India's Refugee Policy And Human Rights Concerns: A Critical Analysis

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Abstract

India has hosted successive refugee movements for more than seven decades—from Partition (1947) and Tibetans (1959) to Sri Lankan Tamils (1980s–2000s), Afghans, Chakma–Hajong communities, and, most recently, Rohingya from Myanmar. Yet India has neither acceded to the 1951 Refugee Convention and its 1967 Protocol nor enacted a national refugee law. Protection, therefore, relies on a patchwork of constitutional guarantees, ordinary immigration statutes, executive practice, UNHCR's limited mandate operations, and case-by-case judicial interventions. This paper critically examines India's refugee policy through a human-rights lens. Methodologically, it synthesizes constitutional doctrine, statutes (especially the Foreigners Act, 1946), Supreme Court and High Court decisions, UNHCR practice in India, and recent executive measures, including the rules operationalizing the Citizenship (Amendment) Act, 2019 (CAA). It finds persistent structural gaps—legal uncertainty around status determination, risks of detention and deportation, uneven access to socio-economic rights, and gendered vulnerabilities—exacerbated by a securitized approach to "illegal migration." Results indicate that while Articles 14 and 21 of the Constitution have provided a floor of protection, their application remains contingent and inconsistently enforced across refugee groups. The paper argues that adopting a rights-based, uniform refugee framework—aligned with India's constitutional values and international obligations—would reconcile humanitarian commitments with legitimate security concerns. It concludes with actionable reforms: a comprehensive refugee statute codifying non-refoulement, procedural safeguards against arbitrary detention, clear roles for UNHCR and domestic institutions, calibrated use of the CAA to avoid discrimination or statelessness, and regionally coordinated burden-sharing.

Keywords: - Refugee protection, Non-refoulement, Securitized migration policy, Detention and deportation, UNHCR in India.

1. INTRODUCTION

The modern international definition of a "refugee" is rooted in the 1951 Refugee Convention, as amended by the 1967 Protocol. In essence, a refugee is a person who, owing to a well-founded fear of persecution on account of race, religion, nationality, membership of a particular social group, or political opinion, is outside their country of nationality and unable or unwilling to avail themselves of that country's protection. India, despite not being a party to the Convention, has historically hosted significant refugee populations and has done so primarily without a single, codified refugee law. This paradox—consistent hosting without a comprehensive legal framework—produces a tension between humanitarian commitments and security imperatives. The Constitution of India protects the right to life and personal liberty and guarantees equality before the law to all persons, not only citizens. Yet, in the absence of a dedicated asylum statute, refugees are administratively treated under the Foreigners Act, 1946, and related rules. The objective of this paper is to bring a human-rights lens to bear on India's refugee policy, evaluating how constitutional norms, judicial practice, and executive measures operate in absolute protection outcomes. The paper's importance lies in bridging doctrinal analysis with lived realities. It argues for an approach that harmonizes national security

concerns with India's constitutional ethos and long-standing humanitarian tradition, offering a pragmatic blueprint for a rights-anchored refugee framework.

2. Historical Context of Refugees in India

India's experience with refugees spans more than seven decades and reflects a complex balance of humanitarian, political, and security considerations. While India does not have a dedicated refugee law, its approach to successive refugee crises has been shaped by historical events, regional geopolitics, constitutional principles, and administrative discretion. The Partition of British India in 1947 triggered one of the most significant and rapid migrations in recorded history. An estimated 14–18 million people crossed newly drawn borders between India and Pakistan. While most of these individuals were technically citizens within redefined boundaries rather than refugees under international law, the displacement forced the Indian government to establish emergency relief, rehabilitation camps, and land redistribution programs. This event institutionalised early frameworks for handling large-scale migrations, influencing India's administrative memory and shaping later responses to refugee influxes. Following the failed uprising against Chinese rule in 1959, the Dalai Lama and thousands of Tibetan followers fled to India. Prime Minister Jawaharlal Nehru extended asylum and facilitated the establishment of Tibetan settlements across Himachal Pradesh, Karnataka, and Uttarakhand. Over the years, the Indian government collaborated with Tibetan leadership to set up schools, monasteries, and socio-economic institutions that sustain cultural and religious practices in exile. Despite the absence of a formal refugee statute, the Tibetan community enjoys relative stability due to sustained administrative support and effective self-governance structures. However, debates around citizenship rights for second- and third-generation Tibetans continue to shape policy discussions today. The protracted Sri Lankan Civil War (1983–2009) drove multiple waves of Tamil refugees into India, particularly into Tamil Nadu. The Indian government established over 100 refugee camps while simultaneously allowing certain groups to settle independently in urban areas. While camp-based refugees were provided food, healthcare, and education, movement restrictions and prolonged dependence on state assistance affected livelihoods and integration prospects. Even today, over 58,000 Sri Lankan Tamils remain in Tamil Nadu camps, underscoring the long-term challenges of balancing humanitarian care with durable solutions.The Chakma and Hajong communities were displaced from the Chittagong Hill Tracts (now in Bangladesh) in the 1960s following the construction of the Kaptai Dam and communal unrest. India initially settled many in Arunachal Pradesh, but their legal status became contentious as local resistance grew. This led to prolonged litigation, culminating in the Supreme Court's landmark NHRC v. Arunachal Pradesh (1996) decision, which upheld their right to life and liberty under Article 21 and directed authorities to process their citizenship claims. Despite the judgment, implementation remains inconsistent, reflecting broader tensions between refugee rights and local political dynamics. India has hosted multiple waves of Afghan refugees, beginning with those escaping the Soviet invasion (1979), followed by subsequent conflicts under Taliban rule and post-2001 instability. While UNHCR plays a central role in registering and documenting Afghan refugees in India, the government's response has largely been ad hoc—granting long-term visas to some groups while leaving others in a state of legal uncertainty. Many Afghans reside in Delhi's Lajpat Nagar and other urban clusters, but without a structured national asylum policy, their access to healthcare, education, and employment remains inconsistent. The influx of Rohingya Muslims from Myanmar began around 2012, accelerating after the 2017 military crackdown in Rakhine State. Today, an estimated 40,000 Rohingya reside in India, concentrated in Jammu, Delhi, Hyderabad, and Mewat.However, this group faces heightened securitisation. The Indian government has characterised some Rohingya as "illegal immigrants" and pursued detention and deportation, citing security concerns. At the same time, UNHCR issues refugee cards to many Rohingya, which provide limited protection but do not guarantee immunity from deportation. Litigation around the right to non-refoulement and humanitarian protections continues, highlighting the tension between security priorities and constitutional rights under Articles 14 and 21.India's refugee landscape demonstrates a pattern of differentiated responses based on geopolitical, security, and humanitarian considerations. While some groups, such as Tibetans, have received structured state support, others, like the Rohingya, face uncertain futures amid policy ambiguity and political sensitivities. This historical context underscores the urgent need for a comprehensive refugee law that harmonises India's constitutional obligations with international human rights norms, ensuring consistent protection mechanisms for all displaced communities.

3. Objectives of the Study

3.1. To analyze how India's current legal-institutional framework regulates refugee protection.

3.2 To explore potential reforms that can reconcile constitutional guarantees, human rights norms, and security concerns in the context of refugee protection.

4. Scope and Methodology

This study employs doctrinal legal analysis and policy review supported by case-study illustrations. First, it maps constitutional text and jurisprudence—especially Articles 14 and 21—to identify minimum rights guarantees for non-citizens. It examines how Indian courts have articulated or implied the principle of non-refoulement. Second, it analyses statutes and executive instruments that, in practice, govern refugees: the Foreigners Act, 1946; detention and deportation rules; and detention center manuals. Third, it considers the operational role of UNHCR in India—registration, documentation, and refugee status determination (RSD)—and how this mandate interacts with state practice. Fourth, the paper utilizes case studies—Tibetans, Sri Lankan Tamils, Chakma-Hajongs, Afghans, and Rohingya—to illuminate how policy choices translate into protection outcomes across different groups and time periods. Finally, the analysis places India within regional and global contexts, comparing practices with South Asian peers and referencing widely recognized standards such as the Revised Bangkok Principles and the broader human-rights framework.

5. India's Refugee Policy: Legal and Institutional Framework

India's approach to refugees has evolved without a single, formal refugee law, relying instead on a mixture of constitutional principles, general immigration laws, and ad-hoc executive practices. Despite not ratifying the 1951 Refugee Convention or its 1967 Protocol, India's refugee policy is based on a patchwork of legal and administrative measures that have developed over time. The absence of a dedicated refugee statute has resulted in a dual system of refugee management: the central and state governments handle specific refugee groups, while the United Nations High Commissioner for Refugees (UNHCR) manages others through its urban mandate system. This ad-hoc system works in practice during times of crisis but lacks explicit, uniform protections for refugees, leaving their status and rights largely to administrative discretion and judicial interpretation. At the constitutional level, India's framework for refugee protection rests primarily on two provisions: Articles 14 and 21. Article 14 guarantees equality before the law and equal protection of the laws, applying these rights to "persons," not just citizens. Article 21 safeguards the right to life and personal liberty, also extending these protections to non-citizens. Over time, Indian courts have invoked these constitutional guarantees to shield refugees from arbitrary state actions. High Courts have interpreted Article 21 to incorporate elements of the non-refoulement principle, which prohibits returning individuals to places where they face persecution or serious harm. Courts have combined this with the anti-arbitrariness principle in Article 14 to ensure that decisions regarding deportation or detention are made based on individual circumstances. The Supreme Court, while cautious in cases invoking national security concerns, has emphasized that deportation must follow due process, requiring individual consideration rather than mechanical action.

The primary statutory framework governing immigration in India is the Foreigners Act of 1946, along with related laws such as the Registration of Foreigners Act, 1939, and the Passports Act, 1967. Because India does not have a refugee-specific law, individuals seeking protection are legally categorized as "foreigners." This means that protection considerations, such as asylum claims, are handled on a case-by-case basis under immigration laws, rather than through an automatic or standardized process. The application of these laws to refugees creates an uneven system where some refugees are granted long-term visas or tolerated stay. In contrast, others face detention, lack of documentation, or difficulties in regularizing their status. A key issue in the system is the treatment of refugees in detention. Despite attempts to standardize procedures, no legal framework governs detention duration or conditions. There are no clear rules on maximum detention periods or mandatory alternatives for vulnerable groups, leading to inconsistent practices and prolonged uncertainty. In practice, UNHCR plays a significant role in protecting refugees in India, especially in cities like New Delhi. UNHCR registers refugees, conducts refugee status determination (RSD) interviews, issues identification cards, and facilitates access to protection and self-reliance programs. These cards are vital as they help refugees access basic services, such as healthcare and education, and provide some protection from immediate deportation while their cases are being reviewed. However, these cards do not confer legal status to remain in India or provide formal rights to employment or state entitlements. The recognition of UNHCR documentation by Indian authorities is inconsistent, with some local government offices treating it as a valid proof of refugee status. In contrast, others focus more on the individual's immigration status under domestic law. This results in continued uncertainty for many refugees, as their access to basic services and protection from deportation often depends on the discretion of local authorities.

India's federal system of governance further complicates the refugee protection framework. While immigration laws are a Union subject managed by the Ministry of Home Affairs, many decisions affecting refugees—such as school enrolment, medical care, and local housing—are made at the state and municipal levels. This decentralization means that refugees' experiences can vary significantly depending on the region

they live in. In some states, like Delhi and Tamil Nadu, robust cooperation with UNHCR and civil society organizations has led to better access to essential services. In contrast, other states may apply general immigration laws more strictly, treating refugees no differently from other foreign nationals who lack proper documentation. This results in a patchwork approach to refugee protection, with more consistent support in some areas and more restrictive policies in others. Geopolitical and political considerations also play a significant role in shaping India's refugee policy. Over time, some refugee communities, like Tibetans and Sri Lankan Tamils, have benefited from stable arrangements due to historical and political factors. Tibetan refugees, for example, have built communities with support from both the Indian government and the Central Tibetan Administration. Similarly, Sri Lankan Tamils in Tamil Nadu live in government-run camps with access to essential services. In contrast, newer or politically sensitive groups, such as the Rohingya or certain Afghan refugees, rely more on UNHCR's urban mandate system and face a more inconsistent reception from local authorities.

India's judicial system has played a crucial role in protecting refugees in the absence of a dedicated refugee law. Courts often deal with cases seeking relief from deportation, requests for release from detention, and access to basic services like healthcare and education. Courts have emphasized that India's constitutional protections apply to refugees and that deportation must consider individual circumstances. The High Courts have occasionally invoked the principle of non-refoulement, signaling that India's constitutional framework can absorb international norms even without formal accession to international refugee treaties. However, the Supreme Court has been more cautious, especially when national security issues are invoked, and has typically required procedural safeguards in deportation cases.In the absence of a comprehensive Refugee Protection Act, India's refugee policy remains fragmented and inconsistent. While constitutional protections provide some foundation, there is a clear need for a unified legal framework that would set out the rights of refugees, define refugee status, establish a national determination authority, and codify principles such as non-refoulement and alternatives to detention. Until such a law is passed, India's refugee policy will continue to be a patchwork of constitutional guarantees, general immigration laws, administrative discretion, and the work of UNHCR.

6. Human Rights Concerns for Refugees in India

The most basic vulnerability for refugees in India is legal precarity. In the absence of a dedicated asylum statute or a domestic procedure to identify and protect stateless persons, many people live for years in a grey zone—registered with a humanitarian agency, known to local authorities, yet without a clear, durable status in law. That uncertainty bleeds into everyday life. Without documents that state officials or banks routinely accept, families struggle to rent housing, open accounts, sign lawful employment contracts, or even purchase a SIM card. Birth registration can be patchy, creating a second generation whose ties to services and schooling are tenuous from the start.

Access to essential services is uneven by design. Camp-based populations—such as long-standing Sri Lankan Tamil communities in Tamil Nadu—often receive predictable rations, basic healthcare, and schooling. Urban refugees, by contrast, navigate a patchwork: municipal rules, police practices, NGO capacity, and the presence (or absence) of UN programs in a particular locality. Language barriers complicate hospital admissions and school enrollment; frequent relocations, driven by insecure rentals or informal work, interrupt treatment plans and children's education. Even where a school or clinic is formally open to "all residents," administrators may hesitate to accept unfamiliar documents, turning a nominal entitlement into a practical obstacle course.

Detention and deportation practices reveal the system's hardest edge. When removal is not practically feasible—because of conflict, closed borders, or a non-cooperative consulate—people can remain confined for months, sometimes longer. In principle, safeguards should cushion that power: timely notice of grounds, access to legal aid, individualised risk assessments, periodic judicial review, and a presumption in favour of liberty when flight risk is low. In practice, these elements appear inconsistently. Alternatives to detention (community supervision, reporting requirements, case-management for families) are not yet the default, so that confinement can become the path of least administrative resistance, with severe mental-health consequences and lasting harm to children.

Human rights concerns are gendered. Women and girls face elevated risks of sexual and gender-based violence, demands for "informal" payments to secure housing or documents, and barriers to reproductive and maternal healthcare. Disrupted schooling magnifies vulnerability to early marriage and trafficking. LGBTQI+ refugees often confront double marginalisation—discrimination from parts of their own community and from the host environment—leading to under-reporting of violence and avoidance of clinics that feel unsafe.

Services exist, but coverage is thin, and survivors may be asked to produce documents they do not have, or to file police complaints they fear will backfire.

The Rohingya caseload concentrates many of these dynamics. Public discourse frequently frames the Rohingya through a security lens, with irregular entry and alleged risks emphasised over protection needs. Human-rights advocates, in turn, stress the constitutional floor—equality and life—and the international norm of non-refoulement: do not send people back to serious harm. The legal struggle often narrows to process: will officials assess individual risk before removal; will families be kept together; will children be released to community care while a case is pending? Where courts insist on procedure and proportionality, outcomes are measurably better. Where the immigration lens dominates, untempered by protection screens, prolonged detention and summary removals become more likely.

Taken together, these concerns are not inevitable features of hosting; they are policy-contingent. Clear rules on lawful stay, recognised identity documents, automatic school access, community-based alternatives to detention, and survivor-centred GBV services would reduce harm quickly—without preventing the state from addressing genuine security risks.

7. Citizenship Amendment Act (CAA) and NRC: Implications

The Citizenship (Amendment) Act, 2019 (CAA) creates a fast-track to Indian citizenship for Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians from Pakistan, Bangladesh, and Afghanistan who entered India on or before 31 December 2014. After a long pause, the government notified the Citizenship (Amendment) Rules, 2024 on 11 March 2024, opening an online application system with committee-based scrutiny of claims. In government messaging, the measure is framed as a humanitarian response for communities with documented patterns of persecution in neighbouring states. Critics counter that drawing a religious line into citizenship departs from India's equality commitments and sets a precedent that other vulnerable groups—Rohingya Muslims from Myanmar, Ahmadiyyas and Hazaras in Pakistan and Afghanistan, or Sri Lankan Tamils— cannot access. On paper, CAA and any nationwide National Register of Citizens (NRC) speak to different questions: the CAA offers a route in for a defined set of non-citizens; an NRC is a verification exercise for residents already in India. In practice, the two can intersect. If an NRC is implemented nationally, individuals unable to prove legacy documents would be asked to justify their status before administrative bodies (as happened in Assam). Those who also fit the CAA's religious-nationality-date triad might regularise via CAA; those who do not—especially Muslims without robust documents—could face a harsher path, raising fears of differential outcomes rooted more in identity than in evidence. Assam's experience is the cautionary tale. When the state-specific NRC closed in 2019, about 1.9 million residents were left off the final list, triggering years of appeals in Foreigners' Tribunals and opening the door to detention in cases where removal was deemed feasible. The number itself says little about guilt or innocence; it reflects how documentary burdens, clerical mistakes, and fragmented archives can cascade into exclusion—especially for people with low incomes, women (whose documents often track marital rather than natal identity), and older residents. These process realities are why lawyers and rights groups warn that pairing a document-heavy NRC with a religion-specific amnesty risks statelessness for some and two-track relief for others. Human-rights-consistent implementation would start with safeguards rather than solely with lists. At minimum, that means: broad-based, no-cost documentation drives; clear presumptions against deprivation where records are missing for reasons beyond a person's control; individualised hearings with interpreters; guaranteed legal aid; and independent judicial review before any adverse decision becomes final. Where nationality remains genuinely indeterminate, a statelessness determination procedure—with protected status, work authorisation, and access to services— would prevent people from falling into indefinite limbo. These are not abstract ideals; they are administrative choices that reduce error, ease court dockets, and keep families together. For the CAA track itself, transparency will determine legitimacy. Applicants need a stable, public checklist of admissible proofs; predictable timelines; reasons-in-writing for refusals; and an appeal mechanism insulated from local pressures. Publishing anonymised data on approvals and denials—by state and by ground—would allow independent scrutiny without breaching privacy. Finally, any removal action should be preceded by a non-refoulement screen. If a credible risk of serious harm is shown, deportation should pause regardless of the person's religion or paperwork. That aligns the state's sovereignty interests with constitutional guarantees of equality and life— and with the promise, implicit in the CAA's own humanitarian rationale, that protection should follow need, not selective categories.

8. Comparative Perspectives

Across South Asia, states largely remain outside the 1951 Refugee Convention and 1967 Protocol, so protection is shaped less by codified asylum law and more by politics, security calculus, and bilateral relations. Bangladesh—hosting over a million Rohingya in Cox's Bazar—has built a vast humanitarian operation with international partners, prioritising camp-based assistance and border management while resisting formal local integration. Pakistan's decades-long engagement with Afghan populations has oscillated between expansive registration drives (proof-of-registration cards, Afghan Citizen Cards) and periodic pressure to return, reflecting internal politics and relations with Kabul. Nepal, while also a non-signatory, has cooperated with UNHCR on mandate registration and durable solutions for Tibetan and Bhutanese caseloads, including notable third-country resettlement for Bhutanese refugees. These contrasting choices share a common feature: administrative pragmatism without a rights-anchored, general statute.

India's posture is similar in form—non-accession, reliance on general immigration law, and differentiated treatment by caseload—but different in a crucial respect: its constitutional jurisprudence. Courts have repeatedly affirmed that Articles 14 and 21 apply to "persons," enabling judges to check arbitrary detention and insist on procedure before removal. This constitutional safety net has not produced a full-fledged asylum system, but it offers a normative lever that many regional peers lack. Globally, the non-refoulement rule is treated as the bedrock of refugee protection and, increasingly, as part of customary international law. Even states outside the Convention often refrain—at least formally—from returning people to face persecution, torture, or other serious harm. Human-rights courts and constitutional tribunals worldwide have tied this duty to general protections of life, liberty, and dignity, creating a transnational template for domestic courts. For India, the comparative lesson is twofold: regionally, it can move beyond ad hoc practice by codifying procedures that many neighbours improvise; internationally, it can translate Article 21's promise into a statutory non-refoulement clause, status determination with appeals, and community-based alternatives to detention—aligning sovereignty with rights while setting a higher bar for South Asian protection standards.

9. Policy Gaps and Challenges

India's refugee protection rests on improvisation rather than law. Without a uniform refugee statute, recognition and rights turn on where a person lives, which official they meet, and how a particular caseload is historically viewed. This discretion produces uneven outcomes across states and over time. A security-centric frame dominates implementation because refugees are processed through immigration laws. The default tools—surveillance, detention, and deportation—often eclipse protection screening, even when removal is not practically possible due to conflict, closed borders, or non-cooperation by origin states. Community-based alternatives to detention exist in pockets, but they are not the rule, so confinement becomes the administratively easy choice. Procedurally, the system is fragile. There is no codified asylum pathway with clear timelines, reasons in writing, appeals to an independent body, or guaranteed legal aid and interpretation. Ad hoc practices fill the gaps, but they vary widely, and predictable outcomes—essential to both fairness and state planning—remain elusive. Urban refugees experience socio-economic precarity. Documentation hurdles make it hard to secure rental housing, open bank accounts, enroll children in school, or access public health schemes. The inability to obtain formal work authorisation pushes households into the informal economy, where wages are lower, exploitation risks are higher, and sudden evictions or relocations disrupt education and medical care. Camps may provide stability, but they can also entrench dependency and restrict mobility. The CAA/NRC interface magnifies vulnerability. A religion-specific naturalisation route alongside a document-heavy registry risks differential treatment and, for some, de facto statelessness. Mitigating that risk would require robust safeguards: accessible documentation drives, presumptions against deprivation where records are missing for reasons beyond an individual's control, individualised hearings with legal aid, independent judicial review, non-refoulement screening before any removal, and a functioning statelessness determination procedure. Finally, governance fragmentation—between the Union, states, and municipalities—and limited, project-based funding shifts daily burdens onto NGOs and UN partners. Without national standards, frontline officials lack clear operating rules, and refugees lack a stable path from arrival to lawful, dignified residence.

10. Recommendations

10.1 Pass a comprehensive Refugee Protection Act

India needs a single statute that ends the current patchwork. The law should (a) adopt a refugee definition aligned with the 1951 Convention, (b) codify non-refoulement with narrow, proportionate security exceptions, (c) create a national asylum authority with independent, time-bound appeals, and (d) recognize UNHCR documentation as protection-relevant evidence pending a domestic decision. The Act should also spell out reception standards, timelines for registration and interviews, and pathways from temporary stay to durable solutions.

10.2 Replace ad-hoc confinement with lawful, limited detention and real alternatives

Detention should be exceptional, justified on a case-by-case basis, and subject to maximum periods, periodic judicial review, and immediate access to counsel and interpreters. For families, children, survivors of torture, and people with disabilities, community-based alternatives—reporting, case management, guarantors—must be the default. Clear rules on documentation (e.g., release orders and temporary ID) would prevent people from falling straight from detention into destitution.

10.3 Issue binding Protection SOPs for front-line officials

To translate Articles 14 and 21 into practice, the Union should notify SOPs that instruct police, FRROs, and state departments on: receiving claims, issuing interim documents, referring cases to the asylum authority, avoiding arbitrary arrest, and guaranteeing access to education, public health schemes, and emergency shelter while claims are pending. SOPs should include a simple checklist for school principals and hospital administrators to prevent admissions from being blocked by unfamiliar papers.

10.4 Implement CAA with transparency and build a statelessness safety net

If CAA remains in force, it must run on public, religion-neutral administrative safeguards: published criteria, reasons-in-writing for refusals, independent appeals, and anonymised data on outcomes. Any identity-verification drives should be preceded by documentation support camps, mobile teams for women and older people, and fee waivers. Alongside, establish a statelessness determination procedure that provides protected status, work authorisation, and access to services where nationality cannot be confirmed—preventing indefinite limbo.

10.5 Invest in inclusion from day one

Protection is fragile without livelihoods and services. The Union and states should: guarantee school admission with bridge language classes and automatic exam eligibility; enable Aadhaar-linked service access via asylum/temporary IDs; expand health insurance portability for refugees; and create work authorisation for recognised refugees and long-pending applicants in shortage sectors. Recognise prior learning and foreign credentials; partner with MSME and skilling missions for apprenticeships and micro-enterprises; and scale GBV prevention and response—confidential reporting, safe shelters, trauma-informed care, and legal aid.

Taken together, these steps move India from discretionary accommodation to rule-of-law protection—upholding constitutional values, reducing litigation and detention costs, and giving officials the clarity they need to manage borders humanely and effectively.

11. Conclusion

India's refugee experience sits on a deliberate balance: a long, visible tradition of humanitarian hosting coexisting with the absence of a comprehensive legal framework. At crucial moments, constitutional guarantees—especially Article 14 (equality) and Article 21 (life and personal liberty)—have shielded individuals from arbitrary detention and hasty removal. Yet that constitutional floor, however vital, cannot on its own deliver the predictability that people and public institutions need. In practice, protection remains contingent—varying across states, shaped by administrative discretion, and too often litigated case by case. A durable settlement is within reach. A rights-anchored refugee law would convert constitutional principles into routine administration: codifying non-refoulement, creating a national asylum authority with independent appeals, and recognising UNHCR documentation as protection-relevant evidence pending decision. Calibrated detention standards—clear grounds, maximum periods, periodic judicial review, and community-based alternatives for families, children, and other vulnerable people—would align liberty with legitimate enforcement. Binding Protection SOPs would provide police, FRROs, schools, and hospitals with simple, uniform rules for documentation, referrals, and interim access to services, thereby reducing friction at the front line. Judicial consolidation—harmonising High Court approaches and clarifying Article 21's non-refoulement content—would add coherence without displacing executive primacy. Where identity verification exercises proceed, strong CAA/NRC safeguards and a statelessness determination procedure can prevent people from slipping into indefinite limbo. Coupled with early socio-economic inclusion—school admission, primary healthcare access, work authorisation in shortage sectors, GBV prevention and response—India can de-risk displacement for both refugees and host communities. Finally, regional cooperation through SAARC-plus or AALCO-guided platforms can share data standards, registration practices, and pathways to solutions, from safe voluntary return to third-country options for the most vulnerable. Taken together, these reforms would not only improve protection outcomes; they would strengthen governance, predictability, and social cohesion, showing that sovereignty and solidarity are not opposites but the twin foundations of a confident, constitutional state.

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