
STATELESSNESS AND REFUGE: ANALYSING THE NEED FOR LEGISLATIVE EMPOWERMENT OF REFUGEES IN INDIA

Amartya Urs, B.A. LL.B., St. Joseph's College of Law

Joshua Joseph N, B.A. LL.B., St. Joseph's College of Law

ABSTRACT

There are currently 405,000 refugees in India, which include 213,578 refugees recognised/ registered by the Government of India. Both historically and in the present day, India has served as a place of refuge for various ethnic communities. Coupled with this fact is the general acceptance and assimilation into society that refugees have commonly enjoyed in India. Contemporary politics, however, has created a tumultuous situation for refugees leading to increased inaccessibility to basic needs and justice. This paper seeks to create a case for the necessity to implement a national law governing refugees by reconciling between constitutional values with principles of *jus cogens*. A comprehensive legislative framework for refugees would allow for the legal empowerment of refugees and prevent arbitrary state practices. This paper also highlights the necessity of not merely viewing refugees as passive recipients of welfare from the state, but as active contributors to Indian society, therefore furthering the requirement to ensure their sustenance and stability facilitated by adequate public policy.

INTRODUCTION

The United Nations recognises June 20th as World Refugee Day. It aims to raise awareness and commend the resilience of refugees, who seek to escape their home countries for a plethora of reasons; namely political instability, war, and persecution on the grounds of religion, race, sex and political beliefs.¹ This resilience, however, has remained futile in the face of inadequate and discriminatory municipal law. India best exemplifies this problem. Independent India has experienced distinct episodes of inpouring of refugees at different times in its recent history. Each has represented an independent socio-political event. This is largely a by-product of its extremely wide and porous borders, which have facilitated easy ingress into the country. The problem that persists, is the fact that the Indian legislature has failed to implement comprehensive laws that allow for refugees to attain statuses of legitimacy and assimilate into Indian life. India, being a non-signatory to either the 1951 United Nations Refugee Convention nor its 1967 Protocol, has avoided adequate scrutiny at the international level. Furthermore, the lack of a uniform law has allowed for the selective treatment of different refugee communities based on ethnonational considerations and strategic geopolitical concerns.² The resultant position for many refugees in India, is what Merrill Smith (2004) terms as the ‘Warehousing of Refugees’ which refers to: *“The practice of keeping refugees in protracted situations of restricted mobility, enforced idleness, and dependency—their lives on indefinite hold—in violation of their basic rights under the 1951 UN Refugee Convention. Egregious cases are characterised by indefinite physical confinement in camps. Encamped or not, refugees are warehoused when they are deprived of the freedom necessary to pursue normal lives.”*³ An absence of a refugee law in India has also prevented for the purveyance of Rule of Law amongst refugees currently living in India. This is a universal legal concept that forms the foundation of any just legal system.

This paper seeks to evaluate from a cosmopolitan point of view.⁴ India’s obligation towards refugees and their well being. It is important to note that the scope of this paper seeks to look at refugees who have specifically fled their home countries largely due to some form of

¹ United Nations, World Refugee Day 20 June, UNITED NATIONS, <https://www.un.org/en/observances/refugee-day> (last visited Aug. 8, 2024).

² Mahika Khosla, The Geopolitics of India's Refugee Policy, SOUTH ASIAN VOICES (Sept. 22, 2021), <https://southasianvoices.org/the-geopolitics-of-indias-refugee-policy/> (last visited Aug. 8, 2024).

³ Merrill Smith, Warehousing Refugees: A Denial of Rights, a Waste of Humanity, U.S. COMM. FOR REFUGEES WORLD REFUGEE SURV. 38, 38 (2004).

⁴ Thomas Pogge, Cosmopolitanism and Sovereignty, 103 ETHICS 48, 49 (1992).

persecution or in some cases, due to environmental reasons. While a strong case may be made for migrants involuntarily fleeing economic destitution to be considered as refugees,⁵ pragmatic constraints in the Indian context restricts the scope of this paper to provide for comprehensive research on such class of refugees.

A BACKGROUND ON REFUGEES IN INDIA

Before delving into the legal disempowerment that plagues refugees in India it is important to understand the differing refugee experiences that exist in the country. The lives of refugees in India and their treatment is not one of homogeneity. Broadly speaking, the classes of refugees that have entered India since Independence are as follows:

Post-partition refugees (1947): This class of refugees form the biggest influx of migrants into India. It is estimated that between 14-18 million refugees migrated across both the borders of India and Pakistan, as well as from the border of East Bengal (now Bangladesh).⁶ The communities that comprise this diaspora include Hindus, Sikhs, Muslims, and Sindhis. Given the large-scale displacement of refugees created by the Partition, there exists a high degree of heterogeneity in terms of material conditions and assimilation into Indian society post-settlement.⁷ The Constitution of India,⁸ provided safeguards by which such refugees were ensured a legitimised position in the country. It contemplated the various scenarios by which refugees entered into the territory of India from both Pakistan and East Pakistan. Furthermore, material conditions and quality of life largely varied based on the ambit of caste, religion and economic status.⁹

Tibetan refugees (1959): The first wave of refugees from Tibet entered India around the 1959. They were led by the 14th Dalai Lama who was fleeing Chinese occupation. Approximately 85,000 Tibetans entered into India during this first wave.¹⁰ This was followed by a second influx in 1985 where 25,000 Tibetan refugees entered India.¹¹ Since the 1990s around 25,000

⁵ MICHAEL FOSTER, INTERNATIONAL REFUGEE LAW AND SOCIO-ECONOMIC RIGHTS (1st ed. 2007).

⁶ TIM DYSON, A POPULATION HISTORY OF INDIA: FROM THE FIRST MODERN PEOPLE TO THE PRESENT DAY 189 (1st ed. 2018).

⁷ Pablo Bose, Dilemmas of Diaspora: Partition, Refugees, and the Politics of "Home," 23 CAN. J. ON REFUGEES 58, 62 (2006).

⁸ INDIA CONST. pt. II.

⁹ URVASHI BUTALIA, "Margins," in THE OTHER SIDE OF SILENCE: VOICES FROM THE PARTITION OF INDIA 295 (1st ed. 1998).

¹⁰ R.S. CHAURASIA, HISTORY OF MODERN CHINA 335 (1st ed. 2004).

¹¹ Maura Moynihan, Situation of Tibetan Refugees and Those Not Recognized as Refugees; Including Legal

Tibetan refugees enter India every year. The Tibetan population in India peaked at around 150,000 but has since decreased to roughly 85,000 people.¹² Tibetan refugees are often regarded as having received more favourable treatment as compared to other refugees in India. This can be attributed to India's sympathetic position towards Tibet's independence in the face of hostilities with China.¹³ There exist various Tibetan settlements across India, Dharamshala being the largest. Tibetans have been able to acquire PAN cards, Aadhar Cards, and even Voting IDs.¹⁴ The 1986 Amendment to the Citizenship Act, further facilitated the acquiring of citizenship for those that desired it.¹⁵ Many Tibetans, however, have held on to their Tibetan citizenship owing to their determination of a free and independent Tibet.¹⁶

Chakma and Hajong refugees (1962): The Chakma community originate from Bangladesh (formerly East Pakistan). A series of construction projects in the region displaced the community, forcing 140,000 refugees to flee into various regions of Assam, Mizoram, Arunachal Pradesh and Tripura.¹⁷ Refugees from the Chakma and Hajong community have historically faced persistent discrimination and a lack of acceptance in the North-Eastern areas of India. This discrimination was in the backdrop of larger anti-refugee protests that pervaded the North-East region.¹⁸ A prominent example of these anti-refugee protests was seen in the "Refugee go back" protest that was endorsed by the then sitting Chief Minister of the state. This was despite the existence of the Indira-Mujib agreement which provided for the granting of citizenship to Chakma and Hajong Refugees.¹⁹ This led to a form of institutionalised repression in cultural, social and economic rights of the Chakma community. Through a landmark Supreme Court decision however, many persons from the Chakma and Hajong

Rights and Living Conditions, ECOI.NET (Dec. 23, 1999), <https://www.ecoi.net/en/document/1193251.html> (last visited Aug. 8, 2024).

¹² Rahul Tripathi, Tibetan Refugees Down from 1.5 Lakh to 85,000 in 7 Years, *INDIAN EXPRESS* (Sept. 11, 2018), <https://indianexpress.com/article/india/tibetan-refugees-down-from-1-5-lakh-to-85000-in-7-years-5349587/> (last visited Aug. 8, 2024).

¹³ Dawa Norbu, Refugees from Tibet: Structural Causes of Successful Settlements, in *REFUGEE AND HUMAN RIGHTS-SOCIAL AND POLITICAL DYNAMICS OF REFUGEE PROBLEM IN EASTERN AND NORTH-EASTERN INDIA 199* (1st ed. 2001).

¹⁴ Ru-Yu Lin, The Privileged Refugees: Questions on Tibetan Nationality and Citizenship, in *ROUTLEDGE HANDBOOK OF REFUGEES IN INDIA 558* (1st ed. 2022).

¹⁵ Citizenship (Amendment) Act, 1986, No. 65, Acts of Parliament, 1986 (India).

¹⁶ Lin, *supra* note 14, at 559.

¹⁷ Ajay Darshan, Insurgency in the Bangladesh Hills: Chakmas' Search for Autonomy, 19 *STRATEGIC ANALYSIS* 985, 988 (1996).

¹⁸ SAMIR KUMAR DAS, *BLISTERS ON THEIR FEET: TALES OF INTERNALLY DISPLACED PERSONS IN INDIA'S NORTH EAST 56* (1st ed. 2008).

¹⁹ Suhas Chakma, Chakma Hajong Imbroglio: A Prisoner of Politics, *ARUNACHAL TIMES* (Apr. 28, 2024), <https://arunachaltimes.in/index.php/2024/04/28/chakma-hajong-imbroglio-a-prisoner-of-politics/> (last visited Aug. 8, 2024).

community were able to acquire citizenship and also became franchised, earning the right to vote.²⁰ This has subsequently allowed for representation in various legislative and other facets of Indian polity.²¹ However, their struggle continues as many persist in questioning the legitimacy of the Chakma and Hajong community's citizenship²².

Bangladeshi refugees (1971): A second wave of refugees from East Pakistan would come into India post the Bangladesh liberation war of 1971. It is estimated that 10 million refugees from East Pakistan fled to India.²³ This refugee influx was a product of West Pakistan's (now Pakistan) conducting a military operation codenamed "Operation Searchlight", that sought to curb Bengali dissent in the wake of growing support for an independent East Bengal.²⁴ The situation both prior and during the liberation movement witnessed growing acrimony towards minority communities especially Bengali Hindus.²⁵ Reports from the time suggest the thatched conditions in which many were required to live in post entry into India²⁶. The implementation of the Citizenship Amendment Act, 2019²⁷ facilitated the grant of citizenship for many of such refugees.

Sri Lankan refugees (1983): Refugees from Sri Lanka comprise mainly of the Tamil population that resided in the country. The cause of their exodus into India, specifically Tamil Nadu, was the resultant ethnic violence faced by the Tamil population by the majority Sinhalese population²⁸. Tensions between these communities had percolated by virtue of the regressive Ceylon Citizenship Act, 1948,²⁹ which disenfranchised the Tamil population residing in Sri Lanka, denying them citizenship thus rendering them stateless. In 1983, a civil war broke out between the Liberation Tigers of Tamil Eelam and the Sri Lankan government³⁰ which lasted

²⁰ Nat'l Human Rights Comm'n v. State of Arunachal Pradesh, (1996) AIR 1234 (India).

²¹ Pnjang Aboh, Electoral Politics and Chakma Voters of Arunachal Pradesh: An Analysis of Implications of Chakma Voters in the Four Assembly Constituencies, 12 INT'L J. ADVANCED RSCH. 415, 418 (2024).

²² K.C. Das, Statelessness: A Study of Chakma Refugees of Arunachal Pradesh, 1 SOC. ECOLOGY & ARCTIC RSCH. CONSORTIUM 50, 53 (2015).

²³ Peter Grbac, Accessing Refuge: India and Its 1971 Refugee 'Problem,' 10 REFUGEE WATCH 43, 44 (2014).

²⁴ JYOTI SEN GUPTA, HISTORY OF FREEDOM MOVEMENT IN BANGLADESH, 1943-1973, at 325 (1st ed. 1974).

²⁵ Tahrima Rahman, Pakistan's Policies and Practices Towards the Religious Minorities, 3 S. ASIAN HIST. & CULTURE 302, 305 (2012).

²⁶ Sydney H. Schanberg, Bengali Refugees in Squalor, N.Y. TIMES (May 22, 1973), <https://www.nytimes.com/1971/05/22/archives/bengali-refugees-in-squalor-in-india-bengali-refugees-living-in.html> (last visited Aug. 8, 2024).

²⁷ Citizenship (Amendment) Act, 2019, No. 47, Acts of Parliament, 2019 (India).

²⁸ Viziru Mirela Adriana, The Sri Lankan Civil War: From Conflict to Peace Building, 14 GLOBAL J. HUM.-SOC. SCI. 33, 33 (2014).

²⁹ Ceylon Citizenship Act, No. 18 of 1948 (Ceylon).

³⁰ Deimantas Valanciunas, Haunting Memories: Sri Lankan Civil War, Trauma and Diaspora in Literature and Film, 14 CULTURE & TRANSFORMATION 37, 42 (2019).

till 2009. The war saw multiple pogroms against Tamils and widespread anti-Tamil sentiment in the island nation. This would cause the mass migration of Tamils to India over the next two decades.³¹ There are currently 71,832 Sri Lankan refugees in India including those still in refugee camps and those outside.³² While a significant number of refugees were repatriated and granted Sri Lankan citizenship, there are a large number of those who desire Indian citizenship. This has resulted in the question of whether dual citizenship or merely granting Indian citizenship³³ to these refugees, is still being studied. India's repeated rejections of the applications for citizenship from Tamil refugees and the exclusion from the Citizenship Amendment Act 2019,³⁴ has left the community in a state of uncertainty. This is further aggravated by the dismal conditions of camps in which many refugees still reside.³⁵

Rohingya refugees (2012): Rohingya refugees have been at the epicentre of divisive ethnonational politics in contemporary India. They are a Muslim minority hailing from Myanmar (formerly Burma). They are the most recent refugees that have entered into India.³⁶ The reason for their migration was persecution by the Buddhist majority in Myanmar.³⁷ Specifically in 2012, when approximately 140,000 Rohingyas were forced to flee due to increased ethnic violence by the Buddhist majority.³⁸ There are 40,000 Rohingya refugees in India as of 2024. The Citizenship Amendment Act, which granted citizenship to those migrants who entered India before 2015 from Bangladesh, Pakistan and Afghanistan on the grounds of religious persecution, excluded from its ambit Muslim migrants.³⁹ It is due to this lacuna in the legislation that many Rohingyas face uncertainty and fear of deportation. The lack of any

³¹ V. Suryanarayan, Focus on the Sri Lankan Tamil Refugees, SRI LANKA GUARDIAN (Nov. 13, 2009), <http://www.srilankaguardian.org/2009/11/focus-on-sri-lankan-tamil-refugees.html> (last visited Aug. 9, 2024).

³² T. Ramakrishnan, Sri Lankan Refugees | The Long Wait for Indian Citizenship, THE HINDU (Jan. 13, 2024), <https://www.thehindu.com/news/national/the-long-wait-for-indian-citizenship/article67734873.ece>.

³³ Suryanarayan, Resolve Sri Lankan Refugee Dilemma, in ROUTLEDGE HANDBOOK OF REFUGEES IN INDIA 608 (1st ed. 2022).

³⁴ Roshni Kapur, Indian Citizenship Law's Exclusion of Sri Lankan Tamils, THE DIPLOMAT (Apr. 16, 2024), <https://thediplomat.com/2024/04/indian-citizenship-laws-exclusion-of-sri-lankan-tamils/> (last visited Aug. 9, 2024).

³⁵ Nasreen Chowdhory & Shamna Thacham Poyil, At the Margins: Sri Lankan Tamil Refugee Women in Camps in Tamil Nadu, in ROUTLEDGE HANDBOOK OF REFUGEES IN INDIA 619 (1st ed. 2022).

³⁶ Nivedita Sudheer & Debanjan Banerjee, The Rohingya Refugees: A Conceptual Framework of Their Psychosocial Adversities, Cultural Idioms of Distress and Social Suffering, NAT'L CTR. FOR BIOTECHNOLOGY INFO. (Dec. 17, 2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8715339/> (last visited Aug. 9, 2024).

³⁷ Syeda Parnini, The Crisis of the Rohingya as a Muslim Minority in Myanmar and Bilateral Relations with Bangladesh, 33 J. MUSLIM MINORITY AFFS. 281, 284 (2013).

³⁸ Tehmina Abbas & Ravi Hemadri, Rohingya Refugees in India, in ROUTLEDGE HANDBOOK OF REFUGEES IN INDIA 359 (1st ed. 2022).

³⁹ Gurvinder Singh, India Says New Law Saves Persecuted Refugees. Rohingya Ask 'Why Not Us?', AL JAZEERA (Mar. 27, 2024), <https://www.aljazeera.com/news/2024/3/27/rohingya-in-india-accuse-modi-of-double-standards-on-citizenshiplaw> (last visited Aug. 9, 2024).

regulatory framework is exacerbated by poor living conditions in camps.⁴⁰

Other refugees in India include those from Afghanistan, Sudan, Somalia and other smaller nations. While forming a relatively small portion of the entire refugee population in India, they nonetheless are equally burdened by the various hurdles and discriminatory attitudes as mentioned above.

LEGISLATIVE FRAMEWORK IN INDIA

To understand the manner in which an enacted law can ensure the legal empowerment of refugees, we must first look at the current legislative setup, and the judicial response to the status quo treatment of refugees in India. The ambiguity of refugee laws in India begins with the manner in which pre-existing laws have been widely stretched out and expanded for the purposes of regulating the movement of refugees. The primary governing laws dealing with refugees in India are: the Foreigners Act of 1946,⁴¹ the Registration of Foreigners Act of 1939,⁴² the Passport (Entry into India) Act of 1920,⁴³ the Passport Act of 1967,⁴⁴ the Extradition Act of 1962,⁴⁵ the Citizenship Act of 1955⁴⁶ - amended recently in 2019 and the Illegal Migrant (Determination by Tribunals) Act of 1983.⁴⁷ These Acts, along with their relevant rules and regulations deprive refugees of both procedural and substantive fairness. The Foreigners Act, 1946⁴⁸ defines a foreigner as a “a person who is not a citizen of India”. It is at this juncture we arrive at the overarching problem. Indian legislation conflates the status of refugee with the status of a foreigner. This classification goes against the tenets of Article 14 of the Constitution of India which states that to discriminate against a set of people for the purpose of legislation, the classification must firstly be founded upon intelligible differentia as to why such a grouping was made. Secondly, the differentia must have a rational relation to the object sought to be achieved, as well as, an intelligible differentia between that which it includes and that which it excludes by the statute.⁴⁹ Furthermore, the grouping of refugees with other types of persons entering the country is manifestly arbitrary. *E.P. Royappa v. State of Tamil Nadu*⁵⁰ and further

⁴¹ Foreigners Act, 1946, No. 31, Acts of Parliament, 1946 (India).

⁴² Registration of Foreigners Act, 1939, No. 16, Acts of Parliament, 1939 (India).

⁴³ Passport (Entry into India) Act, 1920, No. 34, Acts of Parliament, 1920 (India).

⁴⁴ Passports Act, 1967, No. 15, Acts of Parliament, 1967 (India).

⁴⁵ Extradition Act, 1962, No. 34, Acts of Parliament, 1962 (India).

⁴⁶ Citizenship Act, 1955, No. 57, Acts of Parliament, 1955 (India).

⁴⁷ Bhavika Madnani, Rights of Refugees in India, 2 INT'L J. TREND SCI. RSCH. & DEV. 1087, 1088 (2018).

⁴⁸ Foreigners Act, 1946, § 2(a) (India).

⁴⁹ *Budhan Choudhry v. State of Bihar*, (1955) SCR 1046 (India).

⁵⁰ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3 (India).

expanded upon in the *Shayara Bano v. Union of India*.⁵¹ The doctrine of manifest arbitrariness is simply “*something done by the legislature capriciously, irrationally, and/or without adequate determining principles. Also, when something is done that is excessive and disproportionate, any such legislation that is demonstrated to be manifestly arbitrary is also a violation of Article 14*”. International Law on the other hand, provides a comprehensive definition of who can be classified as a refugee. According to the United Nations Convention relating to the Status of Refugees:⁵²

“A Refugee is “Any person who [...] owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”

While it may seem futile to bring about arguments of constitutionality as refugees are non-citizens and have limited entitlements under Part III of the Indian Constitution, it is still important to question the irrationality of such classification, and the manner by which it goes against basic constitutional values. The various ways by which Indian legislation may discriminate and exercise control over refugees is as follows:

RESTRICTION IN MOVEMENT: Refugees in India, including those who may have resided in the country for years are subject to arbitrary control by various authorities under the array of legislation currently in force. Order 11⁵³ of the Foreigners Order, 1948 provides the Civil authority wide discretionary powers in matters of movement. As per Order 11, the Civil authority may impose conditions by order in writing, in respect of place of residence, movement, association with any person or class of persons and possession of any specified articles. Such provisions invariably sequester refugees from assimilating into Indian life. In the absence of any concrete legal process to obtain citizenship on the grounds of being a refugee, restrictions on movement and activities further prolong their suffering.

ARBITRARY ARREST AND DETENTION: Section 12 of the Passports Act, 1967,⁵⁴

⁵¹ *Shayara Bano v. Union of India*, (2017) 9 SCC 1 (India).

⁵² Convention Relating to the Status of Refugees art. 33(1), July 28, 1951, 189 U.N.T.S. 137.

⁵³ Foreigners Order, 1948, Order 11 (India).

⁵⁴ Passports Act, 1967, § 12(1)(c) (India).

makes the failure to produce a passport or travel document when called upon to do so by the prescribed authority with imprisonment up to 2 years and a fine which may extend to 5000 rupees. Section 13 of the Act,⁵⁵ further confers powers to an officer not below the rank of sub-inspector, to arrest such person without a warrant. From a pragmatic standpoint, the likelihood of refugees having fled their home countries with valid passports, is low. Provisions under the Passports Act, ensure that a refugee is deemed a criminal at the time of entry itself. A parallel set of criminal proceedings are initiated under this Act apart from any other regulatory mechanisms refugees would have to undergo in India.

FOREIGNERS TRIBUNAL: There is a lot to be said about the introduction of the Foreigners Tribunals in India. In pursuance of Section 3 of the Foreigners Act, 1946, the Foreigners (Tribunals) Order, 1964⁵⁶ was implemented. The function of the tribunals is for the purpose of discerning whether a suspected person is a foreigner or not. Under Order 3 of the said regulations,⁵⁷ the Tribunal shall submit its opinion to the specified authority, after giving the alleged foreigner an opportunity to represent his/her case. An aggrieved person under the regulations shall have only a period of 120 days to appeal the order of the Tribunal.⁵⁸ There exists sufficient research on the various underlying problems. Many Foreigners Tribunals pass ex parte judgements without giving an opportunity to refugees present their case. Many persons who appear before the Tribunal are illiterate and lack adequate resources to represent themselves and understand the process. During the investigative process many such victims of the process have been subject to harassment by police authorities. Lastly, corruption is alleged to be rampant amongst these Tribunals.⁵⁹ The overarching implication of these realities is the inaccessibility to due process of law and a denial of justice.

JUDICIAL RESPONSE

Judicial response to refugees and their protection in India is non-uniform. This is a by-product of the differing contexts both in terms of questions of law and reasons for which the judiciary has been required to adjudicate disputes concerning refugees in India. Irrespective of their non-uniform nature, each precedent has set the tone for the lives and living standards of refugees in

⁵⁵ Id. § 13(1).

⁵⁶ Foreigners (Tribunals) Order, 1964 (India).

⁵⁷ Foreigners (Tribunals) Order, 1964, Order 3 (India).

⁵⁸ Foreigners (Tribunals) Order, 1964, Order 3A (India).

⁵⁹ Prashanth Singh, The Citizen Determination Process in India (Including the Citizenship Amendment Bill 2016) and the Ensuing Refugee Crisis, in ROUTLEDGE HANDBOOK OF REFUGEES IN INDIA 70 (1st ed. 2022).

India. This section of the paper can be divided into two parts. Firstly, the response of trial courts in India and secondly the precedents set by both the High Courts and Supreme Court of India

ORDERS OF THE TRIAL COURTS

S.P. Sarker in his book 'Refugee Law in India',⁶⁰ chronicles various orders of the Trial Courts, which shed light on the treatment of refugees. In one case,⁶¹ a citizen of Myanmar, prior to obtaining refugee status from the United Nations High Commissioner for Refugees (UNHCR), was arrested under the provisions of The Foreigners Act, 1946. He remained in judicial custody for a period of 9 months and was later given a sentence of time spent by the Court. In another instance, a refugee was unable to produce his certificate of refugee status obtained from the UNHCR and was sentenced to a period of 6 weeks rigorous imprisonment.⁶² A Sudanese woman who was a victim of gang rape due to her decision to convert to Christianity in Sudan, was placed in 10 days of judicial custody, even though she had applied for the status of a refugee with the UNHCR.⁶³

The above instances of the Trial Courts indicate a disconnect between the judiciary and refugee status. While many judges take a lenient stance in their sentencing, it does not take away from the under-trial torment refugees are required to go through. The lack of any mechanism by which persons are able to avail interim protection whilst applying for the refugee status, makes their entry into India convoluted.

JUDGEMENTS OF THE HIGH COURT AND SUPREME COURT OF INDIA

A pattern that can be observed with regards to the Supreme Court and High Courts in respect of treatment of refugees, is that they are prima facie selective. Some refugee communities have obtained favourable judgements while others have not. At the outset, the cases that dictate the overarching attitude of the High Courts and Supreme Courts, are two landmark judgements. These are: Hans Muller of Nuremburg v. Superintendent, Presidency Jail, Calcutta and Ors,⁶⁴ and secondly Louis De Raedt v. Union of India and Ors.⁶⁵ In the former case the Supreme Court upheld the constitutionality of Section 3(2)(c) of the Foreigners Act, 1946 which

⁶⁰ S.P. SARKER, REFUGEE LAW IN INDIA (1st ed. 2017).

⁶¹ Id. at 28.

⁶² Id.

⁶³ Id.

⁶⁴ Hans Muller of Nuremburg v. Superintendent, Presidency Jail, Calcutta, (1955) AIR 367 (India).

⁶⁵ Louis De Raedt v. Union of India, (1991) AIR 1886 (India).

provides the Government the power to order that a foreigner “shall not remain in India or in any prescribed areas therein”.⁶⁶ In the latter case the Supreme Court, while citing the Hans Mueller case held that the right to freely reside and settle in any part of India is available only to citizens. Furthermore the Supreme Court reiterated the right of the Indian Government to expel foreigners from India. Currently, many cases brought before the High Courts and Supreme Court, are related to interim relief against deportation. Refugees in these cases, often seek interim relief against refoulement either on the grounds of fear of persecution in their home countries or in order to seek the opportunity to go to the UNHCR offices.

The following are a list of notable case laws that best exemplify the above position:

1. **National Human Rights Commission v. State of Arunachal Pradesh:**⁶⁷ A Petition was filed by the National Human Rights Commission (NHRC), seeking the protection of the Chakma community and ensuring that the liberty of the Chakma community is guaranteed under Article 21 of the Constitution of India. The Supreme Court in concurring with the findings of the NHRC directed that the the State of Arunachal Pradesh, “*ensure that the life and personal liberty of each and every Chakma residing within the State shall be protected and any attempt to forcibly evict or drive them out of the State by organised groups*”.
2. **Mohd. Salimullah and Anr v. Union of India and Ors:**⁶⁸ This is one of the most recent judgements regarding the determination of rights of refugees in India by the Supreme Court. In this case the petitioners sought injunctive relief against the deportation of Rohingya refugees currently in a holding centre in Jammu and Kashmir. They argued that the principle non-refoulement was guaranteed under Article 21 of the Constitution of India. The Supreme Court acknowledged the fact that though India is a non-signatory to the Refugee Convention, they can no doubt draw inspiration from it. The right against deportation, however, as per the Supreme Court is ancillary to Article 19(1)(e), a right merely available to citizens of India. As such no relief was granted.
3. **Khy-Htoon and Ors vs The State of Manipur:**⁶⁹ The High Court of Manipur in this case allowed for the interim bail for the purposes of applying for Refugee Status with the UNHCR,

⁶⁶ Foreigners Act, 1946, § 3(2)(c) (India).

⁶⁷ Nat'l Human Rights Comm'n v. State of Arunachal Pradesh, (1996) AIR 1234 (India).

⁶⁸ Mohd. Salimullah v. Union of India, (2021) SCC OnLine SC 296 (India).

⁶⁹ Khy-Htoon v. State of Manipur, 1990 Cri.L.J. 519 (India).

thus allowing the Petitioner to seek asylum.

4. **Ktaer Abbas Habib Al Qutaifi and Anr v. Union of India:**⁷⁰ The Petitioners sought be handed over to the UNHCR for a temporary period, on the basis of principle of non-refoulement. The Gujarat High Court in granting relief to the Petitioners observed that the Court may draw inspiration from various international instruments to which India is a signatory to.
5. **Selvakulendran v. State of Tamil Nadu:**⁷¹ Despite having a ration card and being enrolled in the voting list, the Petitioner was deemed a foreigner under the Foreigners Act. The Madras High Court upheld the order of the executive confining him to a refugee camp
6. **Nandita Haksar v. State of Manipur:**⁷² This case serves as one of the most liberal interpretations of refugee policy in India, as well as India's obligations to international law. The Petitioners in this case sought the High Court to allow seven Myanmarese citizens to go to Delhi to the UNHCR. The High Court of Manipur in granting the relief, held that even though India is not a signatory to the Refugee Convention, the principle of non-refoulement is enshrined both under Article 21, as well as the other international instruments to which India is a part of. Further the Court observed as follows:

"12. The aforestated arguments of the learned counsel for the State and the Central Governments proceed on a rather narrow and parochial consideration of the larger issues that arise in this case. The seven Myanmarese individuals in question are not 'migrants', as normally understood, but are 'asylum seekers'. They did not enter our country with the clear-cut and deliberate intention of breaking and violating our domestic laws. They fled the country of their origin under imminent threat to their lives and liberty. They aspire for relief under International Conventions that were put in place to offer protection and rehabilitation to refugees/asylum seekers. In such a situation, insisting that they first answer for admitted violations of our domestic laws, as a condition precedent for seeking 'refugee' status, would be palpably inhumane.

⁷⁰ Ktaer Abbas Habib Al Qutaifi v. Union of India, 1999 Cri.L.J. 919 (India).

⁷¹ Selvakulendran v. State of Tamil Nadu, W.P. No. 1249 of 2005 (India).

⁷² Nandita Haksar v. State of Manipur, 2021 SCC OnLine Mani 176 (India).

GROUND REALITIES

India has a proud history of being a sanctuary for refugees⁷³ during times of political instability, natural disasters, persecution, etc. However, it is important to note that most of the refugee policies which have prevailed in the past are ad-hoc in nature. This seems to be a continuing trend in the nation due to the lack of a formal system of laws which govern the grim situation of inflow of refugees from neighboring nations. This has resulted in such policies drastically shifting depending upon the whims and fancies of the Union government.

Although India is not a signatory to the Refugee Convention, it is a party to several other significant international instruments,⁷⁴ including the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1976), and the International Covenant on Economic, Social, and Cultural Rights (1976).

Moreover, Article 21 which extends to all individuals irrespective of whether or not they are citizens, guarantees the fundamental Right to Life and Liberty. Article 21 also encompasses many other rights such as the Right to Shelter, Right to Education, Right to Health and Right to Social Justice and Economic Empowerment. This should inherently require the state to ensure that the refugees who are accommodated in camps located on the borders, are given access to the facilities which shall enable them to secure the benefits promised by their guaranteed rights.

LIVING CONDITONS

The living conditions of refugees in India are truly shocking. The majority of them find shelter in makeshift residences which are made of corrugated sheets that can barely withstand strong winds and heavy downpours. Access to clean water and sanitation facilities remain a farce and there is also an absence of electricity supply to these camps. Such appalling living conditions enable bacteria and viruses to thrive, which pose a significant threat of the spread of deadly diseases which could cause epidemics such as COVID-19. Most of these settlements are situated on the outskirts of big cities where employment opportunities and public utilities are extremely minimal. Additionally, the municipal authorities in these areas pay little attention to

⁷³ T. Ananthachari, *Refugees in India: Legal Framework, Law Enforcement and Security*, ISIL Y.B. INT'L HUMANITARIAN & REFUGEE L. (2001).

⁷⁴ Prabodh Saxena, *Creating Legal Space for Refugees in India: The Milestones Crossed and the Roadmap for the Future*, 19 INT'L J. REFUGEE L. 246, 246–272 (2007).

the upkeep and maintenance of these regions.

Examining the living conditions of refugees across various regions of the country offers a deeper insight into the harsh realities they face. A significant number of Rohingya migrants have settled on the outskirts of Jammu,⁷⁵ living in makeshift shelters made of wooden sticks and plastic sheets. These structures offer little protection from the severe northern winters, leaving residents without any reliable source of heat or shelter. As a result, many individuals living in these conditions succumb to the harsh environment due to their extreme vulnerability.

The capital city of Delhi hosts a significant population of Afghan refugees, many of whom live in poorly constructed buildings commonly referred to as chawls. These chawls are characterized by dilapidated structures that often become hubs for anti-social activities due to the lack of government recognition and monitoring. The overcrowded conditions within these buildings, coupled with shared communal latrines, put residents at high risk of contracting serious infections, including sexually transmitted diseases (STDs). In a recent survey⁷⁶ that was conducted, out of a focus group of 25 refugees, 93% of the group stated that they had no access to basic sanitation. There are also reports that many people living in these chawls use the same space for both sanitation and cooking. Additionally, extreme overcrowding makes these areas particularly susceptible to devastating fires, where even a small spark results in significant loss of life.

Despite the harsh living conditions, landlords demand exorbitant rents,⁷⁷ often exceeding the earnings of the residents. Additionally, cultural and language barriers strain relationships between landlords and tenants, leading to many tenants being evicted from their temporary homes in the dead of night without prior notice.

ACCESS TO LIVELIHOOD

Access to livelihood is a fundamental right guaranteed to all individuals under Article 23(3) of the Universal Declaration of Human Rights. It is intrinsic to human nature, enabling individuals to achieve a safe and sustainable standard of living, which in turn allows them to secure other

⁷⁵ Mir Tajamul Islam & Bashi Zahid Khan, A Day in a Refugee Camp: Miseries from Inside, BRIGHTER KASHMIR (July 15, 2024), <https://brighterkashmir.com/>.

⁷⁶ Daniel P. Sullivan & Priyali Sur, Shadow of Refuge: Rohingya Refugees in India, REFUGEES INT'L (May 18, 2023), <https://www.refugeesinternational.org/>.

⁷⁷ Maina Sharma, Refugees in Delhi, CTR. FOR CIV. SOC'Y (2009).

rights with dignity. Thus, access to livelihood goes beyond merely acquiring material wealth; it also contributes to the holistic development of an individual.

The status of refugees in India is akin to that of aliens due to the absence of formal recognition and identification measures. Whilst the UNHCR has worked proactively in ensuring that the refugees are given refugee cards as a proof of identification, the Union government have expressed their strong dissent⁷⁸ in not recognizing those cards as a legitimate means of securing asylum in India. In north-eastern states like Mizoram,⁷⁹ state governments issue identification to refugees through an arbitrary process. However, refugees still remain unable to access government services unless they renounce the citizenship of their home countries. Therefore, it is the decision of the MHA that ultimately decides their fate.

Most of the refugee population lacks proper documentation, preventing them from accessing employment opportunities and securing a stable livelihood. The majority are unaware of their rights and lack the knowledge needed to obtain the necessary documents to secure employment. Even when they do seek documentation, the process is often financially burdensome and exhausting.

This leads to significant hardships, particularly for skilled individuals who are compelled to seek employment in the informal sector where they can circumvent the need for legal documentation. However, the absence of legal protection in these sectors makes them vulnerable to abuse and exploitation. They are paid meagre wages and subjected to harsh and inhumane working conditions.

A majority of the Rohingya refugees work as ragpickers, construction workers and domestic helps. Chin and Afghan refugees face severe discrimination during the hiring process. Their inability to speak the local language and cultural differences make them particularly vulnerable as they struggle to find employment, even in labour-intensive sectors.

Their realities don't change much even after securing jobs. Refugees contend that they are often subjected to harsh discrimination by their fellow employees who are locals. They are also given less pay than the locals and have no access to redressal due to their inability to speak the local

⁷⁸ Dhananjay Mahapatra, *Illegal Rohingya Have No Right to Settle in India*, TIMES OF INDIA (Mar. 20, 2024), <https://timesofindia.indiatimes.com/>.

⁷⁹ Priyanka Shankar, *India's Stateless Babies: How Lawless Asylum Rules Leave Refugees in Limbo*, AL JAZEERA (Jan. 5, 2024), <https://www.aljazeera.com>.

language.⁸⁰

Sexual harassment is widespread in these industries, where employers openly demand sexual favors from female employees, exploiting their socio-economic vulnerabilities. Most victims refrain from reporting such incidents due to the fear of arrest and deportation.⁸¹ Their undocumented status and lack of legal protection make them hesitant to approach authorities, leaving them trapped in a cycle of exploitation without access to justice or support.

ACCESS TO HEALTHCARE

Since most refugees seek shelter in very unhygienic and unsafe conditions, they are most vulnerable to the spread of deadly diseases such as hepatitis, malaria, etc. They also lack sufficient nutrition to build immunity against these diseases due to poor diets caused by their weak socio-economic conditions.

For instance, during the nationwide lockdown of 2020, refugee communities were largely neglected by the state, as the government failed to implement free testing initiatives⁸² that could have been crucial in curbing the spread of the COVID-19 virus. Even when such a scheme was introduced under the “Co-Win” platform, the required documents for registration, such as an Aadhar card, Driving License, or Voter ID, were inaccessible to refugees due to their lack of formal recognition in India. As a result, they were effectively excluded from accessing essential healthcare services, which further worsened their living conditions amidst those difficult times.

When the MHA eventually released its standard operating protocol (SOP) prescribing vaccination for individuals without identity cards, i.e. disadvantaged and vulnerable groups, it neglected to include refugee cards issued by the UN as a valid form of identification. The SOP also mandated the appointment of an officer to gather information from specific communities to accurately determine the number of vials needed. However, no personnel were assigned to assess the needs of refugee communities residing in India, leaving them unaccounted for in the process. This underscores the pervasive attitude of neglect that has been fostered towards

⁸⁰ Paula Jops, Caroline Lenette & Jan Breckenridge, A Context of Risk: Uncovering the Lived Experiences of Chin Refugee Women Negotiating a Livelihood in Delhi, 32 REFUGE: CAN. J. ON REFUGEES 84, 84–94 (2016).

⁸¹ Id. at 88.

⁸² Kimi Colney, How India and the UNHCR Failed to Provide Healthcare and Vaccination for Chin Refugees, CARAVAN MAG. (June 7, 2021), <https://caravanmagazine.in>.

refugee communities seeking shelter in India.

A significant and recurring concern is the lack of access to advanced healthcare for pregnant women, the elderly, and those requiring critical medical assistance. Pregnant women, who need regular immunizations and ultrasound scans, are often turned away from local hospitals. Many women resort to traditional childbirth methods, relying on midwives who may lack the medical expertise to handle emergencies or administer necessary medications. Consequently, several women have tragically lost their babies due to inadequate healthcare support.

Another significant issue⁸³ concerning access to healthcare involves the high cost. Many private sector hospitals, which are capable of providing advanced medical care, often reject refugees due to the high expenses involved. Most private healthcare facilities are located far from refugee camps and colonies. The combined costs of travel and treatment create a significant financial burden that only a few can afford. Even then those who manage to reach these facilities are often denied treatment due to the lack of proper documentation. Private healthcare institutions do not recognize UN-issued refugee cards as valid identification. As a result, they are compelled to refer such cases to the Ministry of Home Affairs for scrutiny and approval before providing any treatment or medical advice to these individuals.

ACCESS TO EDUCATION

Access to education is a fundamental right guaranteed under Article 21 of the Indian Constitution and Articles 13 and 14 of the United Nations International Covenant on Economic, Social, and Cultural Rights, 1976. However, this crucial right remains largely inaccessible to refugees due to the absence of required documentation. Government schools providing elementary education often require identity proof, which most refugees are unable to furnish. Additionally, many educational institutions are situated far from refugee settlements, making it nearly impossible for young children to travel such long distances on a daily basis.

Even in cases where refugee children manage to secure admissions in elementary schools, they face significant barriers in pursuing higher education.⁸⁴ These obstacles include a lack of academic merit and the absence of the necessary documentation required for further studies.

⁸³ R. Shanker & P. Raghavan, *The Invisible Crisis: Refugees and COVID-19 in India*, 32 INT'L J. REFUGEE L. 680, 680–684 (2021).

⁸⁴ Saba Kohli Dave & Debojit Dutta, *Here's How Civil Society Can Support the Rohingyas*, IDR ONLINE (Aug. 9, 2024), <https://idronline.org/>.

As a result, access to education, a critical avenue for personal and societal growth, is severely restricted for refugee communities.

Currently, many refugee communities are fortunate to access education through the support of NGOs and private individuals who have established free tutoring classes. However, these informal institutions offer limited benefits as they lack recognition from both state and central educational boards, thereby failing to provide the accredited qualifications needed for further educational or employment opportunities.

ACCESS TO JUSTICE

Refugee communities are often stopped from seeking proper recourse to justice for addressing their grievances. Most advocates are hesitant to take up matters concerning the status of refugees and cases of deportation since there are no established framework of laws which govern refugees in India. This makes it troublesome for the courts as they too have to rely on the facts and circumstances of every case and decide based on international covenants, treaties and judicial precedents.⁸⁵

In India, the unusual dual policy system⁸⁶ governing the intake of refugees are managed primarily by two bodies: the Union Ministry of Home Affairs (MHA) and the United Nations High Commissioner for Refugees (UNHCR). Sri Lankan and Tibetan refugees are registered with the Ministry of Home Affairs, while displaced individuals from other countries, such as Afghanistan and Myanmar, must register with the UNHCR. Although both institutions manage significant responsibilities, the primary focus remains on the Ministry of Home Affairs to provide proper identification and documentation for those seeking asylum in India. Newborn infants are also subjected to such neglect as most hospitals refuse to provide birth certificates⁸⁷ as parents don't hold valid documents of recognition such as Aadhar cards or Voter IDs.

Law enforcement officials often exploit the vulnerabilities of these individuals by unlawfully detaining them and demanding hefty bribes for their release.⁸⁸ Tragically, even after paying

⁸⁵ K.B. Linto & S.K. Bose, Where Does India Stand on the Refugee Question? A Critical Analysis, 6 J. POSITIVE SCH. PSYCH. 6837, 6837–6843 (2022).

⁸⁶ Sweekruthi K., Safe Haven for Some, No Refuge for Others, DECCAN HERALD (Sept. 3, 2023), <https://www.deccanherald.com/>.

⁸⁷ Mahapatra, *supra* note 78.

⁸⁸ Sangeeta Barooah Pisharoty, Interview: “Myanmar Refugees Being Ill-Treated in Indian Jails Despite Serving Terms, Paying Fines,” THE WIRE (June 27, 2024), <https://thewire.in/>.

these amounts, many remain in detention for extended periods, facing further exploitation. Their lack of awareness, language barriers, and limited knowledge of their rights keep them trapped in this cycle of abuse. The recent notification by the Ministry of Home Affairs targeting Rohingya communities has exacerbated their situation across the country, subjecting them to similar mistreatment and persecution. No proper records or documentation exist due to the government's apathetic attitude toward refugee communities seeking shelter in India. Such deplorable living conditions where refugee communities are denied access to the most basic necessities further emphasizes the requirement of a Refugee Law.

CONCEPTUALISING A REFUGEE LAW IN INDIA

In 2021, Lok Sabha MP, Dr. Shashi Tharoor introduced a private member bill in the house titled 'The Asylum Bill, 2021'.⁸⁹ This was the second time Dr. Shashi Tharoor introduced a private member bill pertaining to refugees and asylum. It becomes useful to examine certain provisions of the bill as a means of jumpstarting the possible provisions that may be included in such a bill.

Dr. Tharoor's bill provides for a definition of "Refugee"⁹⁰, "Asylum seeker"⁹¹, as well as, the principles of what can be considered "Refugee status"⁹². Furthermore, the bill provides for the constitution of a National Commission for Asylum. Under the bill a person seeking refugee status may make an application within 60 days of entering India to the National Commission.⁹³ The Commission shall within a period of 3 months pass an order from the date of hearing.⁹⁴ A person aggrieved by the decision may appeal the order within a reasonable time.⁹⁵ An important provision contemplated by the bill is the conflation of foreigner and refugee. As per Section 10(2),⁹⁶ a police officer exercising powers under the Foreigners Act, 1946, must inform a refugee of his legal right to representation and the process by which asylum can be sought. The bill also envisages providing persons who are currently undergoing the application process to be given identification for themselves and their families which will allow them to stay in

⁸⁹ The Asylum Bill, 2021, Bill No. 164 of 2021 (India) (unenacted).

⁹⁰ Id. § 2(u).

⁹¹ Id. § 2(e).

⁹² Id. § 4.

⁹³ Id. § 10.

⁹⁴ Id. § 11.

⁹⁵ Id. § 12.

⁹⁶ Id. § 10(2).

India.⁹⁷

Lastly, the bill makes provisions for what it deems “mass influx situations”, which are large numbers of people from a specific country or geographical area, who arrive at, or cross, an international border of India.⁹⁸ The bill confers powers on the government under Chapter V of the Act to regulate and restrict their movement pending their application processes.

Dr. Tharoor’s bill is a valiant effort at consolidating various mechanisms by which refugees may attain the status of citizenship and seek asylum. While the act comprehensively deals with the rights and empowerment of refugees in India, this paper suggests a few pragmatic means by which the processes of refugees assimilating and entering the country is made reasonable and balanced.

1. **Signatory to the UN Refugee Convention:** India must become a signatory to the Refugee Convention, 1951 and the Protocol Relating to the Status of Refugees, 1968. In doing so, it provides for greater scrutiny at the international level, as well as, allowing for a closer reference to these instruments when framing a refugee law. Apart from this, the Indian judiciary would be more inclined towards utilising the Refugee Convention as a means of persuasive value when adjudicating disputes relating to refugees
2. **Asylum centres near borders:** An analysis of the pertinent locations of the border through which refugees typically enter India, must be made for the purposes of establishing asylum application centres. This would allow for quick and easy means by which refugees are able to seek asylum and state their case before being apprehended by local law enforcement, or being subject to undertrial purgatory.
3. **Concurrence with the UNHCR:** The asylum process and the manner in which refugees are allowed to enter the country and seek protection, ought to be done concurrently with the UNHCR. Given their existing infrastructure and knowledge, the Government must play an active role in ensuring collaboration. This would reduce the case load of a potential Asylum Commission as well as, expedite those case where refugees seek to migrate to other countries.
4. **Principle of Non-Refoulement:** The principle of non-refoulment guarantees that no individual

⁹⁷ Id. § 10(6).

⁹⁸ Id. § 2(o).

shall be deported or forcefully sent back to his own state where he faces persecution or danger of irreparable nature. This is essential under the international covenant on civil and political rights. It re-instils the hope of escaping grave peril by providing a safe haven for refugees who seek shelter in other territories. India must reinforce the principle of non-refoulment in the new code of refugee laws.

5. **Statutory authority to govern refugee crisis:** The new code must establish an independent statutory body that shall police over the refugee communities and ensure that the laws and rules in place are enforced. This shall take a significant burden off the Ministry of Home Affairs and shall prevent bureaucratic abuse of power especially within the local law enforcement agencies.
6. **Access to basic necessities:** The Government must have a control over expenditure on refugee colonies to ensure access to basic needs such as shelter, food, legal aid, education, and sanitation. Such initiatives can enable refugees to return to their homeland and assist in its rehabilitation and redevelopment. This will help in building them as resourceful individuals thereby restoring their dignity and getting rid of the tag of refugee.

CONCLUSION

India has always taken an accommodative approach towards the handling of refugees. However, the absence of domestic legislation dealing with the issue has posed significant problems to refugees - including lack of identification, denial of access to basic necessities, stigma towards the community etc. Ad hoc and arbitrary decision-making has created negative attitudes with regard to the treatment of refugees in India. Moreover, it has a consequential effect on government agencies which are unable to keep proper documentation and records on the migrant influx through India's porous borders. It also poses significant security and public order issues that could arise thanks to the lack of attention demonstrated by the Government. Even though the judiciary has always upheld norms and rules prescribed by international covenants and conventions, the application of the same has not been followed by the executive organ of the Government.

As we share territories with nations which are prone to economic and political instabilities, refugee inflows will remain constant. This makes it imperative for India to enact a solid framework of rules and regulations which govern the refugee migration. The legislation should enforce constant monitoring, legitimate identification measures, and assurance of basic human

rights guaranteed under landmark international documents. This will be a much-needed relief for refugee communities as it will outline a clear set of legal provisions by which they will be recognized under Indian law. It will also provide executive bodies with clear and concise instructions which they are required to abide by while dealing with matters related to refugees.

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