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The Global Refugee Crisis: Legal Frameworks, India's Response and Future Imperatives A Doctrinal Study of International Protection Standards and the Indian Position

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ABSTRACT: The international refugee regime enters its seventy-fifth year with an unprecedented number of displaced persons. As of the end of December 2025, the number of people displaced worldwide due to persecution or hardship reached 117.8 million, including 41.6 million refugees, making one person out of every 70 in the world displaced. This article analyzes the legal framework in which the rights of these people are protected, India's place in this system, and the changes to be made in the future. The article uses a doctrinal method with analytical and comparative elements. The analysis is based on the Convention and protocol of 1951 and India's constitution and laws, followed by an analysis of UNHCR's Executive Committee's findings and secondary sources. The article reveals the nuances of the law on the status of refugees, especially the differences between a refugee, with their specific and detailed rights, and a migrant, who is a concept in search of a definition. The article focuses on India, which is a country that houses many refugees but is not a party to the convention and protocol. The article shows that the 2025 Immigration and Foreigners Act, which for the first time regulated the status of foreigners in the post-colonial period, does not follow the convention and protocol, leaving the rights of refugees in India to judicial interpretation through the lens of article 21. Finally, the article analyzes the limitations of the mandate of UNHCR, caused by its reliance on donor States and host States, and identifies four pillars for future reform – statutory, institutional, rights-based, and responsibility-based.

"I am a human like you. Don't call me nationless, which makes me hopeless. Don't name me stateless, which makes me aimless. I have everything on this planet."

— Roshidullah Kyaw Naing, genocide survivor, researcher and writer on human rights from the Rohingya minority

1. INTRODUCTION

People become refugees for reasons for which they have no control. They are persons who are compelled to leave their country because of persecution based on a political or religious beliefs, on ethnicity or nationality or membership of a particular social

group, and in so doing, they leave behind the only homeland they have.¹ The crisis that results from such movement is before everything else a human crisis; it also presents an unprecedented administrative and fiscal burden to the States which receive them.²

The scale of the burden is now measurable with some precision; UNHCR estimated that at end of December 2025 there were 117.8 million forcibly displaced people around the world: 41.6 million refugees; 9 million asylum-seekers awaiting a decision; and 68.7 million people displaced within their own countries by conflict or violence.³ One in every seventy people alive, or 1.4 per cent of the world's population, is now forcibly displaced.⁴ These numbers represent a modest decline from the previous year, driven largely by returns to Afghanistan, Syria and Sudan, but many the returns were made under adverse conditions and to areas where insecurity persists and basic services remain unavailable.⁵

While a refugee may be described in ordinary language as a person fleeing socioeconomic and political insecurity, the term carries a narrower and more disciplined meaning. Article 1 (A)(2) of the 1951 Convention relating to the Status of Refugees supplies that meaning⁶, and it is from that provision that the whole apparatus of international protection descends.⁷

THE CONVENTION DEFINITION

A refugee is a person who, "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country."

Article 1(A)(2), Convention relating to the Status of Refugees, 189 U.N.T.S. 137 (1951)

Neither refugees nor forced migration are novel phenomena. There has been considerable effort to address the problem by States acting individually, by international organisations, by non-governmental organisations and by private individuals.⁸ Yet the response remains uneven, and host States frequently display reluctance where they do not display outright hostility. Many struggle to provide for their own populations, let alone for new arrivals, and consequently take decisions that sit uneasily with international principle, refusing entry or relocating those admitted so as to protect what they regard as overriding national interests.⁹

This article proceeds on the premise that the gap between the standards articulated in 1951 and the protection actually delivered in 2026 is not primarily a gap in norms. It is a gap in institutional design, in enforceable domestic entitlement, and in the distribution of responsibility among States. The argument is developed in three movements: an account of the international protection framework and the criteria governing recognition; an examination of the Indian position, which is distinctive in that a State hosting substantial displaced populations has acceded to neither the Convention nor its Protocol¹⁰; and an assessment of the United Nations response together with proposals for reform.

¹ On the experience of compelled departure and the loss of homeland, see Naing, R. K., *The Painful Life of the Rohingya: The Voice of a Rohingya Genocide Survivor to the World*.

² For an account of the reception burden as it is perceived by host States, see Singh, R. A. (2021), *The Rohingya Crisis: Demographic Invasion by Illegal Immigrants*.

³ United Nations High Commissioner for Refugees, *Global Trends: Forced Displacement in 2025* (2026). Figures are as at 31 December 2025.

⁴ Ibid. UNHCR expresses the same proportion as one person in every seventy worldwide.

⁵ Ibid. UNHCR cautions that the year-on-year decline reflects returns rather than any abatement of the conditions that produce flight, and that a substantial proportion of returns occurred to areas where reintegration conditions were not in place.

⁶ Convention Relating to the Status of Refugees, opened for signature 28 July 1951, 189 U.N.T.S. 137, art. 1(A)(2) (entered into force 22 April 1954).

⁷ Goodwin-Gill, G. S., *The Refugee in International Law* (Clarendon Press 1983) 46, describing the definition as the gateway through which all further entitlement passes.

⁸ For a history of the institutional response and its limits, see Loescher, G., *The UNHCR and World Politics: A Perilous Path* (Oxford University Press 2001).

⁹ The relocation of admitted populations to remote sites is illustrated by the Bangladesh experience: see Dubey, D., 'Introduction' in *Relocation to Bhassan Char: Rohingyas, Journey Without an End*.

¹⁰ India is party to neither the 1951 Convention nor the 1967 Protocol. The consequences of that position are examined in Sections 6.3 and 6.4 below.

2. RESEARCH DESIGN AND METHODOLOGY

2.1 Research Objectives

The study pursues five objectives, each addressed in a dedicated part of the article and each supported by an identified body of source material. Table 1 sets out the mapping.

Table 1. Research Objectives, Corresponding Sections and Principal Sources

No.	Objective	Section	Principal sources
1	To describe the concept of refugees and forced migration	3 and 4	1951 Convention; 1967 Protocol; UNHCR Handbook; Goodwin-Gill (1983)
2	To examine the refugee protection framework in India	6	Constitution of India; Immigration and Foreigners Act, 2025; Indian case law
3	To analyse the role and response of the international community	7	UNHCR Global Trends; ExCom Conclusions; institutional reports
4	To assess the United Nations response to the crisis	7 and 8	UNHCR operational data; Loescher; The Promise (2026)
5	To propose recommendations and future imperatives	9	Synthesis of the foregoing

Note. The objectives are cumulative rather than parallel; each supplies a premise for the one that follows.

2.2 Method

The research uses the doctrinal method, which is supported by analytical and comparative methods. The reason is justified by the subject of research. The questions of the content of the treaty obligation, the scope of a constitutional guarantee, or the effect of a repealing statute cannot be subjected to experimental verification; they are solved by analyzing the texts and reasoning from them.¹¹ The primary sources include international treaties and conventions, constitutional provisions, and statutes. The secondary sources include books, journal articles, reports of UNHCR and its Executive Committee, and print and electronic media. If the article contains quantitative data, the numbers are taken from the institutions' data and are cited at the point of use.¹²

2.3 Scope and Limitations

Three limitations must be noted at the outset. First, the study is doctrinal, and thus, it does not claim to make any findings about the real-world circumstances of refugees; such investigations would require resources beyond the scope of this design. Second, the analysis of Indian law is confined within the parameters of the Immigration and Foreigners Act, 2025, and thus, the present research does not aim to provide an in-depth overview of the high court jurisprudence in this area.¹³ Third, quantitative assessments of displaced persons' numbers are necessarily tentative due to the very nature of the registration system that does not account for those who remain unregistered.¹⁴

3. RECOGNITION AS A REFUGEE UNDER THE 1951 CONVENTION

Various criteria, if fulfilled, lead to a claimant's identification as a refugee. Many are internationally recognized and together constitute the basis on which status is determined. The 1951 Convention makes it clear who qualifies under the definition; the terms that are used have been broadly interpreted and are reviewed below.¹⁵

¹¹ On the doctrinal method as applied to refugee law, see Hyndman, J. (1986), 'Refugee under International Law with a Reference to the Concept of Asylum', *Australian Law Journal* 60, 148.

¹² Quantitative material in this article is drawn principally from UNHCR, *Global Trends* (successive editions), and from United Nations estimates of international migrant stock.

¹³ Immigration and Foreigners Act, No. 13 of 2025 (India), brought into force on 1 September 2025. The Act is discussed in Section 6.3.

¹⁴ Populations that have not approached registration authorities are, by definition, absent from the reported totals; the figures should therefore be read as a floor rather than a measure.

¹⁵ UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees* (reissued 1992; originally published 1979).

3.1 Well-Founded Fear of Being Persecuted

An asylum-seeker should prove that he or she left the country of origin due to the fear of persecution, and therefore one should present reasonable grounds for such fear. Having been subjected to persecution on one of the listed grounds, an asylum-seeker is presumed to have the well-founded fear of being persecuted.¹⁶ The term “fear” includes not only people who have been subjected to persecution, but also those who do not want to put themselves at risk.¹⁷ The requirement that the fear be well-founded implies the existence of two types of evidence. The first is subjective, and it relates to the perception of the asylum-seeker, his or her feelings and experience. The second type of evidence is objective, and it relates to the actual situation in the country of origin.¹⁸ Both types of evidence are needed, and the presence of only one of them is not sufficient for granting asylum. A person who subjectively is afraid but objectively is not at risk and a person who is objectively at risk but subjectively does not feel it, is not entitled to asylum.¹⁹

3.2 Persecution

Although the emphasis of the 1951 Convention is on persecution of an individualised nature, the instrument does not provide an unequivocal definition of persecution.²⁰ Serious infringements of human rights may be regarded as acts of persecution.²¹ Acts of discrimination of a serious nature on the grounds of race, nationality, religion or membership of a particular social group may also be considered as persecution, if they are committed by the authorities concerned, though discrimination per se is not necessarily an element of persecution.²² Prosecution of the individual in the country of origin, except where the penalty incurred is manifestly excessive, is not to be considered as persecution.²³

3.3 The Five Convention Grounds

Under the 1951 Convention a claimant must demonstrate a well-founded fear of persecution for one or more of five reasons. The grounds are not mutually exclusive and frequently operate cumulatively; a single claimant may be at risk simultaneously by reason of ethnicity, religion and imputed political opinion. What the definition requires is a causal nexus between the feared harm and at least one ground.²⁴



Figure 1. The Five Grounds of Persecution Recognised by Article 1(A)(2)

Note. Adapted from the text of Article 1(A)(2) of the 1951 Convention and the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status.

¹⁶ UNHCR *Handbook*, para. 45. Past persecution is ordinarily treated as sufficient to establish that the fear is well founded, subject to evidence of changed circumstances.

¹⁷ UNHCR *Handbook*, para. 42. The definition does not require that harm has already been suffered.

¹⁸ UNHCR *Handbook*, paras. 37–38, on the combined subjective and objective character of the test.

¹⁹ Goodwin-Gill (n 7) 46, noting that neither limb of the test is self-sufficient.

²⁰ The omission is deliberate: the drafters left the term open so that it might accommodate forms of harm not foreseen in 1951. See UNHCR *Handbook*, para. 51.

²¹ UNHCR *Handbook*, para. 51, treating a threat to life or freedom on a Convention ground as persecution in every case.

²² UNHCR *Handbook*, paras. 54–55. Discrimination becomes persecution where its consequences are substantially prejudicial to the person concerned.

²³ UNHCR *Handbook*, paras. 56–57, distinguishing prosecution from persecution and identifying excessive punishment as the point at which the distinction collapses.

²⁴ Convention Relating to the Status of Refugees (n 6) art. 1(A)(2); UNHCR *Handbook*, para. 66. The nexus requirement is satisfied where a Convention ground is a contributing cause of the feared harm.

Table 2. The Convention Grounds, Their Scope and Illustrative Instances

Ground	Interpretative scope	Illustration
Race	Extends beyond race in the narrow sense to ethnicity, caste, colour, descent and creed. Discrimination on these grounds is widespread and frequently produces strife severe enough to compel flight.	Black South Africans fleeing the apartheid regime; Ugandan citizens who fled the Idi Amin regime in 1972 and sought refuge in India.
Religion	Prohibiting worship in private or public; forbidding membership of a religious community; adopting discriminatory measures against persons on account of their religious belief, including non-belief.	Members of minority faiths barred from communal worship or subjected to compulsory conversion.
Nationality	Interpreted broadly to include origins and membership of particular ethnic, religious, cultural and linguistic groups. It overlaps substantially with race and religion.	Linguistic minorities denied civic status in a successor State; stateless populations denied recognition.
Membership of a particular social group	Persons sharing characteristics fundamental to identity that they cannot or should not be required to change: background, sexual orientation, habits, social status, family, trade union membership or gender.	Women who face inhumane treatment for having transgressed the social mores of their society, recognised by ExCom as capable of forming a particular social group.
Political opinion	Opinion on any matter in which the machinery of the State or government is engaged. Persecution arises where the opinion is treated as an actual or perceived threat to the government or its institutions.	A claimant holding no opposition view but to whom such a view is imputed; the concept of imputed opinion is accommodated within the definition.

Note. The UNHCR Executive Committee has repeatedly recognised the prevalence of women and girls among the world's refugee populations. Conclusion No. 39 (1985) noted that they constituted the majority of refugees and were exposed to particular risks; Conclusion No. 73 (1993) on refugee protection and sexual violence recommended that asylum-seekers who have suffered sexual violence be treated with particular sensitivity and that those determining status be adequately sensitised to questions of gender and culture. Conclusion No. 98 (2003) addressed protection from sexual abuse and exploitation within camps. Conclusions of the Executive Committee are recommendatory rather than binding on States Parties, but carry considerable persuasive force in practice.²⁵

3.4 The Internal Flight Alternative

Movement from one part of the country of origin to another (within the same country) which is perceived as being safer, does not give rise to a claim to refugee status. It is a general requirement, with no exceptions, that an asylum-seeker is outside the country of nationality. Where there is an area within the country of origin where the person would be safe from persecution, he/she will be expected to go there, unless it would be unreasonable to expect him/her to do so. International protection cannot be invoked for so long as a person remains within the territorial jurisdiction of the home State.²⁶

²⁵ UNHCR Executive Committee, Conclusion No. 39 (XXXVI) (1985) on refugee women and international protection; Conclusion No. 73 (XLIV) (1993) on refugee protection and sexual violence; Conclusion No. 98 (LIV) (2003) on protection from sexual abuse and exploitation.

²⁶ UNHCR *Handbook*, para. 91. The alienage requirement is the one element of the definition that admits of no exception, and it is the reason internally displaced persons fall outside the Convention.

3.5 Stateless Persons and Habitual Residence

Persons who are habitual residents of a country but hold no nationality may also qualify, provided they have left the country of habitual residence or are unable to return to it for reasons falling within the definition. It follows that a stateless person able to return to such a country cannot claim refugee status.²⁷

3.6 Non-Refoulement

Non-refoulement is the most basic protection afforded to a refugee, and the cornerstone of the entire regime. Article 33 of the 1951 Convention provides that refugees have a right not to be returned to a country where their life or freedom would be at risk.²⁸ States agree to the principle in theory with considerable readiness; in practice they frequently disregard it, refouling refugees from their territories or turning them back at the frontier.²⁹

THE CORNERSTONE OBLIGATION

Article 33 forbids the return of a refugee, in any manner whatsoever, to the frontiers of territories where life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion. The obligation attaches on recognition of the underlying facts, not on formal grant of status, and it binds a State at the border as much as within its territory.

4. MIGRATION AS A GLOBAL FACT

Migration is an increasing global phenomenon. A series of large-scale movements of people around the world involving both refugees and migrants in vulnerable situations has severely tested the collective response of nations. As the world globalizes in the economy, trade, and investment, borders open to the free flow of goods and products, and people move with them. When such movement violates the law of the destination State, the resulting status is described as illegal migration; the term is contentious, while the United Nations prefers the term irregular migration.³⁰ The United Nations also emphasizes that alternative return or deportation options should be considered if irregular migrants have established themselves in the long term and have otherwise complied with the law of the host State.³¹

4.1 Scale and Distribution

Immigration is the movement of persons across the border of a State of which they are not nationals, undertaken to seek employment, better living conditions or other advantage. As of 2015 the number of international migrants reached 245 million worldwide, approximately one third of whom resided in twenty countries.³² The United States hosted the largest share of migrants in the world, 19 per cent, followed by Germany and the Russian Federation, each accounting for about 12 million migrants. In addition, 10 million migrants lived in Saudi Arabia, 9 million in the United Kingdom and 8 million in the United Arab Emirates. Asia and Europe accounted for the biggest migrant additions, 20 and 19 million respectively.³³

The age composition of that population is significant for policy, since it bears directly on questions of schooling, labour market participation and pension liability in host States. In 2015 the number of international migrants below the age of 20 reached 37 million, while 178 million were between 20 and 64 years of age.³⁴

²⁷ UNHCR *Handbook*, paras. 101–105. For an account of protracted statelessness in practice, see Campbell, E., *The Farsi Kurds of Iraq: Thirty Years Without Nationality* (Refugees International).

²⁸ Convention Relating to the Status of Refugees (n 6) art. 33(1). The obligation is qualified by art. 33(2) in cases of danger to the security of the host country.

²⁹ Goodwin-Gill (n 7), noting that the obligation binds a State at its frontier as much as within its territory, so that rejection at the border engages art. 33.

³⁰ The preference reflects the view that unlawful entry is a description of conduct rather than of persons, and that the label 'illegal' prejudices questions of status that remain to be determined.

³¹ The recommendation is directed at long-settled irregular populations, for whom removal may be disproportionate to the breach of entry rules.

³² United Nations estimates of international migrant stock for 2015. The concentration of the global total in a small number of destination States is a persistent feature of the data.

³³ Ibid. See Figure 3 for the distribution across the six largest host States.

³⁴ Ibid. Persons of working age accounted for roughly seventy-three per cent of the reported total.

4.2 Drivers of Movement

The reasons for such movement are varied. A shortage of local resources, the desire to better one's economic fortune, the search for higher wages and improved living conditions, family reunification, exile, flight from prejudice and escape from natural disaster are all common grounds. The movement can be intended to join family members or as consequence of transnational marriage.³⁵ Economic migration generally takes the form of labour migration in search of better wages, a pattern encouraged by the dramatic reduction in travel time and travel cost across the twentieth century. Non-economic drivers, persecution (whether religious or otherwise), sustained abuse, bullying, oppression, ethnic cleansing, genocide, the risks borne by civilian populations during war, and social marginalisation. Host States have grown cautious in the face of such movement, citing national security, the possibility that radical elements may be present amongst those arriving.³⁶

4.3 Economic Consequences

On the economic evidence, migration is generally beneficial for both recipient and sending States. Empirical research has revealed positive economic impacts on the natives, although the effects were found to be mixed for low-skilled immigration.³⁷ Theoretically, free movement of labor between developing and developed countries is argued to be one of the most effective ways of reducing poverty. Remittances are also reported to improve the welfare of the migrants' home country as they often amount to a considerable percentage of the Gross Domestic Product.³⁸ Moreover, according to another study, the impact of skilled immigration on the migrants' country of origin is found to be positive in the long run. The study's results suggest that skilled migrants create positive externalities for the host economy, which, in turn, benefits the home country. As a result, brain drain is argued to have little or no negative impact on the long-term economic growth and development of the skill-rich nation.³⁹ However, these findings must not overshadow the humanitarian crisis, which often accompanies mass migration. The number of refugees worldwide is growing at an alarming rate, as many nations are unable to cope with the task of providing sufficient support to the displaced people. Refugees are forced to live through extremely difficult circumstances, having to survive without access to food, water, healthcare, and education. Many of them are subjected to violence and persecution in their new countries as they do not possess the same rights as the natives. Consequently, the burden falls on the states of Asia and Africa, which are unable to handle the refugee influx. The Rohingya people are the most prominent example of people whose fundamental rights, as well as their right to live in their home country, have been disrespected. Having been denied identity and citizenship since the independence from the British colony, the Rohingya have been displaced throughout the region.⁴⁰

4.4 Refugee and Migrant Distinguished

The distinction between the two categories is not a matter of terminological preference. It determines whether a body of enforceable international protection attaches to a person's situation, and conflating the two erodes the standing of those entitled to that protection.⁴¹

Table 3. Refugee and Migrant Compared

Criterion	Refugee	Migrant
Legal status	A legal term of art defined by Article 1(A)(2) of the 1951 Convention	No definition in international law; a descriptive term of ordinary usage
Nature of movement	Forced: flight from conflict or persecution	Understood to be voluntary: a choice to build a new life elsewhere

³⁵ Hyndman (n 11) 148, distinguishing the several motives that produce cross-border movement and noting that only some engage the Convention.

³⁶ Loescher (n 8), on the securitisation of asylum policy in receiving States and its effect on admission practice.

³⁷ The empirical literature is settled on aggregate gains and unsettled on distributional effects within the low-skilled segment of the receiving labour market.

³⁸ In several developing economies remittance inflows exceed both official development assistance and foreign direct investment.

³⁹ The claim runs against the conventional brain-drain thesis; the externalities relied upon include return migration, diaspora investment and the incentive effect of emigration prospects on domestic education.

⁴⁰ On the consequences of denationalisation for the education of displaced Rohingya children, see Hossain, A. N. M. Z. (2023), 'Educational Crisis of Rohingya Refugee Children in Bangladesh', *Heliyon* 9(7), e18346. See also Naing (n 1) and Singh (n 2).

⁴¹ The distinction is legal rather than rhetorical: only the first category attracts the obligations in arts. 31 to 34 of the Convention.

Criterion	Refugee	Migrant
Border crossing	Must have crossed an international frontier	Involves crossing a frontier, but not as a condition of the category
Possibility of return	Cannot return without risking life or freedom	May return home without risk to life or freedom
Protection attaching	Specific entitlements, of which non-refoulement under Article 33 is the foundation	General human rights protections applicable to all persons; no specific refugee entitlement
Consequence of conflation	Describing a probable refugee or asylum-seeker as a migrant undermines the legal protections owed under international law	Describing a migrant as a refugee distorts the category and invites political backlash against genuine claims

Note. Persons likely to be asylum-seekers or refugees should not be described as migrants. The distinction is legal rather than rhetorical, and its erosion has practical consequences for the availability of protection.

5. THE CONTEMPORARY CRISIS IN NUMBERS

Any assessment of the adequacy of the protection regime must begin with the magnitude of the demand placed upon it. The most recent authoritative accounting, covering the position at the end of December 2025, records 117.8 million people forcibly displaced worldwide as a result of persecution, conflict, violence, human rights violations or events seriously disturbing public order.⁴²

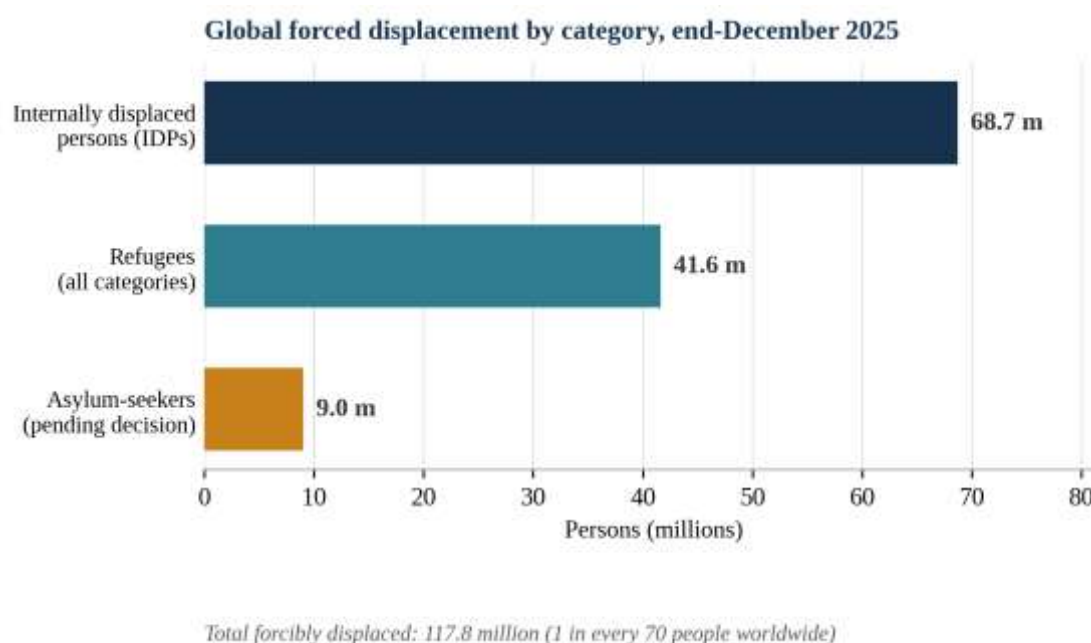


Figure 2. Global Forced Displacement by Category, End-December 2025

Note. Data from UNHCR Global Trends 2025. Internally displaced persons account for fifty-eight per cent of all forcibly displaced people, a reminder that most of those forced to flee never cross an international frontier and therefore fall outside the refugee definition altogether. Palestine refugees under UNRWA's mandate who are also internally displaced are counted once in the overall total.

⁴² UNHCR, *Global Trends: Forced Displacement in 2025* (n 3). The formula reproduces the trigger conditions used in UNHCR's statistical reporting.

Two features of this distribution deserve emphasis. The first is that internal displacement, at 68.7 million persons, substantially exceeds refugee displacement. Sudan alone accounted for 9.1 million people displaced within their own country at the end of the year.⁴³ Those persons remain within the territorial jurisdiction of their own State and, on the reasoning set out in Section 3.4 above, fall outside the scope of international refugee protection notwithstanding that the harm they face may be identical in kind and degree to that faced by those who succeed in crossing a border.⁴⁴

The second is that the refugee population itself is not a single legal category but an aggregate of several, each attracting a different institutional custodian and a different protection regime.

The global refugee total fell by 3 per cent during 2025 and the internally displaced total by 7 per cent⁴⁵, in both cases as a consequence of returns rather than of any reduction in the underlying causes of flight. Approximately 87 per cent of the world's forcibly displaced are hosted in low- and middle-income countries, a distribution which by itself explains much of the pressure on asylum systems described in Section 8 below.⁴⁶

KEY OBSERVATION

The burden of the refugee regime falls overwhelmingly on States least equipped to bear it. Any reform that does not address the distribution of responsibility addresses a symptom rather than the disorder.

Composition of the global refugee population, end-December 2025

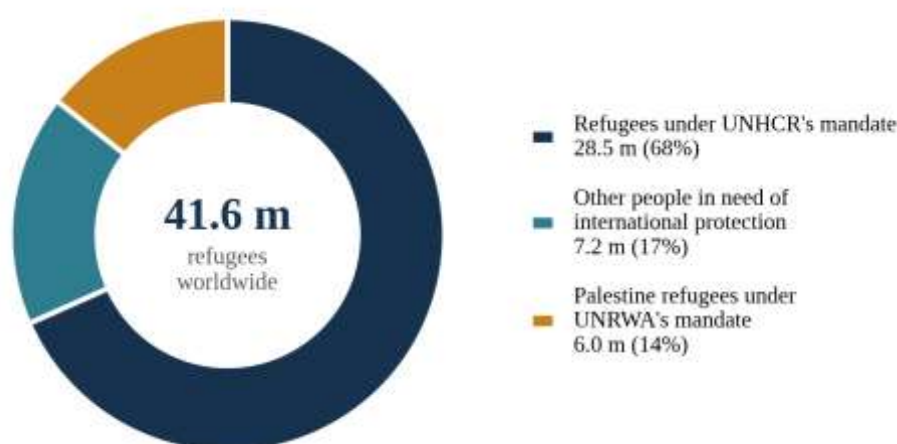


Figure 3. Composition of the Global Refugee Population, End-December 2025

Note. Data from UNHCR Global Trends 2025. The figure of 28.5 million refugees under UNHCR's mandate includes approximately 1.5 million persons in a refugee-like situation. Component values sum to 41.7 million; the reported global total of 41.6 million reflects rounding. A further 9 million asylum-seekers were awaiting a decision on their claims.

6. REFUGEE PROTECTION IN INDIA

6.1 A Long History without a Statute

Ever since its independence India has had to deal with a steady influx of refugees from surrounding countries, which is why the phenomenon is not unknown to the Indian authorities.⁴⁷ India has shown remarkable tolerance toward the refugees and asylum seekers arriving on the country's borders, and has managed the delicate task of walking the fine line between protecting

⁴³ Ibid. Sudan recorded the largest internal displacement situation of any country during the reporting period.

⁴⁴ See Section 3.4 above and UNHCR *Handbook*, para. 91. The distinction turns on the crossing of a frontier, not on the severity of the harm.

⁴⁵ UNHCR, *Global Trends* (n 3).

⁴⁶ Ibid. Approximately 87 per cent of the forcibly displaced are hosted by low- and middle-income countries.

⁴⁷ Marshilong, D. L. (2018), 'Refugee Status in India: A Special Reference to Rohingya Refugees', *International Journal of Science and Research* 7(2).

the rights of the foreigners and preserving the security of the Republic – although the former has consistently come out on top. At the same time the refugee crisis is an old problem in India which has failed to be addressed properly.⁴⁸

India's territory, liberal political regime and multiethnic character have made it a favored destination for many people who have had to leave their homes for one reason or another. It has also been surrounded by countries which have been sources of political or religious persecution for decades, if not centuries. Refugees, who are in dire need of protection, can enter the Republic illegally or legally, but either way they are faced with the challenge of securing a place to stay and work. Asylum seekers constitute a considerable portion of all undocumented immigrants in India. They can come to the country illegally or legally, with most of the latter being granted a stay on a discretionary basis. Some arrive with a valid visa and an Indian entry permit, as any other foreigner would have to. Some manage to get hold of official travel documents or even passports, but most simply cross India's long and sparsely monitored borders and coastlines without any paperwork. It must also be noted that the Indian law allows for a refugee status to be granted regardless of the travel documents, or the lack thereof.⁴⁹

India does not have a law which directly addresses the refugee settlement issue, and the problem has been dealt with on a case-by-case basis using laws which were designed to address other issues. There are acts which target specific groups of immigrants, such as the Tibetans, or which were passed in response to a particular event, such as the partition of Bengal or Pakistan in 1947 or the secession of Bangladesh from Pakistan in 1971. All such acts were formulated on a discretionary basis.⁵⁰

6.2 The Constitutional Architecture

Whatever the statutory position, the Constitution supplies a framework within which protection claims are litigated. Four provisions carry most of the weight.

Table 4. Constitutional Provisions Bearing on the Position of Refugees in India

Provision	Text in substance	Significance for refugees
Article 14	Equality before the law and equal protection of the laws	Extends to every person within the territory, not merely to citizens; supplies the basis for challenging arbitrary differential treatment
Article 21	No person shall be deprived of life or personal liberty except according to procedure established by law	Applies expressly to citizen and alien alike, and the procedure must be fair, just and reasonable; the principal vehicle for refugee claims
Article 51(c)	The State shall endeavour to foster respect for international law and treaty obligations	A directive principle indicating the spirit in which India approaches international obligations; not directly enforceable
Article 253	Parliament may legislate for the whole or any part of India to implement any treaty, agreement or convention	Read with Entry 14 of the Union List, confers power to legislate on State subjects where necessary to implement a treaty; a law so made cannot be invalidated on that ground

Note. The Constitution expressly incorporates the common law method, so that prior judicial decisions define the current state of the law, and the courts have elevated judicial review to the status of a basic feature and therefore unamendable. There is accordingly no obstacle in principle to the use of international conventions and norms in construing and substantiating the fundamental rights expressly guaranteed.⁵¹

⁴⁸ Bhalla, A., *The Need for Refugee Law in India* (Bar & Bench), arguing that the absence of a statute converts a question of right into a question of administrative grace.

⁴⁹ The position accords with UNHCR *Handbook*, para. 196, and with art. 31 of the Convention, which requires that refugees not be penalised for unlawful entry where they present themselves without delay.

⁵⁰ Gonsalves, C. (1998), 'The Somewhat Automatic Integration of International Refugee Conventions in Indian Law', *Bulletin on International Humanitarian Law and Refugee Law* 3(2), 247.

⁵¹ Constitution of India, arts. 14, 21, 51(c) and 253, read with Entry 14 of List I of the Seventh Schedule.

6.3 The Statutory Regime and the Immigration and Foreigners Act, 2025

The statutory position has changed materially and recently, in a manner that any current treatment of the subject must take into account. Until 2025 the framework rested on a group of instruments predating the Constitution: the Passport (Entry into India) Act, 1920, the Registration of Foreigners Act, 1939, and the Foreigners Act, 1946, the last of which defined a foreigner in Section 2(a) as a person who is not a citizen of India. The Citizenship Act, 1955 and the Foreigners Order, 1948 supplied further elements.⁵² The Immigration and Foreigners Act, 2025 repealed the first three of those instruments together with the Immigration (Carriers' Liability) Act, 2000. The Act received assent on 4 April 2025 and was brought into force on 1 September 2025.⁵³ Its Statement of Objects and Reasons explains the rationale: the repealed enactments were not merely of the pre-Constitution period but had been introduced in the extraordinary conditions of the two World Wars, and although the four shared an underlying continuity of purpose they contained overlapping provisions.⁵⁴

Table 5. The Indian Statutory Framework Before and After the 2025 Act

Instrument	Position	Effect on protection questions
Passport (Entry into India) Act, 1920	Repealed by s. 36	Entry-document requirements now consolidated in s. 3
Registration of Foreigners Act, 1939	Repealed by s. 36	Registration obligation now in s. 6
Foreigners Act, 1946	Repealed by s. 36	Definition of 'foreigner' re-enacted verbatim at s. 2(f)
Immigration (Carriers' Liability) Act, 2000	Repealed by s. 36	Carrier obligations now in ss. 17 to 19
Immigration and Foreigners Act, 2025	In force from 1 September 2025	The operative statute; contains no reference to refugees, asylum or non-refoulement
Citizenship Act, 1955	In force	Governs acquisition of citizenship; not a protection instrument
Constitution of India, Arts. 14, 21, 51(c), 253	In force	The substantive source of such protection as exists

Note. Section 36(2) preserves the validity of acts done under the repealed enactments so far as they are not inconsistent with the 2025 Act. Some published accounts of the Indian framework continue to cite the Citizenship Act as an Act of 1957; the correct year of enactment is 1955. Three features of the new Act bear directly on the position of persons seeking protection. First, the definition of a foreigner in Section 2(f) reproduces the 1946 formula without alteration: a foreigner is a person who is not a citizen of India.⁵⁵ The consequence is that a refugee remains, in Indian law, an alien and nothing more. Second, the proviso to Section 3(1) provides that no foreigner shall be permitted to enter or stay in India where found inadmissible on account of a threat to national security, to the sovereignty and integrity of India, to relations with a foreign State or to public health, and further provides that the decision of the Immigration Officer in that regard shall be final and binding.⁵⁶ Third, Section 16 places the burden of proving that a person is not a foreigner upon that person, notwithstanding the general rule of evidence, and Section 29 empowers the Central Government to direct removal for contravention of the Act or upon an adverse security report.⁵⁷

⁵² Citizenship Act, No. 57 of 1955 (India); Foreigners Order, 1948, made under ss. 3 and 3-A of the Foreigners Act, 1946. Some published accounts erroneously date the Citizenship Act to 1957.

⁵³ Immigration and Foreigners Act, No. 13 of 2025 (India), s. 36 (repeals); commencement notified with effect from 1 September 2025.

⁵⁴ Statement of Objects and Reasons appended to the Immigration and Foreigners Bill, 2025, noting that three of the four repealed enactments were introduced during or in the shadow of the two World Wars.

⁵⁵ Immigration and Foreigners Act, 2025, s. 2(f), reproducing without alteration the definition formerly contained in s. 2(a) of the Foreigners Act, 1946.

⁵⁶ Ibid., proviso to s. 3(1). The finality clause is expressed in unqualified terms and is not subject to any saving for persons claiming international protection.

⁵⁷ Ibid., ss. 16 and 29. Section 16 reverses the ordinary burden of proof; s. 29 confers the removal power.

CENTRAL FINDING

The Immigration and Foreigners Act, 2025 is the first post-colonial consolidation of Indian foreigner law. It nonetheless contains no reference to refugees, to asylum or to non-refoulement. The opportunity to give the protection question a statutory foundation was available and was not taken.

The finality accorded to the Immigration Officer's admissibility decision under the proviso to Section 3(1), and the removal power in Section 29 exercisable on an adverse security report, arguably narrow rather than widen the space within which a protection claim may be advanced.

6.4 Mandate and Non-Mandate Refugees

Refugees in India can be divided into two groups: those who fall under the mandate of the UNHCR and those who do not. The latter category, who constitute the majority, are under the direct protection of the Government of India, which prefers to handle refugee issues on a bilateral basis with the concerned states. There is no exact estimate of the number of refugees present in India. According to UNHCR, by the end of 2024, more than 240,000 refugees and asylum seekers have been identified and registered in collaboration with the Government, most of whom are of Burmese and Afghan origin; women and girls make up 46 percent and children – 36 percent of this population, which is scattered throughout eleven states, living mainly in cities and integrated into host communities.⁵⁸ India thus maintains a refugee regime without a refugee law, observing general practices consistent with international instruments without formalizing them. The status of a refugee is granted on an individual basis, taking into account the specifics of each case, as well as bilateral agreements with states. India has neither acceded to the 1951 Convention nor to the 1967 Protocol, which it explained by its geopolitical and economic situation, but at the same time, it has adopted the Universal Declaration of Human Rights in the spirit of its constitutional law.⁵⁹



Figure 4. The Architecture of Refugee Protection in India

Note. The diagram reflects the position following commencement of the Immigration and Foreigners Act, 2025. The two administrative tracks converge on a single legal framework that nowhere addresses refugee status as such.

⁵⁸ UNHCR, country information on India (figures as at the end of 2024). The registered population is distributed across eleven States and lives predominantly in urban settings.

⁵⁹ Universal Declaration of Human Rights, G.A. Res. 217 A (III) (10 December 1948). The Declaration is not a treaty, and its adoption imposes no obligation enforceable in Indian courts.

6.5 Article 21 and the National Security Exception

India is a land of the rule of law, and the Constitution grants all people their rights, and some rights to non-citizens. Every person is guaranteed equality before the law and the right to the equal protection of the laws, as well as the right not to be deprived of life or liberty except in accordance with the law. Thus, the State has the responsibility to protect the lives of all persons and their personal integrity and may not allow anyone to expel or remove anyone from its territory. The State Government cannot tolerate any groups threatening other groups, and it is obliged to protect the groups that are subject to expulsion from the territory of the State of India; thus, failing to do so, the authorities violate the Constitution and laws of the country.⁶⁰

However, the interests of the State in protecting national security, and in particular the functioning of the system of criminal laws, are placed above the lives and personal integrity of refugees. This is not surprising, given that the 1951 Convention allows exceptions in the case of a threat to national security.⁶¹ Thus, optimistically speaking, Art. 21 protects the lives and personal integrity of refugees. However, this protection is conditional, since by virtue of Art. 19, it can be revoked if the authorities manage to provide the Court with evidence that the refugees are a threat to national security or have committed crimes.⁶²

Thus, it is wrong to say that the right to non-return is an inviolable right in India. It is an administrative and judicial norm, which must be applied to each case individually, considering the arguments and evidence provided by the parties in proof of the threat. Consequently, it is necessary to analyze and consider the arguments in favor of the threat in order to determine whether a particular group will be expelled or not.⁶³

7. THE RESPONSE OF THE UNITED NATIONS

7.1 The Convention, the Protocol and the Mandate

The 1951 Refugee Convention and its 1967 Protocol provide the foundational legal framework for international refugee protection. The Convention provides a universal definition of what constitutes a refugee, while the Protocol makes the Convention's key provisions applicable to all refugees under international law.⁶⁴ The Convention's principle of non-refoulement in article 33 is central to the protection of refugees.⁶⁵ States that have ratified the treaty undertake to respect the refugees in accordance with the principles enshrined in the Convention, and UNHCR promotes universal ratification of the Convention and its Protocol, and helps states adjust national legislation accordingly.⁶⁶

UNHCR takes a leading role in international protection, having a mandate to protect 28.5 million refugees and 7.2 million other persons of concern, a total of 35.7 million persons at the end of 2025.⁶⁷ UNHCR's refugee protection activities are undertaken by staff in more than a hundred countries worldwide. Of the 41.6 million refugees recorded globally in December 2025, UNHCR has a mandate to protect 28.5 million of them, as well as 7.2 million other persons of concern, whereas the remaining 6 million Palestine refugees are assisted by the United Nations Relief and Works Agency for Palestine Refugees in the Near East, established in 1949.⁶⁸ UNHCR describes itself as a global organization devoted to saving lives, protecting rights and building a better future for people whose lives have been uprooted by conflict and persecution and takes action to lead international opinion on refugee protection, as well as on the protection of displaced communities and stateless persons, engaging in its operational activities in more than a hundred countries, providing a shelter, water, food and medical care to those without any other support, defending the right to reach safety, and working with States to improve and monitor refugee and asylum law and policy in the long-term.⁶⁹

⁶⁰ Constitution of India, arts. 14 and 21, both of which are expressed to apply to persons rather than to citizens.

⁶¹ Convention Relating to the Status of Refugees (n 6) arts. 32 and 33(2), permitting expulsion and, exceptionally, refoulement on national security or public order grounds.

⁶² Article 19 of the Constitution confers rights on citizens only; the qualification described here operates in practice through the 'procedure established by law' requirement in Article 21 and through the statutory removal powers, rather than through Article 19 itself.

⁶³ Gonsalves (n 50), on the case-by-case character of protection in the absence of a governing statute.

⁶⁴ Protocol Relating to the Status of Refugees, 31 January 1967, 606 U.N.T.S. 267, removing the temporal and geographical limitations contained in art. 1(A)(2) and art. 1(B) of the Convention.

⁶⁵ Convention Relating to the Status of Refugees (n 6) art. 33.

⁶⁶ Statute of the Office of the United Nations High Commissioner for Refugees, G.A. Res. 428 (V), Annex (14 December 1950), paras. 1 and 8.

⁶⁷ UNHCR, *Global Trends* (n 3). The balance of the global refugee total falls under the mandate of UNRWA.

⁶⁸ United Nations Relief and Works Agency for Palestine Refugees in the Near East, established by G.A. Res. 302 (IV) (8 December 1949).

⁶⁹ The description follows UNHCR's own account of its operational and protection functions.

7.2 Persons Not Deemed Deserving of International Protection

The 1951 Convention identifies categories of person who satisfy the requirements of refugee status but are nonetheless not treated as refugees in international law. The exclusion provisions exist to preserve the integrity of the institution of asylum: protection designed for the persecuted should not shelter those responsible for persecution.⁷⁰

Table 6. Exclusion from International Protection under Article 1 of the 1951 Convention

Provision	Category excluded	Rationale and qualification
Article 1D	Persons already receiving protection or assistance from a United Nations organ or agency other than UNHCR	Principally refugees under the protection of UNRWA. Where such assistance ceases and the criteria for refugee status remain satisfied, the persons concerned become entitled to status.
Article 1E	Persons granted most of the rights enjoyed by nationals, save citizenship, in the country that received them	The Convention does not enumerate the rights that must be granted, but the person's status must be equivalent to that of a national and he must be protected against deportation.
Article 1F(a)	Persons who have committed crimes against peace, war crimes or crimes against humanity	Crimes against peace include planning, preparing, initiating or waging a war of aggression or in violation of international undertakings. War crimes involve violation of the laws or customs of war under the Geneva Conventions. Crimes against humanity comprise fundamentally inhumane conduct, often grounded in political, racial or religious bias, including genocide, slavery, murder, imprisonment, rape, torture and apartheid.
Article 1F(b)	Persons who have committed serious non-political crimes outside the country of refuge before admission	Prevents fugitives from evading legitimate criminal liability by claiming refugee status, and renders refugee law compatible with the principles of extradition. Criminal conduct within the State of refuge is properly addressed through due process, with recourse to expulsion under Article 32 where the refugee is found to threaten national security or public order.
Article 1F(c)	Persons who have acted contrary to the purposes and principles of the United Nations	Enables States to act as agents of the international community against those who have exploited political authority to the detriment of individuals, their nation or the world community. The clause overlaps with Article 1F(a); the Charter provisions concerned generally address the conduct of States rather than individuals, and since few precedents exist the clause should be applied with caution.

Note. Torture constitutes an exception to the operation of these provisions. A person who has committed a serious non-political crime but who faces torture on return is not liable to be deported, the torture factor overriding the criminal considerations. Exclusion from refugee status is therefore not equivalent to authorisation to remove.⁷¹

The sequence in which these questions arise matters, since a claimant must first satisfy the inclusion criteria before cessation and exclusion can be considered. Figure 5 sets out the pathway.⁷²

⁷⁰ Convention Relating to the Status of Refugees (n 6) arts. 1D, 1E and 1F; UNHCR *Handbook*, paras. 140–163. The exclusion clauses are exhaustive and are to be construed restrictively.

⁷¹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, 1465 U.N.T.S. 85, art. 3, which admits of no exception and operates independently of refugee status.

⁷² The ordering is not merely expository: exclusion presupposes that the inclusion criteria are met, so a claimant who fails at the inclusion stage is refused rather than excluded.

7.3 How UNHCR Assists Refugees

The agency protects refugees, advocates for their rights, and works with governments and partners to find long-term solutions. Its work may be grouped under three heads.



Figure 5. The Refugee Status Determination Pathway

Note. The absolute bar on removal where torture is feared derives from Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) and operates independently of refugee status.

1. Responding in emergencies. UNHCR seeks to ensure that refugees reach safety and are not pushed back across a frontier into danger. With partners it supplies the basics of survival, including shelter, water and medical care, and advocates for protection and for the right to seek safety.⁷³
2. Safeguarding rights during displacement. Although most people who become refugees wish to return home, it is frequently unsafe to do so for years and sometimes for decades. UNHCR assists host countries in ensuring that refugees can exercise rights to education and health care, and helps them to access livelihoods so that they may live with greater independence and contribute to the communities in which they find themselves.⁷⁴
3. Finding long-term solutions. UNHCR convenes and works with the international community towards durable solutions, which may include supported voluntary return once conditions permit, integration into the host community, or resettlement and integration in a third country.⁷⁵

In each of these functions UNHCR treats refugees and those forced to flee as partners, placing those most affected at the centre of planning and decision-making.

⁷³ Universal Declaration of Human Rights (n 60) art. 14(1), recognising the right to seek and to enjoy asylum from persecution.

⁷⁴ The approach reflects the shift from care-and-maintenance models towards self-reliance, on which see Loescher (n 8).

⁷⁵ These are the three durable solutions recognised in UNHCR practice: voluntary repatriation, local integration and resettlement.

7.4 The Promise: The Convention at Seventy-Five

As the world marked the seventy-fifth anniversary of the Refugee Convention - at a time of record breaking displacement and mounting pressure on asylum systems - seventy five leading figures from across society joined UNHCR in launching The Promise, a global statement of solidarity with refugees. Convened by the United Nations High Commissioner for Refugees, Barham Salih, the initiative seeks to build a global coalition in support of refugee protection at a time when the international system faces growing challenges, and carry that coalition forward to the Global Refugee Forum in 2027.⁷⁶

Among the initial signatories are the actor-filmmakers Cate Blanchett, Angelina Jolie and Ben Stiller; the Olympic champion and President of the International Olympic Committee, Kirsty Coventry; the entrepreneurs Hamdi Ulukaya, Mo Ibrahim and Tadashi Yanai; the Nobel Peace Prize laureates Malala Yousafzai, Nadia Murad, Denis Mukwege and Ellen Johnson Sirleaf; and Sarah Mullally, Archbishop of Canterbury. Their involvement reflects support drawn from across society for protecting the right to seek asylum.⁷⁷

THE PROMISE RESTATED

"The Refugee Convention has saved millions of lives over the decades; it goes to the core of our shared humanity. Seventy-five years ago, the world made a promise to protect people forced to flee. Our responsibility now is to keep that promise alive, for all generations to come."

— Barham Salih, United Nations High Commissioner for Refugees

Through the statement the signatories reaffirm the enduring principles of the Convention and the commitment to protect those fleeing conflict, violence and persecution. They call for a world in which everyone can seek safety, in which refugees are included in the communities that receive them, in which solutions to displacement begin at the earliest stages of every crisis, and in which all sections of society play their part. They pledge to choose action, compassion and solidarity until everyone is safe.⁷⁸

8. FAULT LINES IN THE INTERNATIONAL RESPONSE

Whatever its shortcomings, the United Nations discharges humanitarian and peacekeeping functions that few other organisations could undertake. It offers a safety net for the vulnerable in numerous war zones and a channel of communication among States on divisive questions. Its decline would corrode a buffer that keeps many armed conflicts from worsening. Retrenchment may be unavoidable, but member States should act to minimise the consequences, offering political, diplomatic and financial support in addressing the problem.⁷⁹

UNHCR has recorded many successes across its history. It has also recorded failures. Slow and inadequate responses to refugee emergencies and to protection crises have at times placed the lives of very large numbers of people at risk. A number of internal and external constraints inhibit the organisation from achieving its full effect, and these deserve to be stated plainly.⁸⁰

8.1 Dependence on Donors and Hosts

UNHCR is shaped by the interests of major governments. In mounting large relief operations it is substantially at the mercy of its donors and of host governments. It can carry out its emergency and maintenance programmes only if it receives funding from industrialised States, and it can operate in the countries into which refugees move only where host governments permit its presence. It is therefore in a comparatively weak position to challenge the policies of those who fund and host it, even where those policies fail to respond adequately to refugee problems. The difficulty is structural rather than a failure of will, and it will not be resolved by exhortation.⁸¹

⁷⁶ UNHCR, press release of 27 July 2026, announcing the launch of The Promise to mark the seventy-fifth anniversary of the Convention.

⁷⁷ Ibid. The signatories were drawn from the arts, sport, business, religion and public life.

⁷⁸ Ibid. The statement is declaratory and creates no legal obligation; its significance is political.

⁷⁹ Loescher (n 8), on the consequences of institutional retrenchment for populations dependent on multilateral protection.

⁸⁰ Ibid., surveying the record of the Office across its first half-century, including its slowness of response in several major emergencies.

⁸¹ Ibid. The constraint follows from the Office's financing model, which rests almost entirely on voluntary contributions rather than assessed budget.

8.2 The Displacement of Protection by Operations

In its first decades the protection of refugees expressed the core values and practices that gave UNHCR its distinctive meaning, identity and coherence. Since the mid-1980s, as operational activity gained precedence over protection, that culture of protection has been curtailed. The shift is intelligible: emergencies demand logistics, and logistics attract funding more readily than legal advocacy. The cost, however, has been a diminution of the agency's authority as guardian of the asylum norm.⁸²

8.3 The Watchdog Function

UNHCR has an important part to play in persuading States that it lies within their own national interest to find satisfactory solutions to refugee problems. Acting as the international watchdog on asylum, and balancing the protection needs of refugees against the legitimate concerns of States, requires bold steps and a willingness to confront governments where necessary. As guardian of international refugee norms the agency has a role in reminding liberal democracies of their own identity as promoters of international human rights.⁸³

Public statements and pressure may prove ineffective in the short term. Persistent and well-founded advocacy may nonetheless achieve the desired change over a longer horizon, and a proactive protection policy carries the further benefit of contributing to the agency's long-term influence. UNHCR is not a static organisation; it has changed and evolved continually across its history. Bold steps should now be taken to revitalise its primary role as protector of refugees and guardian of asylum worldwide.⁸⁴

9. RECOMMENDATIONS AND FUTURE IMPERATIVES

The analysis in the preceding sections supports a reform agenda organised around four pillars. They are presented in sequence because each is a precondition for the next: a rights floor without secure status is unenforceable, and secure status without predictable financing is unsustainable.⁸⁵



Figure 6. A Four-Pillar Agenda for a Predictable Protection Regime

Note. The pillars are addressed principally to India but are framed so as to apply to any State operating a refugee regime without a refugee law.

⁸² Ibid., tracing the subordination of the protection function to operational activity from the mid-1980s onwards.

⁸³ Ibid. The watchdog function depends on a measure of independence from the States whose conduct is to be scrutinised.

⁸⁴ Ibid. The Office has repeatedly redefined its role in response to changed conditions, and the argument here is that a further redefinition is now required.

⁸⁵ The pillars synthesise the findings of Sections 6, 7 and 8, and are set out in tabular form in Table 7.

Table 7. Recommendations, Addressees and Anticipated Effects

No.	Recommendation	Addressee	Anticipated effect
1	Enact a dedicated national asylum statute defining refugee status, codifying non-refoulement and specifying the grounds on which it may be qualified	Parliament of India	Replaces administrative discretion with enforceable entitlement and gives courts a determinate standard to apply
2	Establish an independent status determination authority obliged to give reasons, with a right of appeal to a specialised tribunal	Ministry of Home Affairs	Introduces consistency and reviewability; reduces the volume of writ litigation now required to secure elementary protection
3	Amend the Immigration and Foreigners Act, 2025 to insert a saving provision for persons claiming international protection, so that the finality conferred by the proviso to Section 3(1) does not extinguish a protection claim	Parliament of India	Reconciles border control with protection without disturbing the architecture of the new Act
4	Guarantee a documented rights floor covering education, healthcare, lawful employment and identity documents for recognised refugees	Union and State Governments	Converts tolerated presence into lawful residence and enables self-reliance, reducing long-term fiscal burden
5	Accede to the 1951 Convention and the 1967 Protocol, entering such reservations as national circumstances genuinely require	Government of India	Aligns practice with the standards India already substantially observes and strengthens its position in regional negotiations
6	Move UNHCR towards predictable multi-year financing and away from annual appeals tied to donor priorities	Member States and donors	Reduces the dependence identified in Section 8.1 and restores capacity for protection work that attracts no operational funding
7	Develop regional responsibility-sharing arrangements in South Asia, including agreed criteria for reception and relocation	States of the region, with UNHCR facilitation	Distributes a burden now borne unevenly and reduces the incentive to externalise protection obligations
8	Restore the primacy of protection within UNHCR's internal allocation of resources and professional advancement	UNHCR	Reverses the displacement described in Section 8.2 and rebuilds the agency's authority as guardian of the asylum norm

Note. Recommendations 1 to 5 are directed to the Indian position specifically; recommendations 6 to 8 address the international regime. The two sets are interdependent, since a State is unlikely to assume codified obligations while the international framework supporting them remains unpredictably financed.

10. CONCLUSION

Seventy-five years after the Refugee Convention was opened for signature, the instrument retains its analytical force. The definition in Article 1(A)(2) continues to identify with precision the persons to whom the international community owes

protection, and the obligation of non-refoulement in Article 33 continues to state the minimum that protection means.⁸⁶ The difficulty lies not in the norms but in their institutional realisation.

Three conclusions follow from the foregoing analysis. The first is that the regime's principal structural weakness is the mismatch between where displaced populations are hosted and where the resources to support them are held: roughly 87 per cent of the forcibly displaced are hosted by low- and middle-income countries, while the funding on which the international response depends is held elsewhere. No amount of normative refinement will address a problem of that character.⁸⁷

The second is that India's position is anomalous in a specific and remediable way. India has hosted displaced populations continuously since independence and has, on the whole, done so with a generosity its legal framework does not require of it. But the Immigration and Foreigners Act, 2025, which consolidated a century of foreigner law and represented the first genuine opportunity in the post-colonial period to place protection on a statutory footing, passed that opportunity by. Protection in India therefore continues to depend on the construction placed by courts upon Article 21, and yields whenever a sufficiently serious security argument is advanced against it. Discretion exercised generously remains discretion, and it is not a substitute for entitlement.⁸⁸

The third is that UNHCR's constraints are structural and will not be relieved by internal reorganisation alone. An agency dependent on donors for its budget and on host governments for its presence cannot readily discharge a watchdog function against either. Restoring its capacity to do so requires changes in how it is financed, not merely changes in how it is managed.⁸⁹

The people whose circumstances give rise to this literature are not, for the most part, asking for a great deal. They are asking not to be sent back to the place they fled, and they are asking for a lawful basis on which to remain until it is safe to return. The first of those requests has been answered in law since 1951.⁹⁰ The second remains, in a great many jurisdictions, unanswered. Closing that gap is the work of the regime's next quarter-century.

"Don't call me nationless, which makes me hopeless. Don't name me stateless, which makes me aimless." The demand articulated in the epigraph to this article is not a demand for charity. It is a demand for legal personality, and it is one that a statute could answer.

CONFLICT OF INTEREST

The authors received no specific funding for this work and declare that there is no conflict of interest.

ETHICS STATEMENT

Ethical approval is not applicable: the study is doctrinal and involved no human participants.

DATA AVAILABILITY STATEMENT

All primary materials cited are publicly available treaty instruments, statutes and institutional reports.

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⁸⁶ Convention Relating to the Status of Refugees (n 6) arts. 1(A)(2) and 33.

⁸⁷ UNHCR, *Global Trends* (n 3), on the concentration of hosting responsibility in low- and middle-income States.

⁸⁸ Immigration and Foreigners Act, 2025 (n 53). The Act nowhere uses the words 'refugee', 'asylum' or 'non-refoulement'.

⁸⁹ Loescher (n 8). See further Recommendation 6 in Table 7.

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