

## ADMINISTRATIVE LAW AND REFUGEES PROTECTION LAWS IN INDIA

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### INTRODUCTION

*“Refugees come to us seeking asylum, seeking freedom, justice, and dignity-seeking a chance just to breathe. And people in our country are saying close the doors and don’t let them in?”<sup>1</sup>*

- Mandy Patinkin

India is a land that always welcomes the one who needs help at the time when their need security when they are deprived of their belongings when the time comes when it is required to help them. Refugees come as the seeker for help, freedom, and respect and are always treated with great hospitality. Whenever the time came when the motive is to safeguard the interest of refugees India had worked deliberately not to sacrifice the security of the country. However, no domestic laws lead to several administrative actions against the asylum seekers as the threat of terrorism leads to the formation of such laws which may lead to cautious government and this binds the administration to protect the people. Are those laws which deal with refugees correct for a country who have one of the biggest population of refugees all over the world?

### INTRODUCTION

India is a country home to over a billion people and has been a host to lakhs of refugees. Are there any rights present for Refugees? People who leave their homes have to live vulnerably. To answer these questions it is required to understand why these people have to leave their homeland or what conditions make a person his/her livelihood and all its belongings and lead him to move to another place begging for shed, food, and life. There could be several reasons that could easily take us to the answer to that question that some people have to answer at some point in life.

**Conflict and War:** War and conflict conditions which lead to an extreme amount of violence and destruction often perpetrated by armed groups and government lead to a huge loss of property, life, and livelihood. As we can see the ongoing condition of Russia Ukraine war,

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<sup>1</sup> Trvst, <https://www.trvst.world/poverty/refugee-quotes/>, (last accessed February 28, 2023)

the reason behind the war is land and power that is not absolute as represented in history several times, but this all lead to a situation converting this war into bloodshed as thousands of people died, natural resources burnt into ashes, and millions of refugees have to move from their native town in search of asylum in neighboring countries.

**Persecution and Discrimination:** Refugees may also have to leave their home countries because they face several discriminations based on caste, race, religion, ethnicity, or political beliefs. For instance, the Rohingya refugees fled Myanmar due to persecution by the government, which denied them citizenship and subjected them to violence and discrimination.

**Environmental Disasters and Climate Change:** The environment which is unpredictable from its face sometimes creates conditions that could be harmful and can also be a reason for people to flee their homes. For example, in 2017, over 7,00,000 people were displaced from their homes in Bangladesh Due to flooding caused by monsoon rains.

**Economic hardship and Poverty:** Economic situation of a person can lead him to do anything including leaving his home country in the search of better opportunities. For example, many refugees left a place to go to developed countries in search of jobs and livelihood.

**Health and Medical Reasons:** Some refugees may leave their home countries due to health or medical reasons. For example, during the Ebola outbreak in west Africa, many people fled in search of medical treatment and safety<sup>2</sup>. Refugees leave their native towns or countries due to a variety of reasons, including conflict, persecution, environmental disasters, economic hardship, and health reasons. Real-life examples of refugees from Syria, Myanmar, Bangladesh, South Asian countries, and West Africa demonstrate the impact of these issues on people's lives and the need for support and protection for refugees.

## LAWS THAT GOVERN THE REFUGEES IN INDIA

Even after several decades of the introduction of refugees, invasion India doesn't have a codified law regarding the protection of refugees in India but several laws are present to

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<sup>2</sup> Mohamed Malim, Biggest Causes Of A Refugee Crisis, epimonia (February 24, 2023, 9:50 P.M.)  
<https://epimonia.com/blogs/news/biggest-causes-of-a-refugee-crisis>

administer refugee security in India and provide protection to asylum seekers in the country. Here are some laws that govern India for refugees protection:

**The Constitution of India:** The book that governs the conduct of all the individuals in the country providing certain fundamental rights and providing protection to each individual including refugees or asylum seekers. These rights include the right to life, the right to personal liberty, the right to equality before the law, and the right to freedom of movement.

**The Foreign Act, 1946:** The Foreign Act guides the entry, exit, and stay of foreigners and asylum seekers in the nation for foreign individuals. Under this act, refugees and asylum seekers were given special legal status and helped them by protecting them from deportation.

**The Citizenship Act, 1955:** This bill helps by providing citizenship status to the people under proper legal provisions. Sections 3 to 7 of this act provide certain provisions for the citizenship of refugees if they fulfill certain criteria for eligibility.

**The Passport (Entry into India) Act, 1920:** This act provides regulation regarding the entry of certain individuals into India such as refugees and asylum seekers and this act also help in issuing passport and travel document which may help in the movement of that individual within the limits of the nation.

**The United Nation High Commission For Refugees (UNHCR) agreement,1951:** India signed the United Nation High Commission For Refugees (UNHCR) agreement,1951, and also agreed for providing protection and habitation to needy refugees.

**The National Refugees Policy, 2011:** The National Refugees Policy was adopted by India and focuses on providing asylum to the refugees along with the necessary protection and the required rights such as health, life, and liberty and outlining provisions relating to refugees. Overall, India doesn't provide special laws, provisions, and frameworks for the protection of asylum seekers but follows refugee-friendly policies. However, there is a need for elaborate guidelines dealing with refugees in India.

## **RIGHTS ENTITLED TO A ASYLUM SEEKER IN INDIA**

Administrative Laws and Refugees Protection in India fall under the jurisdiction of the Foreigners Act of 1946 and the Foreigners Order of 1948. The act provides certain guidelines for the settlement, entry, exit, stay, and departure of foreigners including refugees in India.

The order defines the framework under which can stay, settle, conditions of stay, and deportation from the country under this order refugees have to report to the authorities once a month.

**The Refugee Policy in India:** India does not have a specific refugee policy. However, it protects refugees based on the United Nations High Commissioner for Refugees (UNHCR) guidelines. India is not a signatory to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, which provide the legal framework for the protection of refugees. However, India is a signatory to several other international treaties and conventions that relate to human rights, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Elimination of All Forms of Racial Discrimination.

**The Role of the United Nation High Commissioner for Refugees (UNHCR) in India:** The UNHCR is the main agency that supports refugees and provides assistance and protection to individuals in India. It had been operating in India since 1951 and has been working to provide support to refugees. The UNHCR has been providing basic needs, such as food, shelter, and healthcare, to refugees residing in India. It also provides legal assistance to refugees in India.

**The Rights of Refugees:** Refugees in India entertain a certain number of rights relating to living and protection in the Indian subcontinent. Rights for those refugees are entitled were majorly recognized by the human rights commission based on human rights treaties that India has signed. Some of the Rights that Refugees are entitled are the right to life, liberty, and dignity, it applies to all individuals irrespective of the fact they are a citizen of India or not. Article 14 guarantees the person equality before the law. Articles 5, 6, 7, 8, 9, 10, 11, 12, 20, 25-28, 32, and 226 are available to the non-citizen of India.

In the case, *Louis De Raedt v Union of India* the court held that fundamental rights such as life, liberty, and dignity are available to the people who are not citizens of India.<sup>3</sup> Refugees have received protection and assistance from India for many years. The nation does not have a distinct refugee policy, but it has been helping refugees by the UNHRC's recommendations.

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<sup>3</sup> Nikita Vadrevu, Human Rights of Refugees and Refugee Laws in India and Globally, *legaldesire* (February 24, 2023, 10:00 P.M.) <https://legaldesire.com/human-rights-refugees-refugee-laws-india-globally/>

The entry, residence, and departure of foreign nationals, including refugees, from India, are subject to legal frameworks established by the Indian government. Refugees in India are entitled to several safeguards and privileges.

## **DIFFERENT PLACES DIFFERENT FACES**

There must be a worldwide response to the refugee crisis because it is a global issue. Millions of people are compelled to leave their homes each year because of conflict, persecution, or natural calamities. They are known as refugees, and they require support and safety. Refugee protection and rights are governed by international law, but how these regulations are put into practice differs from nation to nation. The refugee protection legislation of three distinct nations—Canada, Germany, and Australia—will be examined in this article.

**Canada:** Canada is renowned for its welcoming refugee policies and has a long history of doing so. The main statute governing refugee protection in Canada is the Immigration and Refugee Protection Act (IRPA). This law complies with international norms and offers a thorough framework for protecting refugees. The IRPA permits the processing of refugee claims both within and outside of Canada, as well as the relocation of refugees. The Resettlement Assistance Program is another way that the Canadian government assists refugees (RAP). For up to a year after they have arrived in Canada, refugees can receive financial and social support through the RAP. This support consists of help with housing, job, and language instruction.

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**Germany:** During the past few years, Germany has become a popular destination for refugees, and the nation has had to modify its laws to deal with the inflow of individuals looking for safety. The main piece of legislation governing refugee protection in Germany is the Asylum Act. The processing of asylum petitions and the protection of refugees are both covered by this law. Additionally, the German government assists refugees through several initiatives, including language classes and aid for finding employment. In addition to the Asylum Act, Germany has put into effect the Dublin Regulation of the EU, which permits the transfer of refugees to the nation in charge of handling their applications many refugees have been sent to nations without the necessary protections, and this policy has generated controversy.

**Australia:** The nation has come under fire for its handling of refugees due to its rigorous refugee policy. The main piece of legislation governing refugee protection in Australia is the

Migration Act. The processing of refugee claims and the protection of refugees are both covered by this law. To prevent refugees from entering Australia, the Australian government has put tough regulations in place, such as offshore processing and mandatory detention. The offshore processing strategy, which entails moving migrants to detention facilities on islands outside of Australia, has generated a great deal of controversy. These facilities have come under fire for the subpar living situations and scant refugee protection they offer.

### **PROBLEMS REFUGEES FACE**

Those who have fled their home countries due to persecution or a legitimate fear of persecution because of their race, religion, nationality, political opinion, or membership in a particular social group may be given asylum as a kind of protection. Finding a place where one can feel free and free from all concerns presents a lot of challenges for refugees. A person must declare themselves as a refugee within a particular period and other requirements, to qualify for asylum.

**Refugee Resettlement:** When a person finds it difficult to settle in a new location, particularly when it is not their intention, it is usually because they are being oppressed and driven to fear by their circumstances, other people, and society. In refugee camps, many people even commit suicide, and starting over might take a lifetime.

Language problems, a lack of necessities, prejudice based on color, cast, caste, legal obstacles, having to deal with past trauma, and present emotional agony are some obstacles. All things considered, the difficulties that refugees experience are complicated and multifaceted, necessitating a thorough and well-rehearsed response from governments, international organizations, and civil society. A comprehensive strategy that takes into account necessities access, administrative and legal support, chances for education and work, as well as mental health and psycho-social support, is needed to address these difficulties<sup>4</sup>.

### **CONCLUSION**

In conclusion, international organizations, governments, and civil society must pay close attention to and support administrative law and refugee protection as important concerns. Even though India has worked to safeguard refugees through several legal and administrative

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<sup>4</sup> Drishtias, <https://www.drishtias.com/daily-updates/daily-news-editorials/refugee-crisis-in-india>, (February 24, 2023)

frameworks, there are still major obstacles that must be overcome, including problems with discrimination, access to essentials, and legal and administrative restrictions. Successful refugee protection necessitates a thorough and coordinated strategy that covers access to necessities, legal and administrative support, chances for education and work, as well as mental health and psycho-social care. Also, it is critical to understand the main causes of displacement, which include violence, persecution, and natural disasters, and to try to address these issues through diplomacy, conflict resolution, and climate change.

