

CHAPTER 4

Refugees, Statelessness and the Limits of State Sovereignty: A Human Rights Perspective with Reference to India

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CHAPTER 4

Refugees, Statelessness and the Limits of State Sovereignty: A Human Rights Perspective with Reference to India

ADITYA KUMAR*

This paper examines the complex relationship between refugee protection, statelessness, and state sovereignty through a human rights lens, with specific reference to India. Situating the discussion within the broader context of the global refugee crisis, the paper highlights the unprecedented rise in forced displacement and the growing challenges faced by host states, particularly in the Global South. It critically engages with the evolution of international legal norms governing nationality, including the right to a nationality, the prohibition of arbitrary deprivation of nationality, and the principle of non-refoulement.

Adopting a comparative methodology, the paper analyzes the extent to which these principles constrain state discretion in matters of citizenship and migration. It further evaluates India's refugee and citizenship framework, characterized by the absence of a formal asylum regime and reliance on ad hoc executive policies. Particular attention is given to the Citizenship (Amendment) Act, 2019, assessing its compatibility with constitutional guarantees and international human rights standards, especially the principles of equality and non-discrimination.

The paper also explores the practical limitations of international protection through a case study of the Rohingya crisis, illustrating the tensions between humanitarian obligations and state interests. It argues that while international law increasingly recognizes individual rights in matters of nationality and protection, its enforcement remains inconsistent and often subordinate to sovereign concerns. Ultimately, the paper contends that a rights-based approach to citizenship and refugee protection is essential to reconcile state sovereignty with evolving international human rights obligations.

Keywords: Citizenship; State Sovereignty; Statelessness; Non-Refoulement; International Human Rights Law.

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1 CONCEPTUAL FRAMEWORK: REFUGEES, STATELESSNESS, AND STATE SOVEREIGNTY

1.1 Refugees and Statelessness: Legal Definitions

The concepts of refugee, statelessness and state sovereignty are interconnected in a way that influences the working and understanding of international law. Under international law a refugee is someone who is unable or unwilling to return to his or her country of origin for fear of persecution. This persecution can be based on any or more than one of the following namely race, religion, nationality, membership of a particular social group, or political opinion¹. On the other hand a stateless person is someone who is not considered a national or citizen by his or her state of origin².

The concept of state sovereignty implies complete authority of the state over its territory and population. Population management has long been a central function of the modern sovereign state, rooted in the Westphalian concept of sovereignty which emphasizes control over territory, borders and movement³. Modern nation states have used documents like passports and visas to legitimize and restrict movement of nationals and aliens in and out of their territory. Citizenship is the legal bond between an individual and the state that enables states to define legitimate and illegitimate movements of people to and from its territory. However forced migration and statelessness have challenged these traditional concepts.

1.2 State Sovereignty and Contemporary Challenges

Historically, political communities like nomadic societies and empires such as the Ottomans had fluid borders and internal migration systems⁴. In contrast, the modern nation-state evolved to govern specific populations, distinguishing “insiders” from “outsiders” to deliver services and enforce obligations like taxation. Today, migration raises profound moral questions. Should states, beyond economic and political concerns, have an ethical duty to admit migrants or refugees? Is migration a basic human right, or does national sovereignty override the claims of outsiders?

The use of coercion – detaining, deporting, or denying entry to migrants – inevitably poses ethical challenges. Moreover, the system of citizenship based on birth location perpetuates inequality, limiting life chances by the accident of birthplace. In a much more

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

² Convention Relating to the Status of Stateless Persons art. 1(1), Sept. 28, 1954, 360 U.N.T.S. 117.

³ Fiona B. Adamson, *Crossing Borders: International Migration and National Security*, 31 INT'L SEC. 165 (2006).

⁴ Andreas Wimmer & Nina Glick Schiller, *Methodological Nationalism and Beyond: Nation-State Building, Migration and the Social Sciences*, 2 GLOB. NETWORKS 301, 302–04 (2002).

globalised world where movement is easy and opportunities are unequally distributed, the question remains as to why shouldn't people be free to seek a better life elsewhere?

2 GLOBAL REFUGEE CRISIS AND PATTERNS OF FORCED MIGRATION

Over the years, it has become increasingly clear that the issue of illegal immigration is not a temporary phenomenon, but rather a persistent and long-term challenge. An international organization such as the United Nations High Commissioner for Refugees (UNHCR) was established⁵ with the assumption that its task would be limited in scope and duration. However, the continued existence and expanding role of such bodies demonstrate that this assumption was fundamentally flawed.

2.1 Scale and Trends in Global Forced Displacement

The World Migration Report 2024 notes that global forced displacement has reached record levels, with approximately 35.3 million refugees worldwide as of 2022. In addition, there are approximately 5.4 million asylum seekers, along with another 5.2 million individuals requiring international protection who are not formally recognized as refugees.⁶ According to UNHCR, the number of people forcibly displaced worldwide reached approximately 122.1 million by the end of April 2025, representing one of the highest global displacement figures on record. Based on the UNHCR Global Trends 2024 report with 2025 partial estimates there were approximately 73.5 million internally displaced people by the end of 2024, the largest category of forced displacement⁷. Conflict and climate-related disasters drive much of this internal displacement. Many refugees remain hosted in neighbouring countries, especially in low and middle-income regions. Approximately 4.4 million stateless individuals also form part of the displaced population, lacking legal nationality and fundamental protections.

2.2 Drivers and Geographic Patterns of Displacement

The protracted conflict in Syria, now entering its second decade, has resulted in approximately 6.5 million Syrian refugees worldwide by the end of 2022⁸. Similarly, Afghanistan remains the second-largest source of refugees, with external estimates placing the number at around 6.4 million, driven by decades of instability, conflict, and recent political

⁵ U.N. High Comm'r for Refugees (UNHCR), *About Us*, <https://www.unhcr.org> (last visited Apr. 3, 2026).

⁶ INT'L ORG. FOR MIGRATION, WORLD MIGRATION REPORT 2024 5 (Marie McAuliffe & L. A. Oucho eds., 2024).

⁷ U.N. HIGH COMM'R FOR REFUGEES (UNHCR), GLOBAL TRENDS: FORCED DISPLACEMENT IN 2024 (June 16, 2025).

⁸ U.N. HIGH COMM'R FOR REFUGEES (UNHCR), GLOBAL TRENDS: FORCED DISPLACEMENT IN 2022 14 (2023).

upheavals. South Sudan continues to be among the largest refugee-producing countries, with more than 2.2 million South Sudanese displaced as of 2022, a trend that began with widespread violence since 2016.

As of 2025, Turkey remained one of the world's largest hosts of refugees, accommodating approximately 2.7 million refugees mainly from Syria. Iran and Pakistan also featured among the top host countries, primarily sheltering refugees from Afghanistan and other neighbouring crises. Other major hosts in 2025 included Germany, Uganda, Bangladesh, Ethiopia, and Sudan⁹. In many of the least developed and fragile states including Bangladesh, Chad, Congo, Ethiopia, Rwanda, South Sudan, Sudan, Tanzania, Uganda and Yemen refugees made up a disproportionate share of the population and collectively hosted more than a quarter of the world's refugee population¹⁰.

2.3 Protection Gaps and India's Position

India, although not a signatory to the 1951 Refugee Convention or its 1967 Protocol, continues to host a sizeable refugee population. Refugees in India primarily originate from its immediate neighborhood in South Asia and South East Asia. India does not have a formal national asylum framework as it refuses to recognize refugees under a formal statutory framework making refugee regulation completely under executive discretion and selective engagement with UNHCR. This scattered policy by the state disrupts protection and legal clarity for refugees seeking protection in India¹¹.

According to UNHCR India holds around 52,000 refugees, primarily comprising Rohingya refugees from Myanmar and Afghan nationals who fled following the political transition in 2021¹². As per the Ministry of Home Affairs (MHA), India is also home to 95,000 to 100,000 Tibetan refugees as well as Sri Lankan Tamil refugees, numbering roughly 58,000 in government-administered camps in Tamil Nadu and an additional 34,000 living outside camp settings¹³.

3 STATE SOVEREIGNTY VS HUMAN RIGHTS: EMERGING LEGAL TENSIONS

3.1 From Absolute Sovereignty to Human Rights Constraints

In both practice and scholarship, there is growing evidence of a shift away from the traditional sovereignty concepts in granting of nationality certificates by states. This change is

⁹ U.N. HIGH COMM'R FOR REFUGEES (UNHCR), *supra* note 7.

¹⁰ U.N. High Comm'r for Refugees (UNHCR), *Refugee Statistics* (2025), <https://www.unhcr.org>.

¹¹ INT'L ORG. FOR MIGRATION, WORLD MIGRATION REPORT 2024 255 (Marie McAuliffe & L. A. Oucho eds., 2024).

¹² U.N. High Comm'r for Refugees (UNHCR), *India*, <https://www.unhcr.org> (last visited Apr. 15, 2026).

¹³ PRS LEGIS. RSCH., DEMAND FOR GRANTS 2025–26 ANALYSIS: HOME AFFAIRS (Mar. 4, 2025).

exemplified by the evolving terminology surrounding state membership. Historically, “nationality” and “citizenship” were distinct, with only the former carrying international significance¹⁴. Today, however, many use these terms interchangeably, with “citizenship” emerging as the dominant descriptor which brings implications of equality and rights¹⁵. Increasingly, there are calls to counter arbitrary denials of citizenship, recognizing “access to citizenship” as a fundamental right¹⁶.

Although international law has yet to fully standardize rules on dual citizenship, there is increasing recognition of individuals’ rights to maintain multiple nationalities¹⁷. Recent trends also show that stringent naturalization criteria for long-term residents are detested and a more liberal approach like *jus soli* should be encouraged for granting citizenship. Such developments show the growing influence of principles of human rights on nationality questions. In the context of state succession, regional institutions have critiqued discriminatory citizenship regimes, leading to policy reforms¹⁸. The ILC Draft Articles on Nationality (State Succession) emphasize the right to nationality based on habitual residence, aiming to remove discrimination in nationality questions¹⁹.

International bodies have played a pivotal role in shaping these norms. In 2004 CERD urged states to eliminate discriminatory barriers to citizenship and naturalization for long-term residents²⁰. The European Convention on Nationality further prohibits discrimination based on race in nationality laws. Most states now provide naturalization pathways, with the 1997 European Convention on Nationality requiring states to allow lawful and habitual residents to apply for citizenship. Consequently, naturalization has transitioned from being a privilege to a right, with procedural barriers increasingly reduced and critiqued²¹. Many countries including Japan, Korea, Panama, Spain, Portugal and Kuwait have been criticized for propagating citizenship regimes based on ethnicity, religion and discriminatory naturalization practices²².

¹⁴ Peter J. Spiro, *Citizenship and Nationality: Past, Present, Future*, 45 HARV. INT’L L.J. 501, 504 (2004).

¹⁵ Kim Rubenstein, *Citizenship in the Constitutional Framework*, in CITIZENSHIP IN A GLOBAL WORLD 17, 22 (2002).

¹⁶ ALICE EDWARDS, NATIONALITY AND STATELESSNESS UNDER INTERNATIONAL LAW 115 (2014).

¹⁷ U.N. HIGH COMM’R FOR REFUGEES (UNHCR), GUIDELINES ON STATELESSNESS NO. 4: ENSURING EVERY CHILD’S RIGHT TO ACQUIRE A NATIONALITY (2012).

¹⁸ EUR. COMM’N, REPORT ON CITIZENSHIP AND STATE SUCCESSION (2019).

¹⁹ Int’l Law Comm’n, *Draft Articles on Nationality of Natural Persons in Relation to the Succession of States*, U.N. Doc. A/56/10 (2001).

²⁰ Comm. on the Elimination of Racial Discrimination, *General Recommendation No. 30: Discrimination Against Non-Citizens*, ¶¶ 13–16, U.N. Doc. CERD/C/64/Misc.11/Rev.3 (2004).

²¹ PATRICK WEIL, HOW TO BE FRENCH: NATIONALITY IN THE MAKING SINCE 1789 142 (2008).

²² U.N. Special Rapporteur, *Report on Discriminatory Nationality Laws* (2017); Law of Return, 5710–1950, 4 L.S.I. 114 (1950) (Isr.); Código Civil [C.C.] [Civil Code] art. 22.1 (Spain).

3.2 Dual Nationality, Conflicts, and Institutional Responses

Opposition to such policies stems from the understanding that human rights norms should constrain states' abilities to deny citizenship. Conflicts arising from multiple citizenships further highlight the complexities of evolving nationality norms. Treaties, international sports federations, and courts have all grappled with issues of dual nationality²³. In *Garcia Avello v. Belgium* a European Court found Belgium's refusal to recognize Spanish naming conventions for dual-national children to be discriminatory²⁴. Such cases highlight the need for harmonized international rules to address conflicts between domestic legal systems. However, multiple citizenship also creates issues for individuals as was seen in the case of *Maheer Arar*. The case highlights how dual citizenship can offer less protection as compared to single citizenship or even statelessness under particular circumstances²⁵.

To address these issues many policy watchers have suggested creation of an international body under the UN to resolve conflicts on nationality²⁶. Similar bodies have been very effective in dealing with similar issues like the ICSID which was established under a World Bank treaty in 1966 and has successfully resolved investor-state disputes. Establishing a similar international citizenship tribunal could ensure that individual rights are upheld in matters of conflicting and non-recognition of nationality.

4 INDIAN CITIZENSHIP LAW AND INTERNATIONAL NORMS: THE CITIZENSHIP (AMENDMENT) ACT, 2019

4.1 Legal Framework of Citizenship and the CAA, 2019

The Citizenship (Amendment) Act, 2019 (CAA, 2019) has raised serious concerns regarding its impact on India's constitutional principles where the legislation tries to grant citizenship to persecuted minorities of Bangladesh, Pakistan and Afghanistan. Since these three countries have Islam as the majority religion any person that asks for refuge in India has to be from the minority religion, explicitly excluding everyone that follows Islam. The impugned legislation also picks only three countries in India's neighborhood excluding countries where Islam is not the majority religion raising serious questions about rationality and consistency of the classification. It is therefore essential to analyze the legislation not only within the domestic constitutional framework but also through the lens of international human rights

²³ FIFA, REGULATIONS GOVERNING THE APPLICATION OF THE STATUTES (2021).

²⁴ Case C-148/02, *Garcia Avello v. Belgium*, 2003 E.C.R. I-11613.

²⁵ COMM'N OF INQUIRY INTO THE ACTIONS OF CANADIAN OFFICIALS IN RELATION TO MAHEER ARAR, REPORT OF THE EVENTS RELATING TO MAHEER ARAR (2006).

²⁶ Convention on the Settlement of Investment Disputes Between States and Nationals of Other States art. 1, Mar. 18, 1965, 575 U.N.T.S. 159.

law, in order to assess India's international obligations and examine whether the enactment potentially constitutes a violation or circumvention of those obligations.

4.2 Compatibility with Constitutional and International Norms

The UN Convention on Refugees²⁷ and the Protocol Relating to the Status of Refugees²⁸ ask States to grant refugee status on grounds of 'race, religion, nationality, membership of a particular social group or political opinion' or fear of persecution²⁹. States are mandated under the convention to implement its provision without any kind of discrimination depending upon applicant's race, religion or country of origin³⁰. Although India is not a signatory to the 1951 Refugee Convention or its 1967 Protocol, the objectives and provisions of the CAA, 2019 stand in clear contradiction to the core principles enshrined in these international instruments. But India has adopted the Bangkok Principles which also talk about no refugee discrimination³¹. India is also a signatory to the principle of non-discrimination³².

The Supreme Court in its judgments has also stated the need for incorporation of international law within national law as long as they pass India's constitutional test.³³ India is not a party to the Vienna Convention³⁴ but some have tried to use the convention to convince India to apply non-discriminatory practice of legal application to uphold its international commitments. This becomes even more important because the principle under Article 26 of ICCPR is the same which is echoed under Article 14 of the Indian Constitution namely the right to equality. The claim of CAA, 2019 is under question when looked at international instruments which uphold equal treatment of refugees irrespective of their nationality. Besides, UDHR condemns any act that results in statelessness and the deprivation of nationality arbitrarily³⁵ and this right has undoubtedly become a part of customary international law³⁶. This further undermines the legal claim to the legal validity of the CAA, 2019 in the face of International standards.

²⁷ Convention Relating to the Status of Refugees art. 1, July 28, 1951, 189 U.N.T.S. 137.

²⁸ Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 267.

²⁹ Convention Relating to the Status of Refugees art. 1, July 28, 1951, 189 U.N.T.S. 137.

³⁰ *Id.* art. 3.

³¹ Asian-African Legal Consultative Org., Bangkok Principles on the Status and Treatment of Refugees art. IV(5).

³² G.A. Res. 217 (III), Universal Declaration of Human Rights, arts. 2, 7, U.N. Doc. A/810 (Dec. 10, 1948); International Covenant on Civil and Political Rights art. 2(1), Dec. 16, 1966, 999 U.N.T.S. 171; International Covenant on Economic, Social and Cultural Rights arts. 2(2), 3, Dec. 16, 1966, 993 U.N.T.S. 3; Convention on the Rights of the Child art. 2, Nov. 20, 1989, 1577 U.N.T.S. 3.

³³ *State of W.B. v. Kesoram Indus. Ltd.*, (2004) 10 SCC 201.

³⁴ Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331.

³⁵ Universal Declaration of Human Rights art. 15.

³⁶ Ndjodi Ndeunyema, *Anudo v. Tanzania*, OXHRH BLOG (Apr. 19, 2018).

A rigorous analysis under Article 14 of CAA, 2019, would require it to pass the classification test as laid down in *State of West Bengal v. Anwar Ali Sarkar*³⁷. Under this test, a legislative classification is constitutionally permissible if it satisfies two conditions: first, the classification must be founded on an intelligible differentia distinguishing those included from those excluded and second, that differentia must bear a rational nexus with the object for which the legislation has been enacted. One must also remember that the object itself cannot be discriminatory because that would allow the state to justify classification by defining legislative objectives in terms of the class that the statute seeks to benefit³⁸. The CAA, 2019 creates a dual classification based on religion and country of origin. It extends a pathway to minority citizens of selected countries in India's neighborhood who purport Islam as state religion.

The justification of the legislation is stated in terms that the minorities in these states are persecuted on account of their religious beliefs. This is the first differentiation that is created under CAA, 2019 of choosing migrants only from Bangladesh, Pakistan and Afghanistan. The selection of countries for application seems arbitrary because Afghanistan is not India's immediate neighbor nor has Afghanistan been historically a part of the Indian nation-state³⁹ but it is included, while countries in the immediate neighborhood like Sri Lanka and Bhutan which are also theocratic states have been excluded.

The second concern relates to exclusion of similarly placed individuals from the application of the legislation. If the object of the legislation is to protect the minorities from religious persecution, then Ahmadiyya Muslims in Pakistan⁴⁰, Hazara Shias in Afghanistan⁴¹, Rohingya Muslims fleeing Myanmar⁴² and Tamil minorities from Sri Lanka⁴³ who have also experienced severe persecution remain outside the Act solely because they originate from countries excluded by the legislation or because their persecution is not recognized as having been inflicted by the religious majority in their respective countries. Individuals similarly situated cannot be denied equal protection merely because they belong to a different religion or originate from a country omitted by the statute. The constitutional validity of the

³⁷ *State of W.B. v. Anwar Ali Sarkar*, AIR 1952 SC 75.

³⁸ *Nagpur Improvement Trust v. Vithal Rao*, (1973) 1 SCC 500.

³⁹ JEFFREY ROBERTS, *THE ORIGINS OF CONFLICT IN AFGHANISTAN* 41 (2003).

⁴⁰ Linda J. Berberian, *Pakistan Ordinance XX of 1984: International Implications on Human Rights*, 9 LOY. L.A. INT'L & COMP. L. REV. 661 (1987).

⁴¹ HUM. RTS. WATCH, "THEY DON'T TREAT US LIKE HUMAN BEINGS": UNLAWFUL RETURNS OF AFGHAN REFUGEES AND ASYLUM SEEKERS FROM PAKISTAN (2025), <https://www.hrw.org>.

⁴² U.N. High Comm'r for Refugees, *Rohingya Emergency*, <https://www.unhcr.org/emergencies/rohingya-emergency> (last visited July 29, 2026).

⁴³ PEOPLES TRIBUNAL ON SRI LANKA, <http://permanentpeopletribunal.org/wp-content/uploads/2014/01/Sentenza-Sri-Lanka-and-Tamil-II.pdf> (last visited July 26, 2026).

legislation has been challenged before the Supreme Court and the vulnerability identified above would form the core of this constitutional challenge.

While international legal norms increasingly recognize the right to nationality and protection against statelessness, their practical application remains inconsistent. This gap becomes very clearly apparent in situations of mass displacement, where non-refoulement and non-discrimination are at odds with the interests of the state where refugees take shelter. The Rohingya crisis is the most contemporary example of such a situation in play before the world.

5 CASE STUDY: ROHINGYA CRISIS AND LIMITS OF PROTECTION

The Rohingyas have been subjected to discrimination and persecution by Myanmar and described by UN Secretary General as “one of, if not the, most discriminated people in the world”⁴⁴. In 1978, the Myanmar military began the operation “Dragon King” to find and take action against persons the military deemed to be illegal migrants⁴⁵. The Rohingyas came under this action because the Myanmar government believed that Rohingyas were not ethnically part of Myanmar and must be considered as outsiders. The government of Myanmar took all the land belonging to Rohingyas as they were seen as occupiers. Rohingyas were also stripped of their constitutional rights of holding properties and all these measures together resulted in the permanent displacement of Rohingyas from Myanmar into neighboring Bangladesh.

Nearly 0.2 million Rohingyas fled to the neighbouring Bangladesh and those who did not flee were persecuted in Myanmar by the state and its security forces. In 1992, Bangladesh was overrun by Rohingya refugees and Bangladesh as policy decided no longer to identify Rohingyas as refugees and they were refused entry into official refugee camps in Bangladesh and they were forced to reside in temporary camps outside the perimeters of official refugee camps.⁴⁶ In the 1990s as a result of long-term integration the Bangladesh government and UNHCR signed an MOU for the repatriation exercise during 1993-1997 with some 0.23 million Rohingya returning to Myanmar⁴⁷. In August 2017 Rohingya villages were burned, families killed, women raped which led to a large refugee influx into Bangladesh of Rohingyas from Myanmar for fear of persecution⁴⁸.

⁴⁴ António Guterres, Sec’y-Gen., U.N., Remarks at Joint Press Conference with President of the World Bank Jim Yong Kim (July 2, 2018).

⁴⁵ ALLARD K. LOWENSTEIN INT’L HUM. RTS. CLINIC, PERSECUTION OF THE ROHINGYA MUSLIMS: IS GENOCIDE OCCURRING IN MYANMAR’S RAKHINE STATE? (Apr. 11, 2020).

⁴⁶ Mercy Corps, *The Facts: Rohingya Refugee Crisis* (Apr. 13, 2020).

⁴⁷ U.N. HIGH COMM’R FOR REFUGEES, GLOBAL APPEAL 1999: MYANMAR AND BANGLADESH (1998).

⁴⁸ U.N. Hum. Rts. Council, *Report of the Independent International Fact-Finding Mission on Myanmar*, U.N. Doc. A/HRC/39/64 (Sept. 12, 2018).

Several news reports confirm that Rohingya refugees crossed into India from Cox's Bazar refugee camps in Bangladesh, entering through Tripura's porous border, often aided by human trafficking networks⁴⁹. India has neither signed the 1951 Refugee Convention nor its 1967 Protocol and lacks a domestic legal framework for refugee protection. In this legal vacuum, the Citizenship (Amendment) Act (CAA), 2019, effectively operates as a selective refugee policy. However, it excludes Muslim communities like the Rohingyas, who have fled genocide in Myanmar and are recognized globally as one of the most persecuted groups. Treated as illegal migrants in India, they face detention, deportation, and denial of basic rights.

Although not a signatory to key refugee treaties, India remains bound by customary international law and the principle of non-refoulement, as reflected in UDHR (Article 14), the ICCPR, and the Convention against Torture. Returning Rohingyas to Myanmar, where they face violence and persecution, goes completely against these international principles and yet the Supreme Court allowed deportation of Rohingyas citing national security, highlighting the gap between India's international obligations and its domestic practices⁵⁰.

6 RECONCILING SOVEREIGNTY, CITIZENSHIP AND MIGRATION – SYNTHESIS AND FINAL REFLECTIONS

A central argument of this paper is that the sovereign authority to grant or deny citizenship, once regarded as absolute, is increasingly constrained by international human rights norms. The twentieth century witnessed the emergence of international human rights norms that placed substantive limits on state discretion. The recognition of dual citizenship, the prohibition of involuntary expatriation, and the growing emphasis on preventing statelessness have destabilized rigid, exclusionary citizenship regimes. Sovereignty over citizenship has not disappeared, but it has been reconstituted operating within constitutional frameworks, international obligations, and moral expectations that increasingly challenge unqualified state power.

Migration today is not an anomaly but a structural feature of the global order, shaped by conflict, inequality, environmental stress, and economic interdependence. As a result, citizenship regimes increasingly function as mechanisms of filtration, distinguishing between those who may enter the legal and political community and those who remain perpetually excluded. Judicial responses to migration and entry control reveal the enduring strength of sovereign authority both at international and domestic level. International migration remains deeply political, arising from a world organized into territorially under the

⁴⁹ Suhasini Haidar, *Barred at Border: Record Arrests of Rohingya in 2018*, HINDU (Jan. 6, 2019).

⁵⁰ Mohammad Salimullah v. Union of India, W.P. (C) No. 793 of 2017.

exclusive control of sovereign states. Yet, the invocation of human rights norms and ethical considerations simultaneously unsettles this authority, raising questions about the legitimacy of exclusion based on different criteria.

The paper recognizes that unrestricted migration is neither feasible nor unproblematic. States face genuine challenges on economic displacement, cultural cohesion, political stability, and social order. Unregulated entry may intensify labour competition, provoke xenophobic responses, strain public resources, and exacerbate social conflict. These concerns explain the persistence of restrictive immigration regimes and the political appeal of exclusionary narratives. However, acknowledging these challenges does not resolve the deeper constitutional and moral dilemmas that arise when mechanisms of control extend beyond border regulation into the redefinition of membership itself.

Finally, the growing role of international institutions, humanitarian norms, and global public opinion illustrates that state responses to migration are no longer insulated from external scrutiny. While sovereignty remains central to immigration control, it now operates within a crowded normative space shaped by international law, constitutional principles, and competing claims of security and humanity. This convergence of pressures reveals that contemporary citizenship regimes are increasingly tested not at the border alone, but within the legal architecture that defines membership, belonging, and exclusion. This paper has argued that reconciling sovereignty with human rights requires citizenship classification to be tested against constitutional guarantees of equality rather than treated as a self-justifying exercise of sovereign discretion; the CAA, 2019 underlines precisely this tension and its outcomes before the Supreme Court will indicate how far Indian constitutional law is prepared to carry the principle.

* * *