



Asylum Without A Policy: India's Refugees And The Crisis Of Accommodation

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Abstract

India has historically been a key destination for individuals seeking asylum from countries like Myanmar, Sri Lanka, Afghanistan, and Tibet, which are affected by conflict, persecution, and violence. However, India does not have a formal asylum law in place and is not a party to the 1951 Refugee Convention or its 1967 Protocol. As a result, asylum seekers in India find themselves in a legal limbo. The lack of a national framework designed to safeguard their rights leads to inconsistent and ad hoc protective measures, with asylum seekers often relying on the support of organizations like the United Nations High Commissioner for Refugees (UNHCR) and various NGOs.

This paper delves into the housing and accommodation challenges that asylum seekers face in India, exacerbated by the absence of a clear and structured refugee policy. Many asylum seekers are compelled to live in unsafe, overcrowded conditions, often residing in urban slums or temporary camps that lack the necessary infrastructure, sanitation, and basic services. The lack of formal legal recognition and status from the Indian government makes these individuals even more vulnerable, limiting their access to education, healthcare, and stable employment.

Using case studies of various refugee groups, such as the Rohingya, Sri Lankan Tamils, and Afghan nationals, the paper examines the significant human rights issues linked to their precarious living situations. It also analyzes the wider implications of India's policy gap, particularly how this issue intersects with India's geopolitical concerns, especially regarding its neighboring countries.

The article concludes by advocating for the creation of a national asylum law that guarantees asylum seekers fair and humane treatment. Such a law would ensure legal protections, secure housing, and a path to integration within Indian society, all while aligning with India's constitutional values and international human rights commitments. Addressing these gaps is essential not only for the welfare of asylum seekers but also for maintaining India's reputation as a compassionate and responsible global player.

Key words: Asylum Seekers, Refugee Policy in India, Human Rights, Accommodation Crisis, Legal Protection

Introduction

According to a recent World Health Organization report, India was one of the top three host nations for foreign migrants, refugees, and asylum seekers in South-East Asia in 2020. According to the report, in 2020, the top three host nations for international migrants, refugees, and asylum seekers in the South-East Asia region were Thailand, Bangladesh, and India. At 4,878,704 people, foreign migrants made up 0.4% of India's total population. Four and a half percent of the foreign migrants in India were refugees or asylum seekers (207,334). With 51 million migrants (or 18% of all migrants worldwide) in 2020, the United States of America is the country that receives the greatest number of migrants globally. Movements from Myanmar to Thailand, Nepal, Bangladesh, and Bhutan to India, and other countries in the region to the Maldives are examples of international migration flows. Nearly a million Rohingya refugees from Myanmar reside in Bangladesh, making them the largest refugee group. There are many refugee groups in Indonesia who are waiting to travel to Australia, including smaller groups of Sri Lankans in India, Bhutanese in Nepal, and Myanmar refugees on the Thailand-Myanmar border. Additionally, it stated that Sri Lankan Tamil refugees in India reside in isolated, rural camps that are far from medical facilities. They also mentioned that the difficult application processes caused them to experience delays in receiving benefits from health care programs. Numerous barriers, such as difficulty getting government-issued documentation and legal recognition, prevent refugees and asylum seekers from accessing basic services like healthcare and financial help. It is our responsibility to remove these obstacles and guarantee that people have equal access to healthcare, work, education, and housing.

The Legal Vacuum: Refugees without Recognition

The special needs of young refugees must be taken into consideration in our attempts to build an inclusive society. Youth, particularly refugee youth, should be included in the implementation of the Sustainable Development Agenda in order to guarantee that no one is left behind. It is morally necessary that we all work together to address the growing number of people who have been forcibly displaced. The Global Compact on Refugees advocates for solidarity using a whole-of-society approach, acknowledging the severity of the displacement situation. It is based on the knowledge that everyone has a duty to care for those who have been forcefully displaced, including NGOs, community-based groups, the commercial sector, and individuals.

As old as its civilization, India has a long history of providing asylum. From Rohingyas seeking refuge from violent crackdowns to Tibetans escaping Chinese control, this place has long served as a safe haven for those escaping violence, persecution, or fear. India's doors have stayed open because of a strong sense of compassion. However, India has never had an official refugee policy or legal framework to support this noble tradition.

In the near term, India has been able to negotiate complex geopolitical circumstances without being constrained by strict international accords thanks to its adaptable, case-by-case strategy. However, this freedom frequently results in contradictions in the absence of a clear

legal framework. Depending on their race, religion, or political utility, refugees receive varying treatment. In addition to being unfair and demeaning, this unequal treatment leaves vulnerable persons defenseless against imprisonment or deportation and places them at the whim of capricious decisions. Without a recognized status, refugees must live in continual uncertainty. A stable work, adequate healthcare, education for their children, and safety from exploitation are among the basic essentials that many people struggle to obtain.

Without a defined policy, managing refugee populations becomes a challenging balancing act for the Indian government as well, posing significant administrative and security challenges. A system for refugees based on impromptu judgments and uncertainty cannot last in the long run. In addition to endangering India's reputation as a responsible world leader, it runs the risk of tearing apart society and making already wounded populations feel even more alone and isolated. A well-crafted refugee law would give things structure, preserve India's humanitarian principles, and guarantee that compassion and national interest are fairly balanced. For many, India's charity has served as a ray of hope. But without a solid, rights-based foundation to back it up, that light might be snuffed by petty politics and escalating suspicion. An open, compassionate refugee law is not merely a gesture of goodwill; rather, it is an essential first step toward a future that is more equitable, safe, and cohesive.

The legal landscape around refugee protection in India is murky. India lacks a specific law to regulate the status and rights of refugees, in contrast to nations with official asylum systems. Rather, choices are made on an individual basis, heavily influenced by diplomatic ties, security considerations, and political goals. The assistance offered to refugees is inconsistent and unclear in the absence of a clear national policy. There are no set standards for identifying who is entitled to protection or what fundamental rights they may assert. International organizations like the United Nations High Commissioner for Refugees (UNHCR) and a network of nongovernmental organizations try to fill this void. However, the lack of a unified legislative framework and the lack of collaboration from government institutions can limit their capacity to provide aid.

As a result, asylum seekers are left incredibly vulnerable, frequently subject to capricious treatment, scant legal protections, and restricted or nonexistent access to basic necessities such as formal employment, healthcare, and education. Their unease is increased by the danger of statelessness.

Challenges with Housing and Accommodation

The housing issue that asylum seekers endure is one of the most direct and agonizing effects of India's absence of refugee laws. The majority of refugees are essentially shut out of the official rental market due to their lack of recognized legal status. Because they fear social embarrassment or regulatory complications, landlords are frequently hesitant to lease apartments to refugees. As a result, a large number of refugees are forced to live on the outskirts of cities, crammed into congested slums, unofficial communities, or temporary camps devoid of even the most basic amenities. At worst, there is no access to electricity, potable water, sanitary facilities, or medical treatment.

Refugee families live in unpredictable, insecure situations, always at risk of exploitation, harassment, or eviction. These conditions have a severe negative impact over time; children lose out on education, health deteriorates, and chances for a respectable life become increasingly

limited. During the COVID-19 epidemic, the weaknesses of this unofficial system were glaringly revealed. Many refugee households that were already struggling financially lost their meager sources of income as lockdowns swept the nation. Food insecurity spread. The pandemic exposed the extent to which Indian asylum seekers depend more on humanitarian endeavors than on any assurance of legal protection.

Case Studies: Human Rights at Risk

Each refugee has a unique tale to tell, one that is frequently obscured by statistics and news headlines and is characterized by loss, hope, and survival. The difficulties faced by refugees in India are influenced by the profound disparities in the nation's asylum policies as well as their origins. Although many communities encounter these disparities in different ways, they are all bound by the same reality: they lead vulnerable and uncertain lives in the absence of legal recognition. We can see how the absence of a defined refugee policy is more than simply a legal oversight—it's a daily human issue when we examine the difficulties experienced by Afghan, Sri Lankan Tamil, and Rohingya refugees.

Refugees from Rohingya: Fearful, Marginalized, and Stateless the Rohingya, a Muslim minority from Myanmar who has endured severe persecution at home for a long time, are among the most vulnerable. In search of protection, thousands of people went to India and settled in urban areas like Delhi, Hyderabad, Jammu, and other places. They find little assurance here, though. The Rohingya are not recognized as refugees by India. Instead, they have no official protection against imprisonment or deportation, leaving them to live in tenuous legal limbo. Political narratives that frequently portray them as security threats exacerbate their predicament, especially in the wake of violent episodes or tensions in sensitive areas. Practically speaking, this means living in shoddy, crammed camps, occasionally found on the most impoverished outskirts of the city. At best, access to sanitary facilities, clean water, and healthcare is patchy. Unfortunately, tragedies like fires that ravage refugee camps are not unusual, further depriving families of the meager security they are able to establish. It has become a harsh reality for many Rohingya families in India to live in constant danger with nowhere else to go.

Tamil Refugees from Sri Lanka: The situation of Tamil refugees in Sri Lanka presents an alternative, yet equally concerning, narrative. Since the 1980s, they have been coming to Tamil Nadu to escape the civil conflict and ethnic violence in their home country. These populations now reside in over 100 refugee camps throughout the state. Tamils in Sri Lanka have had more institutional support than other groups. Access to food rations, healthcare, and basic education has been made possible by state welfare programs. Their initial settling has been made easier by the cultural and linguistic similarities between Tamil Nadu and Sri Lankan Tamils.

However, there is a great deal of frustration underneath this seeming stability. The majority of Tamil exiles continue to be denied rights including official employment and property ownership, as well as severe movement restrictions. Even after living in India for decades or even generations, many people are still unable to obtain full citizenship. Because of this, young Tamil immigrants frequently find themselves torn between two worlds—neither completely Indian nor able to return to a politically and emotionally unreachable birthplace.

Afghan Refugees: Particularly when the Taliban regained control in 2021, Afghan migrants have contributed a new dimension to India's refugee landscape in recent years. India and Afghanistan have a long history together, and many Afghan journalists, minorities, women

leaders, and students fled to India when the situation worsened. But once more, their future is at jeopardy in the absence of a national asylum system. The majority of Afghans in India have temporary visas that are not guaranteed to be renewed. After these expire, a lot of people become undocumented, which makes their life even more frightening and difficult.

Lajpat Nagar, Malviya Nagar, and Bhogal are small Delhi neighborhoods that have become unofficial shelters for Afghan refugees. However, day-to-day living is a draining battle. Jobs are few and frequently exploitative; housing is costly and erratic. Almost no specialized support services are available, and Afghan women in particular experience double marginalization as they navigate profound systemic negligence and cultural restrictions. Many have only experienced a new kind of exile as a result of fleeing Taliban rule, one in which their dreams of rebuilding their lives are obstinately unattainable.

Geopolitical Dimensions and Domestic Politics

India has never handled refugees in a vacuum; rather, it has always been influenced by a combination of internal political considerations, national security issues, and foreign policy objectives. Refugees from various areas are frequently handled from a diplomatic perspective rather than just a humanitarian one. Consider the Tibetan refugees. India took in Tibetan exiles after China annexed Tibet in 1950, providing them with safety and a certain amount of independence. India's aim to demonstrate moral leadership in Asia and its wider opposition to China's territorial ambitions were closely linked to this openness.

On the other hand, the Rohingya Muslims who are escaping persecution in Myanmar have encountered a significantly less welcoming environment. In domestic discourse, they are often depicted as security risks rather than as victims of ethnic violence, especially in politically sensitive areas like Jammu and Kashmir. The Citizenship Amendment Act (CAA), which was introduced in 2019, further complicated India's refugee situation. The Act radically changed India's approach to forced migration by providing a road to citizenship to non-Muslim minorities from Afghanistan, Bangladesh, and Pakistan, but not to Muslims.

Critics both at home and abroad noted that the law undermined India's long-standing secular culture by introducing religion as a criterion for shelter, even though the government defended it as a way to safeguard persecuted minorities. The risks of establishing refugee and citizenship policies based on political expediency and religious identification rather than on universal humanitarian principles were made clear by the CAA's selective approach. Additionally, it created new fault lines in India's already intricate social fabric and increased worries among the country's current refugee communities. The nation shifted toward a more disjointed, ad hoc model of asylum instead of developing a clear, rights-based framework, where refugees' fates frequently depend on changeable political winds rather than stable, legislated protections.

The Need for a National Asylum Law

In the face of mounting humanitarian constraints and geopolitical difficulties, India's existing method to handling refugees—which is primarily reliant on informal procedures and political discretion—is becoming more and more unsustainable. Refugees must negotiate a legal and social environment beset by uncertainty, vulnerability, and uneven treatment in the absence of a clear, codified asylum policy. India urgently needs a comprehensive national asylum law that makes its treatment of those seeking protection more transparent, equitable, and humane. A precise and consistent definition of who is considered a refugee must be the first step in such a law. Without official recognition, thousands of people are still unable to exercise even the most fundamental rights, leaving them in a state of legal limbo.

Beyond acknowledgment, the law must protect fundamental rights, such as the right to decent housing, healthcare, education, and employment opportunities. These are essential needs that let people and families start again with dignity; they are not privileges. Refugee communities are currently at risk of poverty, prejudice, and abuse because access to these necessities frequently rely on local goodwill or sporadic NGO initiatives. Establishing a just and effective judicial system for handling asylum requests is equally important. India requires an open system that can evaluate applications using uniform criteria based on human rights principles, and that is manned by qualified, impartial adjudicators. By distinguishing between legitimate refugees and undocumented migrants, a fair and predictable procedure would protect asylum seekers' rights while also assisting the government in effectively managing security concerns. Furthermore, the law should outline options for refugees' future, including resettlement in third countries, voluntary repatriation when safe, and local integration. Refugees require possibilities to contribute to society in addition to short-term housing. India can transform displacement into growth by providing well-thought-out, long-term solutions, fostering social cohesiveness rather than escalating marginalization and conflict.

There would be more to national asylum legislation than only administrative change. It would demonstrate India's dedication to preserving the principles of equality, dignity, and nondiscrimination for all people, regardless of their nationality, color, or religion, as stated in its Constitution. Additionally, it would improve India's standing as a responsible state that leads with moral leadership based on justice and compassion rather than merely military might or economic might. India has a chance to lead by example in the area and globally at a time when forced migration is a major global issue. In addition to being the ethical thing to do, creating an open and compassionate asylum system is the wise and sustainable course for a country that has long taken pride in its civilization tradition of providing refuge to those who are persecuted.

Recommendations for a More Comprehensive Approach

- Make International Cooperation Stronger

India ought to strengthen its cooperation with global institutions like the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Human Rights Agency (UNHCR). Working together will strengthen India's position as a responsible global leader in humanitarian operations and aid in the implementation of best practices for refugee protection.

- Ensure Educational Access

Access to education for refugee adults and children should be guaranteed by both governmental entities and agencies such as the UNHCR. This involves aiding in the integration of refugees into society through both official and informal educational initiatives.

- Put A Stop to Arbitrary Detention Procedures

India needs to make sure that arbitrary detention of refugees doesn't occur. To protect their human rights, they must have access to fair treatment, due process, and legal counsel.

- Enact the 2021 Asylum Bill

A systematic and open mechanism for identifying refugees and granting the required protections would be established under the Asylum Bill, 2021, in accordance with India's international commitments as well as its constitutional principles.

- Create Legal Status and Increase Service Access

Formal legal status for refugees should be granted by India, such as UNHCR-issued identity or customized Aadhaar cards. This will help refugees integrate into society by giving them access to basic services including banking, work, healthcare, and education.

- Create Sturdy Return and Integration Solutions

India needs to set up a mechanism for long-term fixes, such as local integration for refugees who are unable to return to their home countries and safe, voluntary repatriation where appropriate.

- Encourage Social Inclusion and Public Awareness

Campaigns for public education are essential for lowering stigma and increasing knowledge about refugees. A more inclusive society would be promoted by such initiatives, which would dispel myths and combat prejudice.

- Work Together With Civil Society And Ngos

India can improve the provision of services including food, shelter, legal help, and psychosocial support—all of which directly affect refugee populations—by collaborating with regional NGOs, civil society organizations, and faith-based organizations.

- Create a National Policy on Refugees

India should create a national strategy specifically designed to meet the requirements of asylum seekers and refugees. Moving away from an ad hoc approach, a systematic framework would guarantee the safety and welfare of displaced communities.

- Make UNHCR Monitoring and Access easier

Making sure the UNHCR has unrestricted access to detention and holding facilities for refugees is crucial. This will assist in evaluating each case, offering suitable assistance, and guaranteeing adherence to global refugee protection norms.

Conclusion

India's longstanding custom of accepting people escaping oppression, conflict, and natural disasters is a reflection of its ingrained hospitality and compassion. However, there are several obstacles to this legacy today. Due to the lack of a formal asylum statute, refugees in India continue to live in a state of uncertainty, navigating life without reliable access to fundamental rights or unambiguous legal protection. The true needs of displaced persons are not adequately met by patchwork solutions, as seen by housing difficulties, a lack of educational options, healthcare restrictions, and vulnerability to incarceration. Without a well-organized and compassionate refugee policy, the treatment of asylum seekers frequently hinges on shifting political, security, and diplomatic priorities rather than a dedication to basic human rights, as demonstrated by the experiences of the Rohingya, Sri Lankan Tamil, and Afghan refugees.

The Citizenship Amendment Act and other recent political developments underscore the perils of handling refugee matters according to selective, religiously motivated standards, endangering India's constitutional values of equality and secularism. India urgently needs to implement a comprehensive, well-defined asylum policy that outlines the rights of refugees, guarantees their access to necessary assistance, and creates open and honest processes for awarding asylum. In addition to giving individuals seeking safety and dignity, a legal framework would establish a more logical, predictable system that is in line with India's constitutional principles and its international human rights obligations. India needs to step up to the challenge as the world grows more interconnected and more people are displaced by crises than ever before. In addition to protecting the weak, establishing a humane, rights-based asylum system would enhance India's reputation as a fair, inclusive, and robust democracy.

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