

# Between the CAA 2019 and the NEP 2020: Mapping Refugee Inclusion in India's Citizenship and Education Policy Landscape

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## Abstract:

This paper examines how the Citizenship Amendment Act (CAA) 2019 and the National Education Policy (NEP) 2020 have recomposed refugee trajectories to inclusion in India through the intersecting domains of citizenship and education. Drawing on legal, judicial, and policy literature, it argues that although this intersection is significant, it fails to resolve two persistent challenges. First, the pathways of inclusion it creates are uneven across different refugee groups. Second, refugee inclusion within education remains largely symbolic and episodic, rather than through explicit and targeted policy design. Consequently, both approaches fail to address the structural precarity shaping refugees' everyday educational experiences. The paper concludes by proposing specific mechanisms to address these persistent gaps.

**Keywords:** CAA 2019; NEP 2020; India; refugee; symbolic inclusion

## 1. Introduction

Education is one of the few institutional spaces in which questions of recognition, continuity, and future-making are negotiated for displaced populations, and access to it is mediated by documentation, residency, and citizenship regimes (Dryden-Peterson, 2016). India, non-signatory to 'the 1951 Refugee Convention' and its '1967 Protocol', lacking a dedicated refugee law on the land (Nair, 2007), exemplifies above mediation acutely and governs displacement through executive discretion, judicial interpretation, and humanitarian intervention (Janmyr, 2021; Alexander & Singh, 2022). Two recent developments have, for the first time, brought citizenship and education into direct analytical contact within the refugee context: the CAA 2019 and the NEP 2020. While the first reshapes citizenship pathways for refugees, the second, provides educational pathways to refugees through its commitment to educate every child 'irrespective of their place of residence' especially focusing on 'historically marginalized, disadvantaged, and underrepresented groups' (MHRD, p. 4). Neither instrument names refugees as its subject, yet together they now constitute the clearest pathway through which citizenship and education intersect for displaced populations in India. This paper argues that this new intersection, though real, resolves neither of two persistent problems in India's approach to refugee inclusion. First, the pathways it opens are not uniform across refugee groups: the CAA extends citizenship eligibility on religious and national criteria that include some communities and exclude others outright, reproducing rather than resolving India's longstanding practice of differentiated recognition. Second, where inclusion does reach excluded groups,

it arrives symbolically and periodically, through inference into the NEP's SEDG category and through case-by-case judicial intervention, rather than through explicit, targeted policy design.

The paper proceeds as follows. Section 2 maps India's ad hoc governance architecture. Section 3 examines how refugeehood itself is categorised and contested. Sections 4 and 5 examine the CAA and the NEP as, respectively, citizenship-centred and education-centred responses. Section 6 shows how the judiciary has, in practice, done more to secure refugee children's educational access than either policy framework explicitly intends. Section 7 argues that both instruments, read together, still leave the two problems named above unresolved, and proposes mechanisms to close them.

## 2. The Architecture of Ad Hoc Governance

Refugee governance in India does not originate in a single coherent law. In the absence of a domestic refugee statute, the term “refugee” itself has no legal definition in Indian law (Nair, 2007), protection is dispersed across the legislature, executive, and judiciary, which often adopt divergent, sometimes contradictory, approaches to recognition, protection, and deportation (Alexander & Singh, 2022). Refugees are governed not as a distinct legal category but under the general law applicable to all foreigners, including ‘the Foreigners Act 1946’, ‘the Foreign Order 1948’, ‘the Registration of Foreigners Act 1939’, ‘the Passport (Entry into India) Act 1920’, and related instruments such as the ‘Citizenship Act 1955’ and the ‘Illegal Migrants (Determination by Tribunals) Act 1983’ (Singhal, 2024; Makhijani, 2024). None of these laws provide refugee-specific regulation; rather, they only regulate the entry, stay, and deportation of foreigners in general (Ananthachari, 2001). In the absence of a dedicated refugee law or codified asylum framework, refugee governance in India has largely evolved through an executive-led, ad hoc, and selective approach, resulting in uneven treatment across refugee groups depending upon political, economic, and security considerations (Chimni, 2003; Upadhyay, 2008; Suri, 2023). Within this framework, the Long-Term Visa (LTV), from the Ministry of Home Affairs on the recommendation of state governments or Union Territory administrations, functions as a key administrative instrument for regulating refugee presence in India, enabling access to employment, education, and, in certain cases, eventual naturalisation under the Citizenship Act, 1955 (Alexander & Singh, 2022).

Alongside these ad hoc executive arrangements, the United Nations High Commissioner for Refugees (UNHCR) handle refugee status determination and documentation for asylum seekers groups not recognised by the Government of India, and facilitates their access to education, employment, and healthcare (Chimni, 2003). However, it fails to support them due to decline accessibility to refugee, unfair treatment, unawareness and mistrust among refugees (Nair, 2012). Nevertheless, its own assessments acknowledge its limitations and insufficiency in data managements and designing effective livelihood programmes due to limited understanding of refugee needs (UNHCR, 2018). UNHCR's operational effectiveness in India is contingent upon the permission and cooperation of the Government of India, which limits the scope of its direct engagement and provide path to domestic NGOs to assume a complementary role in refugee protection and service delivery, in line with the Partnership-in-Action framework established through the Oslo Declaration (UNHCR, 1994).

Nevertheless, these fragmented executive and administrative arrangements have increasingly drawn the judiciary into refugee protection through extending constitutional safeguards to refugees, particularly through ‘the right to equality (Article 14)’, ‘the right to life and personal liberty (Article 21)’, and protection against ‘arbitrary detention (Article 22)’ (Parivelan, 2022; Singhal, 2024). Notable decisions include ‘the Supreme Court's ruling in *NHRC v. State of Arunachal Pradesh* (1996)’, which affirmed that

the protection of 'Article 21 extends to all persons' irrespective of citizenship status, and 'the Gujarat High Court's judgment in *Ktaer Abbas Habib Al Qutaifi v. Union of India* (1998)', which interpreted 'the principle of non-refoulement' as implicit within the constitutional guarantee of life and personal liberty. Furthermore, in both '*Khudiram Chakma* and *NHRC* (1994)', the courts invoked international human rights norms, particularly Article 14 of 'the Universal Declaration of Human Rights (1948)' and Article 13 of 'the International Covenant on Civil and Political Rights', to emphasise the Indian state's obligation to protect refugees. Such judicial pronouncements have effectively created a jurisprudential framework for refugee protection, a process that Moitra (2015) aptly describes as introducing refugee rights "through the back door."

### 3. Refugeehood in India: Categories and Contingent Belonging

Within this administrative ambiguity, scholars have long sought to categorise refugee populations to make sense of who receives what protection. Ananthachari (2001) differentiated foreigners into four major categories temporary residents, illegal economic migrants, security threats, and internally displaced persons, on the basis of executive practices under Indian. Nair (2012) distinguishes refugees by degree of recognition and protection provide in India- those with full Government of India support (Tibetan and Sri Lankan Tamil), those recognised by UNHCR under non-refoulement (Afghan, Iranian, Somali, Sudanese, Burmese), and those unacknowledged by either authority yet locally integrated (Chin, Naga, Rakhine, Nepali-Bhutanese). D'Sami's (2022) four-tier model sharpens this gradient where he kept Sri Lankan Tamil and Tibetan refugees at the most protected end, with identity documents and, for Tibetans, an entire parallel administration; minority groups from Bangladesh and Pakistan holding LTVs without refugee documentation; Rohingya refugees at the most precarious end, facing detention and repatriation risk. These categories are neither fixed nor merely descriptive. Fitzgerald and Aran (2018) and Bloch et al. (2014) treat refugee status as fluid and contested, and studies of Sri Lankan Tamil (Bentz & Goreau-Ponceaud, 2020) and Tibetan (Bentz, 2023) refugees show communities actively negotiating a refugee-citizen spectrum rather than occupying a fixed legal position. This matters directly for education policy: a refugee child's access to schooling depends less on a stable legal status than on which of these shifting, informally graded categories the child is seen to occupy, the first form of the asymmetry, this paper develops in Section 4.

### 4. Citizenship Repositioned: The Global Compact, the Stalled Bill, and the CAA 2019

Four developments over the past decade have repositioned citizenship at the centre of India's refugee governance debate. First, the emergence of "climate refugees" as an analytical category, displaced by flooding, cyclones, and drought was formally acknowledged in the Global Compact on Refugees (2018), which India endorsed despite remaining outside the 1951 Convention, signalling a rhetorical, if not legal, commitment to burden-sharing (Verma, 2023). Second, the Refugee and Asylum Bill 2019 (Rajya Sabha, 2020), proposing an inclusive definition of persecution extending to gender identity, sexual orientation, and climate-related displacement. It was an attempt to reconfigure GCR commitment domestically, however, the Bill has not been enacted, leaving the ad hoc regime intact (Varshini, 2022). Third, and most consequentially, CAA 2019 offered a pathway to Indian citizenship for six named religious minorities: 'Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians', arriving from 'Afghanistan, Bangladesh, and Pakistan' before a cut-off date (Raj, 2020). Unlike a refugee status determination process, the CAA operates through presumptive inclusion: eligibility follows from religion, national origin, and

entry date alone, without any individual assessment of persecution. Read alongside ‘the National Register of Citizens’, the Act has generated sustained debate over documentation, verification, and equal treatment (Raj, 2020).

For the purposes of this paper, what matters is less the CAA's constitutional contestation, (extensively debated elsewhere) than its structural implication for education: the Act recasts refugee inclusion as a question of religion-and-origin-based citizenship eligibility, rather than a question of the conditions under which displaced children access schooling in the interim. Refugee groups excluded from the CAA's criteria- Rohingya, Chin, and other Muslim-majority or third country populations, remain governed by the same discretionary, ad hoc administrative regime described in Section 2, with no citizenship pathway and no parallel education-specific provision like available to Tibetans refugees. The CAA, in other words, centres citizenship as the primary axis of inclusion for a defined subset of refugees, while leaving education for both included and excluded groups alike to a separate and considerably less explicit policy track. The first of the two structural gaps this paper identifies, since the pathway it creates applies unevenly across the very communities Section 3 has already shown India treats as unevenly recognised to begin with.

## **5. The NEP 2020 and its SEDG Framework**

The NEP 2020 represents the parallel development on the education side. It commits to “a quality education system to all students, irrespective of their place of residence” (MHRD, 2020, p. 4), with particular attention to groups that are “historically marginalized, disadvantaged, and underrepresented.” Its central mechanism for operationalising this commitment is the category of Socio-Economically Disadvantaged Groups (SEDGs), which spans gender identity, socio-cultural identity, geographic location, disability, and socio-economic condition ‘such as migrant communities, low-income households, children in vulnerable situations, victims of or children of victims of trafficking, orphans including child beggars in urban areas, and the urban poor’ (MHRD, 2020, p. 25). Refugees are not named. However, scholars including Sengupta (2022) situate them within this broader SEDG framing by inference, arguing that refugees share the structural markers of disadvantage the category is designed to capture.

The NEP attaches substantial machinery to the SEDG category: targeted funding, scholarships, bridge courses, teacher sensitisation, inclusive curriculum design, and institutional mechanisms including Special Education Zones and expanded access through Kendriya Vidyalayas and Jawahar Navodaya Vidyalayas (MHRD, 2020, pp. 8, 26–43). In principle, a refugee child classified as socio-economically disadvantaged could draw on all of this. In practice, however, none of these provisions specify eligibility criteria that would resolve the documentation barriers like Aadhaar, residency proof, prior school records that determine whether a refugee child is admitted at all. The ‘National Curriculum Framework for School Education (NCFSE) 2023’ illustrates the limits of this implicit inclusion: displacement enters the curriculum for the first time, but almost entirely through environmental and scientific framing, with “environmental refugees” mentioned once and displacement defined narrowly in the glossary (NCERT, 2023, p. 459), a framing that has little bearing on the lived conditions of Rohingya, Afghan, or Chin refugee children in Indian classrooms.

A growing body of education scholarship has begun to interrogate this gap. Mazumdar (2025) shows how Civic and Citizenship Education is mediated by teachers' own beliefs and institutional contexts, producing outcomes that can be as easily exclusionary as inclusionary for refugee learners. Joshee (2024) situates refugee inclusion within India's deeper educational equity debates, cautioning that grouping refugees

alongside other marginalised categories risks obscuring the structural inequalities specific to displacement, while Rangarajan et al, (2025), Batra (2020), Haragopal (2020), and Govinda (2020) argue more broadly that the NEP's human-capital orientation and fragmented engagement with the Right to Education Act limit its capacity to address social justice concerns for any SEDG population, refugees included. Roy (2025) documents the practical consequence: refugee children denied admission for lack of Aadhaar, facing barriers to examinations and employment pathways, and in some cases actively discouraged from enrolling by local authorities (Paliath & IndiaSpend, 2025). Roy (2025) further notes that displacement is addressed in school curricula mainly through the historical lens of Partition, without distinguishing refugees from migrants or internally displaced persons, reproducing, at the curricular level, the same categorical imprecision that characterises the legal and administrative regime described in Section 2.

## 6. The RTE Act and Refugee Students

As discussed before judiciary play a significant role in refugee protection it has also given milestone Judgments to protect their educational rights especially under ‘The Right of Children to Free and Compulsory Education Act, 2009’ (Ministry of Law and Justice, 2009), being one of the transformative and decisive Act for school education in India. It offers a legal architecture, with Sections 31 and 32 establishing grievance redressal mechanisms through local authorities, State Commissions, and the National Commission for the Protection of Child Rights (Ministry of Law and Justice, 2009, ss. 31-32), and Article 32 of the Constitution offering a further constitutional remedy. As Markovich (2020) observes, a right without a remedy is meaningless, a formulation that captures precisely what distinguishes the NEP's SEDG language from the RTE Act's enforceable provisions.

Judicial engagement with refugee education in particular predates the enactment of RTE Act, 2009, for example, in ‘Digvijay Mote v. Government of India (1993)’ case, the Karnataka High Court directed the continuation of electricity supply to a donor-funded school serving Sri Lankan refugees, thereby recognising the importance of educational access for refugee communities (Vijayakumar, 2002). But after RTE Act, Indian courts have increasingly facilitated refugees' access to education. In ‘Gulsher v. Government of NCT of Delhi (2019)’, the Delhi High Court admitted a petition challenging the denial of school admission to refugee children on grounds of age, reaffirming protections under Section 4 of the RTE Act for children with disrupted schooling (Shanker & Vijayaraghavan, 2020). More recently, judicial interventions have extended educational entitlements to refugee children, including directing the provision of monetary benefits under the Samagra Shiksha Scheme to Afghan refugee students despite the absence of bank accounts (Sachdeva, 2024), and affirming that admission, examinations, and access to education cannot be made contingent upon Aadhaar documentation in ‘Rohingya Human Rights Initiative v. Government of NCT of Delhi (2025)’ court ruling. Collectively, these interventions demonstrate the judiciary's significant role in expanding educational protections for refugees despite the refugee related policy and ‘legislative vacuum’ (Alexander & Singh, 2022). It also provides an insight into how a legislative tools provide solid base for action.

However, these court rulings establish two things. First, no legal barrier prevents refugee children from seeking enforcement of their right to education through the courts. Second, judicially recognised entitlements extend well beyond bare admission to include examinations, uniforms, and scholarship benefits a substantive scope that neither the CAA nor the NEP articulates directly. The judiciary, in effect, has done the work of translating a right that education policy leaves implicit into an entitlement that can



actually be claimed but only case by case, and only for children whose families are able to reach a court in the first place.

Although these judgments have incrementally expanded refugee protections, but remain limited in scope. As many originate from lower courts, they lack the binding precedential force of Supreme Court rulings and their case-specific nature restricts their broader applicability for refugees. In this context, a dedicated refugee law would move beyond ad hoc judicial remedies and provide a more consistent and rights-based framework for protecting refugees, especially those in situations of heightened vulnerability (Shanker & Vijayaraghavan, 2020).

## 7. Discussion: Two Unresolved Gaps and a Path Forward

The CAA 2019 and the NEP 2020, expose a structural asymmetry in how India frames refugee inclusion. The CAA offers a strong, unambiguous instrument- citizenship, but restricts it by religion, national origin, and entry date, excluding many refugee populations including Sri Lankan Tamil, Chin, Rohingya, other protracted refugees originating from African and Myanmar. However, this exclusion does not produce uniform experiences across these communities, for example, Sri Lankan Tamil refugees continue to benefit from longstanding political arrangements, accumulated state support, and relatively favourable educational and socio-economic provisions developed over decades of residence in India. In contrast, communities such as the Rohingya and Chin remain subject to ethno-political conflicts, precarious legal status, limited institutional support, and greater educational vulnerability. Far from reducing inequalities among refugee communities, it reinforces the unevenness of refugee inclusion in India. Similarly, the NEP does provide space to refugee learners under the SEDG category but only by inference, without concrete interventions. It makes refugee inclusion dependent upon periodic judicial interventions and administrative ad hoc decisions rather than systematic policy design. Consequently, neither framework adequately resolves the everyday realities of refugee children's educational participation. These both tools remain incomplete due to these intrinsic contradictions, as the CAA, an instrument capable of precise legal inclusion, is inherently selective, while the NEP, an instrument broad enough to potentially encompass all refugee children, remains insufficiently specific to address their distinctive educational needs.

This asymmetry reveals another important significant of their intersectional study, where citizenship and education are not substitutes for one another but interdependent domains, as citizenship supplies the legal standing to claim rights, while education supplies the substantive means to exercise them (Dryden-Peterson, 2016). It does not have implication for the current refugees but also for the refugees who would be citizen, for example, if citizenship is granted without corresponding educational planning, as under the CAA, naturalised refugee student risk being assimilated into existing school structures without recognition of interrupted schooling or distinct learning needs as noted by Taylor & Sidhu (2012). Similarly, if education is extended without corresponding legal recognition, as under the NEP's implicit SEDG inclusion, refugee children remain dependent on documentation they frequently cannot produce, and on judicial intervention that is available in principle but inaccessible in practice to most refugee families.

The consistent pattern across both the governance literature (Section 2) and the education literature (Sections 5-6) is that India's institutions repeatedly compensate, after the fact and through the judiciary, for gaps left by legislative and policy silence. This is a workable safety valve for individual cases that reach a courtroom, but it is not a policy. It leaves refugee education contingent on which category a child is informally seen to occupy (Section 3), whether their community falls within the CAA's religious and

national criteria (Section 4), and whether a school administrator chooses to read the NEP's SEDG language generously (Section 5).

Addressing these gaps requires moving from symbolic recognition and ad hoc accommodation towards explicit policy design. First, the NEP 2020 must be revised or at least interpreted in terms of its refugee being under its SEDGs scope by introducing the term explicitly, and the NCFSE 2023 should be revised and provide curriculum interventions that responds directly to fragmented refugee context more broadly. Other than these revisions and interpretation some majors like documentation waivers for admissions, introducing refugee scholarships can be taken and implemented by government to close precisely the gap that Gulsher and the 2023 Afghan-students ruling had to close through litigation. Second, any future refugee, asylum, or citizenship framework should be accompanied by a parallel and nondiscretionary guarantee of educational access applicable to all refugee communities irrespective of their legal status or eligibility under citizenship legislation. Educational inclusion should not mirror existing hierarchies of refugee recognition or citizenship eligibility. Third, refugee education scholarship and policymaking must treat citizenship status as a central analytical category rather than a background variable. The differentiated experiences of refugee communities in India demonstrate that educational opportunities are profoundly shaped by varying regimes of legal recognition, administrative support, and political incorporation. Understanding refugee education therefore requires sustained attention to the ways in which citizenship and educational governance intersect in producing both inclusion and exclusion.

## Conclusion

This paper concludes that the pathways, the CAA and the NEP create, are not uniform across refugee groups, reproducing rather than dissolving India's longstanding hierarchy of recognition; and where inclusion does reach excluded communities, it arrives symbolically and periodically, through inferred policy categories and case-by-case litigation, rather than through targeted, explicit design. Reframing refugee education as inseparable from citizenship status, rather than as a purely humanitarian concern, makes visible what current policy leaves implicit: that in India, the right to learn remains, for refugee children, contingent on categories they did not choose and processes they cannot always reach. Addressing this requires the specific mechanisms proposed above, explicit SEDG recognition, a citizenship independent education guarantee, and treating legal status as a central analytic variable, rather than continued reliance on inference and the judiciary to do the work, policy design has left undone.

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