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Human Rights of Asylum: A Critical Analysis

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ABSTRACT

Asylum is an important element of international human rights law, under which people are guaranteed protection when they have had to leave their country because of persecution, civil war, political unrest or violations of human rights. Asylum enables people to obtain international protection where their home state has failed to protect their life, liberty and safety. This study critically analyses the legal and human rights framework governing asylum protection, examining international instruments, the obligations of states and the difficulties faced by asylum seekers. The paper analyses how key provisions operate, including Article 14 of the UDHR and the 1951 Refugee Convention, and how non-refoulement prohibits states from returning people to places where they would be exposed to risk. It also considers the entitlements of asylum seekers, such as the rights to life and security, to a fair asylum procedure, to freedom from arbitrary detention, and to social and economic rights. The paper further investigates the position of India on asylum protection, with particular emphasis on the absence of a refugee law, the constitutional rights available to foreigners and the influence of judicial rulings on the protection of refugee rights. A comparison of the position in India with that in Germany and the United States shows the varied ways in which countries regulate and implement asylum protection. The problems identified include restrictive border policies, the tension between state sovereignty and humanitarian obligations, and unequal responsibility sharing among states.

Keywords: *asylum, human rights, refugee protection, international law, non-refoulement, India*

I. INTRODUCTION

In today's highly interconnected world, matters pertaining to refugees and asylum seekers have acquired considerable legal and humanitarian significance. A fine line has to be struck between national sovereignty and individual rights. The legal basis of the right to asylum can be traced to international instruments such as the Universal Declaration of Human Rights (UDHR), which guarantees the right of every person to seek and to enjoy asylum from persecution in other

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countries. A further set of international instruments confers rights on refugees and places obligations on states towards persons seeking refuge, chief among them the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.¹

The protection of asylum seekers is not only about providing shelter but also about guaranteeing access to human rights, such as the rights to safety, health care, education, legal aid and non-discrimination. Nevertheless, obstacles to the enjoyment of asylum rights persist, including restrictive immigration policies, lengthy asylum procedures, security concerns and differing views among nations on the content of their international responsibilities.²

Asylum is granted in the United States through a systematic statutory process under the Immigration and Nationality Act, under which individuals may claim asylum on the basis of persecution or a well-founded fear of persecution. In Germany, asylum claims are decided through a detailed procedure grounded in the Constitution and in the European asylum system, whereas in India an asylum seeker encounters a humanitarian approach that is not underpinned by any statutory provision for asylum.

This paper examines the idea of asylum rights from a human rights perspective by discussing their history, the applicable international law and the duties of states towards asylum seekers. The problems encountered in securing asylum rights are also analysed.

A. Problem Statement

The protection of asylum seekers is an important human rights issue because of the rising number of people compelled to leave their homes as a result of persecution, war, political turbulence and human rights abuses. Although international instruments such as the UDHR and the 1951 Refugee Convention recognise the right to seek refuge and guarantee protection against return, states differ widely in how that right is enforced. While countries such as the United States and Germany have established statutory processes for determining refugee status, India has no dedicated refugee law and takes a case-by-case, human rights-based approach. Such discrepancies raise problems of legal consistency, equal protection, access to justice and the effective enjoyment of human rights by asylum seekers.

The central question is whether the current legal framework in India offers effective protection of the human rights of asylum seekers consistent with international human rights standards.

¹ GUY S. GOODWIN-GILL & JANE MCADAM WITH EMMA DUNLOP, *THE REFUGEE IN INTERNATIONAL LAW* (4th ed., Oxford Univ. Press 2021).

² Shreya Pandey, *Policymaking for Refugees: A Comprehensive Guide*, IPLEADERS (Dec. 12, 2020), <https://blog.ipleaders.in/policymaking-for-refugees-a-comprehensive-guide/>.

II. LITERATURE REVIEW

Aishwarya Birla (2023)³ reviews the contribution of the Indian courts to the protection of refugee rights in the absence of a refugee law. The article shows how the interpretation of constitutional rights, in particular Article 21, has offered protection to refugees, while also revealing gaps in judicial reasoning. It argues that an elaborate legal structure is needed to align Indian practice on refugees with international human rights standards, and it underlines the need for a more uniform, rights-based approach.

Jyoti Singh (2022)⁴ examines the Asylum Bill, 2021 and its possible impact on the existing regime of refugee protection in India. The paper reviews the flaws in the current administrative system and stresses the need to adopt a rights-based asylum system. Legislative reform is required to provide a fair and equitable process for protecting the rights of asylum seekers in India.

Roshni Shanker (2024)⁵ discusses the challenges faced by refugee women and girls in South Asia. The research investigates the part played by violence against women, discrimination and the lack of access to essential services in the problems associated with refugee protection. The author stresses the need for improved constitutional and legislative measures in this area.

Anubhav Dutt Tiwari, Ali Johar and Jessica Field (2024)⁶ assess the legal position of Rohingya refugees in India. The paper identifies the role played by administrative procedures and citizenship policies in rendering Rohingya people insecure and socially excluded. It calls for a humanitarian policy grounded in the norms of international refugee law, such as non-refoulement and non-discrimination.

A. Objectives of the Study

- To examine the international legal framework governing the human rights of asylum seekers and refugees.
- To analyse the asylum laws and protection mechanisms of India, the United States and Germany.

³ Aishwarya Birla, *Evaluating the Indian Refugee Law Regime: How Has the Judiciary Responded to Refugee Claims in Light of International Law Obligations, and How Can It Do Better?*, 35 INT'L J. REFUGEE L. 81 (2023).

⁴ Jyoti Singh, *Can the Asylum Bill, 2021 Decolonize the Indian Law Dealing with the Refugees?*, 22 ISIL Y.B. INT'L HUMAN. & REFUGEE L. (2022).

⁵ Roshni Shanker, *Constitutionalizing Protection for Refugee Women and Girls in South Asia*, 36 INT'L J. REFUGEE L. 43 (2024).

⁶ Anubhav Dutt Tiwari, Ali Johar & Jessica Field, *The Illegalisation of Rohingya Refugees in India: A (Non)Citizenship Crisis Promoted by Law and Policy*, 50 J. ETHNIC & MIGRATION STUD. 4905 (2024).

- To compare the approaches adopted by India, the United States and Germany in safeguarding the rights of asylum seekers.
- To identify the challenges and to suggest legal reforms for strengthening the protection of the human rights of asylum seekers.

III. INTERNATIONAL LEGAL FRAMEWORK

A. Universal Declaration of Human Rights

Article 14(1) of the UDHR stipulates that "Everyone has the right to seek and to enjoy in other countries asylum from persecution".⁷ This means that persons who are persecuted have the right to seek safety outside their countries of origin. The UDHR, however, recognises the right to seek and enjoy asylum without imposing an obligation on the state to grant asylum in every case. The grant of asylum remains a sovereign prerogative.⁸

Article 14 reflected the resolve of the international community not to allow another humanitarian disaster of the kind experienced during the Second World War, when millions of people became refugees and were left without protection. The UDHR became the foundation of the international refugee instruments that followed it, particularly the 1951 Refugee Convention. Despite being non-binding, it has also been influential in judicial and constitutional interpretation across the world.⁹

B. Convention Relating to the Status of Refugees, 1951

Article 1A(2) of the Convention defines a refugee as a person who, owing to a 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, unwilling to avail himself of the protection of that country.¹⁰ This definition has become the international standard for determining refugee status and forms the foundation of the asylum process in many states.

The Convention protects refugees through a wide array of civil, political, economic and social rights. These include rights relating to education, employment, housing, public relief, medical services, freedom of religion, access to the courts, identity and travel documents, and protection

⁷ Universal Declaration of Human Rights art. 14(1), G.A. Res. 217 A (III), U.N. Doc. A/810 (Dec. 10, 1948).

⁸ Abdullah Nasir & Anil Maurya, *Examining International Legal Protections for Environmental Refugees: A Critical Analysis*, ILI L. REV. (Summer 2024).

⁹ Lamis Abdelaaty, *The Relationship between Human Rights and Refugee Protection: An Empirical Analysis*, 25 INT'L J. HUM. RTS. 1704 (2021).

¹⁰ Convention Relating to the Status of Refugees art. 1A(2), July 28, 1951, 189 U.N.T.S. 137.

against discrimination. In some respects refugees enjoy rights equivalent to those of other foreign nationals, and in others rights equivalent to those of nationals of the receiving state.¹¹

C. 1967 Protocol

The 1967 Protocol removed both the temporal and the geographic limitations of the Convention and made refugee protection applicable to anyone qualifying as a refugee under the Convention definition, irrespective of when or where they were forced to flee.¹² The Convention and the Protocol may therefore be viewed as a combined mechanism of international refugee law.¹³

The Protocol increased the universality of refugee law, so that persons who are refugees because of persecution in regions such as Asia, Africa and Latin America receive protection under international law. Most states that have acceded to the Refugee Convention have also acceded to the 1967 Protocol. The Protocol has assisted the international community in responding more effectively to changing patterns of forced migration caused by armed conflict, political unrest, ethnic cleansing and human rights abuse.¹⁴

D. Principle of Non-Refoulement

Non-refoulement, widely regarded as the bedrock of international refugee protection, is a key provision of the 1951 Convention Relating to the Status of Refugees and of the 1967 Protocol. Article 33(1) prohibits states parties from expelling or returning a refugee to the frontiers of territories where his or her life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion. Article 33(2) withholds the benefit of that protection from a refugee whom there are reasonable grounds for regarding as a danger to the security of the country of refuge, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.¹⁵

The principle safeguards refugees and asylum seekers against being sent to countries where they may face persecution, torture, cruel, inhuman or degrading treatment, or other serious violations of human rights. Even where a person has not been formally recognised as a refugee, the same protection applies if returning that person would place his or her life or physical integrity in danger. Non-refoulement thus embodies the humanitarian concern to prevent

¹¹ Alice Edwards, *Human Rights, Refugees, and the Right 'To Enjoy' Asylum*, 17 INT'L J. REFUGEE L. 293 (2005).

¹² Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 267.

¹³ James C. Hathaway, *Harmonizing for Whom? The Devaluation of Refugee Protection in the Era of European Economic Integration*, 26 CORNELL INT'L L.J. 719 (1993).

¹⁴ REFUGEE COUNCIL OF AUSTRALIA, *Refugees and International Law*, <https://www.refugeecouncil.org.au/international-law/3/>.

¹⁵ Convention Relating to the Status of Refugees, *supra* note 10, art. 33.

individuals from being exposed to life-threatening situations, and at the same time respects the basic rights to life, liberty and security of person.

IV. HUMAN RIGHTS OF ASYLUM SEEKERS

A. Right to Life and Security

The protection of life and personal security is a basic human right enshrined in international law. Safeguarding the life and personal safety of people fleeing persecution, armed conflict, torture or violations of their basic human rights remains one of the main pillars of international protection. Article 3 of the UDHR assures the rights to life, liberty and security of person, while Article 6 of the ICCPR protects the right to life.¹⁶

States have a duty to ensure that asylum seekers are not persecuted, tortured or subjected to inhuman treatment. Article 33 of the 1951 Convention Relating to the Status of Refugees forbids states from returning refugees to the places from which they have fled where doing so would place them in mortal danger. Much of the difficulty in ensuring the safety of asylum seekers has arisen from restrictive border policies and the practice of forced returns.¹⁷

B. Right to Fair Asylum Procedures

A sound procedure matters because it ensures that those seeking protection are treated fairly when their claims are assessed. Article 14 of the UDHR recognises the right of a person to seek asylum in other countries in order to escape persecution. Under international refugee law, each state should operate fair procedures for determining whether a person is in fact a refugee. Such a procedure includes the individual examination of claims, access to legal representation, interpretation services and an opportunity to appeal against decisions.¹⁸

C. Protection Against Arbitrary Detention

Asylum seekers should not be detained arbitrarily merely because they are in an irregular immigration situation. Although states retain the power to control immigration, any such detention must conform to the standards of legality, necessity and proportionality. Article 9 of the ICCPR provides that no one shall be subjected to arbitrary arrest or detention.¹⁹

¹⁶ Universal Declaration of Human Rights, *supra* note 7, art. 3; International Covenant on Civil and Political Rights art. 6, Dec. 16, 1966, 999 U.N.T.S. 171.

¹⁷ Sarah Scott Ford, *Not Just New Wine in Old Bottles: Seeing Refugee Law and Human Rights as Entangled Regimes*, 22 INT'L J. CONST. L. 772 (2024).

¹⁸ Mariana Ferolla Vallandro do Valle, *Fleeing Deprivation: Deducing Non-Refoulement Obligations from Economic, Social and Cultural Rights*, 36 INT'L J. REFUGEE L. 353 (2024).

¹⁹ International Covenant on Civil and Political Rights, *supra* note 16, art. 9.

The 1951 Refugee Convention also bears on this question. Article 26 accords refugees lawfully in the territory the right to choose their place of residence and to move freely within it, subject to any regulations applicable to aliens generally, while Article 31 bars penalties on account of illegal entry or presence and confines restrictions on the movement of such refugees to those which are necessary.²⁰ Arbitrary detention of asylum seekers can harm their physical and mental well-being.²¹

D. Social and Economic Rights

Asylum seekers should enjoy the fundamental socio-economic rights that sustain human dignity. Limitations on employment, health services, housing and education can leave asylum seekers vulnerable and unable to integrate into society. Articles 22 and 25 of the UDHR recognise socio-economic rights such as the right to social security and to an adequate standard of living, while Article 12 of the ICESCR recognises the right to health.^{22,23}

The 1951 Convention Relating to the Status of Refugees contains provisions on wage-earning employment, self-employment and the liberal professions (Articles 17–19), public education (Article 22) and public relief (Article 23).²⁴ Securing these rights helps refugees to rebuild their lives and reduces dependency. It is the duty of states to strike a balance between these obligations and the resources available to them.

V. INDIA'S POSITION ON THE HUMAN RIGHTS OF ASYLUM SEEKERS

India has a distinctive approach to asylum and refugee protection, as it is not a party to the 1951 Convention Relating to the Status of Refugees or to the 1967 Protocol. India accordingly has no dedicated national refugee law governing the recognition and protection of asylum seekers. Refugee matters are instead managed through executive policy, administrative decisions and general constitutional and statutory provisions.²⁵

A. Constitutional Protection and Judicial Approach

Although the Constitution of India contains no express right to asylum, several of the fundamental rights it enshrines extend to all persons within the territory of India, including

²⁰ Convention Relating to the Status of Refugees, *supra* note 10, arts. 26, 31.

²¹ David Weissbrodt & Stephen Meili, *Human Rights and Protection of Non-Citizens: Whither Universality and Indivisibility of Rights?*, 28 REFUGEE SURV. Q. 34 (2009).

²² Universal Declaration of Human Rights, *supra* note 7, arts. 22, 25; International Covenant on Economic, Social and Cultural Rights art. 12, Dec. 16, 1966, 993 U.N.T.S. 3.

²³ Nóra Béres, *The Anatomy of Non-Refoulement: A Centrepiece of International Refugee Law and Human Rights Law*, 5 CENT. EUR. J. COMP. L. 31 (2024).

²⁴ Convention Relating to the Status of Refugees, *supra* note 10, arts. 17–19, 22, 23.

²⁵ Siddeeqa Iram, *Reimagining the Asylum Law in India: A Study on the Duty of Non-Refoulement*, 36 NAT'L L. SCH. INDIA REV. 1 (2025).

foreigners. Equality before the law under Article 14 and the right to life and personal liberty under Article 21 are among the rights that the Supreme Court has read widely.²⁶ In *National Human Rights Commission v. State of Arunachal Pradesh*,²⁷ the Court upheld the rights of Chakma refugees, holding that the State is bound to protect the life and liberty of every human being within its jurisdiction. The Court observed that foreigners too enjoy the protection of Article 21.

In *Mohammad Salimullah v. Union of India*,²⁸ the Supreme Court declined to restrain the deportation of Rohingya refugees, but directed that any deportation must follow the procedure prescribed by law. The case brought into focus the reach of Article 21 and of the doctrine of non-refoulement in India. Weighing humanitarian considerations against national security and the sovereignty of the State, the Court took note of the submissions of the Union of India regarding threats to internal security, while observing that national courts may draw inspiration from international conventions so long as they are not in conflict with municipal law. The decision has been criticised for giving greater weight to national security than to international refugee standards.

*Ktaer Abbas Habib Al Qutaifi v. Union of India*²⁹ was a landmark decision in favour of refugee rights and of the principle of non-refoulement. The petitioners were two Iraqi nationals who resisted their deportation to Iraq and sought instead to be handed over to the UNHCR, contending that return would endanger their lives. The Gujarat High Court acknowledged that India is not a signatory to the 1951 Refugee Convention. It nevertheless held that non-refoulement is a principle of international human rights law which is reflected in Article 21 of the Constitution, a provision that safeguards the right to life and liberty of all persons, including non-citizens. The Court directed that the petitioners should not be subjected to forced repatriation to a country in which they were at risk of persecution, and observed that Indian courts may rely on international conventions where there is no inconsistency with the fundamental rights guaranteed by the Constitution.

In *Nandita Haksar v. State of Manipur*,³⁰ the High Court concluded that even in the absence of a national refugee law, India's constitutional values as enshrined in Article 21, together with international humanitarian principles, require the authorities to protect persons fleeing threats to life and liberty. The Court permitted the safe passage of the persons concerned to New Delhi

²⁶ Birla, *supra* note 3.

²⁷ *National Human Rights Commission v. State of Arunachal Pradesh*, (1996) 1 SCC 742.

²⁸ *Mohammad Salimullah v. Union of India*, AIR 2021 SC 1789.

²⁹ *Ktaer Abbas Habib Al Qutaifi v. Union of India*, 1999 Cri LJ 919 (Guj).

³⁰ *Nandita Haksar v. State of Manipur*, 2021 SCC OnLine Mani 176.

so that they could approach the Office of the United Nations High Commissioner for Refugees (UNHCR) for the determination of their refugee status. The decision reaffirmed the principle of non-refoulement and underscored the constitutional commitment to protecting human dignity and life, including that of non-citizens seeking refuge.

B. India's Practice of Providing Asylum

Although there is no dedicated refugee statute, India has long offered asylum to several refugee populations, including Tibetan refugees, Sri Lankan Tamil refugees and Afghan refugees, among others who have fled persecution and war. India has adopted a humanitarian approach under which many refugees have been permitted to live in the country and have been given access to basic facilities through administrative measures. Indian refugee policy has, however, been described in the literature as selective and shaped by political and other considerations, with some groups receiving greater protection and assistance than others, and it has accordingly been criticised for inconsistency.³¹

C. Principle of Non-Refoulement in India

India is not bound by Article 33 of the 1951 Convention, the provision that embodies the doctrine of non-refoulement, because it is not a party to that Convention.³² The doctrine has nonetheless been accepted within international human rights law, particularly in connection with the prohibition of torture and inhuman treatment. The Indian judiciary has at times relied on international human rights norms in interpreting the rights guaranteed under the Constitution. In refugee cases, judgments have stressed that deportation must conform to constitutional standards and to the principle of fairness.³³

VI. COMPARATIVE STUDY OF ASYLUM PROTECTION

India, Germany and the United States illustrate three different approaches to the protection of asylum. India is not bound by the 1951 Refugee Convention or by the 1967 Protocol and has no refugee law. Refugee issues are managed through administrative policy and immigration statutes such as the Foreigners Act, 1946.³⁴ The constitutional guarantees in Articles 14 and 21 nevertheless apply to all persons regardless of citizenship, and the Indian courts have contributed significantly to refugee rights.

³¹ Atul Alexander & Nakul Singh, *India and Refugee Law: Gauging India's Position on Afghan Refugees*, 11 *LAWS* 31 (2022).

³² Convention Relating to the Status of Refugees, *supra* note 10, art. 33.

³³ Alexander & Singh, *supra* note 31.

³⁴ The Foreigners Act, 1946, No. 31 of 1946 (India).

Germany, by contrast, takes a more systematic and rights-oriented approach. It is a party to the 1951 Refugee Convention, and Article 16a of the Basic Law guarantees the right of asylum to persons persecuted on political grounds.³⁵ Germany operates an institutionalised asylum procedure administered by dedicated bodies, which provide legal protection, accommodation, healthcare and social services to refugees. The country nonetheless faces challenges concerning the volume of asylum applications and integration.³⁶

The United States has established its asylum regime under the Refugee Act of 1980 and the Immigration and Nationality Act. Under section 208 of that Act, persons with a well-founded fear of persecution on specified grounds may apply for asylum.³⁷ Although the United States asylum process includes interviews, hearings and appeals, detention, delays and stringent border controls have attracted criticism in relation to the adequacy of the safeguards available to asylum seekers.

The comparison indicates that Germany and the United States have more institutionalised and legislative systems of asylum protection, while India relies on constitutional provisions and executive policy.³⁸ Although India has a long tradition of offering sanctuary to refugees, the absence of an overarching refugee law leaves the position uncertain. An even-handed approach to asylum, taking account of humanitarian interests as well as security considerations, is essential.

VII. CHALLENGES IN THE PROTECTION OF ASYLUM RIGHTS

A. Conflict between State Sovereignty and Human Rights Obligations

One of the main problems in securing asylum rights is the tension between state sovereignty and international human rights. States regard sovereignty as a necessary basis for controlling their borders and their immigration policy. International human rights law, on the other hand, requires states to protect people who flee persecution or danger to life. Balancing these two demands is difficult.

B. Restrictive Border Policies

Restrictions at borders have affected the ability of asylum seekers to reach international protection. Measures such as border closures, pushbacks, stringent visa regulations and

³⁵ Grundgesetz [GG] [Basic Law] art. 16a (Ger.).

³⁶ JAMES C. HATHAWAY & MICHELLE FOSTER, *THE LAW OF REFUGEE STATUS* (2d ed., Cambridge Univ. Press 2014).

³⁷ Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102; Immigration and Nationality Act § 208, 8 U.S.C. § 1158.

³⁸ ALEXANDER BETTS & PAUL COLLIER, *REFUGEE: TRANSFORMING A BROKEN REFUGEE SYSTEM* (Penguin Random House 2017).

accelerated deportation procedures may prevent asylum seekers from making legitimate claims. Such measures raise questions under international law, principally in relation to non-refoulement, which prohibits the return of individuals to places of persecution, torture or other serious harm.³⁹

C. Unequal Burden Sharing among Countries

Unequal burden sharing among states is a further concern in the protection of refugees and asylum seekers. Developing countries host most of the world's displaced people despite their limited economic capacity, while some developed states maintain restrictive entry policies or offer little assistance to refugee-hosting countries.⁴⁰

D. Lack of Uniform Implementation and Enforcement

Although international instruments set out standards for the protection of refugees, implementation varies widely from country to country. Some states have neither a legal regime for asylum seekers nor mechanisms for their protection, and the absence of enforcement machinery for international standards allows abuses to continue. Such abuses include detention without due process, the denial of basic services and unlawful deportation.

VIII. CONCLUSION AND SUGGESTIONS

Protecting asylum seekers is one of the most essential of human rights obligations. It not only answers the plight of the refugee but also reflects the cooperation between nations that a shared humanity demands. Studying how India, the United States and Germany treat asylum seekers within their national legal structures brings out substantial disparities and reveals how differently states approach asylum. Both the United States and Germany have created well-defined legal procedures that are underpinned by legislation and by independent institutions that decide asylum cases. The approach of India, by contrast, remains humanitarian and administrative, as it still lacks a complete legal basis for dealing with asylum seekers. This legal vacuum creates uncertainty as to the rights, procedures and protections that asylum seekers in India may claim against the risk of persecution.

On closer examination, the principle of non-refoulement and the right to seek asylum require states to provide a safe harbour. Germany, which brings together its international refugee commitments and its domestic law, and the United States, with its proceduralised asylum

³⁹ Ayesha Sharif & Mohammed Mubashir, *Legal Challenges Related to Refugee Rights in India*, 7(3) INT'L J.L. MGMT. & HUMAN. 2067 (2024).

⁴⁰ David Cantor, *Refugee Law-Making, State Sovereignty and the Paradox of Non-Independent Territories*, 38 INT'L J. REFUGEE L. 1 (2026).

system, are examples of properly developed legal frameworks, yet both continue to show problems such as slow processing, restrictive policies and administrative difficulties. The generous history of India in sheltering refugees reflects a humanitarian spirit, but a clear law on refugees and asylum seekers is needed so that the state delivers a consistent policy and can be held accountable, for instance before the courts.

It is recommended that India consider a dedicated law on asylum and refugee protection which stands independently of other statutes while integrating the principles and standards recognised internationally. A Bill on asylum and refugees should establish procedures for applications, legal assistance, access to minimum rights, and an independent body for the determination of refugee status. In addition, closer cooperation with international organisations, and a willingness to learn from the refugee policies of countries such as Germany and the United States, could help India to strengthen its protection system for asylum seekers. A sound system of refugee protection should recognise the balance between the right of a nation to self-governance and its international human rights obligations, including those owed to asylum seekers. Achieving that balance requires firm legislation, an independent judiciary and a commitment to humanity on the part of the state. Such a commitment would strengthen protection worldwide and help a rights-based global refugee regime to take shape. It remains crucial for states to respect international law and humanitarian principles so that no one seeking asylum is turned away.
