets of basic social security guarantees. The SPF refers to a comprehensive national protection system comprising universal access to essential services such as health, education, housing, water and sanitation and other services, nationally defined, and social transfers in cash or kind to ensure income security, food security, adequate nutrition, and access to essential services (Hennebry 2014: 375-76). While the idea of SPF gained traction and several initiatives were launched in various countries, the migrant population remained largely outside its ambit. These fail to enable national portability, mobility within the territory with guaranteed access to health services or adequate and timely mobility or transferability of schemes or initiatives across the source and destination states/cities. It, therefore, effectively results in the exclusion of internal migrants or internally displaced populations. As policy prescriptions are invariably obsessed with citizenship and settled population, migrants lose access to social security benefits linked to permanent residence. Due to the seasonal and circular nature of migration and lack of documentary proof for residence, migrants are denied access to subsidised food and face difficulties in accessing housing and other basic amenities such as water and sanitation. They are unable to access banking facilities and are forced to rely on informal networks. Engaged mainly in the informal sector, they lack employment-related social security and legal protection and are seldom unionized.

Recently, the Global Compact for Migration, through its 23 objectives, attempted to fill some of the gaps in the protection system. However, as these are recommendatory, their actualisation depends on whether states have ratified the ILO and UN Conventions on migrant workers and incorporated them in their national legislation. Unfortunately, migration governance has historically remained with individual States, their policies and regulations on migration typically made at the national level[7]. Often, the absence of incorporation in the national legal and legislative frame results in a deficiency in social protection for the migrants. The experiences differentiated social security and distinguished between citizens and various types of non-citizens. Weak social security systems are discernible for cross-border migrants in a country like India. Large numbers of them are undocumented, work in the informal sector, and have a fragile legal situation.

The article engages with the complicated terrain of social protection and provisioning for migrants. How does the migration experience demonstrate a lack of social protection? How does the

idea of justice and dignity interface with the migrant population? In the backdrop of hiatus between welfare demands and provisions that expose the migrant protection in the national welfare regimes, with variable degrees of enforceability and effectiveness (Hennebry, 2014)[8], we engage with their varied experiences. The welfare fields such as health care, social assistance, social security, livelihood opportunities, etc., remain fundamentally embedded in state-based and citizenship frameworks that construe migrant population invariably as the 'other', an experience of 'differentiated citizenship'. The more we engage with the 'social question' and 'social rights' vis-à-vis the migrant population, the more we encounter asymmetries in welfare and social protection. Can migrants' avail public goods? How do the meaning and manifestation of public good and social citizenship unfold for them, and what does it tell us about the response of 'social question' vis-à-vis migrants of multiple categories? We take a close look at the provisioning of social protection and public goods and detail the implications of institutional arrangements and relationships that define the character of the process and outcomes of social protection for migrants and refugees.

Migrants and Refugees: on the Threshold of Social Protection

Social protection of migrants has to be comprehended from three perspectives—from the perspective of their mobility which involves a change of place (migration); their poor economic, social and educational background (poverty and deprivation); and they arebeing part of the unorganised workforce (value of labour)[9].Migrant workers are subject to exploitation, abuse, health risks, and poverty in numerous situations. They are especially vulnerable to poor social protections, unemployment and poverty, as 'they often do not enjoy the same rights and protection as nationals' (Awad, 2009: viii in Hennbry 2014: 371)[10]. Despite the vital contributions that migrant workers make to the economies of their host and home countries, they are among the most excluded from even basic social protection coverage (Hennebry 2014: 371). The migrant workers across the border or in an inter-state context find themselves at the mercy of the state for rights and protections, while the state has significant control over their mobility and livelihoods. Migrant workers' jobs are not secure, their income sources do not inherently lead to access to essential services and social protection, and they can be denied pay, fired, or exploited without much recourse (Sabates-Wheeler, 2007).[11]

The lack of protection and precarity of migrant labour was starkly manifested in the heart-rending situation during the pandemic. In the context of the pandemic, the UN highlights three crises that impact people on the move: Health crisis (unsanitary and crowded living conditions, compromised access to health services, food insecurity); protection crisis (curtailed access to asylum; detentions, forced returns and deportations; stranded migrants, family separation and human smuggling); and socio-economic crisis (rising unemployment and loss of livelihoods, decline in remittances)[12]. The pandemic had disrupted the normal functioning of the social, economic, and political life of people across the globe, creating particularly harsh conditions for migrants (Chamie, 2020)[13]. The unparalleled exodus of migrant workers has posed severe challenges to our understanding of labour, migration, and the aspects of differentiated citizenship. COVID-19 put migrants' insecurity, anxiety and precarity on the centre stage of the spectacle in India. Access to public goods and social provisioning for the refugees and urban migrants remains at the periphery of the policy agenda; the ongoing COVID-19 pandemic has exposed the crisis for the larger public. The value of care and protection of the migrant labour instantly boils down to the minimalist rescue and relief through makeshift shelter, food, and other bare necessities of life.

Several concerns of migrants came to the forefront in the period of the pandemic. One of the complicated issues that this crisis exposed was the absence of precise information and data about

their number, spread, scale, and nature of work due to their being unenumerated. The exclusion of migrant workers from existing schemes due to the lack of their registration and outdated eligibility lists exposed the problem of protection mechanisms. Simultaneously, the neoliberal push through labour codes brought newer insecurity and complexities for migrants in the urban informal economy. In the absence of social protection frameworks, the migrant workers' dependence on intermediaries led to their exploitation in multiple ways. One of the few legislative safeguards in the form of the Inter-State Migrant Workmen Act of 1979 has provisions that could protect the workers, e.g., minimum wage, displacement allowance, home journey allowance, suitable accommodation, and medical facilities, among other things. This law's full and proper implementation would have meant that state governments had complete details of inter-state migrant workmen coming through contractors within their states. Unfortunately, no state implements the law in its true spirit. The law requires equal pay for inter-state workers but also requires other social protection that would make their employment significantly more expensive than intra-state workers. This includes the payments of different allowances and requires that contractors provide accommodation and healthcare for such workers. Compliance with these requirements is not only onerous, but it also makes the cost of hiring inter-state workers higher than hiring similar labour from within the state.[14]Earlier the National Commission for Enterprises in the Unorganised Sector (NCEUS) had pointed out that the circular migrant workers were a disadvantaged segment among informal workers. These migrant workers comprise nearly 60 per cent of occupationally vulnerable workers outside agriculture. Building on its approach, the NCEUS had advocated a comprehensive law to protect the rights of all informal workers, including migrants, home workers, and domestic workers. It had also recommended a universal registration mechanism based on self-declaration, with the issuance of a smart social security card and a National Minimum Social Security Package available to all informal workers through the law, within a definite time frame.[15]The recommendation remained unattended till the pandemic induced migrants' crisis exposed the policies and practices of government.

Migrant workers' liminality heightens their precarity. The logic of liminality is embedded into managed temporary labour migration programmes, in spaces where mobility is at once, both paused, slowed, or stopped (Sheller, 2012)[16]. Their liminality is defined and dictated through citizenship faultlines and perpetual insecurity elements. What makes the situation intriguing is that even within a nation-state, the migrant labour encounters a situation of precarity and insecurity, which fundamentally restricts their claims on social citizenship. Often overlapped with the category of urban poor, the migrant workers experience state and its agencies through constraining welfare and social protection provisioning. However, after the pandemic and lockdown led crisis, there have been some efforts to attend to the concerns of migrant labour. With over 8.43 crore informal sector workers having registered with their Aadhaar numbers on the e-Shram portal, the Centre has proposed to work with the states to ensure convergence of social security schemes for them and help match them with employment opportunities. The worker database will be linked with Unnati, the proposed labour-matching platform. When the 38-crore registration target is achieved, the data will provide an insight into the number of migrants.[17]

The condition of refugees is tenuous too, with added issues emanating from their status in the country. A large number of the refugee population in India have had well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion in the country of their origin. Though India is neither a signatory of the 1951 Refugee convention nor has a refugee protection framework, it has accommodated fleeing populations over decades. The government's approach towards humanitarian agencies such as UNHCR has been ambivalent; however, they were allowed to operate with some restrictions. The

government deals differently with various refugee groups; generally, it respects the principle of non-refoulement for holders of UNHCR documentation. While Tibetans and Sri Lankan refugees are protected and assisted by the Government, UNHCR is directly involved with groups from other countries (notably Afghanistan and Myanmar). The debate over refugees gained national prominence after 40,000 Rohingya Muslims escaped Myanmar to take shelter in India. The office of the UNHCR has issued identity cards to about 16,500 Rohingya in India, which it says helps "prevent harassment, arbitrary arrests, detention and deportation" of refugees. However, India has categorized the Rohingya as illegal immigrants and a security threat, siding with the Burmese government. The Indian government has stated that the principle of non-refoulement, or of not forcing refugees to return to their country of origin, does not apply to India principally as it is not a signatory to the 1951 convention.[18]

Refugees and asylum-seekers often live in poverty, dispersed in urban areas, where they can face violence and exploitation. The Afghan refugees who had fled Afghanistan after the withdrawal of the USSR were supported by UNHCR in a limited way. In the 1990s, UNHCR had a welfare programme that provided subsistence allowance to poor refugees. The assistance is Rs 1,400 per month for an individual or Rs 4,000 for a family. UNHCR finances certain activities related to the naturalisation procedure, for example, meeting the cost of advertising in newspapers, etc.[19] As these refugees do not have permission to work, most of the poor refugees working in the informal sector take recourse to survival strategies, which include bribing the police and petty bureaucrats[20]. Several voluntary organisations, Confederation of Voluntary Associations, *Don Bosco*, Gandhi National Memorial Society, New Delhi Young Men's Christian Association, Socio-legal Information Centre, The Public Interest Legal Support and Research Centre (UNHCR Implementing Partner),[21] act as the conduit between UN agencies, state, and refugee population. In a situation of turbulence, the state tries to deal with the responsibilities as something that can be manufactured and managed. While the government shifts responsibility for public service delivery to civil society, the decision about recognition, legality and identity of the refugee population remains firmly within the governmental jurisdiction.

Therefore, we realise that though international human rights instruments propose social protection irrespective of nationality, legal coverage of social protection to migrants and refugees requires countries to embed rights and basic principles into national legislation. Unfortunately, such protection and security are not embedded in the Indian constitution. Even though the right to social protection is a core component of global development and migration governance frameworks such as the 2012 Social Protection Floors Recommendation 202, the Global Compact for Safe, Orderly and Regular Migration and the Global Compact on Refugees, there are no commensurate policies in India. Besides, the protection is also embedded in the 2030 Agenda for Sustainable Development through Goal 1.3, which aims to substantially increase coverage of poor and vulnerable people in social protection systems. However, the realisation of these mandates and agendas in the country context has largely been ignored.

To engage with the ground reality of the social protection system, we need to revisit the trajectory of the refugee movement and policies in India. Though the country has had a steady flow of refugees from neighbouring countries over seven decades, India is not a signatory to the 1951 UN Convention or the 1967 Protocol. Besides, India does not have a refugee policy or a refugee law of its own. In post-partition India, the major movement of refugees towards India happened almost a decade after Partition. In 1959, the Dalai Lama and more than 100,000 followers fled Tibet to seek political asylum in India. The Tibetan refugees settled across northern and north-eastern Indian states. The next major refugee crisis happened during Bangladesh's war of independence in 1971,

when millions of refugees migrated from the country to India, fleeing the conflict between the Pakistani army and Bangladeshi forces. This led to a sudden spike in population in states bordering Bangladesh. According to some estimates, more than 10 million Bangladeshi refugees escaped in 1971 and took shelter in India. Another sizeable group of refugees in India comprises Sri Lankan Tamils who abandoned the island nation in the wake of active discriminatory policies by successive Sri Lankan governments. Mostly these refugees, who number over a million, settled in the state of Tamil Nadu as it is nearest to Sri Lanka and since it was easier for them, as Tamils, to adjust to life there. The war-torn Sri Lankan Tamils sought refuge in southern India, with more than 60,000 refugees in 109 camps in Tamil Nadu alone. Though not one of the larger refugee groups in the country, many Afghans also took shelter in India after the Soviet invasion of Afghanistan in 1979. Small groups of Afghan refugees kept coming to India in subsequent years. These refugees are mostly concentrated in and around Delhi and have largely arranged makeshift spaces for themselves. Both the World Bank and UNHCR reports suggest that currently, India has more than 200,000 Afghan refugees living in its territory. Regarding the situation of around 40,000 Rohingya who fled to India, the government's response has been ambiguous.

Persistence of Liminality

Migrant workers' liminality (being 'neither here nor there', neither permanent immigrant nor citizen) heightens their precarity (McGuire and Georges, 2003).[22] For migrants, denial of social protection results from absence from non-portability of benefits and other reasons. For refugee populations, it is a consequence of their citizenship status and inability to access critical documents such as the Unique ID, which has now become a base for citizenship entitlements. The issue of social protection for migrants and refugees is as simple to understand as it is complex. We know about their status regarding access to services, their struggles to obtain them, their aspirations, the impact of the deficit on generations of populations that await recognition from the state in countries where they have moved. We are aware that to study both populations together would be an oversimplification and denial of the differential political processes that determine their identity and categorisation. The pandemic has once again raised the centrality of access to services and social protection for disadvantaged populations. Migrants walked back from cities to where they had come from with all resources depleted and no institutional support, each person and family fending for themselves. Refugee groups struggled for life-saving drugs and vaccines that were linked to possession of the Aadhar card, and to follow safety protocols in cramped conditions in camps and neighbourhoods (Raj, 2020)[23]. As discussed in the earlier section, social protection is an idea embedded in the processes and practice of citizenship, with the state as sovereign and protector. However, when one approaches the question with a thrust on broader processes of marginalisation, the state, civil society, and community emerge as subjects in the field of social protection for both populations.

While examining the Indian refugee context, Rolfe's (2008) complex 'script'—unofficial, unacknowledged, and uncodified is apropos. The 'script' governs the highly diverse ways in which individuals seeking asylum in India are treated[24] and refuses to follow a fixed line of rule and procedure. The *modus operandi* is complex, dynamic, and flexible. The government approaches the refugee question with hostility and construes that international attitudes are inappropriate to India's experiences. Also, the treatment meted out to refugees responds to domestic politics. The approach is to prosecute incomers as illegal aliens, often deporting them (Samaddar, 2003).[25]

In examining the social protection question for refugees in India, reports from international organisations (UNHCR, UNICEF, Oxfam) discuss their focus on 'populations on the move' and

highlight that they are the go-to organisations for refugees seeking any type of assistance. The complex context of refugees renders them directly dependent on these international bilateral agencies vested with authority and responsibility. The Government's $2 billion packages for the COVID-19 Emergency Response and Health System do not cover refugee communities, indicating their liminality. Social protection remains a central concern with refugees in India, whether the Tibetans, who have been here for decades, or the Rohingya, as more recent arrivals. Its absence can perhaps be explained by how the state construes their identity and presence, which casts them to the 'space of exception' in the camps. [They live in a] 'zone of in-distinction between outside and inside, exception and rule, licit and illicit… where the concepts of subjective right and juridical protection no longer make any sense' (Agamben 1998: 170 cited in Poyil and Chowdhory citing)[26]. Refugee camps, spatial confinements that house the 'undesirable populations', characterize a different trait of biopolitics through humanitarian governance that reduces the existence of refugees to 'bare life' (Agamben 1998:133; Diken and Laustsen 2005: 86)[27]. Governance of camps, marked by 'uncertainty of both exclusion and protection' (ibid: 12, Minca, 2015), can be understood through Agamben's 'spatialization of exception'.

The question of examining social protection for migrants and refugees requires different approaches because of the crucial difference in the relationship of these populations with the state - while the interface of the former with the state may be tenuous and marked by a gap in provisioning by the state, in the case of the latter, the non-citizen status and lack of formal recognition puts them in a situation of rightlessness with a reduced agency for claim making. We attempt this by employing Van Gennep's idea of liminality to initiate the study of social protection for 'populations on the move'. Liminality is critical in post-colonial studies; it identifies the intermediate or transitory space in which cultural transformation occurs. In Victor Turner's work on liminality, it emerges that liminal are perceived as threats, they 'possess anti-structural qualities and revolutionary potential'; as peripherals, they go against the structure, and the *communitas* that they form, the community is able to transcend social structural positions, status, and relationships…liminality 'shifts the locus of agency from the established to those who are ambiguously positioned by the structure' (Rumelili, 2012, p.497)[28]. The stage of transition when institutions are dissolved, when there is uncertainty, fluidity, and malleability about social, cultural, political aspects of lives, and not knowing what would emerge from the transitory phase is important in explaining the 'slipperiness' (ibid.) that marks the idea of liminality. Homi Bhabha's elucidation of 'hybridity' and 'third space' add a further meaningful dimension to this discourse. The 'third space' is the 'juncture of translations and dialogues'. It questions established ideas of identity and 'notional concepts surrounding the original culture'…also provides 'new forms of cultural meaning'. It is a place for opportunity and growth; it allows for fresh thinking and going beyond the binaries of colonial thinking (Chakraborty, n.d., p. 149)[29].

For our exploration of the terrain of social protection for migrants and refugees, we use the ideas of liminality potentially shifting the locus of agency to those who are located at interstices, the anti-structure as it were, and the 'third space' to draw out relationships, and transactions that emerge within it. With the understanding that this space is itself contextual, transient, and occupied by newer actors over time, we discuss what constitutes it: first, the relationship of migrants and refugees with the state and international organisations or aid agencies; second, the meaning of social protection in the context of the 'bare life'; and third, the implications of rendering of the community as fluid, for social protection.

The Protector - State and International Organisations

A discursive shift in the practice of social protection and treatment of migrants is expected to come about due to the extreme deprivation that the pandemic has highlighted. These populations were more recognised and categorised as urban or rural poor and certain social groups in policy discourse than migrants. The transitory nature of their economic, social, and political place in the city is now evident. For the refugees, the state is constituted by international and bilateral aid agencies. At a recent protest by Afghan refugees against UNHCR India[30], children and adults raised slogans outside the organisation's office. They demanded that their concerns regarding education, housing, and employment be addressed. Protestors emphasised that they were not angry with the Indian government but with the UNHCR. The UNHCR categorises refugees and asylum seekers who need protection, shelter, health, and education as *persons of concern.* There are 43,157 persons that are "of concern" to the UN refugee agency in India, out of which 15,559 refugees and asylum seekers are from Afghanistan. Yet the procedure for moving from obtaining a blue slip to getting recognition as a refugee is uncertain. Both statuses provide certain benefits, but these are not assured, and uncertainty and inability to access them continues.[31] The quasi-government character of international (UN) organisations shapes the relationship of refugee populations with them in particular ways[32], the key aspect being the absence of accountability to the populations. This is not to say that it does not exist in practice, but to highlight that it is not seen as necessary, a reason that emanates from the fact that these organisations are at the intersection of the State and Civil Society Organisation (CSO) space. Though they are invested with immense authority to make key decisions for populations they govern, there are gaps in the treatment meted out to them in response and provision of essential services. Organisations that reach out to populations on the move range from those mandated to do so, such as the UN organisations, to those working as voluntary organisations with a significant scale of reach across continents. The ideology with which they operate too is diverse and may emphasise social justice and rights or a thrust on rehabilitation. An illustration of the latter is an organisation working with Tibetan refugees in Darjeeling that believes that the spirit of self-help enables their rehabilitation in economic, social, psychological, cultural, or spiritual terms (Basu, 2010)[33]. The Tibetan Refugee Welfare Centre that Basu studied was established in 1959. It started with emergency relief for the refugees who had arrived with nothing and then grew into a voluntary organisation through aid from donor agencies. In its aims as well as the strategies that it adopts in addressing concerns of the refugees, its character as a CSO is evident.

CSOs are often critiqued for ad hoc responses and poor transparency and answerability to their constituencies. The sector that significantly supplements the state's service provision and social protection measures is so vast and diverse that organisations could fall anywhere on a continuum. For migrants, CSOs are the bridge between them and the state and facilitate their access to services and social protection measures. The locality or neighbourhood becomes the space for engagement with individuals and groups that often constitute the community. Social protection, i.e., social assistance, social insurance, and labour market protection, is marked by information and implementation gaps; with most migrants being part of the informal economy, labour market protection measures are not accessible. For migrants across the country, the space of the protection agency is shared by the state and CSOs. This is a highly uneven terrain - in terms of the presence of the specific services and welfare and social protection measures they provide. The state's significant and impactful outreach is mixed with gaps in provisioning, the inadequacy of measures, and challenges of implementation and access. CSOs are significantly diverse in ideology, the scale of outreach, focal issues, resource base, relationship with their constituencies, relationship with the state, and practice approaches.

However, the lasting impression engendered by refugees worldwide is that of a victim and a client in need of assistance. De Voe (1981:88)[34] analyses that the professional initially frames the refugee as "client" through an agreed upon set of criteria. This initial prejudicial judgment establishes the need hierarchy, which is then matched to the services and expectations offered by the agency. Like other people who are clients, explains De Voe (ibid), refugees are categorized with an impersonal quality, like property. Then, institutions interested in absorbing or rehabilitating refugees impose an organization of relevant facts, needs, and goals so that the institutional structures can handle them. In the process, the refugees try to develop behaviours they perceive as expected of them as clients to continue the flow of rewards or aid. Refugees and migrants are expected to remain subservient to secure even minimal assistance and support. Both migrants and refugees seek the state and recognition as citizens, the latter more consistently than the former, for obvious reasons. In his classic essay Citizenship and Social Class, T. H. Marshall(1950, p. 11) elaborated the idea of social citizenship as a set of social rights that range 'from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilized being according to the standards prevailing in the society'.[35] Refugees, bereft of citizenship and migrants with compromised citizenship are invariably at the receiving end of welfare, security and social protection, leaving aside the prevailing standards of society.

Besides, the provisioning and access to social protection for both migrants and refugee populations rest on the tenuous and non-existent relationship with state agencies and international or local voluntary organisations. There is uncertainty about whether they would be able to reach the agencies, both in the material and the relational sense. The existence of the state's constitutional obligation towards ensuring the welfare of migrants establishes the legitimacy of claims that migrants make to access support from the state. In the case of refugees in India, the relationship between the State and refugee populations is variegated and obfuscates the role of the State and international and local CSOs. Further, it prevents the creation of the refugee populations as a unified constituency for claim making, as interests, treatment, and therefore priorities differ and pose an obstacle to improving their conditions. Moreover, the transaction of social protection as entitlements or as humanitarian aid takes place in geographies and spaces that are essentially peripheralised and do not serve the real interests and requirements of a decent life for the migrants or refugees. Low income settlements in cities or refugee camps are indicative of infringement of the populations in all ways. They make everyday life a struggle, and precarious work and lack of employment ensure preoccupation with survival and atomised lives. In examining the question of social protection, however, we need a close look at what it possibly means for these dispossessed persons.

What does Social Protection mean in the Context of 'bare life'?

To study layers of social protection, it may be helpful to distinguish basic amenities from social protection measures. The former would include shelter, water, sanitation, electricity supply, approach roads, food security, livelihoods, health, education, etc. Social protection measures are a higher-level measure that is essential and ensures a cushion for people that protects them from exigencies and addresses vulnerabilities. Literature on social protection indicates the dimensions of accessibility, portability, labour market conditions and informal networks of support (Sabates-Wheeler 2009)[36]. In literature and case studies of migrants and refugees both, essential services, as well as social protection measures, are primarily examined around these dimensions. This is an important point of distinction because the deficit of the former is evidence of a struggle with subsistence, survival, and the 'bare life' that affects both migrants as well as refugees.

In his influential study, Alan Simon (1987)[37] examined migration by using three dimensions: a change in residence, a shift in employment, and a shift in social relations. These dimensions provide us pathways even for interrogating the forms of and experiences with social protection in different places. Our interrogation of the migration experience draws from two specific locations: urban slums and camps as places where asymmetries can be comprehended. These "places exist not only as physical entities but also because of people's different experiences" and "encompass an existential dimension, an emotional link with the human being" (Mendoza and More ́n-Alegret 2012: 763)[38]. Despite their ostensible "temporary" nature, camps have become the main living environment for many refugees for years and, in some cases, for more than one generation (Harrell-Bond 2002: 56).[39] There are widely varying types of camps and settlements in contemporary times – from refugee camps to IDP camps, etc., and most of these are characterized by 'lack'- of services and dignity. Quite often, the construction of the image of the refugees/migrants is premised on the religio-political and social context. A *refugee camp,* where the migrants take refuge, may be defined as a temporary settlement built to receive people fleeing from civil war or conflict internationally. With the nature of conflict becoming long-term, the nature of stay does not remain temporary for many refugees. They live in the camp across borders for a very long period, either due to the impossibility of returning or due to political reasons that keep the conflicts ongoing. Deard off (2009: 9)[40] described the characteristics of a refugee camp as freedom of movement is limited; little possibility for self-reliance, and thus, refugees generally are dependent on aid. The shelter is a critical determinant for survival in the initial stages of a disaster and crisis. Beyond survival, shelter is necessary to provide security, personal safety, and protection from the climate and promote resistance to ill health and disease. It is also crucial for human dignity to sustain family and community life and to enable affected populations to recover from the impact of disaster (Sphere Project, 2011: 244). The camp and the slum that house populations on the move, while signifying the 'bare life', also become spaces where needs emerge and transactions take place around them. Agamben argues that refugees are reduced to 'bare life' in camps: humans as animals in nature without political freedom (Owens, 2009: 568)[41]. His idea of $zoē$ - or the biological life as excluded from political life, was found inadequate by Hannah Arendt, whose work suggests:

> …refugees and such populations have the ability to 'forge a political realm'…The biological existence of human beings becomes the primary subject of politics incorporating such matters as life expectancy, disease control, food and water supply. Unlike sovereignty, this form of 'disciplinary' power is not, in essence, repressive. It is productive. It works across a variety of fields, such as mental and physical health, education, sexual activity, policing and parenting to 'produce' functioning individuals'…Needs too therefore get ordered into the needs of 'life' that the state manages for the 'normal' population, and 'then the pastoral care of the international humanitarian regime performs this function for refugees, but without the consoling fictions of citizenship' (Owens, 569-570)

One view of the camps and slum settlements paints an encouraging picture of their efficacy as sites of social provisioning. This is more likely the view of UNHCR and voluntary organisations that are tasked with looking after the welfare of these populations. The hospitality provided by camps thus aims at something more ephemeral than survival, allowing recovery and providing dignity and the sustenance of 'goods' such as family and community.

As a case in point, scattered shelters made of wooden beams and tarpaulin sheets have become a usual sight amid the open forest area under the Signature Bridge on the fringes of Delhi. These temporary shelters are what hundreds of Hindu refugees from Pakistan call home. The families migrated to India with hopes of a better future; however, that future remains elusive. With

no electricity, clean water or sanitation facilities, the refugees live in extremely unhygienic conditions. Fear of wild animals and problems posed by mosquitoes are among a long list of their struggles[42]. Most of the refugees work as labourers or hawkers to make ends meet. But COVID-19 lockdown has left them without the meagre income they earned before, making their living conditions even worse. Humanitarian Aid International (HAI), a Delhi-based NGO, has been working closely with the refugees here since 2019. They have set medical camps, run remedial classes for children, and held skills training for women to help them earn an income.

However, provisioning of public goods is hierarchised in policy and practice discourse - into those that lead to the sustenance of bare life and those that can go beyond and may contribute to a decent life. We are not arguing that social protection measures are a higher order of provision by the state, but that measures such as cash transfers, and workfare programmes, old age pensions and so on, assume that there is a basic income and basket of resources that are in place for the individual and household for 'life' to exist. These measures then are designed as supplementary to the basic, so they are never adequate for households in conditions of precarity. Social protection measures are grossly inadequate given the extent of poverty and insecurity that migrants experience. In the context of the 'bare life' of refugee populations and the fact that they are in a state of uncertainty and perpetual transit, social protection measures may be pacifiers rather than serious attempts to co-create a better future for them. During the pandemic, the UNHCR scaled up its provisioning of food and non-food items and life-saving medicines for 'most vulnerable refugees and asylum seekers' but found that its ability to respond was threatened by limited funding[43]. In the absence of adequate support from the UN, and in times of ill health and crisis, it is friends, well-wishers, people's grace and sympathy, community welfare associations, and God, who provide the support that these persons need (Ibid).

But the Community in the Liminal Space?

The quasi-state character of international organisations, their inability to address the core issues of large sections of refugee populations, and the inadequacy of what is provided, needs to be examined in terms of political implications. 'Arendt's idea', as Étienne Balibar has written, 'is not that only institutions create rights, whereas, apart from institutions, humans do not have specific rights, only natural qualities. Arendt maintained, 'politics is not so much about human beings as it is about the world that comes into being between them and endured beyond them'[44]. This implies that the migrant or the refugee is not a body subject that is acted upon but creates a political sphere in which there are negotiations, collective meaning making, and claim making. This anti-structural aspect of liminality imbues those who are rendered powerless by structure with agency and the space to forge new relations. When seen in this light, and the fact that at the local level, citizenship can be active and go beyond bonds of kinship, 'to unite people with different social backgrounds (class, gender, religion, caste, race) into one inclusive body politic' (Guhathakurta, 2017, p. 641 citing Gaventa, 1998)[45], liminal become actors and participants in efforts to better their conditions, and move towards a stable life rather than transitory existence in the place where they have arrived. International organisations see them as 'part of the solution'[46]. In the context of the COVID-19 pandemic, Samaddar (2021)[47] examines the potential of solidarity and a new type of public power through biopolitics from below. Yet, the socio-political context within which the agency of migrants and refugees would emerge, if at all, needs to be examined.

The *communitas* or community mentioned earlier is important in building some solidarity, however fleeting, for populations on the move. However, the overview of this aspect that emerges

from some literature is not optimistic. It highlights that camps are spaces that do not allow for community, agency, or politics (Agier, 2008: 29–30 in Bulley 2014)[48]and that community is destroyed before one enters the camp (Edkins, 2000: 19 in Bulley 2014). Yet if one argues against such a static conceptualisation of community, there is hope for regaining community, and for re-configuring and the making of organic solidarity within the spaces of liminality. A simplistic view could be that 'the production of a "displaced population" is not, however, meant to be entirely "top–down". Rather, much like the spatial control of mobility, it aims to involve and thereby produce community within camps.' The UNHCR (2007: 82) asserts the involvement of refugees in decision making regarding their protection and well-being, as 'resourceful and active partners' in their protection (ibid: 182), ideas that are central to the organisation's community development approach. They are mobilised and to be consulted for decisions about siting of camps (Corsellis and Vitale, 2005: 127–128)[49], as well as the provision of goods (food and non-food items) and education (UNHCR, 2007: 415). According to Ilcan and Lacey, however, such 'community-targeted empowerment' simply uses 'community' as another 'collective label' (like 'villagers' or 'the rural poor'), allowing for the more effective government (Ilcan and Lacey, 2011: 14, 26)[50]. In effect, the communities that aid agencies create are smaller units of the displaced populations that can be controlled better. Simultaneously, the push towards self- responsibilisation, and the discourse on community resilience, resulting in the community being used to support the 'top–down production and control of a population' through 'ethopower' – working through the ethos and values of a responsible, self-governing community – to existing exercises of biopower (Rose, 2000: 1399)[51]. The community is thus produced, although forms of governmentality already define its scope and limits. For liminal within the third space, the above analysis of their situation and conditions notwithstanding, it remains imperative that they struggle and continue their claims making and improving their present and future lives.

The concerns regarding migrants and refugees, when seen in the light of the above discussion, are situated at the intersection of philosophy and instrumentality of participation. The detrimental effects of being treated as subjects of techniques of control and management must be overcome by individuals, groups, and larger segments of these populations (since they practically present themselves to us in fragments, and not as one, except in broader policy discourses) if one is to be 'de-camped' as it were. Mechanical solidarity through local associations and other collectives must be sought, developed, and strengthened for liminal to come on to the streets or the international organisation's doorstep from whom they seek to claim basic amenities, social and public goods, and a future.

Conclusion

In their tumultuous journey, migrants and refugees make desperate attempts to improve their lives and circumstances. However, the odds seem weighed against them - through denial of citizenship rights in the case of specific refugee populations, and limited integration into host populations, through apparent indifference or limited engagement of the state in the case of migrants. They encounter the protection regime through limitation and illegalization during their search for protection. The social protection schemes automatically draw a line between those who are in and those who are out; inclusion and exclusion are inherently premised in their design and description. The inclusion and exclusion of migrants and refugees from the social protection framework demands new approaches towards claim-making. It needs to be explored by codifying minimum care obligations arising from human rights standards and protocols. International human rights entail an obligation on the state to provide social protection to enable migrants and refugees to access essential

services and assure dignified life. The fact that migrants are excluded from formal social protection does not mean they do not participate in other reciprocal relationships of mutual support. The scope and potential of social solidarity should not be underestimated, and this has been highlighted through illustrations in an earlier section. Bereft of protection and security, hundreds of migrant lives were lost on roads, trains, and tracks, etc., during the COVID-19 pandemic and lockdown, but they refused to give up. Newer forms of protest, resistance, assertion, and cooperation confirmed the possibility of politics from below. While the article engaged with the void in a social protection mechanism for refugees and migrants and illustrated their liminal and precarious situation, it emphasises the responsibility and accountability of civil society and the state.

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