

Refugees Beyond Borders: The case for a Uniform Asylum Law in the Wake of the Manipur and Myanmar Crises

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Introduction

The contemporary world is witnessing forced displacement on an unprecedented scale, with millions of individuals being involuntarily uprooted due to armed conflict, political repression, ethnic hostilities and systematic human rights violations.¹ In this evolving humanitarian landscape the protection of displaced populations is no longer a matter of benevolence but a pressing legal and moral imperative. The movement of people across and within borders compels states to confront difficult questions at the intersection of sovereignty, security, and human dignity².

Under international law, a refugee is defined under Section 1(A)(2) of the 1951 Convention is a person who, owing to a well-founded fear of persecution on grounds such as race, religion, nationality, political opinion, or membership of a particular social group, is compelled to flee beyond the borders of their country of origin and is unable or unwilling to seek its protection³. However, an asylum seeker, an individual who seeks international protection, whose claim has not yet been formally adjudicated⁴. Distinct from both categories are internally displaced persons (IDPs).

Against this global backdrop, the issue of asylum assumes particular significance in the Indian context. Although India is not a state party to the 1951 Refugee Convention or 1967 Protocol, it has historically explicated diverse refugee populations, reflecting a civilisational ethos grounded in humanitarian values⁵. However, still this practice prevails orthodoxly without any support of a codified asylum framework. The conflict induces refugees yearn to be governed by the well-established rule of law and enhance the basic essence of equity, holds the credibly at paramountcy.

The lawful situation is being categorised by the two contemporary crises unfolding in India's northeast area. The ethnic disruption in Manipur has resulted in wide-scale internal displacement, forcing thousands of citizens

¹ UNHCR, Global Trends: Forced Displacement in 2023 (UNHCR, Geneva 2024).

² Guy S. Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (3rd edn, Oxford University Press 2007).

³ Convention Relating to the Status of Refugees, 1951, Art. 1(A)(2).

UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status* (Geneva 2019).

⁴ UN General Assembly, *Guiding Principles on Internal Displacement*, UN Doc E/CN.4/1998/53/Add.2.

⁵ Prafulla C. Mishra, 'India and Refugee Law: Time for a Legislative

into relief camps⁶. The refugees remain under the protection of the Indian state, yet there is absence of a detailed legal procedure governing internal displacement, has unveiled severe loopholes in term of wide range protection and access to basic humanitarian rights⁷. The Manipur crisis portraits that though internal displacement confined within national borders showcases humanitarian consequences.

The political dynamics in Myanmar as to the result of military coup triggered a cross-border movement into neighbour borders, particularly the displacement flow was heavy towards the administratively lax borders of north-eastern states⁷. Victims' escaping persecution had strengthen their breed roots on Indian soil just to encounter legal ambiguity dealing with their status, rights, and protection against forced⁸.

This essay unambiguously becomes voice of the displaced, their grieves will get constitutional safeguard through the mechanism of uniform asylum law. Such a framework would guarantee that humanitarian protection in India is grounded in law rather than discretion by offering procedural one that harmonises constitutional values, particularly the right to life and personal liberty under Article 21, with international human rights norms and legitimate security considerations¹⁰.

2. Background: Global Refugee Law Framework

The moder global trends regarding refugee protection regime presents a normative framework. Nevertheless, international law proclaims a commitment to protecting displaced persons fleeing persecution, the actual jurisprudential architecture of refugee protection remains fragmented, uneven and deeply influenced by state sovereignty rather than protecting rights-based paradigm. This section examines the failure of the legal sphere to evolve and confront with the ongoing realities of international legal framework governing refugees, comparative asylum systems across jurisdictions and the structural reasons why a uniform global standard continues to remain elusive.

2.1 International Legal Instruments

1951 Refugee Convention and 1967 Protocol: Scope and Limitations

The cornerstone of international refugee law is the Convention Relating to the Status of Refugees, 1951, supplemented by the 1967 Protocol. The Convention defines a refugee as a person who, owing to a well-

⁶ Ministry of Home Affairs, Government of India, Situation Report on Manipur Violence (2023).⁷

Walter Kälin, Internal Displacement and the Protection Gap (Brookings Institution 2010)

⁷ UNHCR India, Myanmar Situation Update (2023)

⁸ National Human Rights Commission v. State of Arunachal Pradesh (1996) 1 SCC 742.

¹⁰ Maneka Gandhi v. Union of India (1978) 1 SCC 248.

founded fear of persecution on grounds of race, religion, nationality, membership of a particular social group, or political opinion, is unable or unwilling to avail protection of their home country.

The Convention was Eurocentric origin remains evident. Historically contingent framework confined displaced migrants under events occurring in Europe before 1 January 1951, its temporal and geographic limitations were later removed by the 1967 Protocol. However, this expansion failed to modernize the substantive definition of “refugee,” leaving out victims of climate change, generalized violence, economic collapse and internal displacement—phenomena that dominate contemporary forced migration.

Moreover, the Convention lacks effective enforcement mechanisms. Compliance is voluntary, reservations are widely permitted and there is no supranational authority capable of compelling states to honour their obligations. As a result, refugee protection faces numerous breakdowns through unconstitutional political convenience, border securitization and domestic electoral pressures. UNHCR’s Mandate and Core Principles

The United Nations High Commissioner for Refugees (UNHCR) empowered as the superior authority of the Convention, responsible to impart cross border scrutinization and seeking prolonged solutions for refugees. Its foundation rely heavily upon on three guiding principles:

Non-Refoulement – the prohibition against returning refugees to territories where their life or freedom were at stake.

Protection – ensuring get hold of one’s own asylum procedures, basic rights, and dignity.

Durable Solutions – voluntary repatriation, local integration or resettlement.

2.2 Comparative Asylum Systems

European Union: The Illusion of Harmonization

The Common European Asylum System (CEAS) yearns to harmonize stable asylum procedures across EU Member States. Instrumentssuchasthe Dublin Regulation, Qualification Directive, and Asylum Procedures Directive attempttostandardizerefugee status determination.

In reality, though,CEAShasbeenclassified as burden-shifting as opposed to burden-sharing. While northern states use legalandproceduralobstacles to discourage asylum seekers, border states like Greece and Italy bear disproportionateresponsibility.Asareult, the myth of a cohesive European asylum regime is exposed by a systemcharacterisedbyovercrowdedcamps and uneven recognition rates.

UnitedStates:SecuritizationoverProtection

Securitization over Protection in the United States Through domestic laws like the Refugee Act of 1980, the United States strictly abides by the Refugee Convention. However, the decision-making process for asylum is still highly politicized. Narrow description of the word “Persecution”, misused due to been taken for granted and destroys the basic necessities of the refugees’ rights which are not birth born but needed to be refine through legal efficacy.

Canada: Rights-Based but Selective

Though Canada's judicial framework, private sponsorship programs and rights-oriented asylum framework are frequently praised. Its refugee determination procedure places a strong emphasis on following international standards and procedural justice.

But even Canada uses externalization strategies like the Safe Third Country Agreement with the United States, which essentially limits asylum access. As a result, generosity is strategically managed and carefully calibrated. ASEAN: Autonomy without Accountability.

ASEAN: Sovereignty without Responsibility

The majority of ASEAN nations prioritize territorial sovereignty and non-interference over legally binding refugee obligations. The majority of Southeast Asian nations rely on ad hoc humanitarian protection rather than being signatories to the Refugee Convention.

This gap, where refugees are temporarily accepted but denied legal recognition, rights, or long-term security, is exemplified by the Rohingya crisis. The humanitarian minimalism of ASEAN's strategy lacks legal.

2.3 Why No Uniform Global Standard?

Rather than being accidental, the absence of a uniform international standard for refugee protection is structural. Human rights always prevail at the intersection of state sovereignty and refugee law. First, fragmentation results from competing political, economic and security interests. While poorer states bear a disproportionate share of the burden of refugees without sufficient international assistance, wealthier states externalize responsibility. Second, there is no mandatory enforcement of international refugee law. States are able to selectively fulfil obligations because there are no penalties for non-compliance unlike trade or investment regimes. Third, the definition of a refugee is still normatively stagnant and unable to adapt changing factors that cause displacement, like internal strife and climate change. In the end geopolitical convenience governs refugee protection more than legal uniformity.

The international law is being seen as “a fractured system masquerading as global consensus”.

3. India's Legal and Policy Landscape on Refugee Protection

3.1 Constitutional Protections

Nevertheless, India is devoid of codified asylum statute, the constitution i.e. our living document under the judicial guardianship, has shouldered the responsibility of safeguarding exploited rights of vulnerable displaced groups. The concept of refugee's protection is still hanging in the pages of The Indian Constitution even after being accustomed to the several brutal incidents. In the reign of the fundamental rights assurance, Article 14 and 21, holds universal applicability. Articles 14 and 21 incorporates within themselves the inclusive phrase "person", imposes obligation over the state and international treaties, anchored refugees' rights.

Article 14 encompasses the guarantee of equality before law and equal protection of laws. Indian courts have thoroughly elated this provision as a bulwark against anti-arbitrariness doctrine extending its protection to noncitizens residing within Indian territory. Complementing this, Article 21—protecting life and personal liberty—has been expansively construed to include the right to live with dignity, free from persecution, torture, and inhuman treatment. For refugees fleeing violence and systemic oppression" Article 21 "operates as a liberty jurisprudence against forcible exploitation to life-threatening conditions.

Judicial interpretation has been pivotal in translating these abstract guarantees into concrete protection. In *National Human Rights Commission v. State of Arunachal Pradesh* (1996), the Supreme Court unequivocally restrained the forcible expulsion of Chakma refugees, holding that the State is duty-bound to protect their life and liberty irrespective of nationality. Similarly, in *Jean Michel v. Union of India* (2016), the Karnataka High Court reaffirmed that refugees are entitled to protection under Article 21 and that deportation must follow due process of law not executive whim.

These decisions reflect; rights crystallisation is mandatory to procure the basic structure of the doctrine static judicial opined: that constitutional morality and humanitarian considerations must be constitutionally shielded against the sovereign power. Indian courts have thus placed themselves as guardians against the erosion of refugee rights even in the absence of legislative guidance.

3.2 Absence of a Specific Asylum Law

Despite this judicial sensitivity, India's refugee regime characterised as fragile, ad hoc and executive-driven. In The deprived situation of a codified asylum law has resulted in differential treatment of refugee groups, often driven by geopolitical constraints rather than aligned legal standards.

In practice, refugees in India are governed by general immigration laws—most probably the Foreigners Act, 1946 and the Passport (Entry into India) Act, 1920. These statutes were never architecture in a view to confront forced displacement, rather than they view all non-citizens through the glimpse of "illegal entry" and

“overstay”. Consequently, refugees are legally inseparable from undocumented migrant rendering them vulnerable to detention, deportation and prolonged legal uncertainty.

The executive often fills that legislative loophole through informal and transparent- public driven policy measures. Certain refugee groups such as Tibetans and Sri Lankan Tamils, have historically received administrative protection and access to basic services. Others however, are dependent upon the discretion of local authorities resulting in inconsistent and coercive practices.

The UNHCR plays a crucial yet informal role in this domain. While India permits UNHCR to conduct refugee status determination for non-neighbouring country nationals, its guidelines lack statutory force. Recognition by UNHCR does not automatically translate into legal rights under Indian law creating a precarious existence marked by limited access to employment, education and healthcare.

3.3 India's International Obligations

India is notably a treaty abstention to the 1951 Refugee Convention or its 1967 Protocol, often witnessing concerns dealing with issues of national security, resource deprivation and geopolitical instability⁹. However, non-accession does not exclude India of international obligations.

India is a signatory to several international human rights instruments including the International Covenant on Civil and Political Rights (ICCPR)¹⁰ and the Convention Against Torture (CAT) (signed though not ratified)¹¹. These instruments strengthen the principle of non-refoulement, constraining the return of individuals to

territories where they confront a real risk of persecution or torture¹². Indian judiciary had expanded this principal scope under constitutional Article 21¹³.

Case Study I — The Myanmar Crisis

4.1 Genesis of the Crisis

⁹ B.S. Chimni, *International Refugee Law: A Reader* 332–334 (Sage Publications, 2000).

¹⁰ *International Covenant on Civil and Political Rights*, Dec. 16, 1966, 999 U.N.T.S. 171.

¹¹ *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Dec. 10, 1984, 1465 U.N.T.S. 85.

¹² *Soering v. United Kingdom*, App. No. 14038/88, Eur. Ct. H.R. (1989); see also Article 7, ICCPR

¹³ *National Human Rights Commission v. State of Arunachal Pradesh*, (1996) 1 SCC 742

The contemporary refugee infiltration from Myanmar towards India is a direct consequence of the political upsurge triggered by the military coup of February 2021¹⁴. The coup, executed by the Tatmadaw, abruptly disrupted Myanmar's fragile democratic transition by unconstitutional seizure of power of the elected government of the National League for Democracy. The mechanism to snatch the throne of the elected government accustomed large scale civil unrest¹⁷, followed the repercussions of brutal military repression, arbitrary detentions, enforced disappearances and extrajudicial killings.

The post-coup period witnessed the escalation of armed resistance groups¹⁸, intensification of ethnic conflicts, and systematic targeting of minority populations, particularly in border regions. Airstrikes, village burnings and collective punishment became tools of state violence. As governance collapsed, high chances of humanitarian breakdown and civilian safety, forced was in question, displacement¹⁹ emerged as an inevitable outcome. Civilians fleeing persecution sought shelter both domestically and across international porous region.

India, sharing a long and undocumented border with Myanmar, became a natural destination for those escaping persecution. The Northeastern states especially Mizoram, Manipur, Nagaland, and Arunachal Pradesh—experienced a sudden and influx of refugees.¹⁵ The crisis addressed particular intensity due to ethnic-political philosophy later escalated into conflict between border communities between the Chin ethnic group of Myanmar and the Mizo population of India. This transboundary movement facilitated this practice but simultaneously complicated India's border management and internal security calculus.

4.2 Profile of Refugees

The refugee population escaping Myanmar into India is linguistically and ethnically diverse but disproportionately composed of persecuted minorities. A certain portion belongs to the Chin, Kuki and other ethnic groups¹⁶ inhabiting Myanmar's western and northern regions. These communities are used to be exploited and have historically faced marginalization, but post-coup militarization escalated their vulnerability. Many refugees report²² fleeing targeted military operations, ethnic profiling, forced recruitment and destruction of livelihoods.

¹⁴ United Nations Human Rights Council, Situation of Human Rights in Myanmar, UN Doc. A/HRC/49/72 (2022)

¹⁷International Crisis Group, Responding to the Myanmar Coup, Asia Report No. 322 (2021). ¹⁸ United Nations High Commissioner for Refugees (UNHCR), Myanmar Emergency Overview (2023) ¹⁹ Amnesty International, Myanmar: Crimes Against Humanity Since the Coup (2022).

¹⁵ Ministry of Home Affairs, Government of India, Advisory on Influx of Myanmar Nationals into Indian Territory (2021).

¹⁶UNHCR India, Ethnic and Protection Profile of Myanmar Refugees in India (2022) ²² FortifyRights, "They Burned Everything": Myanmar Military Crimes in Chin State (2021).

Religious victimization¹⁷ also plays a vital role, as several displaced persons belong to Christian minority groups subjected to structured racism. Women and children¹⁸ construe a significant proportion of the refugee breed, yielding the hostile situation particularly vulnerable and numb from a humanitarian perspective. The victim of the minority's subsection, are eagerly yearning for statutory specialization protection, subject to reasonable power, out of the purview being misused and snatched in any manner, later echoed the abrupt violence into much more deterioration situation, render victims, used to their exploitation, left them, no courage to retaliate back against the exploiters...

The core necessities of these emigrants are multifaceted. Urgent necessities¹⁹ include shelter, food security, medical assistance and sanitation. Prolonged demands ranges from education for displaced²⁰ children, psychosocial counselling session for trauma spectators and livelihood opportunities to prohibit exploitative labour. The absenteeism of legal refugee position intensifies the risk, confronting refugees to detention, expulsion and rendering them homeless. Their condition is further deteriorated by few accesses to formal healthcare and education systems due to documentation obstacles. Thus, the outline of Myanmar refugees throws back an intersection of ethnic persecution, political violence and humanitarian deprivation.

4.3 India's Response

India's feedback to the Myanmar refugee crisis has been reflected by growing tension between human-centred whim and legal vagueness. However, many states are under the veil of refugee populations, India is a nonsigner to the 1951 Refugee Convention or its 1967 Protocol. Accordingly, there prevails no codified national asylum statutory framework that safeguard refugees from exploitation. Instead, are being regulated by a mosaic of executive orders, judicial rulings or precedents and colonial-era legislation such as the Foreigners Act, 1946.²¹ Hence, their protection is not even listed in any of the statutory books, so that their sources can be traced. Although nobody cared to make history for those displaced persons get acquittance to their rights. Political representatives are just entangled within their political domain.

For strengthening the homeland security, India had fluctuated between sanctioning and prohibition control. While central authorities have frequently, tasked to emphasize border security and directed state governments²² to prevent illegal migration, local administrations—specially in Mizoram—have adopted a humanitarian stance,

¹⁷ United States Commission on International Religious Freedom, Annual Report: Myanmar (2022).

¹⁸ UNICEF, Children on the Frontlines of Myanmar's Crisis (2023).

¹⁹ UNHCR, Global Trends: Forced Displacement (2023).

²⁰ Human Rights Law Network v. Union of India, W.P. (C) No. 793 of 2017 (Delhi High Court).

²¹ The Foreigners Act, 1946

²² Mizoram Cabinet Resolution on Humanitarian Assistance to Myanmar Refugees (2021).²⁹

PUCL v. Union of India, (1997) 3 SCC 433.

permitting refugees to enter and impart shelter and relief. This variance stresses the philosophy of a concrete national policy.

Relief efforts have largely been scattered and ad hoc. Non- government organizations ²⁹such as church groups and local communities have reflected a pivotal role in providing food, shelter and medical assistance. State governments have extended their social welfare hands for temporary assistance, but without legal identification, still remain outside the scope of formal welfare schemes. This legal invisibility²³ places them in a endangered position, relied on executive discretion rather than enforceable rights.

Security validation approach further mumbled up India's fearful reaction. The seven sisters are always characterised as a sensitive issue, why adequate measure, still not undertaken by the authorised ministries even, being introduced to their grief. Due to insurgency issues and the existence of displaced populations upsurges threat of arms trafficking, demographic imbalance and cross-border militancy. However, this undermines the Indian judiciary and legislative grassroots relied heavily upon on the due process of law to human dignity under Article 21 and its international human rights responsibilities under instruments such as the ICCPR and customary international law, including the principle of non-refoulement.

India thus stands at a critical juncture. While humanitarian obligations force safeguard of refugees fleeing persecution, turn this ideal of the absence of a legal framework results in uncertainty and inconsistent implementation. The Myanmar crisis sharply uncover the urgent need for a detailed and codified asylum law that reconciles national security with humanitarian responsibility. Without such a framework, India's refugee response will always remain dormant and fragile.²⁴

5 Case Study II — The Manipur Displacement Crisis

5.1 Causes of the Crisis

(a) Ethnic Violence

The Manipur displacement crisis is twined within deep-seated religious fault lines, specifically between the Meitei community, predominantly inhabiting in the Imphal Valley and the Kuki-Zo tribal groups residing in the surrounding green hill districts. Challenging claims over land, political representation and affirmative action policies—particularly suit arose concerning Scheduled Tribe status—created a volatile socio-political

²³ Jesuit Refugee Service India, Myanmar Refugees and Access to Welfare (2022)

²⁴ Law Commission of India, Consultation Paper on Refugee and Asylum Law (2018).

environment.²⁵ The splints of dialogue, marked with the circulation of incendiary narratives, led to widespread violence instilled with arson, targeted attacks and destruction of homes²⁶. From a constitutional viewpoint, such violence which construe a direct attack on Article 21 of the Constitution of India, which guarantees the right to life with dignity, as well as Article 14, ensuring equality before the law and equal protection of laws with the doctrine of reasonable classification, though its application is absent in the present case²⁷. The State's failure to prevent or promptly contain the violence raises serious concerns regarding its positive obligation to protect citizens from foreseeable harm²⁸. (b) Internal Displacement Dynamics

As violence worsen, tens of thousands of civilians were forced to flee their homes overnight, seeking refuge in relief camps, schools, churches and government buildings. Entire villages were rendered uninhabitable, as they were burnt²⁹. This displacement was not willing migration but compelled displacement under imminent threat to life and property.

The interplay of internal displacement in Manipur uncovered a pattern of long-drawn-out displacement, where return is neither appropriate nor safe. Fragmentation along ethnic lines has resulted in de facto territorial segregation exacerbates insecurity and obstacle reconciliation³⁰. The absence of a national legal framework regulating domestic displacement has further deteriorate the weakness of victim³¹.

5.2 Distinction: Refugee vs Internally Displaced Person (IDP)

(a) Conceptual and Legal Distinction

A refugee, under international statute, is a person who steps on another international border owing to a well-founded fear of persecution, as identified under the 1951 Refugee Convention³². In contrast, an Internally Displaced Person is someone who is compelled to flee their homeland for similar reasons—armed conflict, violence, or human rights violations—but remains within the territorial boundaries of their own country³³.

²⁵ B.S. Chimni, *International Refugee Law* 312–315 (Oxford Univ. Press, 2018).

²⁶ Internal Displacement Monitoring Centre, *India: Displacement Due to Conflict and Violence* (latest report).

²⁷ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

²⁸ *National Human Rights Commission v. State of Arunachal Pradesh*, (1996) 1 SCC 742

²⁹ United Nations, *Guiding Principles on Internal Displacement*, Principle 6 (1998).

³⁰ Walter Kälin, *Guiding Principles on Internal Displacement: Annotations* 4–6 (2008).

³¹ Law Commission of India, *Consultation Paper on IDPs in India* (2015).

³² Convention Relating to the Status of Refugees, 1951, art. 1A(2).

³³ UN Guiding Principles on Internal Displacement, Introduction.

The displaced persons in Manipur are unequivocally IDPs, not refugees. They remain Indian citizens, entitled to the full protection of the Constitution and domestic laws. However, being IDPs they are still deprived of the constitutional framework to enforce their rights, led to uncover a way of protesting only to get hold of their rights.³⁴

(b) Legal Implications: Why Classification Matters

The classification is well accustomed to legal consequences. Refugees impose international protection mechanisms, whereas IDPs fall within the purview of responsibility of their own homeland³⁵. For Manipur IDPs, construe this as:

The Union and State Governments are shouldered with primary responsibility for protection, relief and rehabilitation, promote reconciliation.

³⁶Constitutional remedies under Articles 32 and 226 remain active for enforcement of fundamental rights.⁴⁴

International soft-law instruments, such as the UN Guiding Principles on Internal Displacement, though non-binding, provide persuasive standards that Indian courts may depend upon, for pronouncement of judgments, regarding the safety of refugees and IDPs.

5.3 Government and Civil Society Responses

(a) Relief Camps

In reaction to the hostile crisis, the State structured multiple rehabilitation camps, impart immediate shield cover and security, daily bread to keep their soul alive. These camps, often established or designed in educational institutions or community halls, became prolonged habitations due to the continuing instability³⁷.

While the establishment of camps lights an initial discharge of the State's humanitarian obligation, reports indicate overcrowding, lack of privacy and inadequate sanitation—conditions incompatible with human dignity under Article 21 “Right to life and dignity”³⁸, protection of privacy and sanitation facilities are encompassed within this article. The state must obey the constitutional duty enshrined within the concerned article.³⁹

(b) Relief Measures

³⁴ People's Union for Civil Liberties v. Union of India, (2005) 2 SCC 436.

³⁵ Roberta Cohen & Francis Deng, Masses in Flight 18–20 (1998).

³⁶ .D. Jayal v. Union of India, (2004) 9 SCC 362.

⁴⁴ Constitution of India, arts. 32, 226.

³⁷ Vishaka v. State of Rajasthan, (1997) 6 SCC 241.

³⁸ Chameli Singh v. State of Uttar Pradesh, (1996) 2 SCC 549.

³⁹ Municipal Council, Ratlam v. Vardichan, (1980) 4 SCC 162.

The government announced engifted compensation, distribution of food grains, medical assistance and

deployment of security forces. However, relief delivery has been unstable and uneven. Many displaced families

remain dependent on charitable contributions⁴⁰, exposing the vulnerability of State-led relief mechanisms.

(c) Role of Civil Society

Civil society organizations, religious institutions and local volunteers have played a critical role in bridging governance gaps. They have provided food, clothing, trauma counselling and legal assistance. Their intervention underlines an important constitutional reality: while civil society can supplement State action, it cannot substitute the State's non-delegable duty to protect fundamental rights⁴¹.

5.4 Gaps in Protection

(a) Documentation Issues

The Manipur IDPs faced acute challenges in the rage of this hostile situation, confronted with repercussions in documents issues. They loss their identity proof documents, sheltered land document, bank statement to rely heavily for finance, educational certificates⁴². Disruption of these documents rendered the displaced person out of the purview of social welfare scheme especially within the educational domain, undermines the legal applicability of Art.21A⁴³. At the loss of Aadhar card proofs, ration cards or domiciled proof face expulsion for the other stracts of the society.⁴⁴

(b) Uncertain Status and Rights

IDPs in Manipur occupy a legal grey zone. There is no detailed national statutory framework defining their status, rights, or entitlements. Consequently:

- Access to education for displaced children remains disrupted violates Art 21A ("Right to Education")⁴⁵
- Livelihood opportunities are scarce, increasing dependency and poverty.

⁴⁰ Francis Coralie Mullin v. Administrator, UT of Delhi, (1981) 1 SCC 608.

IDMC Report, supra note 2.

⁴¹ Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161.

Justice K.S. Puttaswamy (Aadhaar), (2019) 1 SCC 1.

⁴² Constitution of India, art. 21A.

⁴³ Olga Tellis v. Bombay Municipal Corporation, (1985) 3 SCC 545.

⁴⁴ Mohini Jain v. State of Karnataka, (1992) 3 SCC 666.

⁴⁵

- Women and children face heightened risks of exploitation and abuse.

Judicially, this uncertainty reflects the enforceability of socio-economic rights under Articles 21, 39A, and 41, rendering constitutional promises illusory for displaced populations⁴⁶.

6. Why India Needs a Uniform Asylum Law and The Framework of an Ideal Asylum Regime

I. Need for a Uniform Asylum Law in India

1. Legal Certainty and Predictability

Among the gravest justifications for a uniform asylum law is the urgency for legal certainty. presently, refugees and asylum seekers are statutorily categorized as “foreigners” under the Foreigners Act, 1946⁴⁷, which was never designed to identify forced displacement or persecution-based migration.

A codified asylum law would:

- Explicitly defines legal categories such as refugee, asylum seeker, stateless person and IDP, a pathway to institutionalised their identity.
- Establish opaque guidelines or legal mechanism for application, determination and review
- Reduce arbitrariness in executive decision-making
- Statutory framework will provide certainty benefits not only refugees but also administrative authorities and courts, enabling consistent and predictable outcomes.

2. Protection Guarantees and Human Rights Compliance

India is not a state party to the 1951 Refugee Convention, yet it is bound by:

- Article 21 of the Constitution (“right to life and dignity”)

International human rights treaties such as ICCPR⁴⁸ and CAT

A uniform asylum law would institutionalize core protection guarantees, including:

- Temporary protection during status determination

⁴⁶ UN Guiding Principles on Internal Displacement, Principles 19–23.

Constitution of India, arts. 21, 39A, 41.

⁴⁷ Foreigners Act, No. 31 of 1946.

⁴⁸ Convention Against Torture, Dec. 10, 1984, 1465 U.N.T.S. 85.

- Recognition of the principle of non-refoulement, prohibiting return to a territory where a person faces persecution, torture or death

Judicial precedents have repeatedly echoed, upheld non-refoulement as part of Article 21, but without adequate legislation, just judicial recognition is not enough it requires much more essence that it holds in words, requires clear and certain procedure to be enforced.

3. Harmonization of National and International Norms

An architecture asylum law would harmonize India's domestic legal framework with consistently developing international refugee and human rights standards without compromising sovereignty and integrity.

Such harmonization would:

- Itself compel India to apply international norms through domestic legislation to normalize the situation.
- Create a cooperative framework aligned with UNHCR, particularly in registration, documentation and refugee status determination
- Enhance India's global standing as a responsible humanitarian power

Importantly, harmonization does not require blind adoption of international conventions but contextual adaptation aligned with national interests.

4. Administrative Efficiency and Security Clarity

In the blanket of absenteeism of a statutory framework - asylum seekers, refugees, IDPs demands highly recognised, well drafted and legislated complying with domestic laws and international conventions guidelines to get rid of delays, duplication and lack of accountability. Moreover, to preserve the integrity and c=diverse notion of the state, in a way legislative framework reflects the religious identity and protection.

A uniform law would provide:

- Efficient screening mechanisms at borders and within territories
- Clear distribution of powers among central and state authorities
- Standardized operating procedures for security vetting

Crucially, it would enable a balanced approach, where national security concerns are addressed without resorting to blanket detention or deportation that violates fundamental rights.

II. Components of an Ideal Asylum Law

To be efficacious, an ideal uniform asylum law must be detailed, comprehensive, rights-based and administratively workable and enforceable without any impedation, specifically which address the issue. The following components are essential:

1. Clear and Precise Definitions

Refugee: A person with a well-oriented fear of persecution based on race, religion, nationality, political opinion or membership of a particular social group, these grounds are constitutionally mentioned under Art 15(2)

Asylum Seeker: An individual who has applied for refugee status and awaits determination for the status to be granted.

Stateless Person: A person ,not considered a citizen by any State under its laws

Internally Displaced Person (IDP): A person displaced within national borders due to violence, conflict, or disasters or any other disputes mainly ethnicity.

Clear definitions prevent misclassification and ensure appropriate protection mechanisms.

2. Eligibility Criteria and Burden of Proof The law must clarify:

- Grounds of persecution specifically (political, religious, ethnic, gender-based, etc.)
- Norms for estimating credibility and evidence (admissible form of evidence)

Given the realities of forced displacement, the burden of proof must be flexible and can be valid act to Art 14 (equal protection of laws, keep the essence of equality and separation is reasonable), allowing:

- Testimonial evidence
- Country-of-origin reports
- Benefit of doubting genuine cases

This approach complies with humanitarian principles while maintaining procedural integrity.

3. Procedural Safeguards and Due Process before the Courts

Procedural fairness is the backbone of any asylum system. The law should mandate:

- Right to be heard one of the principles of Natural Justice
- Access to interpreters and legal assistance
- Reasoned decisions within a fixed timeline

- Additionally, a robust appeal and review mechanism before an independent authority or tribunal must be provided to prevent wrongful rejection and arbitrary deportation.

4. Social and Economic Rights of Asylum Seekers

A codified asylum must ensure the safety of the social and economic rights of the displaced, refugees and asylum seeker i.e. educational rights, provide opportunity for the livelihood and job opportunities , medical assistance , upholding the essence of Art21A , Art16 without any discrimination and impart them international recognition through legal status if any of the cross border refugee is acquiring shelter within their land he\she must have legal adherence to defend and expose the exploitation against minorities groups.

Conclusion

The upsurge in the Manipur and Myanmar, exposed the India's ad hoc approach towards the forced displacement; to harmonize the situation not only India but cross border country must also take measures to halt the displacement practice. This led to the urgency of the Uniform Asylum Law, act as a multidimensional legal framework for displaced people protections. In era of upsurging displacement, countries must align together and form the legal boundaries which will not only protect those but also preserve the notions of sovereignty, integrity and justice enshrined within the statutes.