

Barriers to socio-economic integration in India

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The lack of defined systems of asylum management in India and other South Asian countries means that those in need of protection have been left without any legal avenues for integration.

South Asia both produces and hosts refugees, and many of the over 2.5 million refugees in the region are in protracted situations. Countries in the region are signatories to a number of instruments that safeguard the right to work and labour rights, such as Article 23 of the Universal Declaration of Human Rights, the International Labour Organization's Recommendation 205 and Article 6 of the International Covenant on Economic Social and Cultural Rights (which contains a provision legally binding States to safeguard everyone's right to gain a living through work). However, none of the countries in the region has signed the 1951 Refugee Convention, nor have they enacted legislative frameworks for asylum management. As a result, refugees hold no official legal status and cannot work legally, access education or financial services, or buy property.

Against this backdrop, in India – as in neighbouring countries – refugees have to find employment in the informal economy, where they are not paid fair wages and where they usually work in exploitative conditions with

no certainty as to wages or labour protections. It is notable that vast sections of the populations of countries in the region live below the poverty line and work in below-par conditions, and that refugees, who are undocumented and hold a tenuous legal status, end up at the very margins of these already vulnerable groups. This article examines the failures of integration in the region and in India specifically, and the way forward for this large group of excluded persons.

Impact on regional frameworks on integration

In India, there is no specific law that regulates asylum. The Foreigners' Act of 1946 does not recognise refugees as a specific class of foreigners requiring international protection and rehabilitation. As a result, they have no socio-economic rights that could allow them to access livelihood opportunities within the country and they are vulnerable to detention and deportation. Although the government manages refugees from India's neighbouring countries (apart from Myanmar), UNHCR

manages refugees from all other countries, conducting refugee status determination and establishing protection mechanisms for 'mandate refugees'¹ and other persons of concern.² As a result, there are two different systems for refugee protection in the country, each with their own set of rights and avenues for integration.³ The result is a curious mix of good and less desirable practices in the treatment and integration of refugees within one country.

Tibetans have been seeking asylum in India since 1957 and have traditionally received a warm welcome from the Indian government (though more recent arrivals have not been extended some of the advantages of their predecessors). The Indian government published a policy in 2014 which clearly states that Tibetans have a right to work, including in state government jobs, and to purchase land and own businesses and property.⁴ Tibetans are issued documentation by the government, which allows them to access socio-economic rights (equal to those enjoyed by citizens) and facilitates their integration. Similarly, though somewhat less favoured, are Sri Lankan Tamils, who first arrived in 1984 and have since largely integrated into the southern state of Tamil Nadu due to rehabilitation policies announced by successive governments in the state. Unfortunately, there has been some rollback on this in recent years, with Tamils reporting arbitrary arrest and lack of employment avenues, but even so their situation continues to be largely better than that of UNHCR mandate refugees, who have in practice witnessed a deterioration in their protection situation.

UNHCR mandate refugees tend to be concentrated around New Delhi, where UNHCR has its only operation in the country. Their only documentation is the UNHCR Refugee Card which has very low recognition among national and local authorities, and as a result their access to socio-economic avenues is severely curtailed. They cannot open bank accounts, or obtain driving licences or even, at times, a SIM card for their mobile phones. In recent years, this situation has worsened due to the requirement for an Aadhaar Card, a kind of national identity card that has become

a prerequisite for access to almost any kind of facility or service and which requires the applicant to possess certain documentation – which refugees do not have access to. As a result, refugees are now completely excluded from anything that requires the card, such as bank accounts or taxpayer identity numbers, which has further denied them access to formal employment.

In terms of access to services such as education and health, the Indian government has not restricted access to these on paper. Refugee children can access free primary education up to the age of 14 years in government schools, and refugees can access free health care in government health centres and hospitals. However, in practice, the lack of documentation poses hurdles here as well. Furthermore, higher education and tertiary medical care remain inaccessible. Higher education is not available as a matter of right and refugees who wish to pursue higher studies have to enrol as foreign students in private colleges where the fees are usually prohibitive. Refugees are usually relegated to the bottom of the waiting list for more prolonged or specialised medical care in India's overburdened health-care system.

The fact that refugees have no avenues for livelihoods in India contributes to their lack of resources to access these services, creating an intergenerational barrier that successive groups of refugees are unable to overcome. There are instances of the private sector filling some of these gaps, but these are few and small in scale. Some private universities extend scholarships to refugees and there are examples of social enterprises employing refugees and providing them with a decent living wage and work conditions. However, larger issues of access (including to education, vocational training and the right to work) that can truly bring about a move towards self-reliance for refugees are often overlooked.

The Global Compact on Refugees in India

In December 2018, the UN General Assembly affirmed the Global Compact on Refugees (GCR). The GCR recognises the development challenges posed by large-scale refugee situations and the need for inclusive development

in refugee-hosting areas to build the resilience of local and refugee communities, and it includes a call to enhance refugee self-reliance as one of its four core objectives. India has signed the GCR, as have other countries in South Asia, implying an acceptance of its push towards economic integration. This commitment requires signatories to take measures to expand opportunities for refugees to access education, health care and other services, livelihood opportunities and labour markets, to make the best use of their skills and capacities, and to invest in building human capital, self-reliance and transferable skills as an essential step towards enabling long-term solutions. However, in India, as elsewhere, to go beyond a theoretical commitment all of this requires policies that include the issuance of recognisable documentation and with a definite set of rules that confer and regulate rights and security.

Conclusion

While it is true that South Asian countries have traditionally been more hospitable to refugees than their resources would seem to permit, it is also true that the lack of defined systems of asylum management have engendered

protracted refugee situations whereby those in need of protection have been left without any legal avenues for integration. As a result of this, refugees – in spite of familiarity on cultural, religious and often linguistic grounds – are unable to assimilate and achieve self-reliance. The first step towards the achievement of GCR objectives around integration and self-reliance would be to announce some kind of legislation or policy, even if limited in scope, that allows forcibly displaced populations to access at least some livelihood opportunities, as this would allow them to take initial steps towards achieving stability and rebuilding their lives.

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1. A mandate refugee is a person who is determined to be a refugee by UNHCR acting under the authority of its Statute and relevant resolutions of the UN General Assembly and the Economic and Social Council (ECOSOC). UNHCR (2017) *A guide to international refugee protection and building state asylum systems*, Handbook for Parliamentarians N° 27, available at bit.ly/UNCHR-mandate-refugee
2. UNHCR includes refugees, asylum seekers, stateless people, IDPs and returnees under this term.
3. For further discussion by the author on refugee recognition challenges in India see bit.ly/FMR-shanker-vijayaraghavan
4. The Tibetan Rehabilitation Policy, 2014, No. 11/2/2014-RHS/MD, Government of India, Ministry of Home Affairs, FFR Division bit.ly/Tibetan-rehabilitation-policy



Afghan refugee artisan at work in New Delhi, India. (Credit: Niyati Singh (MAP))