



Refugee Crisis in India

This editorial is based on [“Rohingya row shows why we need a national refugee law”](#) which was published in Hindustan Times on 22/08/2022. It talks about status of Refugees in India and current Rohingya Crisis.

For Prelims: Refugee in India, 1951 Refugee Conference, Foreigners Act of 1946, Citizenship Amendment Act, 2019 (CAA), Rohingya Refugee, United Nations High Commissioner for Refugees

For Mains: Status of Refugees in India, Current Legislative Framework in India to Handle Refugees, Challenges Faced by Refugees in India

The [refugee influx](#) began with the partition of India in 1947, and by the start of 2010, the country had hosted nearly 450,000 refugees from within and outside the region.

India is not a signatory to the [1951 Refugee Conference](#) nor to its [1967 protocol](#) on the **repute of refugees**. Given that **no refugee law exists in India**, there is no uniformity in the treatment of refugees in the country.

However, **refugee law has become inextricably linked with the larger question of [human rights](#) and [humanitarian law](#)**, as well as other fields of international law, such as State responsibility and peace maintenance.

What is the Current Legislative Framework in India to Handle Refugees?

- India treats all foreigners whether illegal immigrants, refugees/asylum seekers or those overstaying visa permits under
 - **Foreigners Act of 1946:** Under **Section 3**, the Central government is empowered to **detect, detain and deport illegal foreign nationals**.
 - **Passport (Entry into India) Act, 1920** : Under Section 5, **authorities can remove an illegal foreigner by force** under **Article 258(1) of the Constitution of India**.
 - **Registration of Foreigners Act of 1939:** Under this, there is a mandatory requirement under which all foreign nationals (excluding **overseas citizens of India**) visiting India on a long-term visa (more than 180 days) is required to register themselves with a Registration Officer within 14 days of arriving in India.
 - **Citizenship Act, 1955:** It provided provisions for renunciation, termination, and deprivation of citizenship.
 - Further, **Citizenship Amendment Act, 2019 (CAA)** seeks to provide citizenship only to **Hindu, Christian, Jain, Parsi, Sikh, and Buddhist** immigrants persecuted in **Bangladesh, Pakistan, and Afghanistan**.
- India issued a **Standard Operating Procedure (SOP)** to be followed by all concerned agencies

while **dealing with foreign nationals who claim to be refugees.**

- The Constitution of India also respects the **life, liberty, and dignity of human beings.**
 - The Supreme Court in the **National Human Rights Commission vs. State of Arunachal Pradesh (1996)** held that while all rights are available to citizens, persons including foreign citizens are entitled to the [right to equality](#) and the [right to life](#).

What is the Status of Refugees in India?

- Since its independence, India has accepted various groups of refugees from neighbouring countries, including:
 - [Partition refugees](#) from **Pakistan** in 1947.
 - [Tibetan refugees](#) that arrived in 1959.
 - [Chakma and Hajong](#) from present day Bangladesh in early 1960s.
 - Other Bangladeshi refugees in 1965 and 1971.
 - [Sri Lankan Tamil refugees](#) from the 1980s.
 - Most recently [Rohingya refugees](#) from Myanmar, 2022.

What is the Difference Between Refugees and Migrants?

- Refugees are **people outside their countries of origin** who are in need of **international protection because of a serious threat to their life**, physical integrity or freedom in their country of origin as a result of persecution, armed conflict, violence or serious public disorder.
 - [Migrants](#) leave their country **because they want to work, study or join a family.**
- There are well-defined and specific grounds, which have to be satisfied before a person can qualify to be a 'refugee'
 - There is **no internationally accepted legal definition of a migrant.**

Why is India Not Signing the 1951 Refugee Convention?

- **Issue with Definition of Refugee:** According to the 1951 convention, refugees are defined as people who have been deprived of their civil and political rights, but **not their economic rights.**
 - If the violation of economic rights were to be included in the definition of a refugee, it would clearly pose a major burden on the developed world.
- **Eurocentrism:** India feels the **1951 convention is mostly eurocentric** and does not bother about the South Asian countries. Also, it will also affect India's safety and home laws.

What are the Challenges Faced by Refugees in India?

- **Fear and Insecurity:** Refugees are not given much importance in society. They are not treated well by the local residents and they develop a sense of fear and insecurity.
 - They are often **exploited physically and emotionally** by the local residents only on the grounds of not being citizens of the same soil.
- **Deprived of Basic Amenities:** They face the problem of getting basic life necessities such as food, shelter and employment.
 - They are **forced to work at low wages** with no high status or privileges.
- **Lack of Well-Defined Framework for their Protection:** India's [ad hoc administrative policy on refugees](#) has created an atmosphere of confusion.
 - **Lack of awareness and misinformation cause insecurity and exclusiveness** among the refugee communities.
- **Time Consuming Process of Identification:** [United Nations High Commissioner for Refugees](#) issues a [refugee card](#) through the refugee status determination process, but this process is time consuming and **can take up to 20 months for evaluation.**
 - Within that period of time if someone is caught by the police, they will be arrested, detained and deported without even getting access to the UNHCR.
- **Misidentified as Immigrants:** Over the past few decades, many people from neighbouring

countries have **illegally immigrated to India**, not because of state persecution, but to take advantage of better economic opportunities.

- For instance, **98% of all Mexican emigrants reside in the United States**, which are **more than 10.9 million (documented and undocumented) migrants**.
 - It is true that much of the **debate in the India is about illegal immigrants, not refugees**, but the **two categories tend to get grouped together**.

What Should be the Way Forward?

- **Equitable and Effective Registration Procedure:** Procedures for determining status should be made more equitable and effective while enhancing or **maintaining standards in registration and identification**.
- **Improving Basic Facilities:** Essential services and requirements should be made available.
 - These include improving access to **education**, bolstering programmes for those with **special needs, and maintaining health facilities**.
- **Awareness to Local Residents:** Ensuring Community participation through awareness programmes in **providing shelter to refugees** and improving their self-reliance capacity by providing them temporary livelihood.
- **Ensuring Safety of Women and Children:** Protection of women and child refugees from violence and harassment by authorities or local residents in consonance with **Fundamental Duty enshrined in our Constitution**.
 - **Article 51A (e)** enjoins upon every citizen to **renounce practices derogatory to the dignity of women**.
- **Emotional Support:** A person becomes a refugee because of circumstances which are beyond that person's control.
 - He/She flees from **human rights violations, socio-economic and political insecurity**, all leading to fear of persecution. In this instance, **we should aim for providing inclusivity and emotional support** in addition to financial support.

Drishti Mains Question

“Refugees in India have become inextricably linked with the larger question of human rights and humanitarian law.” Discuss.

UPSC Civil Services Examination, Previous Year Question:

Q. Consider the following pairs: (2016)

Community sometimes mentioned in the news In the affairs of

1. Kurd — Bangladesh
2. Madhesi — Nepal
3. Rohingya — Myanmar

Which of the pairs given above is/are correctly matched?

- (a)** 1 and 2
- (b)** 2 only
- (c)** 2 and 3
- (d)** 3 only

Ans- (c)

