

International Journal of Multidisciplinary Trends

E-ISSN: 2709-9369
P-ISSN: 2709-9350
Impact Factor (RJIF): 6.32
www.multisubjectjournal.com
IJMT 2025; 7(3): 67-71
Received: 10-02-2025
Accepted: 12-03-2025

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Reconciling national interest with humanitarian concerns for illegal immigrants and refugees: A study of asylum and refugee policy of India

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DOI: <https://www.doi.org/10.22271/multi.2025.v7.i3a.788>

Abstract

This paper explores the tension between national interests and humanitarian responsibilities in the treatment of refugees and illegal immigrants, with a comparative focus on India and the United States. It highlights the historical persistence of migration driven by conflict, economic compulsions, and environmental crises, and examines the demographic, social, and political consequences of large-scale population movements. Using case studies, official data, and judicial pronouncements, the study evaluates how both countries balance sovereign concerns such as border security, demographic stability, and political integrity with their moral and international obligations to protect the persecuted and stateless. In the Indian context, the analysis traces challenges from the Partition to contemporary debates on the Citizenship Amendment Act (CAA) and National Register of Citizens (NRC), situating them within broader concerns of national identity and multiculturalism. In the U.S., the paper considers the dynamics of border control, political polarization, and integration of immigrants. By analyzing policies, legal frameworks, and societal responses, the study underscores the complexity of reconciling humanitarian ideals with national sovereignty. It argues for practical, collaborative strategies that uphold democratic values while addressing security and identity concerns, offering insights relevant for scholars, policymakers, and civil society actors engaged with global migration.

Keywords: Migration, refugee, national security, humanitarian obligations, immigration

Introduction

“For an age of unprecedented mass displacement, we need an unprecedented humanitarian response and a renewed global commitment to tolerance and protection for people fleeing conflict and persecution,” declared António Guterres (*Worldwide Displacement Hits All-Time High as War and Persecution Increase* / UNHCR, n.d.). Migration, whether voluntary or forced, is not new; throughout history, people have moved in search of security, economic opportunity, or survival. Yet in the contemporary era, the scale and complexity of migration have reached unprecedented levels. Wars, political conflict, environmental crises, and economic compulsions continue to drive millions across borders, making prevention nearly impossible.

This study distinguishes between refugees: those fleeing persecution and entitled to legal recognition and illegal immigrants, who cross borders without complying with host-state laws. According to UN projections, 281 million international migrants, or 3.6 percent of the world's population, are currently on the move. In 2022, 117 million people were displaced, including 71.2 million internally displaced persons, and over 5.4 million asylum seekers. Low-and middle-income countries host nearly three-quarters of these populations, intensifying their existing challenges (World Migration Report 2022, 2021).

India, though not a signatory to the UN Refugee Convention, has long been a destination for both refugees and irregular migrants (Janmyr, 2021) ^[6]. Estimates suggest the presence of over 20 million Bangladeshi immigrants and nearly 200,000 registered refugees (Milton *et al.*, 2017) ^[7]. Migration into India has deep historical roots, particularly since Partition, and continues to affect demographic balances in states such as West Bengal, Assam, Tripura, and beyond. The 2001 Group of Ministers on National Security observed that decades of unchecked migration had generated severe socio-economic, political, and security challenges. Similarly, warnings by Lt. Gen. Sinha (1998) and judgments of the Supreme Court (2005) highlighted how illegal migration could alter demographic patterns, influence electoral outcomes, and threaten national security.

These anxieties are compounded by economic distress: with more than 200 million people living in multidimensional poverty, the competition for scarce resources exacerbates tensions between migrants and local communities. In India, the issue has acquired communal

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overtones, particularly in the context of Bangladeshi Muslim migrants, mirroring global trends where immigrant influxes challenge host societies' cultural identities and socio-political ethos.

The United States faces comparable dilemmas. As of 2022, it hosted an estimated 11 million illegal immigrants (Connor, 2024) ^[3]. Policy debates from former President Trump's proposed border wall to disputes over asylum processing illustrate how migration has become a deeply divisive political issue. Cultural differences, economic pressures, and demographic shifts have created tensions similar to those in India, despite the U.S. being historically a nation of immigrants.

Both democracies thus confront a shared challenge: how to balance sovereign imperatives of border control, demographic stability, and political security with their moral and international obligations toward refugees and the stateless. This paper engages with that tension, offering a comparative study of India and the U.S. to explore the reconciliation of humanitarian commitments with national interests.

Conceptual and Theoretical Framework

The phenomenon of migration, whether voluntary or forced, has persisted throughout history. People move across borders in search of security, better economic opportunities, or survival during conflicts and disasters. Refugees are those compelled to leave their country due to persecution and are often recognized under international law, whereas illegal immigrants cross borders without complying with the host state's legal framework and therefore lack legal status.

According to the United Nations, there are approximately 281 million international migrants, constituting 3.6 percent of the world's population. In 2022 alone, 117 million individuals were displaced, including 71.2 million internally displaced persons and 5.4 million asylum seekers. Low-and middle-income countries host nearly 75 percent of the global refugee population, making them disproportionately burdened.

The Indian case illustrates the challenge of porous borders and demographic pressure. Former Minister Kirren Rijiju stated in 2016 that India hosted around 20 million illegal Bangladeshi immigrants, in addition to nearly 195,000 refugees (*India and Bangladesh: Migration Claims Fact-Checked*, 2020). Reports by the Group of Ministers on National Security (2001) and subsequent judicial observations have linked such migration to economic, political, and security risks. The Supreme Court (2005) even highlighted how illegal immigration could alter electoral demographics, while Lt. Gen. Sinha (1998) cautioned about the security implications of unchecked influx (Berger & Vir Garg, 2024) ^[1].

From a theoretical standpoint, this study builds on two interrelated debates. First, the sovereignty vs. humanitarianism tension: states have the sovereign right to regulate citizenship, protect borders, and preserve demographic stability, but they are simultaneously bound by moral and international human rights obligations to assist the persecuted and stateless. Second, the national identity vs. multiculturalism debate: illegal immigration is often perceived as a "silent demographic invasion," threatening socio-cultural ethos and political balance, while human rights frameworks emphasize tolerance and protection.

Indian political thought provides an early articulation of this tension. In the *Arthashastra*, Kautilya advises rulers to grant

asylum to foreigners who arrive with genuine intentions, while denying refuge to those suspected of espionage or hostility (Gopalakrishnan, 2020) ^[4]. This pragmatic counsel acknowledges humanitarian responsibility but subordinates it to state security and survival. Thus, Kautilya foreshadowed the modern dilemma: balancing compassion for the displaced with the duty to safeguard sovereignty and stability.

This research therefore employs national identity as its central analytical lens to explore how states reconcile sovereignty with humanitarian duty. By comparing India and the United States, it examines how multicultural democracies respond to refugee inflows and illegal migration, the political contestations surrounding them, and the broader implications for democratic cohesion.

Historical Context

The problem of illegal migration in India has deep historical roots, dating back to the Partition of 1947. The drawing of borders created one of the largest refugee crises in human history, as millions crossed in both directions amid violence and displacement. In the decades that followed, migration from neighboring countries continued, often straining India's social and political fabric. By 2001, the Government of India's "Group of Ministers on National Security" observed that illegal migration had continued "for over five long decades unabated," with about 15 million Bangladeshis, 2.2 million Nepalese, 70,000 Sri Lankan Tamils, and over 100,000 Tibetan migrants estimated to be living in India. This influx altered demographic patterns not only in border states like Assam, Tripura, and West Bengal but also in regions as far as Delhi, Maharashtra, and Rajasthan.

Concerns about this demographic shift were voiced at multiple levels. Lt. Gen. Sinha, then Governor of Assam, in 1998 warned that illegal migration posed a direct security threat. The Indo-Pak war of 1971, too, was linked in part to mass refugee flows from what became Bangladesh. In 2005, the Supreme Court of India concluded that illegal migration from Bangladesh and Pakistan was politically motivated, designed to create vote banks, and thus capable of altering the electoral balance of the country. These observations reveal how migration was perceived not only as a humanitarian challenge but also as a demographic and political one.

Alongside this, historical agreements attempted to address migration-related concerns. The Nehru-Liaquat Pact of 1950 aimed to protect religious minorities in both India and Pakistan by guaranteeing their rights and safety, while also allowing for safe migration (Raghavan, 2016) ^[8]. Yet, persistent flows of people, especially from East Pakistan (now Bangladesh), showed the limits of such pacts in curbing migration and communal anxieties. Even earlier, Kautilya in the *Arthashastra* had noted the importance of giving refuge to those seeking protection but warned rulers against admitting those who might threaten security an insight that resonates with India's enduring struggle to balance compassion with sovereignty (Gopalakrishnan, 2020) ^[4].

India, unlike many countries, does not have a comprehensive national refugee law. Instead, it relies on ad hoc legal instruments such as the Foreigners Act, the now-repealed IMDT Act, and more recently the controversial Citizenship Amendment Act (CAA) and National Register of Citizens (NRC), both of which remain contested. These

frameworks reflect the continuity of India's historical engagement with migration oscillating between the imperatives of national security and the obligations of humanitarianism.

India's Refugee and Immigration Policy

India's experience with migration is deeply intertwined with its history of Partition, porous borders, and regional geopolitics. The problem of illegal migration began with the division of the country in 1947 and has continued unabated for decades. According to former Union Minister of State for Home, Kirren Rijju, India hosts nearly 20 million illegal Bangladeshi immigrants, alongside approximately 195,105 officially recognized refugees a number that is likely underreported due to weak data collection mechanisms and uncontrolled border crossings (*India and Bangladesh: Migration Claims Fact-Checked*, 2020). These inflows have generated persistent demographic, social, and political challenges, particularly in states like Assam, West Bengal, Tripura, and Meghalaya, while also influencing urban centers such as Delhi, Maharashtra, and Rajasthan.

The 2001 *Group of Ministers on National Security* noted that illegal migration posed significant threats to national security, economic stability, and social cohesion. The demographic shifts caused by large-scale migration have often been politicized, taking on communal overtones as political parties mobilize such concerns for electoral gains. In 1998, Lt. Gen. Sinha, then Governor of Assam, warned that unchecked immigration constituted a security threat, linking it to earlier conflicts such as the 1971 Indo-Pak war, which was itself triggered by mass displacement from present-day Bangladesh. The Supreme Court of India, in 2005, also recognized that organized illegal immigration from Bangladesh and Pakistan was politically motivated to build electoral vote banks, thereby altering the democratic balance of the nation (Berger & Vir Garg, 2024) [1].

Beyond questions of security, the silent demographic transformation caused by migration has created tensions between indigenous populations and migrants, particularly in resource-scarce contexts. With nearly 20.5 crore Indians living in multidimensional poverty, the inflow of undocumented migrants is perceived as intensifying competition for limited opportunities and threatening cultural identity and constitutional philosophy. This perception has fueled waves of hostility toward illegal migrants, echoing similar sentiments witnessed globally, such as anxieties around Muslim migrants in Europe and the United States.

Legally, India does not possess a dedicated refugee law. Instead, the state manages refugees under general statutes such as the *Foreigners Act* and the now-repealed *Illegal Migrants (Determination by Tribunals) Act (IMDT)*. More recently, the controversial *Citizenship Amendment Act (CAA)* and the proposed *National Register of Citizens (NRC)* have been advanced as tools to regulate citizenship and migration. While these measures have been defended as necessary for protecting national security and civilizational interests, they have also attracted criticism, particularly for allegedly targeting Muslim communities and undermining India's secular fabric. The debates surrounding CAA and NRC thus reflect the broader dilemma India faces balancing its sovereign right to regulate citizenship with its humanitarian responsibility toward persecuted populations.

U.S. Refugee and Immigration Policy

According to data from the Office of Homeland Security Statistics, as of January 1, 2022, there were an estimated 11 million illegal immigrants living in the United States (Connor, 2024) [3]. The magnitude of this figure has made immigration a central political and social issue in American public life. The severity of the problem was underscored by former President Donald Trump's proposal to build a wall across the U.S.-Mexico border—an idea that, while widely criticized as impractical, reflected the intensity of political pressures surrounding immigration control.

Research highlights that cultural and lifestyle differences between immigrants and natives often generate social tensions in the U.S., leading to perceptions of imbalance and competition. Refugees and illegal immigrants add to the strain on limited resources, particularly in areas such as employment, housing, and welfare programs. This strain, combined with the artificial increase in population of particular ethnic or linguistic groups, has fueled what scholars describe as a "silent demographic invasion." Such demographic shifts can have far-reaching implications for the democratic fabric of the nation, affecting electoral outcomes and shaping identity politics.

Illegal migration and refugee influxes thus present challenges not only in terms of border management but also in terms of integration and long-term stability. In this context, immigrants often become politicized as electoral issues, used strategically by political actors for expediency. The polarization between Republicans and Democrats illustrates this dynamic, with the former often emphasizing stricter border enforcement while the latter tends to advocate more humane and inclusive approaches.

As a young nation historically characterized by immigration, the U.S. has prided itself on diversity and multiculturalism. However, the current pressures of large-scale migration, coupled with the politicization of refugee policy, place American multicultural democracy under considerable stress. Balancing humanitarian obligations with the sovereign imperative to protect borders and ensure national security remains one of the country's most pressing policy dilemmas.

Comparative Analysis: India and the U.S.

Illegal immigration and the influx of refugees pose significant challenges to multicultural democracies like India and the United States. While the contexts differ—India being an old civilization with porous borders and a history of partition-driven migration, and the U.S. being a relatively young state built on waves of immigration—the underlying tensions converge around sovereignty, identity, and resource allocation.

In India, illegal migration has been described as a "silent demographic invasion," altering population balances in sensitive regions such as Assam, Tripura, and West Bengal. The Supreme Court of India (2005) even concluded that cross-border migration, particularly from Bangladesh, had been politically sponsored to consolidate vote banks, threatening the democratic and electoral fabric of the country. Similarly, Lt. Gen. Sinha (1998) warned of the grave security threat posed by unchecked migration, pointing to the Indo-Pak war of 1971 as an outcome of such demographic pressures. These anxieties have shaped policies like the Citizenship Amendment Act (CAA) and the proposed National Register of Citizens (NRC), which, though controversial, reflect India's attempt to reconcile

humanitarian obligations with national security concerns. The U.S. faces parallel challenges, with some 11 million undocumented immigrants residing within its borders as of 2022. Former President Donald Trump's push for a border wall epitomized the securitized response to this phenomenon. Beyond security, however, cultural and lifestyle differences between immigrants and natives have created tensions, with competition for limited resources and jobs exacerbating political polarization. Immigration in the U.S. often becomes a partisan issue, dividing Democrats and Republicans, just as it divides Indian politics along communal lines.

Both nations, despite their contrasting histories, experience the destabilizing effects of illegal immigration on their multicultural identities. The artificial increase of particular religious, ethnic, or linguistic groups not only strains socio-economic systems but also influences electoral outcomes. In both India and the U.S., migration is no longer just a humanitarian question; it has become deeply enmeshed in the calculus of national interest, sovereignty, and political expediency.

Balancing Sovereignty and Humanitarian Duty

The question of balancing sovereign interests with humanitarian responsibilities lies at the heart of refugee and immigration policy. States, as custodians of their borders and guarantors of national security, are compelled to safeguard their demographic composition, economic stability, and political integrity. At the same time, as global citizens bound by international human rights norms, they bear a moral responsibility to provide protection to those fleeing persecution, conflict, or statelessness.

As the draft notes, *"another delicate matter is the survival and integration of refugees or illegal immigrants. As global citizens, bound by international human rights, these states have the moral duty to take care of the persecuted and the stateless, even while protecting their national interests, such as border security, resource protection for citizens, civilizational interest, and the sovereign right to confer national citizenship."* This duality defines the central dilemma: how to extend protection without compromising sovereignty.

Indian political thought reflects an early recognition of this tension. Kautilya, in the *Arthashastra*, counseled that a ruler should grant asylum to those who come with good intentions but remain cautious of those who may threaten the kingdom's security. This ancient perspective demonstrates that the principle of offering refuge was always tied to safeguarding sovereignty. Similarly, the Nehru-Liaquat Pact of 1950, signed between India and Pakistan to protect religious minorities, embodied an effort to reconcile humanitarian duty with political stability. Yet, despite such agreements, illegal migration continued across porous borders, undermining the pact's intent and fueling anxieties about demographic balance.

For India, this challenge has been amplified by recurring waves of cross-border migration since Partition. Concerns over a "silent demographic invasion" and the politicization of illegal migration have intensified calls for tighter enforcement mechanisms, culminating in proposals such as the Citizenship Amendment Act (CAA) and the National Register of Citizens (NRC). While critics argue that these frameworks are exclusionary, supporters justify them as measures to reconcile the duty of humanitarian protection with the imperatives of sovereignty and security.

The United States faces a parallel, though differently structured, challenge. With over 11 million undocumented immigrants and intense debates over border security, the U.S. has likewise struggled to reconcile its self-image as a land of immigrants with the realities of security threats, demographic anxieties, and political polarization. The Trump administration's proposals for a border wall symbolized this tension between openness and exclusion, underscoring how sovereignty often overshadows humanitarian rhetoric.

Taken together, the Indian and American experiences show that sovereign states are increasingly compelled to calibrate their humanitarian obligations within the constraints of political realities. Any durable policy must therefore accept this dual responsibility: ensuring protection for the persecuted while safeguarding national interests. The reconciliation of these imperatives is not merely a legal question, but a deeply political one—requiring states to strike a balance between compassion and caution, between openness and vigilance.

Policy Recommendations & Conclusion

The study highlights the urgent need for policies that reconcile national security with humanitarian obligations. With over 281 million international migrants globally and India hosting an estimated 20 million illegal Bangladeshi immigrants alongside 195,105 recognized refugees, the demographic, economic, and cultural pressures are undeniable. These challenges are exacerbated by porous borders, politicization of migration, and resource scarcity, contributing to tensions between natives and immigrants. In the United States, the presence of approximately 11 million undocumented migrants has similarly polarized politics, with responses ranging from attempts at inclusive integration to securitized measures such as border walls.

Considering these realities, a set of pragmatic recommendations can be advanced. First, India requires a comprehensive refugee law that distinguishes between persecuted refugees and illegal economic migrants, thereby reducing reliance on ad hoc legislation such as the Foreigners Act or politically contentious measures like the CAA and NRC. Second, regional cooperation—particularly with Bangladesh and neighboring South Asian states—is vital to manage cross-border flows and minimize demographic disruptions. Third, depoliticization of migration debates is essential: political actors must avoid reducing refugees to communal vote-bank issues, a trend criticized by the Supreme Court and previously flagged by security officials. For the U.S., the focus must be on humane border management, transparent asylum procedures, and bipartisan approaches to migration reform that address both labor market needs and security concerns.

At the normative level, both India and the U.S. must reaffirm their dual responsibility: as sovereign states with the right to regulate entry and as global actors bound by international human rights to protect the persecuted and stateless. Drawing on global principles and historical precedents—from Kautilya's counsel of granting refuge with prudence to the failed promises of the Nehru-Liaquat Pact—this study underscores that humanitarian concern cannot be dismissed, nor can sovereign identity be ignored. Ultimately, the reconciliation of national interest and humanitarian concern requires balanced frameworks that are forward-looking, inclusive, and security conscious. Scholars, policymakers, and civil society must work

collectively to reduce misconceptions and communal polarization, ensuring that migration governance strengthens rather than undermines democratic and multicultural values. As noted, the purpose of scholarship is not only to critique but also to clarify—removing confusion from public debates and providing substantive, historically grounded analysis that can guide more sustainable policies in both India and the United States.

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