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Refugees in India (since partition)

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Abstract

Since gaining independence in 1947, India has extended support to numerous displaced populations from its neighboring countries. These have included refugees from the Partition of British India, Tibetan exiles who fled in 1959, Chakmas from what is now Bangladesh during the 1960s, Sri Lankan Tamils from the 1980s, and more recently, the Rohingya from Myanmar. Despite not having a formal or codified refugee law, India has historically followed a humanitarian approach influenced by Jawaharlal Nehru's principles laid down in 1959. These principles emphasized giving refugees a compassionate reception, treating refugee crises as bilateral matters, and encouraging voluntary repatriation once conditions in their home countries stabilize.

India has not signed the 1951 Refugee Convention or its 1967 Protocol, and in the absence of a national legal framework, refugee matters are largely addressed through administrative discretion and political judgment. Legally, refugees in India are treated similarly to other foreign nationals, and their presence is governed by the Foreigners Act of 1946. While this creates uncertainty in their legal status, the Indian judiciary, particularly the Supreme Court, has occasionally invoked international human rights instruments—such as Article 14 of the Universal Declaration of Human Rights and Article 13 of the International Covenant on Civil and Political Rights—to uphold refugee rights and prevent forced deportations.

In summary, although India has demonstrated a consistent commitment to sheltering refugees on moral and humanitarian grounds, the lack of a uniform legal policy results in inconsistent treatment and vulnerability for these populations. Establishing a comprehensive national refugee law would allow India to balance its security concerns with its humanitarian responsibilities, ensuring a more transparent and just process for all displaced persons within its borders.

KeyWords: *Refugees, Migrants, Illegal Migrants*

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Key Differences: Refugees vs. Migrants vs. Illegal Migrants:

The main distinction between a refugee and a migrant lies in the reason for leaving their home country and their ability to return safely. A refugee is someone forced to flee due to persecution, war, or violence, whereas a migrant typically moves by choice—seeking better opportunities, education, or family reunification. Meanwhile, an illegal migrant refers to anyone who enters a country without legal authorization, regardless of their reasons.

Migrants

- Voluntary relocation for reasons such as jobs, education, or family.
- Can return to their home country safely.
- May enter legally or illegally, but not all migrants are illegal.

Refugees

- Forced to flee due to threats like persecution, conflict, or human rights violations.
- Have a well-founded fear and cannot return safely.
- Protected under international refugee laws (e.g., the 1951 Refugee Convention).
- May seek asylum without legal documents, but are not automatically considered illegal—their legal status depends on asylum proceedings.

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Illegal Migrants

- Enter or remain in a country without proper legal permission (e.g., visa overstays or border crossing without authorization).
- Unlike refugees, they are not necessarily fleeing persecution.
- Face legal penalties, including detention or deportation.

While refugees are forcibly displaced and protected by law, illegal migrants enter or stay without authorization and may not be eligible for protection. Migrants, on the other hand, move by choice and may or may not follow legal immigration procedures.
Let me know if you'd like a table format or visual info graphic version of this too.

Historical Background of Refuge in India:

India has a long-standing tradition of providing refuge to persecuted communities from across regions and time periods. For centuries, the subcontinent has served as a safe haven for people escaping violence, religious intolerance, or political oppression in their homelands.

One of the earliest and most notable examples is that of the Parsis, members of the Zoroastrian faith, who fled from Islamic persecution between the 12th and 16th centuries. According to the Qissa-i Sanjan, a legendary Zoroastrian account, these migrants left their homeland after the fall of the Sassanid Empire, which led to the decline of Zoroastrianism as a dominant religion. To preserve their religious identity and way of life, they settled in the present-day state of Gujarat in western India.

Later, during the rule of Iran's Qajar dynasty (1794–1925), more Zoroastrians sought sanctuary in India to escape the marginalization and oppression faced by non-Muslims in Iran. These later migrants are commonly referred to as Iranis, to distinguish them from the earlier Parsis.

By the time India became independent in 1947, both Parsis and Iranis had become an integral part of Indian society and were granted full citizenship rights, reinforcing India's legacy as a tolerant and inclusive refuge for diverse communities throughout history.

Legal Framework Governing Citizenship and Refugees in India:

India's nationality laws are primarily governed by the Citizenship Act of 1955, which draws authority from Articles 5 to 11 of the Indian Constitution. This law introduced the concept of maintaining a National Register of Citizens (NRC). Over the years, it has undergone several amendments—in 1986, 1992, 2003, 2005, 2015, and 2019—to address evolving political and demographic realities.

The NRC is a government-maintained database aimed at identifying legitimate citizens, especially within the state of Assam, where it was first implemented after the 1951 Census. However, it was not updated until the Supreme Court mandated its revision in 2013. Discussions and efforts are ongoing to expand the NRC to other parts of the country.

India's citizenship policy primarily follows the jus sanguinis principle, granting citizenship based on ancestry rather than jus soli, which is based on birth in the country. The government has officially granted refugee status only to certain communities—primarily those from Tibet and Sri Lanka—offering them access to identification documents and educational opportunities.

The Citizenship (Amendment) Act, 2019 (CAA) significantly altered India's approach by making certain religious minorities from Afghanistan, Pakistan, and Bangladesh eligible for Indian citizenship. These include Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians who entered India before December 31, 2014. The CAA also shortened the residency requirement for these groups from 11 to 6 years. However, Muslims from these countries were excluded, which has sparked domestic and international criticism.

Critics have also pointed out the selectivity of the CAA, as it omits other neighbouring nations with persecuted minorities, such as Sri Lanka, where Tamil Hindus have faced discrimination, and Nepal and Bhutan, which have been accused of marginalizing non-Buddhists. Tibetan refugees from China also remain unaddressed by the Act despite their well-known plight.

In India, illegal immigrants are defined as foreigners who lack valid citizenship or visa documents. Unlike many countries, India is not a signatory to the 1951 UN Refugee Convention or its 1967 Protocol, and therefore does not formally recognize the concept of "refugee" under international law. Instead, India treats undocumented persons under the Foreigners Act of 1946, which places the burden of proving nationality on the individual in question.

The Act mandates that anyone aware of an illegal foreigner's presence—including landlords and managers—must report it to the nearest police station within 24 hours. It also gives the government the authority to detain and deport illegal foreigners.

Illegal immigration is a politically sensitive issue in India, often tied to concerns over national security, particularly in states like Jammu and West Bengal. Authorities have expressed concerns about Rohingya Muslims, suggesting that some may have ties to extremist ideologies and could pose security threats in regions like Jammu, Delhi, Hyderabad, and Mewat. Human trafficking, especially of women and girls for prostitution, is another major concern linked to illegal migration.

In 2005, the Supreme Court struck down the Illegal Migrants (Determination by Tribunal) Act of 1983, stating that it had severely obstructed efforts to identify and deport illegal immigrants. Later, in August 2012, the Supreme Court heard a public interest case demanding the deportation of illegal immigrants. During this hearing, the Indian government reiterated its position that it does not condone illegal

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migration and is committed to deporting undocumented Bangladeshi nationals through legal channels.

Religious Refugees in India: Overview by Region:

Afghanistan

India hosts between 8,000 and 11,684 Afghan refugees, mainly Muslims and Sikhs. The Indian government supports a UNHCR program for them. In 2015, India granted citizenship to 4,300 Hindu and Sikh refugees from Afghanistan and Pakistan.

Bangladesh

Large numbers of Hindus migrated from East Bengal to West Bengal following the 1947 Partition. The Hindu population in Bangladesh declined from 30% in 1947 to about 8% by 2008. Chakma Buddhists fled to Mizoram in 1962 due to the Kaptai Dam project, which displaced them without compensation. In 2001, reports indicated that many Hindu families continued migrating to India to escape religious discrimination.

Pakistan

Following the 1947 Partition, about 14.5 million people migrated between India and Pakistan, with roughly equal numbers of Hindus/Sikhs and Muslims moving in opposite directions. More recently, due to continued discrimination, especially against non-Muslims in Pakistan, many Hindus and Sikhs have sought refuge in India. There are now around 400 Pakistani Hindu refugee settlements across Indian cities.

Tibet

After the 1959 uprising, the Dalai Lama and 80,000 Tibetans fled to India. India allowed them to settle temporarily, and many Tibetan communities were established—especially in Karnataka, which now houses the largest Tibetan refugee population in India. Tibetans have access to special schools, healthcare, and some higher education opportunities. They are issued a "Registration Certificate" to remain in India and an "Identity Certificate" (Yellow Book) for international travel.

Citizenship Amendment Act (CAA), 2019

Enacted on January 10, 2020, the CAA offers a path to Indian citizenship for persecuted minorities—Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians—from Pakistan, Afghanistan, and Bangladesh who arrived before December 31, 2014. Newer arrivals must reside in India for five years before applying for citizenship.

Refugees Facing Ethnic Persecution:

Expulsion of Indians from Uganda (1972)

In 1972, Uganda's President Idi Amin expelled nearly 80,000 people of Indian descent—mostly Gujaratis—including around 23,000 Ugandan citizens of Indian origin. This action followed rising anti-Indian sentiment in Uganda. Although some citizens were exempted from the expulsion, many still chose to leave. Indian-origin communities had originally settled in Uganda after fleeing earlier violence in South Asia, such as the 1947 Partition riots and the 1971 Bangladesh genocide. Approximately 4,500 of these refugees resettled in India. Their businesses, farms, and properties were confiscated by the Ugandan government during the expulsion.

Sri Lankan Tamil Refugees

Over 100,000 Sri Lankan Tamils have sought refuge in India, primarily due to the Sri Lankan Civil War (1983–2009) and associated ethnic tensions. The majority settled in Tamil Nadu, with large populations in cities like Chennai, Madurai, Tiruchirappalli, and Coimbatore. Others found refuge in neighboring southern states like Karnataka (notably in Bengaluru) and Kerala.

Demography:

Immigration of Hindu and Sikh Refugees from Afghanistan, Bangladesh, and Pakistan

During and after the Partition of India in 1947, large-scale migrations occurred as Hindus and Sikhs fled religious persecution from Pakistan and later from Bangladesh and Afghanistan.

According to economist Abul Barkat from Dhaka University, around 11.3 million Bangladeshi Hindus migrated to India between 1964 and 2013, primarily settling in West Bengal, Assam, Tripura, and Meghalaya.

Each year, an estimated 5,000 Hindus from Pakistan cross into India seeking refuge. Between 1950 and 2020, approximately 3, 50,000 Pakistani Hindus relocated to Delhi, Punjab, Rajasthan, Gujarat, and Haryana.

Afghanistan's Hindu and Sikh population, once around 2,20,000 in the 1980s, declined drastically due to rising Islamic militancy. By the 1990s, when the Mujahideen and later the Taliban took power, most had taken refuge in India. As of 2020, only about 1,350 Hindus and Sikhs remain in Afghanistan, signalling a near-complete exodus.

Conclusion:

Millions of people around the world leave their homes in search of safety and a better future, often undertaking dangerous journeys. The reasons for moving are varied and sometimes complex. While some of these individuals are migrants, others are refugees, and it's important not to confuse the two.

A refugee is someone who has been forced to flee their country due to war, persecution, or violence. They may face threats because of their race, religion, nationality, political views, or membership in a specific social group. Refugees cannot return home safely, as doing so could endanger their lives. Major causes of such displacement include armed conflict and ethnic, tribal, or religious persecution.

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