

Protection of Afghan Refugees in India: A Critical Study

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Abstract

After prolonged third-party violence in Afghanistan and the Taliban's reclaim of power in 2021, thousands of Afghan citizens have fled to India. Although India has a long-standing history of keeping refugee populations for decades, it is not a party to the 1951 Convention on refugees and lacks a specific local refugee statute. Afghan refugees are thus controlled by the general laws of immigration like the Foreigners Act, 1946, which creates legal uncertainty and arbitrary protection. This paper critically appraises the Indian refugee management regarding Afghan refugees, including the regulatory environment, provision of status determination by the United Nations High Commissioner to the refugees and socio-economic problems of refugees.

It also examines how constitutional clauses and judicial interference can help fill legislative loopholes. The study concludes that in India, although there are plenty of humanitarian traditions and no large-scale refoulement, protection is still fragmented, transitory and not well aligned with the best international practice. Lack of a well-organised asylum system continues to create uncertainty and vulnerability in the socio-economic status. The research suggests a codified system of protection of refugees to provide certain legal clarity, dignity and sustainability of integration in accordance with the international norms of humanitarianism.

Keywords: United Nations High Commissioner for Refugees (UNHCR), The North Atlantic Treaty Organization (NATO), the Citizenship Amendment Act (CAA), Non-refoulement, Asylum seeking

Introduction

Forced displacement has emerged as the most prominent and disturbing challenge of humanitarianism of the 21st century. The constant conflict between countries regarding political conflicts, insurgencies and socio-economic collapse has made Afghanistan one of the greatest sources of refugees since the late 1970s. As per the reports of the United Nations High Commissioner for Refugees (UNHCR) (2026), there are 2.6 million registered Afghan refugees throughout the world. There is an enormous majority of refugees residing in different countries, such as Iran and Pakistan, in an unregistered manner. There is also a report on 3.5 million internally displaced Afghans within Afghanistan, highlighting a severe humanitarian crisis. India has been helping displaced populations across the entire South Asia, such as Tibetans, Sri Lankans, Rohingya, and Afghans, for decades. Despite these measures, India, unlike many Western nations, is neither a signatory nation to the Refugee Convention of 1951 nor the Protocol Relating to the Status of Refugees of 1967 (Kapoor, 2022). Moreover, there is no internal statutory system present to measure and address refugees in the country. Instead, asylum seekers and refugees in India are generally regulated by

the Foreigners Act, 1946 and relevant regulations around immigration issues. Therefore, the lack of a statutory system places these population groups as foreigners without any special status that can guarantee legal protection. This exposes that there is a lack of formal law of providing refugee status in India that disrupts their access to rights, security and socio-economic inclusion.

The demographic of Afghan refugees in India has evolved over the years, as per data. It has been found that around 15,559 refugees and asylum seekers from Afghanistan are of concern to UNHCR (The Indian Express, 2021). Many people fled Afghanistan in 2021 when the Taliban recaptured power in the country, followed by the withdrawal of the US and NATO troops, thus increasing the number of refugees in India along with adjacent regions (Makoveeva, 2023). A substantial number of people wanted to be secure against political persecutions, activities infringing on human rights and economic destruction within Afghanistan. India has also reverted by issuing emergency and special visas to some categories of Afghan nationals in addition to diplomatic and humanitarian intervention, which are meant to assist those who have already arrived.

Nonetheless, as there is no structured refugee system, refugees tend to stay in prolonged legal limbo, free of either finding a stable residence status, formal employment, or even services that they require regularly. This fact raises questions about how viable and efficient the processes of safeguarding the Afghan refugees in India are, given the fact that there is a lack of a formal system of refugee protection despite the growing number of asylum seekers. Not only are the protection gaps legal, but also socio-economic and psychosocial. Afghan refugees usually experience unstable livelihoods, a lack of jobs and education, and no understanding of their future (Mehraj, and Bashir, 2024). This is prominent within women and children, considering their population to form a large section of refugees and demand equal right to security, health, and social inclusion.

Aim and Objectives

The key aim of this study is to analyse the Indian refugee management system in the context of protecting and controlling Afghan refugees. It is intended that structural loopholes in the path of meaningful protection and status of the Afghan refugees are covered in this research, focusing on the contemporary practices in India and their alignment with global humanitarian norms. The following objectives are pivotal to this research aim:

- To examine the regulatory landscape in India that applies to the Afghan refugees
- To determine the role of UNHCR in protecting and registering asylum seekers in India
- To understand the socio-economic issues of Afghan refugees in India
- To evaluate the implications of the Indian government's approach to protecting refugees in comparison with global best practices

Literature Review

Regulatory Environment in India

One of the critical topics in the literature is the lack of a codified refugee policy relevant to the Afghan asylum situation. Many of the researchers have noted the refugee management in India as informal and arbitrary till today, regulated by the immigration laws, which do not differentiate between economic migrants and those who seek asylum. A normative review of the legislative framework in India stated that historically, the country adopted an open-door policy that embraced Tibetan, Sri Lankan, and subsequent Afghan refugees. Since the Soviet invasion and the fall of the Najibullah regime and the beginning of the

Taliban, India has been a longstanding place for Afghan refugees (NHRC, 2025). However, a formal legal framework was not present even then, without apparent procedural protection, as well as statutory commitment.

In recent scholarly literature works devoted to the Afghan refugees have noted that India is not signatory to the international refugee regime, and as a result, in an improper process (Alexander, and Singh, 2022). For example, the research examining international law identifies this as a loophole that plays against the rights of refugees and their well-being, as they are habitually placed in the legal grey area, remaining at the will of the executive instead of being supported by sound law. Many more works have also emphasised that, despite the absence of a refugee law, special visa segments work occasionally for some Afghan nationals, especially in crises like the Taliban conquest. However, these actions are not long-term and uneven, with numerous asylum seekers being unaware of their right to remain in the country from a long-term perspective.

Role of the United Nations High Commissioner for Refugees (UNHCR) in the protection and registration of refugees

Considering the lack of a formal asylum mechanism in India, a significant portion of research underlines the leading position of the United Nations High Commissioner for Refugees (UNHCR) in addressing refugees and their registration. It is widely accepted and confirmed by researchers that UNHCR Refugee Status Determination (RSD) and issuance of refugee cards offer maximum documentation to the Afghan asylum seeker. However, the Indian government does not recognise these cards as official documents of identity, which implies that Afghan refugees are not shielded against detention or deportation risks (Dutt Tiwari, *et al.* 2024). In mass media coverage, protests of Afghan refugees in India have been noted, demanding refugee status and better prospects for children.

As per reports, there were nearly 21,000 Afghan refugees in India, of which only one-third are registered with the UNHCR and the remaining wait in limbo as asylum seekers or for refugee status (Kumar, 2021). These examples demonstrate the practical constraints of UNHCR documentation in situations where the domestic law does not formally reflect on refugee status. Furthermore, there are many doubts about the actual working functionality of UNHCR, with some Indian judges showing the illegitimacy and procedural transparency in its documentation practices. It emphasises the lack of protection domestically, which is judicially characterised as evidence of wider discussions that concern the categories of international agency activity between sovereign legal frameworks and the responsibility of such a process.

Social-Economic Problems of the Afghan Refugees

A significant branch of literature pays significant attention to the experiences of living and socio-economic exposure of Afghan refugees in India. Op-ads and research studies on Afghan refugees mention lack of access to healthcare, education, employment and other essential services. They are prone to work in precarious, underpaid jobs, and children in schools have poor attendance rates due to financial and legal barriers. Based on many qualitative case analyses, it is found that Afghans reside in regions like the Lajpat Nagar, Malviya Nagar, Bhogal and Faridabad neighbourhoods in South Delhi (Kandwal, 2025). Afghan refugees face social ostracism and economic disadvantages despite the absence of hostility and this also indicates that refugees receive occasional humanitarian aid. However, the architecture of the Indian system does not permit sustainable incorporation and socio-economic progress. There are also public records of how Afghan asylum seekers protest or demand to be moved because of the ineffectiveness of India's discretion policy, which is leading to insecure livelihoods or exclusion from mainstream society.

Comparative and Global Norms Perspective

In broader literature on refugee protection, the idea has dwelt upon those countries that have formal laws concerning asylum and have laws concerning the entitlements of refugees. These are Canada, Germany, Sweden, and other developed nations that can provide protection and socio-economic inclusion quite effectively (Demir, *et al.* 2025). In comparison, other countries, such as India, whose immigration policy hinges on immigration law, along with ad hoc executive policies, generate precarity of the law. Researchers have indicated that domestic practice can only be harmonised with the international best practices (non-refoulement, access to justice, employment rights) to improve the chances of the refugees. There is high criticism around India's bias in citizenship policy changes, such as the Citizenship Amendment Act (CAA) 2019, which expedites the access of select religious minorities of neighbouring nations (Imran, 2025). It is often claimed that CAA omits Muslim Afghans as a policy alternative under the guise of promoting equitable humanitarianism.

Literature Gaps

There are certain gaps found in the existing literatures such as

Empirical evidence: socio-economic outcomes of the Afghan refugees in India are less empirically researched, especially lacking longitudinal research studies on trajectories of integration over time.

Refugees' point of view: Majority of the research has been emphasising the legal and political aspects, thus lacking the in-depth understanding of the narrative of the Afghan refugees. Due to a lack of perceptions of refugees regarding protection, lack of security, and agency, this study has a gap.

Policy Implementation Studies: There is a limited study that assesses the implementation gap between the policy pronouncements (visa categories) and actual effects on refugees residing in India.

Comparative Frameworks in South Asia: Comparative studies across countries were limited, which is needed to differentiate between the approaches taken by India and other neighbouring countries, such as Bangladesh or Pakistan, in their refugee protection efforts.

Methodology

Research philosophy

There are mainly two types of philosophy widely applied in research studies, which are positivism and interpretivism. Positivism deals with quantitative insights derived from first-hand information, whereas interpretivism relies on existing narratives from multiple sources to gather qualitative insights. In this research, the interpretivism research philosophy is applied, considering its focus on reality from experience that delivers subjective meaning to multiple aspects. Unlike positivism, interpretivism focuses on relativist views that perceive reality through intersubjectivity by accounting for the social and experiential aspects (Junjie, and Yingxin, 2022). It applies qualitative methods to gather context-rich insights on the subject, which is highly beneficial in exploring the trends around the Afghan refugees' situation in India. Unique aspects merge through interpretivism that concern socio-economic factors carefully and critically to support research objectives.

Research approach

Research approaches are generally deductive or inductive, depending on the nature of the study. The deductive approach moves from theory to conclusion and the inductive approach moves from specific observation to generalised meanings. An inductive approach intends to find layered and complex issues to perform theme-based discussion that can provide quantitative insight as well (Proudfoot, 2023). New ideas are generated from the inductive approach, which is the foundation of this research approach and

this bottom-up strategy is beneficial for researchers to find equine observations on the subject. An inductive approach can develop new theories based on existing assumptions, as this gives more openness to a study to explore multidimensional factors, which are not feasible under the deductive methods. Based on the new premises developed through observations, the inductive approach suits the objectives of this research that demand in-depth knowledge.

Research design research

Descriptive design has been applied to this study in order to describe the existing phenomenon contextually rather than numerically. Descriptive design in a study focuses on a particular phenomenon or condition to accurately describe findings without reaching any conclusion (Furidha, 2023). Descriptive design allows the researcher to cover multiple resources like constitutional provisions, regulatory responses and institutional measures in the protection of Afghan refugees in India. This is a flexible way of integrating data from different periods without restricting the study to a specific domain or sample. Unlike other designs that aim to build a causal relationship through statistical methods, descriptive design puts focus on the critical examination of the existing trends and patterns to make a comprehensive discussion thematically.

Data collection

Given the selected methods in this study, data is collected from secondary sources that provide qualitative insights to fulfil the study objectives without needing any measurable strategies. Primary data analysis cannot offer in-depth insights similar to secondary qualitative data, and its abundance makes it easier to access multiple databases (Cheong *et al.* 2023). Secondary data collection allows the researcher to gain deeper narratives relating to the measures of UNHCR, the government, the Supreme Court and the High Courts, along with the Ministry of Home Affairs. Flexibility of secondary data access ensures the inclusion of an international perspective on refugees and asylum seekers, including demographic context in this study. Using academic journals, global institutional reports and statistics, the displacement of Afghans and refugee conditions in India are discussed using secondary qualitative data. These pre-existing sources of information are cost-effective and time saving study is conducted with credibility.

Data analysis

The collected data from secondary sources is analysed using a thematic analysis method that includes identifying the trends related to the findings and categorising them into different themes. Different documents, journals and international conventions have been examined in order to derive key trends from existing data. Multiple trends are grouped together to form codes that best represent meaningful perspectives to add value in a study rather than attempting to achieve consensus of meanings (Byrne, 2022). Therefore, Braun and Clarke's thematic analysis can contribute better familiarity with qualitative data for categorising an interesting core phenomenon with critical narratives. Considering the inductive approach taken by the researcher in this study, reflective codes are generated which are free from pre-conceived theories or concepts. Hence, the analyses provide greater reliability with less potential bias.

Ethical consideration

This research follows all possible ethical guidelines relevant to the research domain to maintain the validity and reliability of information. Secondary data is easily accessible, but the researchers have taken consent from the university authority to publish this work using existing data. Contextual integrity has been maintained to respect the originality of previous work without distorting the meanings of studies. In order to acknowledge the existing works used in this paper, citations and referencing are done thoroughly to avoid plagiarism. Through an unauthorised stare of this study, data security has been taken into account

for preventing disclosure.

Results

Theme 1: Ambiguity in legislation and lack of a dedicated refugee framework

Legal ambiguity is the most vivid theme that can be brought to the fore by the analysis. India lacks a particular refugee law, although the Afghan refugees are governed by the general laws of immigration, such as the Foreigners Act, 1946 and the Passport (Entry into India) Act, 1920 (Sarver, and Kumari, 2025). These laws do not draw a distinction between asylum seekers and other types of foreign nationals. This has mainly caused refugees to continue to live as foreigners, with a consistent possibility of being detained, deported, or having a visa cancelled at the will of the executive.

The results identifies many structural gaps that leads to ambiguity in the acknowledge of refugee status and their rights to receive protection in India. Still, some state rules like Article 14 (equality before the law) and Article 21 (right to life and personal liberty) concern all other people, including non-citizens (Arora, 2025). However, these rights are not properly enforced due to lack of proactive responses rather these are applied reactively. This type of irrationality is a reflection of situation-based refugee management in the country. Despite giving autonomy to the state, it undermines predictability and security for refugees. On the contrary, states with codified asylum offer more succinct avenues to status determination and options of appeal as well as integration.

Theme 2: Judicial Protection as a Substitute for Legislation

Another important aspect of the jurisdictionalisation of refugee protection. The Supreme Court of India took constitutional freedoms to non-citizens as it was not recognised in the Constitution. The courts have interpreted Article 21 in a very broad way in order to give the right to live with dignity, thus indirectly defending the notion of non-refoulement (Arora, 2025). However, that judicial protection is selective and circumstantial because the establishment of a balance between national security and humanitarian needs, courts tend to lean towards the latter. The judiciary has been alleged to have favoured the executive discretion, particularly when security arguments are presented in the case of deportation or imprisonment. This type of dependency on courts generates a reactive protection model so that refugees engage with legal institutions to seek relief. It demands financial resources, awareness of the law, and access to procedures such as inaccessible to marginalised communities. Therefore, judicial activism is not a permanent protective measure, but it cannot replace systematic reforms in the legislation.

Theme 3: Key Position and Organisational Constraints of UNHCR

The other overwhelming theme is that of the functional relevance of the United Nations High Commissioner in India to Refugees. India does not have a legal asylum system; thus, Afghan asylum seekers' status in India is mainly determined by UNHCR, where they are given documentation cards (Anushka, 2025). The results indicate that UNHCR documents offer political safeguards, albeit to a limited degree. It allows avoiding arbitrary detention and allows one to receive some of these services provided by non-governmental organisations. Nevertheless, Indian law does not conclude with recognition by UNHCR that the individual obtains legal residence. Refugees continue relying on temporary visas or even the informal willingness of governments.

From the qualitative studies, a two-step system of control emerges, represented on the international level by UNHCR and on the domestic level by the laws of immigration. This two-sidedness forms a contradiction between humanitarian standards and sovereign authority. For refugees, there is always uncertainty in renewing their visa or even when the documentation does not work consistently with the

local authorities (Dotsey, 2025). In this way, although UNHCR is also preservative, the lack of domestic jurisdiction is a structural limitation due to the fact that refugee status is not enshrined in law.

Theme 4: Precariousness in the Socio-Economic Setting and Limited Integration

Socio-economic vulnerability is another The Indians have a high concentration of Afghan refugees in urban centers mainly in Delhi. In the analysis, the general patterns of poor employment opportunities, informal work, housing insecurity, and impediments to higher education can be traced. Since most refugees have no formal work authorisation or long-term residency privileges, small businesses, translation services, and low-income informal sector work are some of the activities most refugees are involved in. Gender-based discrimination, low livelihood, and the presence of psychological trauma caused by conflict displacement make women refugees more vulnerable.

There is also a disparity in education and healthcare. Although there is access to private schooling or other NGO-funded programs by some refugees, there is usually a lack of financial ability to remain enrolled. The out-of-pocket spending or humanitarian aid continues to form a significant part of healthcare. The findings indicate that the strategy adopted by India is focused on short-term relief rather than long-term solutions. Considering the best practice in the world view, protecting the refugees is now more concentrated on self-help and blending in place of the extended reliance. In comparison, the Indian paradigm creates an ambiguous time, which prevents refugees from attaining a situation of socio-economic stability.

Theme 5: Purposeful Humanitarian and Discretion Policy

A selective response to policies is also noted in the analysis. In 2021, after the Taliban returned to power, India launched emergency electronic visas targeting some of the Afghan nationals (NDTV, 2025). There was, however, a lack of uniformity and clarity in implementation and the omnipresence of categories of eligibility. This discriminating humanitarianism is indicative of geopolitics and domestic politics.

Although the past has been characterised by Afghan Hindu and Sikh minorities in India being relatively open and tolerant to the presence of such groups, the Muslim Afghan refugees have been at times more scrutinised. In spite of the fact that solidarity is given priority in humanitarian rhetoric, the protection result is different based on the identity, the perception of security and diplomatic interests (Karić, *et al.* 2025). This kind of selectivity has raised issues of equality and non-discrimination as normative principles that are the pillars of international refugee law. It also brings to the fore the conflict between humanitarian obligations and strategic concerns about governing refugees.

Discussion

The research results of this paper indicate that the refugee management system in India is indicative of the complicated humanitarian protection and state management. India has a longstanding history of generosity in providing refuge, but the lack of a written law to act as a refugee law is a major factor that influences how refugees are provided to the Afghan refugees and the level of consistency they can receive. Dependence on the general immigration laws, like the Foreigners Act 1946, poses a legal uncertainty because, instead of categorising refugees as a potential group that needs international protection, refugees become perceived as foreigners (Sarver, and Kumari, 2025).

Nevertheless, judicial protection is still individual and reactive, so that refugees rely on judicial rather than institutional protection. Likewise, the United Nations High Commissioner of Refugees, when involved in Refugee Status Determination, is offering documentation and limited aid, but not complete acknowledgment which is not fully supported by the domestic law (Lavenex, and Vaagland, 2025). Socio-

economic analysis also reveals that the livelihoods of Afghan refugees are precarious, and there is low access to formal jobs and low access to integration opportunities. The selective and discretionary quality of visa policies, especially since the Taliban took over in 2021, can be used to explain that humanitarian responses are frequently driven by political and security interests.

In general, the Indian strategy can be described as one of tolerant protection as opposed to the action of rights protection (Auethavornpipat, 2025). Although in large-scale refoulement it is not usually applied, there is a lack of long-term stability, legal certainty and integration, which has not been formally dealt with. The discussion in this study have pointed to the need to have an organised and structured system of Afghan refugee management in India with stable contusions, legislation and policies to cover national security and rights.

Conclusion and Recommendations

The system if refugee management in India has been found delivering reactive support to the Afghan refugees although it lacks structured legislative framework Due to the absence of proper protection and identity of refugee's there is poor protection, employment and social integration issues found among the population residing in Delhi. However, constitutional supports have been extended in partnership with international institutions like UNHCR to guide refugee management condition.

Hence, the following recommendations can enhance the current regime in India:

- Adoption of a national refugee act that spells out clearly the status of refugees, their rights and procedural protection
- Domestication of the principle of non-refoulement in national laws in order to grant uniform protection
- The status establishment needs to be an independent asylum authority to carry out transparent status determination.
- Improved UNHCR collaboration and domestic responsibility and legality

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