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## **Refugee Rights and Legal Challenges in Assam: Evaluating India's Policy Framework and Human Rights Obligations**

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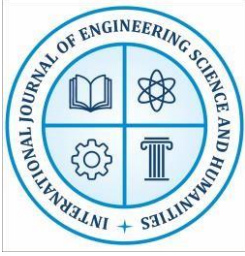
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### **Abstract**

The issue of refugees in India, particularly in the state of Assam, presents a complex intersection of legal ambiguity, human rights concerns and socio-political challenges. Assam has historically witnessed large-scale migration due to events such as the Partition of 1947 and the Bangladesh Liberation War of 1971, resulting in a significant refugee population. However, India lacks a comprehensive and codified refugee law, which has led to an inconsistent and fragmented approach in addressing refugee rights and protection. This paper critically examines the legal challenges faced by refugees in Assam within the framework of Indian constitutional provisions and international human rights obligations. The study explores the implications of key legal instruments and policies such as the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA), 2019, which have significantly influenced the determination of citizenship and legal identity in Assam. These mechanisms have raised concerns regarding exclusion, statelessness and the denial of basic rights to vulnerable populations. The paper also evaluates the extent to which fundamental rights under Articles 14 and 21 of the Indian Constitution are accessible to refugees, despite their non-citizen status.

The research analyzes India's position as a non-signatory to the 1951 Refugee Convention and its impact on refugee protection standards. It highlights the absence of a uniform legal framework and the reliance on ad hoc administrative measures, which often fail to ensure adequate protection of refugees' rights. The socio-economic conditions of refugees, including access to education, healthcare and livelihood opportunities, are also examined to understand the ground realities. The paper concludes by emphasizing the urgent need for a comprehensive refugee policy in India that aligns with international human rights standards while addressing national security concerns. It advocates for a balanced and humane approach to refugee governance in Assam, ensuring dignity, equality and justice for all affected populations.



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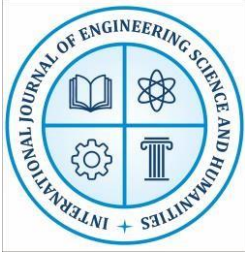
## **Keywords:**

Refugees, Assam, NRC, CAA 2019, Statelessness, Human Rights, Indian Constitution, Article 14, Article 21, Refugee Law, Migration, Socio-Legal Analysis, Citizenship, Policy Framework

## **Introduction**

The issue of refugee rights and their legal status has emerged as one of the most pressing concerns in contemporary international and domestic policy discourse. In the Indian context, this issue assumes a particularly complex dimension in the state of Assam, where historical migration, political sensitivities and legal ambiguities intersect to create a challenging environment for refugee governance. Assam, located in the northeastern region of India and sharing international borders with Bangladesh and Bhutan, has long been a focal point of cross-border migration. This geographical proximity, combined with historical events such as the Partition of India in 1947 and the Bangladesh Liberation War of 1971, has led to large-scale demographic changes, making the refugee question in Assam both sensitive and contentious. Refugees, by definition, are individuals who are forced to leave their country of origin due to persecution, conflict, or fear for their safety. However, in India, the term “refugee” lacks a formal legal definition because the country is not a signatory to the 1951 United Nations Refugee Convention or its 1967 Protocol. This absence of a clear legal framework has significant implications for the treatment and protection of refugees. Instead of a unified refugee law, India relies on a combination of general laws such as the Foreigners Act, 1946 and the Passport (Entry into India) Act, 1920, which treat refugees as ordinary foreigners without acknowledging their specific vulnerabilities. Consequently, refugee management in India operates largely through ad hoc administrative measures, resulting in inconsistencies and a lack of uniform protection standards.

In Assam, the refugee issue is further complicated by the question of citizenship and identity. The state has witnessed persistent socio-political tensions due to concerns over illegal immigration, which have shaped public discourse and policy responses for decades. The Assam Movement of 1979–1985, led by local groups demanding the detection and deportation of undocumented migrants, culminated in the Assam Accord of 1985. This agreement established March 24, 1971 as the cut-off date for determining citizenship. While the Accord aimed to address local concerns, its implementation has been fraught with challenges, particularly in distinguishing between refugees, migrants and citizens. The updating of the National Register of Citizens (NRC) in Assam represents a significant development in this context. Intended to identify genuine Indian citizens and exclude illegal migrants, the NRC process has had far-reaching implications. A large number of individuals were excluded from the final list, raising serious concerns about statelessness, due process and human rights violations. Many of those excluded have lived in Assam for decades, contributing to the local economy and society, yet now face uncertainty regarding their legal status. This situation highlights the inherent tension between state-driven efforts to regulate citizenship and the need to uphold fundamental human rights. The enactment



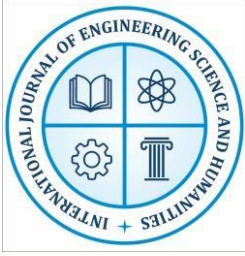
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of the Citizenship Amendment Act (CAA), 2019 has added another layer of complexity to the refugee issue in Assam. The Act provides a pathway to citizenship for certain religious minorities from neighboring countries, namely Hindus, Sikhs, Buddhists, Jains, Parsis and Christians, while excluding Muslims. This selective approach has been widely debated for its potential to undermine the secular principles enshrined in the Indian Constitution. In Assam, the CAA has been particularly controversial because it is perceived as contradicting the Assam Accord by potentially legitimizing post-1971 migrants. The interplay between the NRC and CAA has thus intensified debates over identity, inclusion and exclusion, making the refugee issue even more politically charged. From a constitutional perspective, the treatment of refugees in India must be examined in light of fundamental rights. Articles 14 and 21 of the Indian Constitution guarantee equality before the law and the right to life and personal liberty to all persons, not just citizens. Judicial interpretations have reinforced the idea that these rights extend to refugees and non-citizens as well. However, the practical realization of these rights often falls short, as refugees in Assam frequently face detention, discrimination and restricted access to basic services such as education, healthcare and employment. The existence of detention centers for individuals declared as foreigners has further raised concerns about the violation of human dignity and international human rights standards.

At the international level, the principle of non-refoulement, which prohibits the return of individuals to a country where they may face persecution, is widely recognized as a cornerstone of refugee protection. Although India is not formally bound by the 1951 Convention, it has generally adhered to this principle in practice. However, the absence of a codified legal obligation means that the application of such principles remains inconsistent and subject to political considerations. This creates a gap between India's humanitarian commitments and its legal framework, particularly in regions like Assam where refugee issues are deeply intertwined with domestic political concerns. The socio-economic conditions of refugees in Assam further underscore the urgency of addressing these challenges. Many refugees live in precarious conditions, with limited access to stable livelihoods and social security. They often work in informal sectors, where they are vulnerable to exploitation and lack legal protection. Educational opportunities for refugee children are often disrupted due to documentation issues, while access to healthcare remains inadequate. These conditions not only affect the well-being of refugees but also hinder their ability to integrate into society, thereby perpetuating cycles of marginalization and exclusion. In this context, the need for a comprehensive and coherent refugee policy in India becomes evident. Such a policy must strike a balance between national security concerns and humanitarian obligations. It should provide clear definitions, establish procedural safeguards and ensure the protection of fundamental rights. Additionally, it should align with international human rights standards while taking into account the unique socio-political realities of regions like Assam. Without such a framework, the management of refugee issues will continue to be



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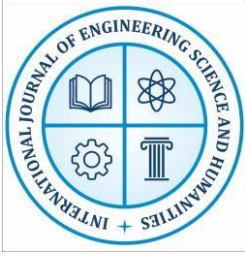
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reactive and fragmented, leading to further legal and ethical dilemmas. Therefore, this study seeks to critically evaluate the refugee situation in Assam by examining India's policy framework, legal challenges and human rights obligations. It aims to highlight the gaps in existing approaches and propose a more balanced and humane model of refugee governance. By situating the analysis within both national and international contexts, the study contributes to a deeper understanding of the complexities surrounding refugee rights in Assam and underscores the importance of adopting a rights-based approach to address this pressing issue.

The historical background of migration in Assam is deeply rooted in colonial, geopolitical and socio-economic developments that have shaped the region's demographic and legal landscape over time. Assam has experienced continuous migration since the colonial period, when the British administration actively encouraged the movement of laborers from Bengal and other regions to work in tea plantations, agriculture and infrastructure projects, thereby altering the indigenous demographic composition. The situation intensified during the Partition of India in 1947, when large numbers of people migrated from East Pakistan (now Bangladesh) into Assam to escape communal violence and instability. A second major wave occurred during the Bangladesh Liberation War of 1971, leading to a substantial influx of refugees into the state. These successive migrations created socio-political tensions, particularly concerning identity, land ownership and cultural preservation, which culminated in the Assam Movement (1979–1985). This movement, led by local organizations, demanded the detection and deportation of illegal migrants and resulted in the signing of the Assam Accord, 1985, which fixed March 24, 1971 as the cut-off date for citizenship determination.

In the contemporary legal context, migration in Assam has been significantly influenced by judicial interventions and policy measures. One of the landmark cases is *Sarbananda Sonowal v. Union of India* (2005), where the Supreme Court struck down the *Illegal Migrants (Determination by Tribunals) Act, 1983*, declaring it unconstitutional on the grounds that it failed to effectively address illegal migration and posed a threat to national security and demographic stability. The Court emphasized the gravity of unchecked migration in Assam and highlighted the need for stricter enforcement mechanisms under the *Foreigners Act, 1946*. Another important case, *Sarbananda Sonowal v. Union of India* (2007), reaffirmed this stance and further strengthened the legal framework for identifying illegal migrants. Additionally, in *Assam Public Works v. Union of India* (2015 onwards), the Supreme Court played a crucial role in supervising the updating of the *National Register of Citizens (NRC)*, which aimed to identify genuine Indian citizens and exclude undocumented migrants. However, the NRC process led to the exclusion of a significant number of individuals, raising concerns about statelessness, due process and human rights violations. Thus, the historical evolution of migration in Assam reflects a complex interplay between colonial policies, post-independence geopolitical events and evolving legal frameworks. These developments have not only shaped the demographic structure of the state but have also



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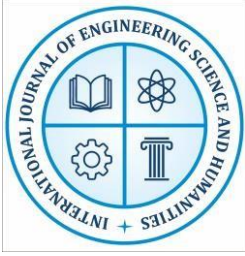
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given rise to enduring legal challenges and human rights concerns, making Assam a critical case study for examining refugee rights and policy responses in India.

## List of important cases

The jurisprudence surrounding refugee rights, migration and human rights in India has evolved significantly through a series of landmark judicial decisions that collectively define the balance between state sovereignty and individual rights. In *Maneka Gandhi v. Union of India* (1978), the Supreme Court broadened the scope of Article 21 by holding that any law affecting personal liberty must be just, fair and reasonable, thereby laying the foundation for extending basic human rights protections even to non-citizens. This principle was reinforced in *National Human Rights Commission v. State of Arunachal Pradesh* (1996), where the Court protected Chakma refugees from forced eviction and affirmed that the right to life applies to all persons irrespective of citizenship. However, in *Louis De Raedt v. Union of India* (1991), the Court clarified that foreigners do not possess a fundamental right to reside in India, though any deportation must follow due process. The humanitarian dimension was further strengthened in *Ktaer Abbas Habib Al Qutaifi v. Union of India* (1999), where the Gujarat High Court recognized the principle of non-refoulement, prohibiting the return of individuals to places where they may face persecution. At the same time, *Mohammad Salimullah v. Union of India* (2021) highlighted the tension between human rights and national security by permitting the deportation of Rohingya refugees under certain conditions. In the specific context of Assam, *Sarbananda Sonowal v. Union of India* (2005, 2007) played a crucial role by striking down the IMDT Act and emphasizing illegal migration as a threat to national security, while *Assam Public Works v. Union of India* (2015–ongoing) led to the supervised updating of the NRC, significantly impacting citizenship determination. Cases like *Moslem Mondal v. Union of India* (2010) and *State of Arunachal Pradesh v. Khudiram Chakma* (1994) further clarified the functioning of Foreigners Tribunals and refugee protection concerns. The constitutional validity of the Citizenship Amendment Act is under scrutiny in *Indian Union Muslim League v. Union of India* (2019), raising important questions about equality and secularism, while *Abdul Kuddus v. Union of India* (2019) affirmed that tribunal decisions on citizenship carry finality under the principle of *res judicata*. Additionally, *Supreme Court Legal Services Committee v. Union of India* (2019) and *Harsh Mander v. Union of India* (2018) brought attention to the humane treatment of detainees and the risks of statelessness arising from NRC exclusions and **Assam** *Sanmilita Mahasangha v. Union of India* (2015) questioned the constitutional validity of Section 6A of the Citizenship Act, reflecting ongoing tensions around identity and migration. Complementing these are socio-economic rights cases such as *Olga Tellis v. Bombay Municipal Corporation* (1985), which recognized the right to livelihood as part of the right to life, *Chameli Singh v. State of Uttar Pradesh* (1996), which linked the right to shelter with dignity, *Bandhua Mukti Morcha v. Union of India* (1984), which addressed exploitation and bonded labour, *People’s Union for Civil Liberties v. Union of India* (2001), which established the



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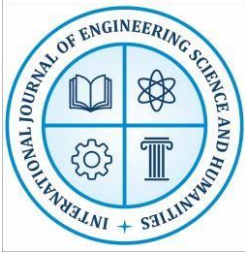
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right to food and Francis Coralie Mullin v. UT of Delhi (1981), which emphasized that the right to life includes living with human dignity. Together, these cases create a comprehensive legal framework that highlights the interplay between constitutional guarantees, migration control and humanitarian obligations in India's approach to refugees, particularly in the complex socio-legal context of Assam.

## **Legal Framework Governing Refugees in India**

The legal framework governing refugees in India is characterized by the absence of a specific and comprehensive refugee law, resulting in a fragmented and discretionary approach to refugee management. India is not a signatory to the 1951 Refugee Convention or its 1967 Protocol and therefore, there is no formal legal definition or statutory protection exclusively available for refugees within the country. Instead, refugees are governed under general laws such as the Foreigners Act, 1946, the Passport (Entry into India) Act, 1920 and the Citizenship Act, 1955, which treat them as ordinary foreign nationals without recognizing their unique vulnerabilities and humanitarian needs. This legal vacuum leads to the reliance on executive policies and administrative practices, which often vary depending on political considerations and the nationality of refugee groups. Despite this, the Indian judiciary has played a crucial role in extending constitutional protections to refugees through progressive interpretations of fundamental rights, particularly under Articles 14 and 21 of the Constitution, which guarantee equality before law and the right to life and personal liberty to all persons, including non-citizens. One of the most significant judicial pronouncements is *National Human Rights Commission v. State of Arunachal Pradesh* (1996), where the Supreme Court intervened to protect the Chakma refugees from forced eviction and emphasized that the state has a constitutional obligation to safeguard the life and liberty of every individual, irrespective of citizenship status. Similarly, in *Louis De Raedt v. Union of India* (1991), the Court held that while the government has the sovereign power to expel foreigners, such actions must be carried out in accordance with the procedure established by law, thereby reinforcing procedural safeguards. In *Ktaer Abbas Habib Al Qutaifi v. Union of India* (1999), the Gujarat High Court explicitly recognized the principle of non-refoulement as part of Article 21, asserting that refugees should not be forcibly returned to a country where they face threats to life or freedom. More recently, in *Mohammad Salimullah v. Union of India* (2021) concerning the deportation of Rohingya refugees, the Supreme Court acknowledged national security concerns but also highlighted the relevance of constitutional protections, reflecting the ongoing tension between humanitarian obligations and state sovereignty. Thus, India's refugee framework operates within a hybrid legal structure that combines statutory provisions for foreigners, constitutional guarantees and judicial interventions. While the judiciary has attempted to fill the gaps by upholding human rights principles, the absence of a codified refugee law continues to create uncertainty, inconsistency and vulnerability for



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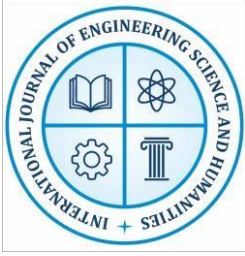
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refugees, particularly in sensitive regions like Assam where issues of migration, identity and security are deeply intertwined.

## **NRC and CAA 2019: Implications for Refugees**

The introduction of the National Register of Citizens (NRC) and the enactment of the Citizenship Amendment Act (CAA), 2019 have significantly reshaped the discourse on refugee rights and citizenship in Assam, creating complex legal, humanitarian and constitutional challenges. The NRC, updated under the supervision of the Supreme Court in *Assam Public Works v. Union of India* (2015 onwards), was intended to identify genuine Indian citizens based on the cut-off date of March 24, 1971, as established by the Assam Accord, 1985. However, the final NRC list published in 2019 excluded approximately 1.9 million individuals, many of whom had resided in Assam for decades, thereby raising serious concerns regarding statelessness, due process and access to legal remedies. The burden of proof placed on individuals to establish citizenship, coupled with documentary deficiencies and procedural complexities, disproportionately affected marginalized populations, including poor and illiterate communities. The enactment of the CAA, 2019 further complicated this scenario by introducing a religion-based pathway to Indian citizenship for specific minority groups, namely Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Pakistan, Bangladesh and Afghanistan, while excluding Muslims. This selective framework has been widely criticized for potentially violating the principle of equality enshrined under Article 14 of the Indian Constitution. The constitutional validity of the CAA has been challenged in several petitions before the Supreme Court, notably in *Indian Union Muslim League v. Union of India* (2019), where the petitioners argued that the Act undermines secularism and discriminates on religious grounds. Although the Court has not yet delivered a final judgment, the matter continues to be under judicial scrutiny, reflecting the contentious nature of the legislation. The combined operation of NRC and CAA has created a paradoxical situation in Assam, where individuals excluded from the NRC may still seek protection under the CAA if they belong to specified religious communities, while others, particularly Muslims, face the risk of detention and deportation. This differential treatment raises serious human rights concerns, including the threat of arbitrary detention, family separation and denial of basic rights. Furthermore, in *Sarbananda Sonowal v. Union of India* (2005), the Supreme Court had earlier emphasized the need to control illegal migration to protect national integrity, which continues to influence policy approaches in Assam. However, the current framework reflects a tension between national security considerations and constitutional as well as international human rights obligations.

Thus, the NRC and CAA, while aimed at addressing issues of illegal migration and citizenship, have had profound implications for refugees in Assam by intensifying legal uncertainty, reinforcing identity-based exclusions and challenging the foundational principles of equality, secularism and human dignity.



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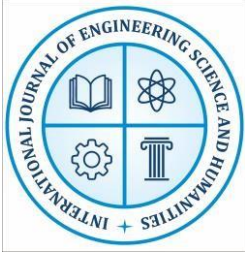
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## Human Rights Perspective

The issue of refugees in Assam must be critically examined through a human rights lens, as it directly concerns the protection of dignity, equality and fundamental freedoms guaranteed under both domestic and international legal frameworks. Although India lacks a specific refugee law, the constitutional safeguards enshrined under Articles 14 and 21 of the Constitution of India provide a strong foundation for extending protection to all persons, including refugees and non-citizens. Article 14 ensures equality before the law and equal protection of laws, while Article 21 guarantees the right to life and personal liberty, which has been expansively interpreted by the judiciary to include the right to live with dignity, access to basic necessities and protection from arbitrary state action. In *Maneka Gandhi v. Union of India* (1978), the Supreme Court broadened the scope of Article 21 by emphasizing that any procedure affecting life and liberty must be just, fair and reasonable, thereby establishing a crucial standard applicable to refugee treatment.

Further strengthening this perspective, in *National Human Rights Commission v. State of Arunachal Pradesh* (1996), the Supreme Court protected the Chakma refugees from forced eviction and held that the state is constitutionally obligated to safeguard the life and liberty of every individual, regardless of citizenship status. Similarly, in *Ktaer Abbas Habib Al Qutaifi v. Union of India* (1999), the Gujarat High Court recognized the principle of non-refoulement as an integral part of Article 21, thereby prohibiting the deportation of refugees to places where they face threats to their life or freedom. However, the application of these principles has not always been consistent, as seen in *Mohammad Salimullah v. Union of India* (2021), where the Supreme Court permitted the deportation of Rohingya refugees while acknowledging national security concerns, thus highlighting the tension between humanitarian obligations and state sovereignty. From an international perspective, principles such as non-refoulement, protection against arbitrary detention and the right to seek asylum are widely recognized as customary norms of international law. Even though India is not a party to the 1951 Refugee Convention, it has often adhered to these principles in practice. However, in Assam, refugees frequently face challenges such as detention in camps, limited access to education, healthcare and employment and the constant threat of statelessness, particularly in the aftermath of the NRC process. These conditions raise serious concerns regarding violations of basic human rights and underscore the inadequacy of existing legal mechanisms. Thus, the human rights perspective reveals a significant gap between constitutional ideals and ground realities. While judicial interventions have attempted to uphold the rights of refugees, the absence of a comprehensive legal framework and the dominance of security-driven policies often undermine these protections. This necessitates a more balanced and rights-based approach that ensures the dignity, equality and fundamental freedoms of refugees in Assam, in line with both constitutional mandates and international human rights standards.

The academic discourse on refugee law, migration and citizenship in India has been shaped by a range of theoretical and empirical studies that together provide a comprehensive understanding of



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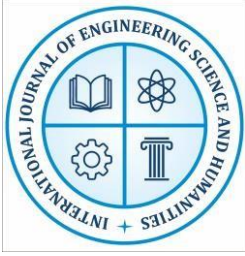
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the subject. In the domain of core refugee law and theory, scholars like Chimni (2000) critically examine the impact of globalization on refugee protection, arguing that global political and economic structures often weaken the protection regime, while Hathaway (2005) provides a detailed legal framework outlining the rights of refugees under international law, emphasizing state obligations and accountability. Goodwin-Gill (2007) further strengthens this understanding by elaborating the institutional and legal mechanisms that underpin refugee protection globally, whereas Betts (2013) introduces the concept of “survival migration,” highlighting that many migrants move not only due to persecution but also because of existential threats such as poverty and environmental crises. In the Indian context, Bhattacharya (2018) and Saxena (2017) point out the absence of a formal refugee law in India, identifying significant legal and policy gaps that lead to inconsistent treatment of refugees, while Sen (2003) provides an early overview of India’s ad hoc refugee policy and its reliance on executive discretion rather than codified law. Samaddar (2016) adds a political dimension by analyzing how migration and refugee issues are deeply intertwined with questions of state power, borders and identity in India. Focusing specifically on Assam, Baruah (1999) explores the historical roots of identity politics and nationality conflicts, demonstrating how migration has shaped regional tensions, while Goswami (2014) discusses the complex relationship between migration and ethnic identity in the state. More recent studies by Das (2020) highlight the issue of statelessness emerging from the NRC process, raising serious human rights concerns and Bhaumik (2018) links migration patterns with ethnic conflicts in Northeast India, showing how demographic changes influence political instability. In the context of contemporary citizenship debates, Jayal (2019) critically examines the evolving concept of citizenship in India and its implications for democracy, while Bhatia (2020) evaluates the Citizenship Amendment Act (CAA) through the lens of constitutional morality, questioning its compatibility with fundamental rights. Khosla (2020) further situates these debates within the broader framework of the Indian Constitution, emphasizing the importance of equality and the rule of law and Choudhury (2021) analyzes the impact of CAA on secularism, arguing that it marks a significant shift in India’s traditional secular ethos. Collectively, these studies provide a multidimensional perspective on refugee protection, migration politics and citizenship in India, particularly highlighting the legal ambiguities, socio-political tensions and evolving constitutional debates that are central to understanding the challenges faced in regions like Assam.

## **Socio-Economic Conditions of Refugees**

The socio-economic conditions of refugees in Assam reflect a complex reality marked by marginalization, insecurity and limited access to basic human development resources, which significantly affects their quality of life and prospects for integration. Refugees and individuals excluded from citizenship frameworks, particularly in the aftermath of the NRC process, often find themselves in a precarious position where their legal uncertainty directly translates into economic vulnerability. A substantial proportion of these populations are engaged in informal and low-



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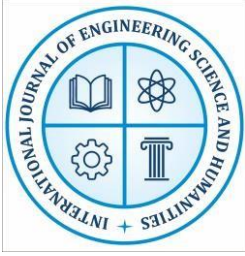
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paying sectors such as daily wage labor, agriculture, construction and domestic work, where job security is minimal and exploitation is common. The absence of valid citizenship documentation restricts their access to formal employment opportunities, financial services and government welfare schemes, thereby reinforcing cycles of poverty and exclusion. This condition is further aggravated by social stigma and discrimination, as refugees are often perceived as “outsiders,” leading to their exclusion from local economic networks and community support systems.

Access to education remains one of the most critical challenges faced by refugee communities in Assam. Children belonging to refugee families frequently encounter barriers such as lack of identity documents, language differences and financial constraints, which hinder their enrollment and retention in formal schooling. Even when access is granted, the quality of education is often compromised due to inadequate infrastructure and limited institutional support. This educational deprivation has long-term implications, as it restricts skill development and reduces future employment opportunities, thereby perpetuating intergenerational poverty. Similarly, healthcare access for refugees is highly inadequate, particularly in rural and border areas where medical facilities are already underdeveloped. Refugees often rely on informal or overcrowded public health systems, facing challenges such as high out-of-pocket expenses, lack of awareness and discrimination. These factors contribute to poor health outcomes, including malnutrition, untreated illnesses and mental health issues arising from prolonged uncertainty and socio-economic stress.

Housing conditions of refugees in Assam also reflect significant deprivation, with many living in overcrowded settlements, temporary shelters, or detention centers under substandard conditions. Individuals declared as foreigners and placed in detention centers face even harsher realities, including restricted movement, limited access to legal aid and separation from family members. In *Supreme Court Legal Services Committee v. Union of India (2019)*, the Supreme Court addressed the prolonged detention of declared foreigners in Assam and ordered conditional release of certain detainees, recognizing that indefinite detention violates the principles of human dignity and personal liberty under Article 21. This case highlights the intersection of socio-economic deprivation and legal vulnerability, where detention not only restricts freedom but also disrupts livelihoods and family structures. Judicial interventions have occasionally attempted to mitigate these challenges by emphasizing the rights of marginalized populations. In *Olga Tellis v. Bombay Municipal Corporation (1985)*, although not directly related to refugees, the Supreme Court recognized the right to livelihood as an integral part of the right to life under Article 21, a principle that can be extended to refugees who depend on informal employment for survival. Similarly, in *Chameli Singh v. State of Uttar Pradesh (1996)*, the Court held that the right to shelter is a fundamental aspect of the right to life, underscoring the state’s obligation to ensure minimum living conditions for all individuals. These judicial interpretations provide a normative framework for addressing the socio-economic rights of refugees, even in the absence of specific legislation.



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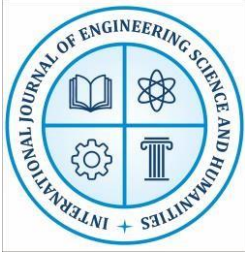
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Furthermore, the socio-economic marginalization of refugees is closely linked to issues of statelessness and identity, which limit their ability to access public services and participate fully in society. The exclusion of individuals from the NRC has created a large population of people whose citizenship status remains uncertain, thereby restricting their socio-economic mobility. Women and children within refugee communities are particularly vulnerable, facing heightened risks of exploitation, trafficking and limited access to education and healthcare. The lack of targeted policy interventions to address these vulnerabilities further exacerbates their marginalization. Thus, the socio-economic conditions of refugees in Assam reveal a pattern of systemic exclusion rooted in legal uncertainty, administrative limitations and socio-political dynamics. While constitutional principles and judicial precedents provide a foundation for protecting basic rights, their implementation on the ground remains inconsistent and inadequate. Addressing these challenges requires a comprehensive and inclusive policy approach that ensures access to education, healthcare, housing and livelihood opportunities, while also safeguarding the dignity and human rights of refugees. Without such measures, refugees in Assam will continue to face structural disadvantages that hinder their integration and overall well-being, thereby reinforcing the urgent need for a rights-based and humane framework of refugee governance in India.

## **Challenges and Policy Gaps**

The refugee situation in Assam reveals a range of structural challenges and policy gaps that undermine both effective governance and the protection of human rights. One of the most fundamental issues is the absence of a comprehensive national refugee law in India, which results in a fragmented and discretionary approach to refugee management. In the absence of a clear legal definition and standardized procedures, refugees are often treated under general foreigner laws, leading to inconsistent policies and arbitrary decision-making. This legal ambiguity creates uncertainty regarding status determination, rights entitlement and procedural safeguards, thereby increasing the vulnerability of refugees to detention, deportation and exclusion. The lack of a uniform framework also leads to differential treatment of refugee groups based on political and strategic considerations rather than humanitarian principles.

Another major challenge lies in the complex intersection of migration, citizenship and identity politics in Assam. Policies such as the NRC and CAA have exposed significant gaps in administrative capacity, documentation processes and grievance redressal mechanisms. The burden of proof placed on individuals to establish citizenship has disproportionately affected marginalized communities, including the poor, women and illiterate populations, who often lack adequate documentation. The functioning of Foreigners' Tribunals has also been criticized for procedural inconsistencies, limited legal aid and questions regarding fairness and transparency. These institutional shortcomings contribute to the risk of wrongful exclusion and statelessness, highlighting a critical gap in ensuring due process and access to justice. Furthermore, there exists



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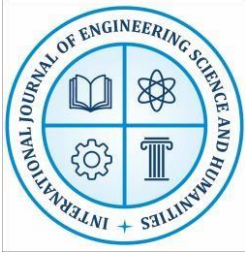
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a significant disconnect between constitutional guarantees and their practical implementation. While Articles 14 and 21 of the Constitution provide a strong normative basis for protecting the rights of all individuals, including refugees, their enforcement on the ground remains inconsistent. Detention practices, restricted access to public services and socio-economic marginalization indicate that policy measures often prioritize security concerns over humanitarian obligations. This imbalance reflects a broader policy gap in integrating human rights principles into migration governance. Additionally, the absence of a clear mechanism for coordination between central and state authorities further complicates policy implementation, leading to overlaps, delays and administrative inefficiencies. Another critical gap is the lack of integration and rehabilitation policies for refugees. Current approaches largely focus on identification and exclusion rather than inclusion and long-term integration. There are limited provisions for access to education, healthcare, housing and livelihood opportunities, which restrict refugees' ability to achieve self-reliance and contribute to society. Vulnerable groups, particularly women and children, face additional risks due to the absence of targeted welfare measures and protection mechanisms. Moreover, there is inadequate engagement with international organizations and civil society, which could otherwise support capacity-building and ensure adherence to global best practices. The policy framework also fails to adequately address the principle of non-refoulement and other international human rights norms in a consistent manner. Although Indian courts have occasionally upheld these principles, their application remains case-specific and lacks legislative backing. This creates uncertainty and weakens the overall protection regime. In addition, political considerations and electoral dynamics often influence migration policies in Assam, leading to short-term and reactive measures rather than long-term, sustainable solutions. Thus, the challenges and policy gaps in Assam's refugee governance system are deeply rooted in legal ambiguity, institutional weaknesses and the dominance of security-centric approaches. Addressing these issues requires the formulation of a comprehensive and rights-based refugee policy that ensures clarity, consistency and accountability, while balancing national interests with humanitarian obligations. Without such reforms, the existing gaps will continue to perpetuate uncertainty, exclusion and human rights concerns for refugees in the region.

## Conclusion

The issue of refugee rights and legal challenges in Assam highlights a deeply complex intersection of law, policy, human rights and socio-political realities. This study has demonstrated that the refugee question in Assam cannot be understood merely as a matter of migration control or citizenship determination, but rather as a broader humanitarian and constitutional concern that requires a balanced and rights-based approach. The historical patterns of migration, rooted in colonial policies and major geopolitical events such as the Partition of 1947 and the Bangladesh Liberation War of 1971, have significantly shaped the demographic and political landscape of Assam. These developments have contributed to persistent tensions surrounding identity,



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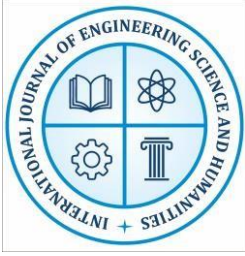
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belonging and citizenship. The analysis of India's legal framework reveals a fundamental gap in refugee governance due to the absence of a specific and comprehensive refugee law. The reliance on general foreigner laws and ad hoc administrative measures has resulted in inconsistencies, legal ambiguity and vulnerability for refugees. While the Indian judiciary has played a progressive role in extending constitutional protections under Articles 14 and 21, these safeguards remain insufficient in the absence of a codified legal structure. Judicial interventions, although significant, cannot substitute for a systematic policy framework that ensures uniformity, accountability and clarity in refugee protection. The implementation of the NRC and the enactment of the CAA, 2019 have further intensified the complexity of the refugee issue in Assam. These measures, while aimed at addressing concerns of illegal migration and citizenship verification, have raised serious questions regarding exclusion, statelessness and discrimination. The differential treatment based on religion and the procedural challenges associated with citizenship determination have created a situation where large populations face uncertainty and insecurity. This has exposed the limitations of existing policies in balancing national security with constitutional and human rights obligations.

From a human rights perspective, the study underscores a significant gap between constitutional ideals and ground realities. Although fundamental rights are theoretically available to all persons, including refugees, their practical implementation remains inconsistent. Refugees in Assam continue to face challenges such as detention, restricted access to basic services and socio-economic marginalization. The socio-economic analysis further reveals that refugees are often trapped in cycles of poverty, exclusion and vulnerability, with limited opportunities for education, healthcare and livelihood. These conditions not only affect individual well-being but also hinder broader social integration and development. The study also identifies critical policy gaps, including the lack of procedural safeguards, weak institutional mechanisms and inadequate coordination between different levels of governance. The absence of long-term integration and rehabilitation strategies further exacerbates the marginalization of refugees. Additionally, the inconsistent application of international human rights principles, such as non-refoulement, highlights the need for stronger alignment between domestic policies and global standards.

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