

Human Rights Protection Strategies in India: A Critical Analysis of India's Approach from Legal and Policy Perspectives

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ABSTRACT

India has increasingly adopted a comprehensive approach to refugee protection, emerging as a popular and sustainable destination for those seeking refuge in the region. Over the years, there has been a shift in humanitarian efforts, focusing not only on immediate assistance but also on facilitating the recovery and self-sufficiency of disaster-stricken communities.

However, while this approach holds the promise of dignified solutions, there is a risk of instrumentalizing refugee protection. The convergence of security concerns and migratory politics with humanitarianism and resilience reveals the potential for misuse and manipulation. This essay delves into the efforts made by the European Union (EU) and some of its member states to strengthen the concept of protection in the region, highlighting both well-known and lesser-known consequences of this approach.

Through a legal and policy analysis, this paper examines the characteristics of India's refugee protection policies and underscores the inherent dangers associated with the instrumentalization of refugee protection. By exploring this complex intersection, we gain a deeper understanding of the challenges and implications involved in safeguarding the rights and well-being of refugees in India.

INTRODUCTION

The term "protection in the area" encompasses various approaches that aim to combine protection and humanitarian assistance, uphold human rights, and foster durable solutions within the scope of international refugee and migration policies. Recognized examples of "durable solutions" include local integration, voluntary repatriation, and relocation. By facilitating investments in the local economy, social services, and basic infrastructure, local integration benefits both host communities and refugees, promoting their inclusion in local development processes.

Protection in the area programs offer a range of incentives, such as financial aid, business advantages, and political concessions, to assist host countries in managing, aiding, and integrating refugees. A notable example of this is the establishment of Special Economic Zones (SEZs) under the Jordan Compact in 2016, which not only provide employment opportunities for refugees but also attract multinational companies to the area, aiming to protect refugees from exploitation in the labor market.

Additionally, the article highlights the emerging concept of resilience humanitarianism, which focuses on enhancing response capabilities at the local level. This paradigm recognizes the potential for individuals, communities, and nations to overcome and recover from significant tragedies. Furthermore, the 2016 World Humanitarian Summit aimed to establish a link between humanitarian action, development, peacebuilding, and crisis resolution, referred to as the "triple nexus."

In this article, we critically examine the current policies of protection in the region by comparing and

contrasting the approaches of six European nations and three significant host countries—Ethiopia, Jordan, and Lebanon. We explore the potential risks these policies pose to humanitarian aid and human rights, as well as the lack of comprehensive understanding regarding their impact on the well-being of refugees. Through this critical policy review, we aim to deepen our comprehension of the unforeseen consequences of the humanitarian-migration nexus and the policies of protection in the region.

INTERNATIONAL POLICY FRAMEWORKS

International policy frameworks play a vital role in safeguarding the human rights of refugees across the globe. These frameworks provide guidelines and principles that govern the treatment, rights, and legal status of refugees, serving as a foundation for governments, organizations, and stakeholders to formulate effective policies and practices.

The 1951 Refugee Convention and its 1967 Protocol stand as essential international policy frameworks. These agreements establish the rights and responsibilities of states in offering protection and assistance to refugees. They determine the definition of a refugee and include the principle of non-refoulement, which prohibits the return of refugees to a country where they may face persecution. The Refugee Convention serves as a basis for national laws and international collaboration in addressing the needs and rights of refugees.

International human rights instruments, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, further contribute to the protection of refugees. These instruments outline universal human rights standards that cover civil, political, economic, social, and cultural rights, ensuring that refugees are safeguarded from discrimination, violence, and other human rights abuses.

Moreover, regional frameworks like the African Union Convention Governing the Specific Aspects of Refugee Problems in Africa (1969) and the Cartagena Declaration on Refugees (1984) provide additional guidance and safeguards tailored to specific regions or contexts. These frameworks underscore the importance of solidarity among states, sharing the burden, and offering long-term solutions for refugees.

International policy frameworks emphasize the necessity of comprehensive and coordinated approaches in addressing the unique challenges faced by refugees, including access to healthcare, education, and livelihood opportunities. They promote the integration of refugees into host communities and endorse voluntary repatriation and resettlement processes when feasible.

However, while these international policy frameworks are paramount, their effectiveness depends on the commitment and implementation by states and relevant stakeholders. Challenges persist, such as inconsistent interpretation and application of the frameworks, inadequate resources, and political obstacles. Therefore, ongoing advocacy, monitoring, and accountability mechanisms are crucial to ensure that these frameworks are translated into tangible protection and rights for refugees worldwide.

International policy frameworks form an essential legal and normative underpinning for the protection of human rights for refugees. They guide the actions of states and other entities, aim to prevent human rights violations, and foster durable solutions. Upholding and strengthening these frameworks is vital to fostering a just and humane approach to safeguarding the rights of refugees on a global scale.

GLOBAL GOVERNANCE

There has been a sea change in the international dynamic around migration, development, and humanitarian assistance throughout the last five years. Asylum seekers and refugees can find guidance in four recent frameworks: “the United Nations General Secretary's report from the World Humanitarian Summit (2016), the Comprehensive Refugee Response Framework (CRRF) from 2016, the Global Compact on Refugees (GCR) from 2018, and the Global Compact for Safe, Orderly and Regular Migration (GCM) from 2018. As part of the WHS, 51 international actors pledged to increase funding transfers to national

participants in an effort to devolve humanitarian assistance implementation to these levels of government. Continuing from the CRRF, the GCR stresses that all nations must work together to create long-term solutions. Protecting the human rights and self-sufficiency of migrants is a primary goal of the GCM, which includes vulnerable populations.

THE EUROPEAN UNION

To control migration and safeguard refugees, the European Union (EU) has established a number of frameworks and programmes. The establishment of these institutions has allowed for the realisation of several objectives. Regional Protection Programs, or RPPs for short, were first implemented in 2005. By 2014, its purview has grown to include development goals as well. Part of the bigger picture is the Global Approach to Migration and Mobility (GAMM), which includes Mobility Partnerships and the Common Agendas for Migration and Mobility (CAMP). The major goal of these programmes is to manage legal migration, while a secondary goal is to discourage irregular migration. In its proposal for a New Pact on Migration and Refugees, the European Commission prioritises border control, return policies, and the management of refugee movements throughout Europe.

As part of its support for sustainable development solutions, the New Pact backs emergency aid for refugees and other displaced people. Some argue that the European Union's (EU) approach to migration and asylum is flawed because it prioritises controlling illegal immigration and returning migrants to their home countries above safeguarding refugees. Conversely, the Commission observes that 80% of humanitarian assistance funds are allocated to assist displaced persons and the communities that are taking them in, with the aim of addressing the urgent needs of those without homes due to war, natural disasters, or prolonged displacement. The European Union (EU)" plans to increase the number of processes it employs to guarantee that its member states will carry out their present resettlement obligations.

EUROPEAN STATES

The purpose of this section is to investigate "the promotion of 'protection in the area' efforts by six European nations, namely Denmark, France, Germany, the Netherlands, Norway, and the United Kingdom, for three particular refugee-hosting countries, namely Ethiopia, Jordan, and Lebanon".

NATIONAL PRIORITIES

There is no universal policy in place to aid and protect refugees, stateless people, returnees, and internally displaced people in any of the six European countries studied. Denmark has shown its commitment to sustainable development via its multi-year interventions, long-term solutions, and collaborative initiatives. The Global Compact on Refugees, in which France and Germany are strong participants, seeks to end the needless displacement of people as a result of war and persecution, strengthen the ability of refugees to recover from adversity, and advance causes such as education, gender equality, and access to energy. The Netherlands takes involvement in both EU and international issues, and it bases its policies on agreements like the Global Compact. The Dutch also put a premium on education and the creation of new employment opportunities. The Dutch government prioritises multilateral approaches and involves the business sector in "protection in the area" initiatives. Norway is providing aid to refugees and supporting communities who are hosting them as part of an integrated approach. The UK government provides vital support to the UN High Commissioner for Refugees and is committed to protecting those who have been forced to flee their homes (UNHCR).

POLICY CONVERGENCE AND THE MERGING OF GOVERNMENTAL AND INSTITUTIONAL INTERESTS

As migration, humanitarianism, development, and humanitarian aid have all come together in the last five years, the "protection in the area" strategy has become more popular. Humanitarian and development assistance has been cut by European governments due to budgetary worries about welfare expenses and the efficacy of social protection. "Since 2015, when the European Union and its member states stepped up their efforts to combat irregular migration and overhaul the Common European Asylum System, the connection

between controlling migration and protecting refugees has become more apparent. States in the North, who provide financial support and investigate formal options for refugees' relocation or legal migration to the EU, have a vested interest in seeing refugee protection and migration policy converge. There are new obligations and possibilities for host nations in the area as a result of regional protection. In order to help Egypt, Jordan, Lebanon, Turkey, and Iraq, international organisations such as the UNHCR have advocated for collaboration among the 3RP nations to coordinate responses, encourage joint planning, and standardise disaster relief techniques. International frameworks like the GCR have been receiving funding and logistical help to execute these initiatives, which are modelled after these models. Demonstrating the quick growth of similar efforts, the multi-level cooperation structure of the 2016 Jordan Compact served as a model for the Lebanon Compact (2016-2017) and Ethiopia's Job Compact in 2016.

A SURVEY OF PROTECTION IN THE REGION INITIATIVES

Some people are of the opinion that the problem of responsibility sharing may be solved by providing protection in the area that was described before. This is a viewpoint that is held by a significant number of people. Because it gives the nations that are providing asylum to immigrants the resources that they need in order to promote growth not just for their existing population but also for newcomers, this is the reason why it is so important. In light of this, this is the reason why this is the situation. Things take place in the way that they occur because of this particular reason. On the other hand, it is not out of the possibilities that these restrictions do not totally meet the criteria that refugees have. All of the requirements that need to be satisfied include the capability of being safe in the short term, receiving support in the sphere of humanitarian aid, and being integrated in the long term. There are a few people who are beginning to question whether or not these initiatives are beneficial, despite the fact that there is a scarcity of information on them. But this is not the case. Even though there is only a small amount of information that can be accessed, this is the situation that exists. We are going to go on to the next part, where we are going to talk about the conceptual errors that have been made, as well as the practical challenges that are associated with the preservation of the surrounding area. As a component of this process", the degree to which these technologies are able to meet the requirements of people who have been transferred against their will is an additional issue that will be taken into account a part of this process.

A HISTORICAL VIEW OF INDIA'S REFUGEE POLICY

In its current approach to dealing with migrants, India employs a variety of strategies that may be categorised as either sympathetic or unfriendly strategies. Such Tibetans who had returned to Pakistan before to July 19, 1948 are eligible for citizenship, since the country has a long-standing history of providing a warm welcome to Tibetans and awarding citizenship to those individuals. This method has been used for a substantial length of time with no noticeable changes. Over the course of many years, this culture has been passed down from one generation to the next. Furthermore, it has provided security to refugees of Indian ethnicity who were now in possession of British passports and who were originally from Uganda and Kenya. These people were refugees who were now residing in Uganda. Additionally, it has made it feasible for individuals from Bhutan and Nepal to reside there, and it has also offered shelter to Tamil refugees who had fled from Bangladesh and Sri Lanka. Both of these things have been accomplished. On the other hand, India has also engaged in diplomatic manoeuvring, as evidenced by its refusal to provide asylum to Nepali refugees who were expelled from Bhutan, its refusal to accept Muslim Uighur refugees, and its softening of its attitude on Tibet due to the fear of attack from China. All of these actions are examples of India's diplomatic manoeuvring. Examples of India's diplomatic manoeuvring may be found in each and every one of these moves. It is possible to find examples of India's diplomatic manoeuvring in each and every one of these measures. Individuals who are members of groups that are being persecuted, such as the Ahmadiyas and the Balochis, have not been provided refugee assistance by Pakistan. Those who belong to other communities have not received help from Pakistan, but India has taken in the Rohingya people who are from Myanmar. The pledge that India made to provide assistance to refugees has not been able to be fulfilled by the end of the day. On the other hand, the Citizenship Act of 1955 does not include any provisions that are applicable to Tamils who are already residing in Sri Lanka. During the year 2019, this clause was revised. The Indian government has been reacting to the refugee crisis in an ad hoc fashion, which is an additional

point of interest to consider. Because the country has not been able to give enough assistance to refugees and has not taken any measures to address the problem of migration, the government's approach to the refugee crisis has been ad hoc. This is because the nation has not been able to provide this assistance. As a direct consequence of this, the country has been dealing with an issue with refugees.

CONTRIBUTIONS OF REFUGEES TO INTERNATIONAL REFUGEE LAW AND POLICY IN THE INTERWAR YEARS

According to documents from the first half of the 1900s detailing international reactions to refugees, it appears that refugees had a major hand in shaping refugee policy and legislation around the world. This strategy did not emerge from well-planned institutional framework but rather from a state of dire practicality. First responders were mostly refugees and members of their communities. States and international organisations looked to refugees for insight into what was needed and how to put ideas into action.

The first High Commissioner for Russian Refugees was appointed by the League of Nations in 1921 to the position of Norwegian explorer Fritjof Nansen. The League of Nations' reactions to Russian refugees were guided by an advisory group that Nansen formed, the Advisory Committee of Private Organizations, after realising the need of consulting with refugee populations. An important part of the guidance was outlining the steps to take to help refugees integrate into host nations, such as granting them job rights and issuing them identification credentials to safeguard their legal status in asylum countries and beyond. Jacques L. Rubinstein, a Russian refugee and jurist, proposed the idea of developing a binding international convention with regard to refugees during the interwar years as one of the most important contributions to emerge from these consultative arrangements between refugees and the League of Nations. The idea of a binding convention was revived in 1931 by Monsieur de Navailles, President of the Inter-Governmental Advisory Committee for Refugees of the Council of the League of Nations. In October 1932, the Governing Body of the Nansen International Office appointed a three-person "Committee of Experts" to consider the appropriateness of a convention to safeguard refugees. Temporary refugee protection is unfair, according to the author's two novel arguments—the dominance argument and the reciprocity argument. The dominance argument challenges the existing temporary protection practise but fails to address the practise of temporariness in and of itself. We may argue for reform rather than abolition if we concentrate on dominance. One agent exerts dominance over another when they have unchecked influence over them. Refugees granted temporary protection are considered to have refugee status under the Geneva Convention in liberal democracies, whereas those granted permanent protection are also considered refugees but are not vulnerable to deportation. The permanent refugee, in contrast to the displaced person, is not under danger of deportation. In the absence of suitable institutions or processes, temporary refugee protection might be seen as being arbitrary. The transitory refugee is particularly susceptible to dominance because states regularly breach the international legal standard of non-refoulement, even if they do not have the legal right to remove refugees anytime, they like. This way of looking at things allows critics to focus on the process of temporary refugee protection rather than the policy itself. To make choices about the repatriation of refugees less arbitrary, one possible answer is to demand more institutional checks and balances. According to proponents of the compounding injustice theory, providing short-term refugee protection merely serves to prolong and worsen the damage that displacement already causes. Deborah Hellman argues that indirect discrimination is just as bad, if not worse, than direct discrimination since it exacerbates the unfairness that already exists. By upsetting the fundamental background circumstances of the displaced, the paper contends that temporary refugee protection exacerbates the wrongs of relocation. An individual's life is further disrupted and prolonged by temporary refugee protection, according to the author. Different treatment is due to refugees compared to migrants who voluntarily leave their homes since refugees have previously suffered injustice. Together, we can see how the instability of the refugees' home situations is at the heart of the problem and how temporary refugee protection exacerbates an injustice that already exists.

CONCLUSION

This article critically examines protection in the region initiatives, which integrate protection and

humanitarian assistance with durable solutions. These initiatives have become a key tenet of international policy, transforming humanitarian aid into joint development and migration programs. The article focuses on the evolution of these policies, particularly in relation to refugee protection. Reception in the region meets the demands of countries in the Global North, such as reducing refugee arrivals and limiting public protests, while showing responsibility towards the human rights of refugees and the host countries. These initiatives transition from a needs-based approach to cost-effectiveness, understanding refugees as self-reliant economic actors, and involving the private sector. However, the article identifies flaws in the assumptions and risks for their implementation, such as insufficient short-term opportunities for refugees and local populations. The challenges emerging from these initiatives are not unexpected, as countries in the Global North are complicit in strategies leading to rent-seeking and commodification of refugees and the international community. Despite these challenges, the development objectives of these initiatives merit some credit, as they can improve local infrastructure, expand the labor market, provide access to educational and health services, and ensure fair resource distribution in host communities.

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