India’s Policy on Refugees

Why the refugee issue arises now?

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- With the Indian government highlighting human rights abuses in **Balochistan**, conversations about India’s asylum policy have arisen.
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- The recent election of Donald Trump as U.S. President and his position on Syrian refugees has made the world an unfriendly place for refugees.
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What is India’s track record on refugees?

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Chakma tribals

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- In 1947, the Chittagong Hill Tracts, a deeply forested, mountainous, area bordering Tripura, Mizoram and Myanmar, with a majority Buddhist population (about 97 per cent), was awarded to Pakistan.
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- In 1962, the Pakistani government imposed further misery on the Chakma tribe by building the Kaptai dam.
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- Approximately 40,000 **Chakma tribals**, who had lost their homes and farmland due to flooding, emigrated to India as refugees.
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- India, facing its own war in 1962 on the north-eastern border, offered 2,902 Chakma refugee families resettlement in **Arunachal Pradesh.**
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- By the 1980s, anti-immigrant stirs in nearby Assam, along with local **fears about demographic change**, led to defamatory notices appearing. Soon, houses started burning — in 1983 and 1995, 130 houses were burnt down in Papum Pare district of Arunachal Pradesh.

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- Only in 1996, with the Supreme Court pushing the State government to protect the Chakmas, did the harassment decline.
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- The long journey continued — only in September 2015 when the Supreme Court directed the Centre and State government to complete the process of citizenship did the original 7,000 surviving **Chakmas and Hajongs gain access to Indian citizenship**. Despite opting for India during the Partition, the Chakmas were routinely ignored, then and now.
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Rohingyas

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- The Rohingyas, an ethnic group from the Rakhine state in Myanmar, are one of the most persecuted groups in the world.
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- Over 13,000 Rohingya refugees are registered with the United Nations High Commissioner for Refugees (UNHCR) in India,
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- They **live in substandard conditions without any basic amenities**, while their children cannot get admitted in schools due to lack of requisite documentation. Most men serve as daily wage labourers.
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How refugees are treated in India?

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- India hosts over 2,00,000 refugees, victims of civil strife and war in Tibet, Bangladesh, Sri Lanka, Pakistan, Afghanistan and Myanmar. Some refugees, the Tibetans who arrived between 1959 and 1962, were given adequate refuge in over 38 settlements, with all privileges provided to an Indian citizen excluding the right to vote).
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- The Afghan refugees fleeing the civil war in the 1980s live in slums across Delhi with no legal status or formal documents to allow them to work or establish businesses in India.
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- Once granted refuge, India’s government tends to look the other way.
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- Ethnic clashes soon broke out over land distribution and assistance provided to refugees.
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- The State government responded with forcible eviction, economically blockading them and conducting police firing on a random basis.
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- Similar fears of demographic change led to the expulsion of the Nepali-speaking population in Bhutan in the 1990s.
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- Over 1,00,000 people made their way to Nepal, passing through India. Over 20,000 refugees continue to live in India, on the margins of society, with no legal status and no citizenship. They remain stateless.
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- **The Foreigners Act (1946) and the Registration of Foreigners Act (1939)** currently govern the entry and exit of all refugees, treating them as foreigners without due consideration of their special circumstances.
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What is lacking?

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- No asylum policy till now.
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- Our data on refugees remain significantly deficient, preventing analysis on refugee flow and their parlous existence.
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- We hence fail on various counts associated with resettlement and rehabilitation, with many refugees remaining unregistered.
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- Such paucity of data also leads to misrepresentation and exaggeration in national and local media.
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What is the role of Judiciary in protecting refugees?

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- Refugees have been accorded constitutional protection by the judiciary

(National Human Rights Commission vs State of Arunachal Pradesh, 1996).
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- In addition, the Supreme Court has held that the right to equality (Article 14) and right to life and personal liberty (Article 21) extends to refugees.
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- India remains the **only significant democracy without legislation specifically for refugees**. A well-defined asylum law would establish a formal refuge granting process with suitable exclusions (war criminals, serious offenders, etc.) kept.
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What India can do?

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- India still remains a **non-signatory to 1951 United Nations Refugee Convention and the 1967 Protocol**, which help define the legal obligation of states to protect refugees.
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- It remains the duty of a state, especially one with a democratic ethos like India's, to keep its doors open for people in distress.
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- Any refugee, whose grant of asylum has been approved, should be given a formal recognition of his/her asylum status along with an identity document and a travel document.
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- They should be able to apply for residence permits, and be able to choose their place of residence across India. Their documents must also enable them to seek employment in the private sector.
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- Primary education, a powerful enabler, should be offered on no-charge basis in government schools, while primary healthcare services available to Indian citizens should be offered as well.
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- Simply announcing policies alone will not do. Social sensitisation remains key — institutions, private and public, should be encouraged to recognise UNHCR-issued refugee cards, in addition to foreign degrees or diplomas.
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- Local municipal corporations should be asked to sensitise neighbourhood associations to accept refugees who can pay, along with conducting

integration workshops for youth and women empowerment initiatives.
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- Outreach should be conducted through government welfare programmes and biometric initiatives like Aadhaar, in addition to a simpler registration process.
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Way ahead

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- We need a system that enables the management of refugees with greater transparency and accountability, replacing one that offers arbitrary decision-making to a vulnerable, victimised population.
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- While the security interests of India must remain paramount, taking care of refugees in India is a moral duty for the state.
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