MAKING REFUGEES IN INDIA

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ABSTRACT

This thesis examines whether an alternative conception of the refugee regime as envisioned by India existed. India has not signed either the United Nations' 1951 Convention nor the 1967 Protocol on the Status of Refugees. In examining this voluntary exclusion, this work seeks to write the colony into refugee related visions of humanitarianism, and through that rights, self-determination and citizenship. It is a twentieth century history, beginning around the moment of Wilson's fourteen point declaration and extending till 1971, just prior to the 'breakthrough' of human rights in the transnational form we recognise them in today. India's policy has been characterised as ad-hoc, and this project places this characterisation within a larger vision of India's place in the world, as a former colony turned post-colonial nation-state in the world of the Cold War. Refugees and rights are imagined differently in line with the different vantage point and aims of this state, in turn making us question who the Right to Asylum belongs to.

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LONG ABSTRACT

This thesis explores the alternative conception of refugee status and the international refugee regime that was developed by India's policy makers. It seeks to write the post-colony into the histories of refugee-related humanitarianism by examining India's voluntary exclusion from the UN's Convention on Refugees. This was initially due to the UN's refusal to accept the displaced populations of British India's Partition as refugees, in contrast to Europeans displaced by the Second World War, and independent India's corresponding distrust of international intervention from a body she saw as being dominated by colonial powers.

And yet India has become one of the world's largest recipients of refugees, whom it deals with in ways that sometimes correspond in part to the UN Convention, and at other times do not while nevertheless being part of a coherent policy. My thesis identifies and analyses this policy by looking at the colonial precedents and independent history of India's engagement with refugees and the international refugee regime, focussing particularly on the mass movements of population during the subcontinent's Partition in 1947, with the arrival of the Dalai Lama and Tibetan refugees in 1965 and during the Bangladesh War in 1971. Rather than a marginal or occasional problem, the refugee, I argue, comes to represent a privileged site at which Indian citizenship itself is defined.

Looking at refugees in India is also an exercise in understanding the post-colonial interaction of human rights, nationalism, and the experience of the individual. The refugee was a figure caught between India's stated advocacy of human rights and a better world order, and

its need to defend the national sovereignty that gave it a voice to argue in favour of these universalisms. Human rights were accepted as legitimate, but asylum kept fluid precisely to deal with this contradiction. Indian policies might seem ad-hoc, but this seemingly opportunistic stance was in fact a product of the evolution of Indian politicians' understanding of their relationship with an international order born out of the two World Wars.

Significantly, this project also puts the notions of refugee and citizen in conversation with the Indian postcolonial state's definition of itself. Incoming groups were treated in accordance with their potential to either fit into or assist the national project, rather than in the Manichean terminology of the Cold War that divided the world into communist and western democratic camps.

India's abstention from the 1951 Convention is held to be because of International non-recognition of the refugees of Partition. Most histories see Partition as the defining moment in India's refugee understanding. This thesis will push back the timeline to see what was happening with movements of people during the Raj, and how this shaped India's understanding of refugee status. Partition was a specifically domestic approach to refugees, and as such, stands as the exception to India's longer refugee histories simply by virtue of acknowledging the refugee as one who belonged. The 1946 Foreigners Act remains till date the only legislation (subject to amendments) that deals with aliens in India, from displaced persons to tourists, and predates even the expectation of mass migration. Indians had written asylum out of the story even prior to the creation of the new state. The story begins with the prospect of the nation-state rather than its ultimate realisation.

This thesis begins roughly around the Wilsonian moment in 1919, when ideas of sovereignty and self-determination and their implications began to grip the minds of those who would eventually become empowered to design independent India. It finishes in 1971, where the project of Partition is finally deemed to have come to a decisive end, when the East Pakistani refugees were determined to be disenfranchised citizens of Pakistan rather than Hindus or Muslims belonging to either former portion of the Raj. It argues the idea that India's refugee story predates Partition. Further, ending the story of Partition with the return of the East Pakistani refugees to Bangladesh signifies a completion of the idea of the refugee as non-belonging as the Indian state had achieved its intended secular-democratic form in an ultimate victory against the two-nation theory its Nehruvian architects had rejected.

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THE REFUGEES' IMPERIAL PAST: AN INTRODUCTION

> India with its history, culture, traditions, is today an example of generosity in the way it has opened its borders to all people who have come looking for safety and sanctuary. There are Tibetans, Afghans, Myanmarese in India and it has maintained an open-door policy for all. India has a generous approach in relationship to all people and a proof of that is the granting of long term visas and work permits to refugees. We consider India a more reliable partner in the world to guarantee that people who need help will find a place. And more importantly at a time when there are so many closed borders in the world, and many people have been refused protection, India has been generous.[1]

In 2013, United Nations High Commissioner for Refugees, Antonio Guterres, was speaking of a country that had not signed the United Nations instruments on refugees, nor did it have a domestic law codifying their treatment. In the 70 years since its independence, India has provided sanctuary to millions of refugees- beginning with the refugees of Partition, and extending to the Tibetans, Afghans, Sri Lankan Tamils, Rohingyas, Chakmas, and Hejong. In recent times, this generous image has been challenged by efforts to deport the Rohingya Muslims in India, with the Union Government stating that it did not want India to 'become the refugee capital of the world.'[2] In 2016, the same government had introduced the Citizenship (Amendment) Bill, which would provide citizenship to illegal immigrants and 'refugees' who were of Hindu, Sikh, Buddhist, Jain, Parsi, or Christian extraction. The notable exceptions were Muslims. These recent developments, India's traditional image of hospitality, and the larger refugee crisis in which the world finds itself all encourage an examination a non-signatory

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[1] Smriti Kak Ramachandran ," India's refugee policy is an example for the rest of the world to follow," *Hindu* Jan. 3, 2013, http://www.thehindu.com/opinion/interview/indias-refugee-policy-is-an-example-for-the-rest-of-the-world-to-follow/article4269430.ece [last accessed 5 February 2019].

[2] Krishnadas Rajagopal, "Don't want India to become the refugee capital of the world, govt. tells SC," *Hindu,* Jan. 31, 2018, https://www.thehindu.com/news/national/dont-want-india-to-become-the-refugee-capital-of-the-world-govt-to-sc/article22608096.ece [last accessed 5 February 2019].

country that is almost the same age as the United Nations Convention on the Status of Refugees itself.

Guterres speaks of long-term visas and work permits as proof of India's generosity towards refugees. India's approach has been characterised not by applying a consistent definition of the refugee, but by considering them in terms of the goals of the Indian state. The idea of generosity, rather than the right to seek asylum by displaced persons is revealing: a nation-state has been using the word 'refugee' at will, to denote those who are objects of kindness rather than entitled to individual rights. Those who are denied this generosity are unwelcome and disruptive, like the illegal migrants from Bangladesh. Victimhood or rights of individuals have not been determining factors, so much as the social, political and economic will of the group or state to receive them.

India had accepted the nation-state as a necessary precursor for rights. The British claim that colonised peoples were incapable of self-government had been used to deny them these rights in empire. Anti-colonial self-determination, and subsequently territorial sovereignty, became essential to securing them. The problem of the refugee became institutionalised in the 20th century. The Great Powers, among them the British, had created the definition based on European experiences. This refugee, informed only by Western concerns and protected by an institution dominated by these same powers, would cross the borders essential to sovereignty. Despite its belief in human rights, the threat this posed to the state that underwrote Indian rights and visions of progress was unacceptable. At the same time, India was in the process of

determining who its citizens were. In the absence of a clear notion of who the self was, the refugee became a version of the other to define the self against.

Effectively, this thesis writes the colony into the histories of refugee-related humanitarianism precisely by examining India's voluntary exclusion. Looking at refugees in India becomes an exercise in understanding the interaction of universalisms like human rights, nationalism, and the experience of the individual. The refugee was the figure caught between India's stated commitment to both human rights and a better world order, while needing to defend the national sovereignty that gave it a voice to argue in favour of both these universalisms. Human rights were accepted as legitimate, but asylum kept fluid to deal with this contradiction. Indian policies might seem ad-hoc, but this opportunistic stance was a product of the evolution of India's understanding of the relationship of the international order with the countries of the first wave of decolonisation, and of the differences between human and citizen in the postcolonial state.

This introductory chapter will push back the timeline of India's interaction with the those seeking sanctuary to the Raj. It will lay out the basis of asking these questions in light of India's international and domestic assertions of sovereignty. Finally, it will provide an outline for the rest of the project, introducing the argument that refugees were a means to reflect upon citizenship.

REFUGEES IN THE RAJ

Refugees are considered a by-product of the nation-state system. The institutionalised International Refugee Regime came into being alongside the nation-states emerging from European empires after World War I. Groups fleeing persecution had always existed and been recognised as those in search of some kind of refuge and asylum. However, the experiences of the twentieth century and the rise of the internationalism that rested on the participation of the nation-state created a new institutionalisation of the idea of refuge.

It is also worth bearing in mind who decided what it meant to be a refugee, that is, who spoke and legislated at these international forums. In the first half of the twentieth century, India's representation was token and governed by London. The unwillingness of the British to guarantee the Indians equality, both within the subcontinent and elsewhere in Empire, would frame post-colonial attitudes towards refugees.

Even under the British government of India, there were groups of people identified as refugees. Prior to their creation as a 'problem' under the League of Nations, any assistance came from local kindness or generosity. It was after the First World War that this became blurred, with some 'refugees' being treated in accordance with international norms, and some in older, more arbitrary ways. This history formed the basis on which the post-colonial state dealt with refugees: the normalisation of non-official relief in the provision of hospitality and by making clear the political implications of the presence of an alien group in sovereign territory.

It is important to stress that lacking a legal definition, the word 'refugee' was used to describe a variety of groups under the Raj. They were treated differently, as their circumstances bore little resemblance to each other. Statelessness was not necessarily a marker, and in many cases, refuge was based on possession of imperial citizenship. The non-judicious use of the term created an unintentional standard of comparison with groups in different circumstances. Some were recognised as such because they were refugees in Europe. Some groups were displaced within the Raj or from princely states. Some examples from the late nineteenth and early twentieth century have been laid out below, illustrating refugee practice in the Raj.

The refugees from the 1871 famine in Iran are an interesting window into ideas of refuge predating the twentieth century definition and predominance of the nation-state. It was based on the need for assistance in a time of hardship rather than exclusion from the nation-state form. The Parsi community of India had been involved in philanthropic activities pertaining to their own community, using wealth accumulated from trade. The affluent and well-established community in Bombay in particular had a long history of acting for the relief of their coreligionists. Members of the community along the western coast of India collected approximately Rs. 10,000 to send to Zoroastrians in Iran. Refugees from the famine who made it to port cities, most notably Bombay, were taken care of by the local Parsi community. Their treatment marks an interesting precedent for refugees in India, for it was less equal than one would expect despite their shared religion. The Indian Parsis' right to assist other members of the community required taking on the entire financial burden of doing so. The Government was not liable for this group, leaving this to the discretion of the wealthy and well organised Parsis. In allowing the Zoroastrian refugees from Iran into the country, it normalised official

recognition of non-official involvement in refugee relief. The use of financial guarantees would be replayed by other communities, transcending the domninance of passports and other travel documentation.

Those who came to Bombay, unlike the Zoroastrian 'migrants' before them, were called refugees. Though they were absorbed into the Parsi community of Bombay, they would form an inferior class within their hierarchy. Rather than inviting the Iranians into their own homes as had been traditional, separate asylum structures were created for them. The Indian Parsis had emphasised relief at the site of the famine, not encouraging these Iranian Zoroastrians to leave for India in overwhelming numbers.[3] They were settled at the will and convenience of the local Parsis. There is not much clarity as to their official designation, though it seems safe to say that this was community-oriented, transnational philanthropy rather than nascent internationalist humanitarianism. It was not unlike the experience of Ottoman Jews whose advancement was a concern for their increasingly affluent co-religionists in other countries as well, leading to efforts like the *Alliance Israélite Universelle*.[4] Implicit in this is the power imbalance in giving and receiving assistance, even within the same wider community.

Ignacy Ferzy Bernstein was a member of the Austro-Hungarian military, and technically an Austrian subject. He was captured by the Russians and sent to 'Tourkestan' as a Prisoner of

[3] Simin Patel, *Cultural Intermediaries in a Colonial City: The Parsis of Bombay c.1890-1921* (Unpublished D.Phil Thesis, University of Oxford, 2015).
[4] The Jews are not the only such community within the Ottoman empire or elsewhere, nor are the Ottoman Jews the only community in the empire for whom their co-religionists or co-nationals acted. For a history of Jews in the Ottoman Empire in the period we are concerned with, see chapter 4 of Stanford J. Shaw, *The Jews of the Ottoman Empire and the Turkish Republic* (New York: New York University Press, 1991).

War from 1915-1919. In January of 1920, he passed the Persian frontier and entered India. Bernstein identified himself as a Pole to the Indian government in 1921.[5] Entering the twentieth century, the subcontinent became a site for refugees who were cause for concern in Europe. With the break-up of European empires, a number of independent new states came into being. It was up to them to establish whether or not these refugees' claims to a particular national identity could be verified in accordance with their own goals. Bernstein was one of many Germans, Austrians, Austrian 'Poles', and Russian 'Poles' who ended up in India in the aftermath of the First World War.[6]

The Austrians, Russians, and Poles were all initially interned at camps. Those who were 'repatriated' possessed passports, which all records indicate were provided by the new states formed after the war. [7] Bernstein would be confirmed as a Pole. 'Returnees' like him faced a long bureaucratic process. They had to prove that they had the right political opinions, and a practical skill and physical fitness often improved their chances.[8] There is little or no information about those who remained unclaimed, beyond their entry into the country– it would institutionalise the idea of political dissidence in asylum and the use of empire as a means to dispose of unwanted elements from the European heartland.

[5] British Library, Archives and Manuscripts (Hereafter BLAM) ,IOR/L/PS/10/829, 1921, File 2640/1919 Pt 3 Refugees in India: general repatriation
[6] Yasmin Khan, *The Raj at War: A People's History of India's Second World War,* (London: The Bodley Head, 2015),125.
[7] BLAM, IOR/L/PS/10/828, File 2640/1919 Pt 1 Refugees in India: question of repatriation; general file,1919.
[8] Peter Gatrell, The Making of the Modern Refugee (Oxford: Oxford University Press, 2013), 58.

Fridtjof Nansen, the League of Nations' High Commissioner for Refugees, requested that the India Office and Government of India arrange for the return or resettlement of the European refugees in India. The Secretary of State for India and Lord Curzon, former viceroy and British Secretary of State for Foreign Affairs, both agreed that European refugees must be repatriated. Failing that, there were not to be released into India as they were likely destitute, did not speak English, and were unlikely to find employment. Those who had a trade and could find employment had already left the camps set up in Ahmednagar and Belgaum.[9] Though all these Europeans entered the subcontinent as refugees, only those unwanted by Europe remained. The colony became a convenient place to leave dissidents or those who would be a burden. The image of European superiority kept these refugees within camps, as the rhetoric demanded the preservation of white masculinity and capability.[10] The unskilled, non-English speaking, destitute that Europe had not claimed could not go about undermining the myth of the White Man's Burden.

Refugee repatriation at this time was startlingly similar to conditions of Indian migration within Empire. The well-to-do Indian migrant was welcome in other parts of the Empire, while peasants and their like were to be excluded. It was the unskilled, and therefore unwanted, who were left behind. Entering India, on the other hand, appeared to have negligible barriers. Leaving it meant the stateless were subject to similar immigration policies as British Indians, particularly within the British Empire.

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[9] BLAM, IOR/L/PS/10/829, File 2640/1919 Pt 3 Refugees in India: general repatriation 1921.
[10] For detailed work on gender, colonialism and nationalism, refer to Mrinalini Sinha, *Colonial Maculinity: The "Manly Englishman" and the "Effeminate Bengali" in the Late 19th Century* (Manchester: Manchester University Press, 1995); *Spectres of Mother India: The Global Restructuring of an Empire* (Durham; London: Durham University Press, 2006).

Another ‘refugee’ in India was the Afghan Sardar, Ghias-Ud-Din Khan, who features in documents from the 1930s. Settled in Burma because of his political role in the modernising Afghan King Amanullah’s regime, he would write to Nadir Shah to push the British to facilitate a move to Meerut. His politically charged petition blames his misdeeds on Amanullah and reminds Nadir Shah of his service. Ghias-Ud-Din was a political threat to Nadir Shah as the Suleiman Khel tribesmen preferred his leadership over the former. Nadir Shah’s brother, Shah Wali, had requested that Ghias-Ud-Din, a Ghilzai leader, not be returned to Afghanistan. His journey took him to Lahore before he was moved to Burma. He requested a substantial increase in his allowance from Rs. 500 to 1,500 in the event that his move to Meerut was not approved.

The end of Bacha-i-Saqao’s brief reign in Afghanistan had a political fallout that sent these troublesome Afghan Sardars along with their entourage to India. This came after the Third Anglo-Afghan War, which had resulted in a promise by the British to cease overt interference in Afghan politics. The Afghans in India were deliberately kept far away from Baluchistan and the North-West Frontier Province where they could cause trouble. These princes, often described as refugees, very much lived life in the true style of royalty. The bill for these gilded cages was footed by the British Indian government.

What Ghias-Ud-Din neglects to mention in his petition is his reason for wanting to leave Burma, which involved an altercation with his Burmese driver. His mistreatment of the driver led him to attack Ghias-Ud-Din with a bottle, fracturing his skull. Ghias-Ud-Din’s petition to

Nadir Shah, via the British, was written from his hospital bed.[11] The Sardars were acknowledged to be a disruptive population who often mistreated the locals hired to wait on them, and yet kept on in style. They caused disturbances ranging from altercations with local domestic help to creating unrest amongst Kashmir's Muslim population with rumours of replacing ruler Hari Singh with a brother of Amanullah. [12] They were in India because of the nature of British-Afghan politics and not because they were fleeing persecution that inadvertently landed them there.

The Afghans' misbehaviour, and more significantly the many lakhs of rupees spent on them by the government of India created dissatisfaction. It established that British diplomatic concerns were more important than issues relating to the diaspora or even domestic crises. These were repeatedly questioned in the Legislative Assembly by the Congress. In 1929, Ranga Iyer, then a member of the Imperial Legislative Council, was informed that the maintenance of the Sardar in question and his entourage was in the interest of a united Afghanistan. In a round of Legislative Assembly debates, on the 8th of September,1939, S. Satyamurthi expressed great dismay that two lakhs a year were spent on the misbehaving 'Afghan princes'. However, his agitated speech was interrupted by the Muslim League member, Sir Ziauddin Ahmad. For him, the payments were necessary to avoid the larger cost to the British government to deal with the troubles these princes might cause without their pensions.[13] Both these incidents, a decade apart, were with representatives in the Madras Presidency. Co-incidentally, Satyamurthi was the head of the Indian Overseas Association and therefore deeply invested in the treatment of the

[11] BLAM, IOR/L/PS/12/1564, Coll 3/17(1) Refugees in India; movements, 1931-38.
[12] Ibid.
[13] BLAM, IOR/L/PS/12/1565, Coll 3/17(2) Refugees in India; movements, 1938-47.

diaspora. That these political exiles were called 'refugees' reinforced the idea that they were placed above the Indian subject of empire.

The term 'refugee' was used quite liberally for those displaced within the borders controlled by the British too. This included flight from communal disturbances in Mirpur, displacement from flooding, etc. Aside from government help, non-official political organisations, like the Hindu Mahasabha and the Indian National Congress, also became involved. The treatment and assistance of the victims of the 1935 Quetta earthquake exemplifies domestic 'refugee' relief.

The disaster at Quetta very closely followed the Bihar earthquake of 1934. Newspapers reported that the British authorities in the area were prompt, and army action and resources were instrumental in providing first response and kept famine at bay.[14] The British Government made a grant of 50,000 pounds for earthquake relief. [15] It should be noted that special arrangements were made for the Europeans in Quetta to sail home, particularly the families of British Officers.[16] For the Indians in Quetta, there appears to have been a private element to the exodus of refugees from Quetta. 'Nearly every refugee who had any place to go to outside Quetta has left', which assumes they had family and friends they could go to, or were supported by community-based relief organisations. [17] Aside from relief by the army and the government of India, the Congress was prompt in its response despite an unfamiliarity with the region. The Gandhian nationalist J.B. Kripalani, who had played an important part in relief operations in

[14] "Evacuation of Europeans"*, Times of India*, Jun. 7, 1935, 11.
[15] "50,000 for relief in Quetta," *Times of India*, Jun. 8,1935, 17.
[16] "Refugees from Quetta : Officers' families to sail on June 8," *Times of India*,7 Jun.,1935, 4.
[17] "Quake Shocks In Quetta," *Times of India* , 15 Jun., 1935, 11.

Bihar, was involved in Congress attempts at relief.[18] The Congress was clearly learning on the job, and relief was not merely the domain of the Government. It underscored the relationship of the nationalist movement with such activities, and became a form of asserting responsibility for the people. It was a way to show that the British in India were not taking care of the Indians as they should.

No community represents this privatisation of relief for members of their own community quite as well as the Parsis of Bombay. As discussed, they had been involved in assistance to their co-religionists within and beyond the subcontinent. A fund started by the Bombay Parsi Panchayet aimed to collect Rs. 2,00,000 to help the Parsis of Quetta, despite their stated unawareness of the exact nature of their suffering. Since 1898, the Bombay Parsi Panchayet had a 'Sankat Niwaran Fund'.[19] This was all in addition to generous donations made to the Viceroy's fund, the Mayor's fund, and so on, even in crises like Bihar when no considerable number of their co-religionists had suffered. But in the climate of the 1930s, this led to accusations of communalism – yet another indication of the politics of assistance.[20]

What all this establishes is that the word refugee was used very loosely, and correspondingly different groups called refugees had dissimilar experiences. Those who were recognisably European were treated more closely in accordance with international norms. When they could not be repatriated, these groups were maintained in camps. The idea of the refugee was deployed to justify the considerable resources spent on political exiles who fit into British

[18] "Congress Secretaries for Quetta: President on Relief Work," *Times of India*, 3 Jun. 3, 1935, 17.
[19] Translates to 'Fund for Relieving Distress.'
[20] "Parsis and Quetta Fund," *Times of India*, Jul.23, 1935, 14.

diplomatic agendas. Displaced Indians, no matter what the cause, were encouraged to rely on family and community networks. The socio-economic and ethnic hierarchy of victims had become evident, placing Indians at the bottom of these priorities. Recognition of these differences had already crept into politics, as had the exclusive nature of international norms.

HUMANITARIAN ACTION AS A SUBJECT PEOPLE

This section points to Indian nationalists' own active use of humanitarian assistance beyond simple moral and charitable aims, as a means of locating themselves in the international order. Michael Barnett's *Empire of Humanity* clearly defines association between humanitarianism and political motives by the 1990s.[21] However, it is more relevant to see humanitarianism itself as a form of politics.[22] This was certainly how Indian nationalists had come to think of it.

Humanitarian action in politics predated a consciously national agenda in the subcontinent. The Indian Medical Mission to Turkey over the Balkan Wars was Pan-Islamist in motivation. To the Indian Muslims, Turkey was a victim of aggression and was receiving less help from European and other sources than the other powers it was at war with. Members of the mission, most notably M.A. Ansari, became prominent in Indian nationalist politics. Their public careers started with the notice they gained from the medical mission in solidarity with an internationalist Islam. His work in Turkey prompted Ansari to bring to open a Red Crescent Society in India. While in Turkey, he would also dabble in refugee work, and there is even some

[21] Michael Barnett, *Empire of Humanity* (Ithaca: Cornell University Press, 2011).
[22] Daniel Laqua, "Inside the Humanitarian Cloud:Causes and Motivations to Help Friends and Strangers," *Journal of Modern European History* 12, no.2 (2014).

record of efforts to find Indian adoptive parents for Turkish orphans. Though it was set within internationalist Islam, and an antecedent of the Khilafat movement, the medical mission was humanitarian action that expressed political positions beyond just India. In turn, it had ramifications for domestic politics by solidifying the idea of humanitarian action in a distant locale as an expression of Indian Muslim opinions. Ansari would go on to play a part both in the Muslim League and then Indian National Congress. His story connects domestic Indian and internationalist and transnationalist politics of solidarity rooted in humanitarian action. [23]

Eventually, organisations oriented towards the subcontinent would perform relief work parallel to the British Government of India. The Indian National Congress and the Hindu Mahasabha clashed with officials over humanitarian work. As mentioned earlier, Gandhians like J.B. Kripalani were involved in relief efforts in the Bihar and Quetta earthquakes in the 1930s.[24] They would go on to play prominent roles in organising assistance for future refugee groups during the Partition and for those from Tibet. The British Government was keen to keep these non-official organisations out of disaster relief: It had differences with these organisations, prominently the Congress, over relief for Quetta. The government had prohibited their entry into the region. Unable to act on the ground in Quetta, the Congress instead focused its energies towards the camps for refugees in Punjab and Sind.[25] Members of Congress were suspicious because despite the Viceroy's request for public contributions to the fund, keeping out non-

[23] For a detailed account of the mission and its place both in Ansari's political career and within the framework of Pan-Islamism, see Burak Akçapar, *People's Mission to the Ottoman Empire: M.A.Ansari and the Indian Medical Mission, 1912-13* (New Delhi: Oxford University Press, 2014). Another account of the mission is Syed Tanvir Wasti, "The Indian Red Crescent Mission to the Balkan Wars," *Middle Eastern Studies* 45, no. 3 (2009).
[24] "Congress Secretaries for Quetta: President on Relief Work," *Times of India*, Jun. 3,1935, 17.
[25] "Through Nationalist Eye: The Quetta Disaster and After," *Times of India*, Jun. 12, 1935, 8.

official bodies suggested that not enough was being done for those affected by the quake.[26] The government had stopped searching the rubble for survivors too prematurely, for example, despite experiences with the Bihar earthquake where survivors were allegedly found up to a week later. This led to aspersions on the government's claim to do all they could for the 'rescue of the living and disposal of the dead.'[27] Humanitarian relief towards others within India was both compassionate and a means to challenge the colonial government.

India's nationalism had never been insular, but closely tied to its internationalist presence even in the arena of humanitarianism. Humanitarian activity functioned as a way to challenge imperial policy and assert an alternative international presence to the official British-appointed representatives for India at the League of Nations. The Indian National Congress' foreign policy under British rule, particularly over the course of the war, had been to support democracies and oppose imperialism and fascism, and this would carry on into its post-colonial foreign policy.[28]

As Maria Framke has shown, humanitarian assistance from the Indian nationalists could often directly contradict the official British position. She uses the Congress sponsored medical mission to China in the 1930s, and its efforts to provide aid in the Spanish Civil war to make her case. Framke's argument draws on the anti-colonialists' disillusionment with the internationalism and democracy of the League of Nations. To them, it seemed to reinforce Empire, the British in particular. To further borrow from Framke, the Indian National Congress

[26] "Government's Attitude Criticised," *Times of India*, Jun. 14, 1935,15.
[27] "Through Nationalist Eye: The Quetta Disaster and After," *Times of India*, Jun. 12, 1935, 8.
[28] William F. Kuracina, "Colonial India and External Affairs: Relating Indian Nationalism to Global Politics," *Journal of Asian and African Studies* 42, no.6 (2007).

was using humanitarian assistance to assert that it stood for democracy and progress in the face of imperialism and fascism, which Britain was condoning by not intervening in Spain, or by endorsing weak policies in the case of the Sino-Japanese War of 1937.[29] Congress leader Jawaharlal Nehru wished to use these transnational networks to create a positive impression of India despite it not being independent.[30] Nehru, and V.K. Krishna Menon, who would become internationally infamous as an envoy of non-alignment, would both play significant roles. When these actors, who had already utilised humanitarianism to political ends, assumed positions of power in the new Indian nation-state, their hitherto unofficial, subversive internationalism became the official line.

Those who would become Independent India's leaders were clearly not averse to humanitarianism. Adrian Ruprecht's ground-breaking work on the Red Cross in India in the first half of the 20th century makes a very important observation — unlike colonial philanthropy and organisations that tended rely on white aid workers, the Red Cross' Indian iteration did not have any such derogatory manifestations. It did not draw the ire of Indian nationalists, but rather became a means to locate themselves in the international domain.[31] It set a precedent for future humanitarianism that did not see Indians as less human than those from the West in the provision of aid. It was not a question of humanitarianism as a whole, so much as the *type* of humanitarianism they could endorse.

[29] Maria Framke, "'We Must Send a Gift Worthy of India and the Congress!' War and political humanitarianism in late Colonial South Asia," *Modern Asian Studies* 51, no.6(2017); "Political Humanitarianism in the 1930s: Indian Aid for Republican Spain," *European Review of History* 23, no. 1-2(2016).
[30] Ibid, *Political Humanitarianism,*71.
[31] Adrian Ruprecht, *De-Centring Humanitarianism: The Red Cross and India c. 1877-1939.* (Unpublished PhD thesis, University of Cambridge).

INDIAN MOVEMENT WITHIN THE EMPIRE

At this point, it is worth asking about the nature of Indian mobility within empire. The emergence of migration regulations is simultaneous to that of the idea of the nation-state as the building block of the international system. Studies of passport regimes and their contribution to enforcing borders show they emerged to keep Asians from white settler colonies. Rather than a necessity of the international system based on the nation-state, they developed to exclude people from it. [32]

Legalese became a way to disguise overt racial discrimination. White settler colonies used passports and travel documents as means of preventing the entry of other imperial subjects. Radhika Mongia has traced Canada's evolution of these tactics: first by claiming unsuitable climatic conditions, then by imposing financial restrictions, the clause of a 'continuous journey', and finally the emergence of a passport regime. Radhika Singha speaks of the enforcement of the colour-bar for Australia. In 1901, Australia used dictation tests in English or a European language to exclude Asian settlers. By 1904, they agreed to recognize those holding a bona fide British Indian passport, though this was more to encourage merchants and other wealthy, 'respectable' Indians. One of the means of doing so was to give District Magistrates in the Raj instructions not to grant labourers, peasants, petty businesspeople and so on identity certificates. By the beginning of the twentieth century, it was not citizenship but 'respectability and means' that guaranteed a British Indian subject a passport and mobility.[33] Canada too used this tactic.

[32] Adam McKeown, *Melancholy Order: Asian Migration and the globalization of borders* (New York; Chichester: Columbia University Press,2011), 2-3.
[33] Radhika Singha,"The Great War and a 'Proper' Passport for the Colony: Border Crossing in British India, c.1882-1922,"*Indian Economic & Social History Review* 50, no.3 (2013),295-298.

The Immigration Act of 1910 called for Indians to prove they possessed £200, while other migrants needed a mere £25.[34]

The norms of migration for labour and coolies were deliberately kept distinct from that of passport regulations. On the other hand, migrations to Burma, Ceylon and so on, were considered outside the scope of these regulations. They were thought of more as free migration and therefore the Empire could claim that it was not responsible for their welfare.[35] The movement of labour to other parts of the empire formed the bulk of the diaspora, and given the inhuman treatment of coolies or the refusal of the state to claim responsibility for their welfare, this movement was based on exploitative inequality to begin with.

India's international presence was often informed by demands for the equality of Indians as citizens of empire. Within the British Empire, London was willing to condone racial policies of exclusion from its white settler colonies. In South Africa, by the 1880s, laws were in place that restricted the entry of more British Indians. Much of the struggle in this part of the world was for the rights of those migrants who were already settled there and were now subject to several discriminatory laws against Asiatics.[36] Gandhi's Satyagraha and struggles in South Africa were an early example of the mobilisation of the nascent international order. The minority outside of the subcontinent came to define what it meant to be Indian. He mobilized local 'Indian' networks, cutting across religious, professional and socio-economic bounds.[37] In

[34] C. Kondapi, *Indians Overseas1838-1949* (New Delhi: Oxford University Press 1951),207.
[35] Radhika Singha, *The Great War,* 294.
[36] Kondapi, *Indians Overseas,*181-184.
[37] Written about in more detail in histories of South Africa, as with Maureen Swan, *Gandhi: The South African Experience* (Johannesburg: Raven Press, 1985).

South Africa, 'Indians' were subject to discrimination, rather than the various diverse religious and regional subcontinental identities. It would represent the idea of a political community prior to the formulation of the nation-state, and in the context of the empire, colony, and dominion. The nascent idea of nation formed here sought civil rights within empire, not franchise, which indicated its transnational nature. Though the idea of an equal nation within empire would not come to be, the movements of people and ideas that underpinned the formulation of this nation bear emphasis.[38] It was not in pursuit of safeguards for religion, but for the entitlements of citizenry for a dispersed, and therefore portable nation.[39]

Indian nationalism was informed by the travels of its intelligentsia,[40] who transmitted these ideas back to the homeland. It was a response to the treatment of Indians in other parts of the empire, be it Gandhi's Satyagraha in South Africa[41] or those of migrant labourers in South East Asia. The latter case operated on many levels— imperial, colonial, national. For the nationalists, the rights of the migrant labourers were dependent upon belonging to a political formation that could lobby for them. The need for this government resonated with those concerned about overseas Indians in the 1930s, a prominent example being the Indian Tamil

[38] Isabel Hofmeyer, "Seeking the Empire, Finding the Nation: Gandhi and Indianness in South Africa," in Joya Chatterji and David Washbrook (eds.)*,Routeledge Handbook of South Asian Diaspora* (London; New York: Routeledge, 2013). They were even compared to helots, as in H.S.L. Polak, *The Indians in South Africa: Helots within Empire and how they are treated* (Madras: G.A. Natesan, 1909); See also Hugh Tinker,*Separate and Unequal: India and the Indians in the British Commonwealth 1920-1950* (Vancouver: University of British Columbia Press, 1976); Charles Freer Andrews, *The Indian Question in East Africa* (Nairobi: The Swift Press, 1921).
[39] Faisal Devji, "A Nation Misplaced," in *The Impossible Indian: Gandhi and the Temptation of Violence*(London: Hurst & Company, 2012), 41-66.
[40] Sunil Amrith, *Migration and Diaspora in Modern Asia* (Cambridge; New York: Cambridge University Press, 2011), 73-74.
[41] An example is Sugata Bose, *A Hundred Horizons: The Indian Ocean in the Age of Global Empire,* (Cambridge Mass.; London: Harvard University Press, 2006), 151-170.

labour population at odds with locals in Malaya.[42] Indians abroad served as a reminder of belonging to a wider global and imperial community, but also drove home a need for a political situation that would represent their rights and needs. A case study of nationalism in Kenya points out that a consciousness of where they were from was the basis for greater access to the European-only highlands, very similar to the attitude embraced by Gandhi in South Africa. More significantly, nationalists from within the subcontinent were indignant on behalf of their diasporic brethren's experiences of inequality.[43] The transnational formulation of Indian nationalism came from the diaspora, which was clearly not too different or fragmented to be to articulate an 'Indian-ness' that necessitated a government to protect their rights.

Even prior to the nation-state form, there was a growing national consciousness with a territorial connotation. Indian soldiers who fought in Europe and across Africa and Asia would develop loyalties to the empire and to the idea of India.[44] Indian participation in the Great War brought with it several hopes, prime amongst them the dream of Dominion status and self-government. Another piece of optimism was a better platform to negotiate for Indian settlers in white colonies. It was declared in the interest of the white settler colonies that each of the communities of the British Empire had the right to determine its population by controlling immigration.[45] One school of opinion seemed to buy into a chicken and egg understanding of the rights of Indian settlers, particularly that of franchise. As Indians had no experience of this

[42] Amrith, "Indians Overseas? Governing Tamil Migration to Malaya 1870-1941," *Past and Present,* 208, no.1(2010).
[43] Sana Aiyar, "Anti-Colonial Homelands Across the Indian Ocean: The Politics of the Indian Diaspora in Kenya, ca. 1930-1950," *American Historical Review* 116, no.4 (2011).
[44] Bose, "Waging War for King and Country," in *A Hundred Horizons,* 122-147.
[45] "The Colour Question in Politics,"*The Round Table: The Commonwealth Journal of International Affairs* 13. No. 49(1922),47.

form of government at home, they could not expect to be treated at par with Europeans in other parts of the Empire. This was expected to change with the new reforms giving some experience of democratic government to the Indian people for a future justification of this nature.[46] 'Training' for self-government' became a way to deny Indians in empire the rights and equality that it promised.

The formula for 'within the Empire' was clearly not working, and the treatment of Indians was not likely to improve given the state of affairs in the early 1920s. The rights of the individual, under the umbrella of the universality of imperial citizenship, had been effectively tied to the sovereign (or lack thereof) nation-state. The right of the Dominion 'nations' and 'communities' to exclude other imperial citizens if they did not fit within their image of themselves undercut the value of this citizenship. Equality before law in the empire became subjugated to the implicit racial discrimination in the guise of what Goldberg, among others, calls 'historicised' differences.[47] India thus possessed the sovereign right of international representation in the League, while unfettered domestic sovereignty was vested in the British Imperial project. Traditionally, this has been seen to manifest itself in a more domestic approach towards independence and nationalism. [48] This tends to discount the internationalism of the understandings of self – in fact, it is possible to locate Indian identity in response to the myriad of ways in which the universalism of Imperial citizenship failed them within the empire and internationally.

[46] *The Colour Question in Politics,* 47.
[47] David Theo Goldberg, *The Racial State* (Malden; Oxford: Blackwell Publishers,2002).
[48] Tinker, *Separate and Unequal,*35-36.

The end of the First World War and the solidification of the homogenous nation-state as the successor to heterogeneous empire meant an exclusion of minorities. It has been noted that European governments held these refugees in near contempt –the British would use a restrictive immigration policy.[49] The rights of minorities and these restrictive immigration policies played an important role when it came to the rights of the Indian diaspora in empire too. There are similarities between these citizens of empire and 'refugees' who came to the subcontinent. Once any group reached India, and resettlement rather than repatriation became the call of the hour, it was subject to similar immigration conditions in the empire. For skilled Europeans, immigration conditions were less expensive than for Indians. Other groups were subject to the same restrictions plaguing Indians, like Maltese refugees in India.[50] They were sent to India as a last resort, as no other place would take them. They could not leave because the British would not resettle them elsewhere. The reason given was that they lacked the means to support themselves and 'had never been so well off in their lives before.' Respectability and desirability in other parts of the empire became a recurring theme for any movement regulations, regardless of what the nomenclature used for those moving was. [51]

It is this context that justifies the examination of the position of Indians abroad versus those who sought sanctuary in the Raj. The question here is why juxtapose migrants against refugees? Despite the recognition of refugees as an international problem, the heavyweight governments of the League of Nations stayed away from a definition of the term 'refugee',

[49] Gatrell, *The Making of the Modern Refugee,*55-56.
[50] Discussed in greater detail in the second chapter of this thesis.
[51] BLAM, IOR/L./AG/40/1/135, Correspondence: Refugee and Repatriation files, mainly of the Government of India: RRO/C 21-40, 1921-40.

primarily to prevent the recognition of political dissidents in any state.[52] The word refugee lacked any coherent definition for those within the empire. To add to this, there seemed to be a tendency to control movements of subject people who disproved the claims of enrichment and progress brought by empire. In the case of the Hajj, the British government would end up officialising the repatriation of poor Muslim pilgrims. The discussions on this matter did not begin as a matter of humanity or of a service to subject peoples. In reality, it was the idea of visibly destitute pilgrims living in squalor, risking starvation and disease at the doorstep of the British consul in the latter half of the nineteenth century. The initial impulse was to ask Indian authorities to limit who they allowed to leave for pilgrimage. It was when this failed that an official machinery to assist pilgrims already travelling for Hajj was set up. The British imperial government had assumed greater tactical control and consequently made greater contributions to the Hajj pilgrimage out of sense of embarrassment at the state of the travellers.[53] It was motivated by optics and control rather than benevolent patronage. It makes us question whether movements in the empire, of migrants or refugees, were also an example of Britain using internationally accepted definitions in what were essentially imperial exercises of moving people around.

This thesis looks at the end of the period of migrations of the nineteenth and early twentieth century. It fits into the idea of post-war reconstruction and the drawing of borders and creation of passport regulations for new nation-states. It was, as Sunil Amrith says, the Asian

[52] Gil Loescher, *Beyond Charity: International Cooperation and the Global Refugee Crisis* (New York; London : Oxford University Press,1996),40.
[53] This is not the only aspect of the reasons for and eventual trajectory of how the British controlled the Hajj- for greater detail over the 19th and early 20th century, see John Slight, *The British Empire and the Hajj, 1865-1956,* (Cambridge, Mass.: Harvard University Press, 2015).

version of an 'unmixing of people.' The end of this mobility and this post war attempt to both build the nation and reconstruct the state against the ambiguities of 'unmixing' empowered categories like refugee, migrant etc.[54] The rest of this project examines the contradictions of unravelling the transnationalism of empire into the nationalism and internationalism of the nation-state in one of the two diaspora-producing giants of the continent. This would be complex because India already had host of differences in its society, while needing to account for other nations that feared being swamped by those of subcontinental origin.

RACE, IMPERIALISM AND THE INTERNATIONAL ORDER

To understand the independent state's relationship with those displaced across international borders, it is worth examining the antecedents of the internationalism that prompted the need for an Indian nation-state. A major development after the First World War was the formation of the League of Nations. Despite throwing out the term 'self-determination', and an obvious commitment to internationalism, the League of Nations effectively adopted the paternalism of the British Empire in its formative years and justified its guiding hand. In this version of the International Order the recognition of the sovereignty of its constituent nation-states was up to contemporary imperial powers. This shifted with the formation of the United Nations and the greater participation of former colonies. India, as a proxy for the postcolonial world, had determined that European powers no longer held undisputed sway in recognizing sovereignty. However, their rhetoric of sovereignty and the state had gained unquestioned universal

[54] I refer here to the concluding paragraphs of Amrith," Reconstructing the 'Plural Society':Asian Migration Between Empire and Nation, 1940-1948," *Past and Present* 210, supplement 6(2011).

acceptance.[55] The underlying premise here is that notions of sovereignty were created in Europe and applied to other parts of the world via means such as colonialism. What happens when history is seen through the perspective that 'Colonialism cannot be accounted for as an example of the application of sovereignty; rather, sovereignty was constituted and shaped through colonialism'?[56]

The 'Eurocentric' international order with its notions of self-determination was developed alongside the longer traditions of empire. The movements of people within, to, and from the empire make evident the contradictions of the universal, national, and imperial as embodied in the person of the individual. The World Order of the League of Nations had failed to prevent wars of domination. Indian independence and admission into the sovereign community of nation-states coincided with the creation of the United Nations. Nehru, by now heading the nationalist government of India, quite clearly stated a conception of a more inclusive world order as envisioned by India to the General assembly in 1948. Specifically, this was the push to try and rebuild this order, while simultaneously wrestling with her own inheritances from the empire within the new nation-state. At the heart of it, Nehru was critical of the eurocentrism of the League:

> But may I also say that the world is something bigger than Europe, and you will not solve your problems by thinking that the problems of the world are mainly European problems? There are vast tracts of the world which may not in the past, for a few generations, have taken much part in world affairs. But they are awake; their people are moving and they have no intention whatever of being ignored or of being passed by.[57]

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[55] Mark Mazower, *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations*(Princeton; Oxford: Princeton University Press, 2009). 188-189.
[56] Anthony Anghie, "Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law," *Harvard International Law Journal* 40, No.1.(1999), 6.
[57] Jawaharlal Nehru, "Firm Adherence to Objectives," *India's Foreign Policy* (Bombay: Publications Division, Ministry of Information and Broadcasting,1961), 163.

The status of India, and that of Indians, was irrevocably altered by the international order of the League. In the first place, the League of Nations symbolised a form of internationalism that was informed by, and reified, the national. This would place India in a strange position in this new family of nations. Internationally recognised sovereign states were the constituent nations of the League, enforcing the state as the nation.[58] In turn, their conception of the nation as state had to be met as a precondition to proper representation at the League. India held an anomalous international position by virtue of membership of the League of Nations despite her position as a British colony. Within India, the League's domain of operations was at odds with the British government, leading to competition over what was truly international and what fell within the domain of this imperial 'domestic'. The League was acting for a family of nation-states, but also for the populations resident in these nation-states, establishing a relationship between the popular, and the individuals that comprised it, and the international.[59] In this context, the international had acted in India, both to reinforce the idea that the nation-state was an important means to an end in terms of international representation, but also to insert the international into everyday existence. In many ways, India too was part of the laboratory for internationalism that the League of Nations constituted. However, it is worth noting that India functioned almost as a 'subject' geography within the League of Nations agencies as well: its financial contribution

[58] For a detailed understanding of the role of nations in the international order in Geneva in the interwar years, see Glenda Sluga, "Imagine Geneva, Between the Wars," in *Internationalism in the Age of Nationalism*, (Philadelphia: University of Pennsylvania Press,2013), 45-78.
[59] Stephen Legg, "Of Scales, Networks and Assemblages: The League of Nations Apparatus and the Scalar Sovereignty of the Government of India," *Transactions of the Institute of British Geographers* 34, no. 2(2009); " An International Anomaly? Sovereignty, the League of Nations and India's Princely Geographies," *Journal of Historical Geography* 43 (2004); " 'The Life of Individuals as well as of Nations': International Law and the League of Nations' Anti-Trafficking Governmentalities," *Leiden Journal of International Law* 25, no.3 (2012).

was disproportionately large, more than that of Italy's, while there were only a limited number of Indian officials hand-picked by the British government in the ranks of the League. There were only six Far East positions created to increase their representation, despite this region including India, China and Japan. It was also evident that the League agencies' programmes did not function for the benefit of Indians in proportion with the subcontinental contribution to resources, either.[60]

India's anomalous position in the League of Nations has often been remarked upon, with scholars usually limiting themselves to pondering the nature of its inclusion in the first place.[61] Any hopes India had of this new order based on self-determination were quickly dashed. The critique levelled against it is was that 'the Powers did just what they liked, but they put on a more sanctimonious garb, and thus lulled the consciousness of the unwary.'[62] Limiting our understanding simply to its anomalous position is inadequate in that this would force us to see Indian nationalism and internationalism as running parallel to each other: they intersected. There were two sides of the coin in the Indian search for self-determination as a nation-state. The first was that India achieved external self-determination prior to internal self-determination, in the form of representation at the League of Nations. Though seen by many as a mere extra vote for the British, contemporary actors – like the secretary of state for India, Edwin Samuel

[60] For example, India's relationship with the International Labour Organisation at this time is outlined in J. Krishnamurty, "Indian Officials in the ILO, 1919-c. 1947," *Economic and Political Weekly* 46, no.10(2011); Sluga, *Internationalism in the Age of Nationalism,* 60.
[61] T.T. Poulose "India as an Anomalous International Person (1919-1947)," *British Yearbook of International Law* 44 (1970); Legg, *An International Anomaly*; ,R.P. Anand "The Formation of International Organizations and India: A Historical Study," *Leiden Journal of International Law* 23, no.1(2010).
[62] Nehru, *Glimpses of World History: Being Further Letters to his Daughter, Written in Prison and Containing a Rambling Account of History for Young People* (Delhi: Oxford University Press,1989),632.

Montagu – saw this external recognition as a push for self-determination on the basis of national feeling at home.[63] This rhetoric furthered the idea of locating India via the international, most notably through the many debates it fostered about the nature of Indian participation in the League, and the strides made in the International Labour Organisation.[64] This meant the creation of the national space was in conversation with the global, but also with the colonial as it created the state that would precede the national iteration.[65] This was possible because such an internationalism blurred sovereign rights and power within the empire as well – dominions versus British territory versus princely states in the case of India.

The end of the First World War marked the shift from empire to nation-state, which became an institution that was associated with a national territory (even though some nationals were minorities in other states). Borders, a hallmark of the creation of the nation-state, became a site of power and contention. Even the earlier writings of Nehru have been interpreted as reflecting a 'cartographic anxiety' for the borders of India, and the questions of its porous nature.[66] Wilson had given the colonised world the rhetoric of self-determination, but it was left to its own devices regarding finding a practical application. While many potential versions of the Indian nation(s) were presented, what remained was a tendency to use the idea of borders, often existing imperial ones.[67] In these ways, we keep coming back to the Empire and its

[63] Erez Manela, *The Wilsonian Moment :Self Determination and the International Origins of Anticolonial Nationalism* (New York: Oxford University Press,2007), 160-162.
[64] Lanka Sundaram, *India in World Politics: a Historical Analysis and Appraisal* (Delhi;Lahore:Sultan Chand & Co.,1944).
[65] Manu Goswami, *Producing India: From Colonial Economy to National Space* (Chicago: University of Chicago Press, 2004).
[66] Sankaran Krishna, 'Cartographic Anxiety: Mapping the Body Politic in India.' *Alternative Global, Local, Political,*19, No.4 (1994),509.
[67] Itty Abraham, *How India became Territorial* (Stanford: Stanford University Press,2014). 51-52.

relationship to the International order – more significantly to a need to alter it. However, this situation also highlights the need for a national space in order for India to be properly represented in the international sphere.

It was also significant that all of the forms that interwar internationalism took were closely tied to nationalism in some way or form. Jawaharlal Nehru's experience was closely tied to the anti-colonial internationalism of the Second International. He would attend the 1927 Brussels meeting of the League Against Imperialism. In some way, whether within the League or within communist internationalism, the elite voices who represented India and would form the bureaucracy and government of the independent state, also bought into the close link between nationalism and internationalism. One was a means to the other, and vice versa.

Indian thinkers, whether Tagore or Nehru, had certain universalist visions. Nehru, for one, saw the nation-state as a stepping stone to a world federation. This was not at odds with the liberal internationalist idea that the nation-state was a stepping stone to a true internationalism.[68] It did have significant differences, including chronologically. The realisation of 'internationalism' is associated with the United Nations. However, this coincided with the eventual advancement of nationalist government for India. What this means is a dissonance in timelines between Nehru's India and the liberal internationalist vision for a world federation, for the League of Nations had not allowed for the undoing of that liberal paternalism so abhorred by the anti-colonial nationalists. A world federation that was truly representative could only be created by first giving the people of the world an adequate voice in its framing.

[68] Sluga, *Internationalism in the Age of Nationalism,* 45-117.

In 1919, the Japanese call for a clause of racial equality was denied at the Paris Peace conference.[69] Japan had been acknowledged as a Great Power, so this refusal can only be interpreted as a reassertion of the superiority of whiteness and the nations it created. The question of race and equality in this first manifestation of an International Organisation is significant. Race was often masked by a rhetoric of potential for self-governance and civilised living, all closely tied to colonial societies and economies. As discussed above, there were also strict controls on who could move to the societies that seemed to be making greater economic progress. Lake and Reynolds use the idea of the 'Colour Line' to understand the transnational notions of whiteness that underpinned the formation of white men's nations, and therefore the sovereign nation-states that tended to have a larger say in world politics. These ideas of race had an impact on global politics in the 19th and 20th century, though they were most often understood within the national frameworks and restrictive immigration policies of individual nations rather than as part of a larger idea of 'historicised' difference. As Lake and Reynolds point out, the larger issue with liberalism was that 'individual liberty and freedom of movement were heralded as universal rights, but only Europeans could exercise them.'[70]

The internationalism of the League of Nations was often at odds with the imperialism that constituent powers sought to maintain and legitimise.[71] Despite its relationship with the

[69] For a history of this confrontation, and the role of Australia, Britain and the United States, see Naoko Shimazu, *Japan, Race and Equality: The Racial Equality Proposal of 1919* (London; New York: Routeledge,1998).
[70] Marilyn Lake and Henry Reynolds, *Drawing the Global Colour Line: White Men's Countries and the Challenge of Racial Equality* (Cambridge: Cambridge University Press,2008), 26.
[71] For a an understanding of the League's relationship to Imperialism via the Mandate system, see Susan Pedersen,*The Guardians: The League of Nations and the Crisis of Empire* (Oxford: Oxford University Press, 2015).

Imperial powers, the League of Nations would become a forum where different visions of what the world should look like could compete with each other. Sovereignty and economic organisation were in tension with each other, making the relationship between the League's role within Europe and in the empire into a contradictory one. It would prompt reconfigurations of what the international order should look like within that forum, and also create a public sphere that allowed petitions and complaints from those who would otherwise not have had an official voice (like those in Mandated territories) a voice in the League.[72] Nationalist India might not have been represented at the League, but this did not mean that it was not equally involved in thinking both about the form the international order should take, and what form of sovereignty Indians would need to be able to affect change in this international order to take part in the promise of economic advancement on equal footing.

WITHIN THE LARGER LITERATURE

The Inter-War period was formative for the International Refugee Regime as we know it today. The First World War altered the scale of refugee situations and the perception of refugees themselves. Rather than skilled and therefore welcome members to new states, refugees became a problem.[73] The appointment of a League of Nations High Commissioner for Refugees was itself the first recognition of refugees as an international responsibility rather than one for the individual nation-state. At its inception, this appointment was directed towards the Russian

[72] Pedersen, "Empires, States and the League of Nations," in Glenda Sluga and Patricia Clavin (eds.) *Internationalisms: A Twentieth Century History,* (Cambridge: Cambridge University Press, 2017); Natasha Wheatley, "New Subjects in International Law and Order," in Sluga and Clavin, *Internationalisms*.

[73] Emma Haddad, *The Refugee in International Society: between sovereigns,* (Cambridge: Cambridge University Press, 2008) 110 ; Loescher, *Beyond* Charity,32.

refugees. The nascent organisation aimed to protect European interests against this influx. In fact, most literature about the refugee regime emphasises what is described as the 'third world' in the 1960s and 70s, its focus being on Europe earlier, just as international policy did.[74] Even more recent histories of the development of refugee regimes and policy tend to be Eurocentric at this earlier stage. However, the eventual 'third world' was inadvertently involved in refugee policy as an extension of the European power that governed it. The end of empire within Europe created the Eurocentric refugee regime, but other imperial possessions experienced its workings (or lack thereof) and responded accordingly.

The only book length work that deals with question of refugees in South Asia is Pia Oberoi's *Exile and Belonging*. She traces the South Asian practice of hospitality to refugees and its relationship with the UNHCR from Partition onwards. Oberoi used the UNHCR archives extensively and does an admirable job of putting together a narrative on this front. However, in the years since its publication, there have been several developments in histories of human rights and of international organisations. Mark Mazower's considerable work on histories of international governance and the United Nations have led us to question the relationship of various nation-states with the international order. Human Rights histories have also been explored more extensively.[75] Samuel Moyn's landmark work has cause a shift in our thinking

[74] Aristide Zolberg,Astri Suhrke and Sergio Aguayo, *Escape from Violence: Conflict and the Refugee Crisis in the Developing World* (New York: Oxford University Press, 1989); Haddad, *The Refugee in International Society*; For an indication of how there were displacements outside of Europe and how they fit within the larger conception of the international community's understanding, see Peter Gatrell, *Free World: The Campaign to Save the World's Refugees* 1956-1963(Cambridge: Cambridge University Press, 2011); *The Making of the Modern Refugee*.

[75] Lynn Hunt, *Inventing Human Rights: A History* (New York: W.W. Norton and Co., 2008); Akira Iriye, Petra Goedde, and William I.Hitchcock(eds.), *The Human Rights Revolution: An International History,*(New York; Oxford: Oxford University Press, 2012); A.W. Brian Simpson, *Human Rights and the End of Empire: Britain and the Genesis of the European Convention* (Oxford: Oxford University Press, 2004); Kenneth Cmiel, " The Recent History of Human Rights," *American Historical*

about the timeline of human rights. The idea that human rights in the form we understand them today only really came into being in the 1970s leads us to ask what was going on prior to that decade in the reception and formulation of these ideas. In particular, he makes an argument against anti-colonialism as a human rights movement.[76] Roland Burke takes the issue of human rights further in his work on their relationship with decolonisation.[77] Manu Bhagavan has examined India's role at the UN, and more recently, with UNRRA. Sunil Amrith's work on decolonisation and international health has opened the door to understanding how various manifestations of the international order interact with colonial and post-colonial states.[78] The very nature of humanitarianism has been questioned, with a slew of books discussing its history over the *longue durée.*[79] Pushing the timeline further back, there has been a growing recognition within academia of the role of the League of Nations international order and its own relationship with imperialism and colonialism.[80] All of this combines to create a situation that allows us to move beyond Oberoi's work, and think about the larger currents within which the Indian state was enacting projects of asylum.

Review 109, no.1(2004); Elizabeth Borgwardt, *A New Deal for the World* (Cambridge, Mass.; London: Harvard University Press, 2005); Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen 3rd Edition* (Philadelphia: University of Pennsylvania Press, 2013).

[76] Samuel Moyn, *The Last Utopia: Human Rights in History*(Cambridge, Mass; London: Belknap Press of Harvard University, 2010).

[77] Roland Burke, *Decolonisation and the Evolution International Human Rights* (Philadelphia: University of Pennsylvania Press, 2010).

[78] Manu Bhagavan,"Towards Universal Relief and Rehabilitation: India, UNRRA and the New Internationalism," in Dan Plesch and Thomas G. Weiss (eds),*Wartime Origins and the Future United Nations* (Oxford, New York: Routeledge 2015); Amrith, *Decolonizing International Health:India and Southeast Asia 1930-65* (Basingstoke, New York: Palgrave Macmillan,2006).

[79] Barnett, *Empire of Humanity*; Davide Rodogno, *Against Massacre: Humanitarian Interventions in the Ottoman Empire 1815-1914*(Princeton; Woodstock: Princeton University Press, 2012). A recent work contributing to the idea of the human and stranger underpinning humanitarianism is Keith Watenpaugh, *Bread From Stones: The Middle East and the Making of Modern Humanitarianism* (Oakland: University of California Press, 2017).

[80] A theme explored in in Pedersen, *The Guardians.*

In the meanwhile, refugee studies have realised the necessity of historical examination. This is a two-way street, for on the one hand understanding contemporary crises rests on a holistic approach that encompasses the historic contexts of current displacements. On the other hand, there is also a narrative of absence in the creation of the nation-state, with refugees relegated to the shadows and seen to have no effect on its sovereignty and its citizenship.[81] Peter Gatrell has also altered the landscape with his extensive histories of refugees and their own agency, adding to what had previously only been institutional histories of the UNHCR.[82]

There has also been work on the knowledge formation around the term 'refugee'. Liisa Malkki has examined how the refugee needed to be ordered, resettled or returned to fit within the national boundaries of things. It forms part of a longer trend of military and quarantine related control, strongly suggesting a contaminant that needed to be managed. The post-War moment transformed the refugee from a military object to a bureaucratic and humanitarian one. Malkki cites a communication with the historian Frederick Cooper - in the 1940s there seemed to be a real possibility of 'global social citizenship' rather than a small world of separate nationalities. Though this nation-state-based version of internationalism was what would be adopted, it was not inevitable – something that is evident in this project as well. International political actors in the 1940s were willing to engage in these overarching discussions which included the 'representation of continued colonial rule in a progressive light.'[83] The nationalist government of India was obviously sceptical about colonial rule, in this moment of global

[81] Philip Marfleet," Refugees and History,"*Refugee Survey Quarterly* 26, no.3 (2007);" Explorations in a Foreign Land: Refugees, States and the problem of history," *Refugee Survey Quarterly* 32, no. 2(2013).
[82] Gatrell, *Free World*.
[83] Liisa H. Malkki, "Refugees and Exile: from "Refugee Studies" to the National Order of Things, *Annual Review of Anthropology* 24 (1995), 502.

international possibility. For all their faith in an international order, they were unconvinced by the form represented by the League and that seemed to continue on to the United Nations in the 1940s. All of this would have ramifications for the way the refugee was conceptualised as it would coincide with an Indian reinforcement of the 'national order of things'.

Lucy Mayblin's recent book, *Asylum After Empire,* is a significant attempt to understand the coloniality underpinning Britain's current day refugee policy.[84] Using snapshots from history, Mayblin traces the roots of the 'myth of difference' amongst humanity that B.S. Chimni introduced in the 1990s.[85] She convincingly traces the language of differential humanity as the real issue with refugees, rather than the issue of asylum itself. Clinical legalese, it is discovered, is really the product of a racialised thinking that is rhetorically sanitised over time. Mayblin tells us Britain's side of the story, but Indian nationalist leaders had recognised this vision of differential humanity despite the language it was ensconced in. Their postcolonial refugee story is one of acting against these institutionalised notions of differential humanity while preserving their own national space.

The Indian nation-state was built on the promise of equality and socio-economic advancement that had been denied in empire. Indian nationalism and state building were products of responses to transnational ideas of what it meant to be a citizen of empire and belong to white men's nations. Further it has been noted that the Indian constitution was not solely the result of the nationalist movement. It was susceptible to other global, cosmopolitan concerns,

[84] Lucy Mayblin, *Asylum After Empire: Colonial Legacies in the Politics of Asylum Seeking* (London; New York: Rowan & Littlefield, 2017).
[85] B.S. Chimni, "The Geopolitics of Refugee Studies: A View from the South," *The Journal of Refugee Studies* 11, no. 4(1998).

as well as internal minority voices that were not necessarily part of a nationalist dialogue.[86] It is only fair to assess legislative absences, like that of refuge and asylum, in the same light, particularly given that one of the Indian state's claims to human rights is that they are embodied in its constitution.

Partha Chatterjee's essay on Nationalism, Internationalism and Cosmopolitanism, and the responses to it, have indicated a shift away from a blanket understanding of nationalism alone as the driving the outcome of the nation-state in the 20th century.[87] In fact, as Kama Maclean stresses in her response, the 1920s and 30s were more of an uneasy coalition between socialism, nationalism and liberalism. Going into that transformative decade, Indian politicians embodied a tangle of often competing ideologies that were influenced both by the universalisation of the nation-state form and the need to protect it, communist internationalism, and the very liberal ideas that had not applied to them but were nonetheless what they aspired to by achieving the nation-state form. [88]

There have been several historical examinations of citizenship in India, as well as a substantial amount of work on race and mobility around the world.[89] In addition, postcolonial

[86] Javed Majeed, "'A Nation on the Move': The Indian Constitution, Life Writing and Cosmopolitanism," *Life Writing* 3, no.2 (2016); Arvind Elangovan, "The Indian Constitution: A Case for a Non-Nationalist Approach," *History Compass* 12, no.1 (2014).
[87] Partha Chatterjee, "Nationalism, Internationalism and Cosmopolitanism" Some Observations from Modern Indian History," *Comparative Studies of South Asia, Africa and the Middle East* 36, no. 2(2016).
[88] Kama Maclean, "The Fundamental Rights Resolution: Nationalism, Internationalism, and Cosmopolitanism in an Interwar moment," *Comparative Studies of South Asia, Africa and the Middle East*, 37, no. 2(2017)
[89] On citizenship, see Niraja Gopal Jayal, *Citizenship and its Discontents: An Indian History*(Cambridge, Mass.; London: Harvard University Press, 2013); Joya Chatterji, "South Asian Histories of Citizenship 1946-1970," *The Historical Journal* 55 no.4 (2012). On race and mobility, see McKeown, *The Melancholy Order*;Lake and Reynolds, *Drawing the Gobal Colour Line*; John

sovereignty itself was a work in progress, since the India was part of the very first wave of decolonisation – to put it simply, they were making it up as they went along. All of this points to the idea of the refugee as the intersection of many things – the colonial past and the postcolonial future; the universalism of individual human rights and nationalist self-determination; the human versus the citizen in a context that had long been lacking equality; and the various processes of transformation affecting the nature of the international order as embodied first by the League of Nations and then the United Nations.

WHAT IT MEANS TO BE SOVEREIGN FOR INDIA

The nation-state form as it tends to be recognised was born of Western thought and experience, always tracing its antecedents to Westphalia. It globalised in the twentieth century with the 'Wilsonian moment'. The idea of what it meant to be a nation-state, and who decided this had existed long before some parts of the world were admitted to the club. Organisations that could govern their behaviour already existed before the realisation of this status, as the League of Nations agencies had. It also implied that the relationship of the postcolonial state with its citizens was not necessarily a coming together of people who had decided the form of rule so much as the imposition of a popular sovereignty and the creation of post-facto unity. In many ways, democracy was the easiest way to legitimise decisions as the will of the largest number of the people rather than actual participatory politics. Even those acting out authoritarian forms

Torpey,*The Invention of the Passport: Surveillance, Citizenship and the State*, (Cambridge: Cambridge University Press, 2000).

of government in the postcolonial world did so in the name of the people.[90] This thesis examines a period of Congress domination of Indian nationalism in pursuit of development goals. The lens of refugee situations is remarkable as refugees, more than any other group, are a population subject to governmental control in any part of the world. In the nationalist state emerging out of a colonial past, the government would try to mould the diverse population of the state at large into ideal Indian citizens. The relationship forged with its own people versus the treatment of refugees is an interesting comparison and indicates how the former is a means to reify the latter.

In this context, it is important that India was amongst the first of the postcolonial states, preceding those in Africa by more than a decade. It did not fall into the same pattern of postcolonialism, in part because the moment in which it was created was very different. As Cooper reminds us in his study of West Africa, the nation-state was not the foregone conclusion we think it is today. There were many visions of what access to citizenship, sovereignty and their benefits could look like.[91] However, 'Independence in the form of the territorial nation-state became the one alternative on which the colonial powers and political movements could agree.'[92] As he also argues, the nation was being forced to fit the state in much of the 20th century. Forging the nation-state-territory nexus did not keep with the ways in which people live and work. He does, however, identify India as one of the countries in which the 'politics of citizenship' have granted a degree of 'horizontal affinity' rather than the power from the top

[90] Barry Hindess, "Citizenship and Empire," in *Sovereign Bodies: Citizens, Migrants and States in the Postcolonial World*, ed. Thomas Blom Hansen and Finn Stepputat,(Princeton; Woodtsock: Princeton University Press, 2005).
[91] Frederick Cooper, *Citizenship in between Empire and Nation: remaking France and French Africa, 1945-1960*(Princeton: Princeton University Press, 2017)
[92] Jane Burbank and Frederick Cooper, *Empires in World History: Power and the Politics of Difference* (Princeton; Oxford: Princeton University Press, 2010),452.

asserted by the empire.[93] Whether or not we accept Cooper's claims, it makes us wonder if the Indian nation-state was being made up as it went along. Was the new Indian state enacting policies upon its population to make them these united citizens to whom socio-economic advancement had been promised?

In this first wave of decolonisation, the attempt to adopt the now fractured legacy of the Raj that preceded it involved the image of complete control of the territory within the new borders. The idea of hospitality is itself a contradiction, as it requires a certain hostility in the control over the house or nation, which would also imply being more powerful than the foreigner. The foreigner can only ask for hospitality on the terms of the host. It also necessitates control over the foreigner, otherwise the host risks becoming a hostage to the other.[94] However, hospitality in the postcolonial case would differ from this aporia in an initial lack of control over who could cross borders. Besides this, Derrida's idea of hospitality is rooted in a fear of the other— but it is also possible to welcome those who are recognisably different rather than solely greet them with fear. This is a welcome based on certain needs, which the alien shares with the host, despite the other differences.[95] Rather than hostility, shared need might lead of us to the idea of a shared humanity. It was not always a uniform hospitality, because of the concerns of the nation-state. Instead, this would be accomplished in a way that treated incoming groups in accordance with a potential to either fit into or assist the national project, rather than in the

[93] Ibid,453.
[94] Jacques Derrida and Anne Dufourmantelle, *Of Hospitality*. (Stanford: Stanford University Press 2000).
[95] For an argument against universalising the hostility supposedly inherent in hospitality, see Anne Norton, "Democracy," in *On the Muslim Question*(Oxford and Princeton: Princeton University Press, 2013), 118-140.

Manichean terminology of the Cold War that divided the world into communist and western democratic camps.

The desire to maintain its position outside the regime, as noted in the following chapter, preceded the form that government was going to take. The issues of 'discipline' in the political life of the Indian national state had not yet played out. These decisions were rooted in a moment of internationalist influenced nationalism. The inequalities experienced by Indians in empire were clearly based on a racialised hierarchy, which begs the question of racialised thinking in the new government. This thesis does not claim the Indian state, in this period, was thinking in racial and ethnic terms so much as about who they shared a common past with. In that context, the government was establishing who was to be part of the development promised by the acquisition of this new state. The mistrust of the European refugee examined later in this thesis was more of a reaction to the exclusions born of transnational whiteness and the nation-states that came out of it, rather than an idea to be emulated in reverse.

The reactions to displaced persons crossing Indian borders reflects a meditation on citizenship. Eventually the clock ran out on shared history as the basis of inclusion resulting from Partition and decolonisation, and was replaced by citizenship of another state as an individual choice . Those who were seen not to belong were treated differently from those who did, regardless of the expected duration of their stay, all against the backdrop of a changing idea of who could be Indian. If participation in civil society, even mediated in through political society and modernity, was the ideal, then this was an exercise in controlling who had the power to influence those allowed to govern. This was significant as India's envisioned democracy

entailed sovereignty resting with the people. The Indian state was attempting to seize for itself the promise of liberalism, finally weeding out the racial and civilizational superiority that had barred its people before. The contradiction of the Indian state was that it required the nation-state for its assertions of the universal, and therefore the figure of the refugee could not be codified as it had a foot in both camps. In being a subject for universal concern and international governance, the refugee became a threat to the democratic nation-state governed for and in the name of the Indian people.

OUTLINE

The Indian nation-state was formed in international and domestic contexts. This thesis seeks to go beyond understanding India's actions as simply ad-hoc, instead examining whether an alternative conception of the refugee existed in the Indian imaginary, and its practice, law, and norms. I do this by looking at refugee crises and through them at questions of belonging. I will examine where asylum lies in the transformation from a former colony to a postcolonial democracy in the international order of the Cold War.

As India often reiterated, it was not 'suitable' for Europeans.[96] This refrain began in the 1940s, with India's refusal to become part of the International Refugee Organisation and would consistently find mention in any discussion on the matter. This frequent statement places India's understanding of refugees with her colonial past. In 1943, for example, as a manmade famine

[96] BLAM, IOR/L/PJ/8/445, United Nations Economic and Social Council: Special Committee on Refugees and Displaced Persons: discussions on proposed International Refugee Organisation, 1946-47.

ravaged Bengal, the Government of India spent a huge amount of money on 50,000 European evacuees and dependents of British subjects from enemy occupied territories. These refugees received financial aid to start businesses or take up a trade.[97] Even within the subcontinent, Indians were treated as inferior to the Europeans. This begs the question of how India's subsequent understanding of her place in the world fitted into her asylum policies.

India's abstention from the 1951 Convention is said to be due to the UN's non-recognition of the refugees of Partition. Most histories see Partition as the defining moment in India's refugee policy. This thesis will push back the timeline to ask what was happening with movements of people during the Raj, and how this shaped independent India's understanding of refugee status. Partition was a specifically domestic approach to refugees, and as such, stands as the exception to India's longer refugee histories simply by virtue of acknowledging the refugee as one who belonged. The 'refugees' of Partition were citizens of the Indian state, displaced from Pakistan into the state where they supposedly rightfully belonged. Other groups did not and were 'refugees' because they could not be part of the nation's fabric. The 1946 Foreigners Act remains until now the only legislation (subject to amendments) that deals with aliens in India, from displaced persons to tourists, and predates even the expectation of mass migration.[98] Indians had written asylum out of the story even prior to the creation of the new state. The story begins, as we have seen, with the prospect of the nation-state rather than its ultimate realisation.

[97] "India's Help to Evacuees," *Times of India*, Sept. 29, 1944, 8.
[98] The 1948 Foreigner's Registration Act does not contradict this act, but mandates records for these aliens in India.

The term refugee meant different things to the Indians at different points in time, and these meanings were tied to how groups of displaced people related to the sovereign Indian state. I look at how those empowered to design India's refugee policy understood and shaped this concept with relation to the international order. This was done in response to domestic concerns, but remained in the hands of the Nehru-Gandhi family and those who worked closely with them. The timeline of this thesis corresponds roughly with the Congress elite's hold on the state, prior to the fuller realisation of political society in the 1970s and 80s and the simultaneous rise of more pragmatic electoral politics.

In terms of primary sources, my thesis is based on archival material from the National Archives of India, the Nehru Memorial Museum and Library, the British Library, and the archives of the Office of the United Nations High Commissioner for refugees. It also uses the Times of India archives to trace the progress of national events. Besides this, it makes extensive use of memoirs, speeches and publications of prominent figures tied to the Indian policy-making, as well as published material produced by the Government of India.

The thesis examines how a conception in one part of the world, in this case the West, is transformed by experiences in another part of the world. In turn, these experiences contribute to shaping the future transmission of this idea. I examine refugees and their association with rights, citizenship and self-determination.

In a piece on the nature of sovereignty and democracy, Dipesh Chakrabarty tells us that Nehru was aghast at flag-trampling and violence by students at a protest in 1955. Chakrabarty

highlights Nehru's puzzlement at this violence against a democratic state whose aim was to improve the lives of its citizens. He thought the students were indulging in a form of politics more suited to the anti-colonial agitation of the past. This was when the Nehruvian state was trying to find a new form of politics different from this previous anti-colonial form. This politics could not challenge the sovereignty of a new state devoted to development. Indians were no longer subjects bereft of popular sovereignty, but citizens with a direct relationship with the state. Nehru thought citizens were meant to support this state rather than act independently from or against it. In a society marked by differences, he hoped that India's new citizens would abandon the methods of anti-colonial protest.[99]

Welfare and economic advancement for the all was a principle of the new state, one that defined the duties of citizens. This highlights the intertwined nature of the right to welfare and the duty to the state. The idea of a deserving citizen versus charity or gifts of relief and assistance finds some of its roots in the debate on the nature of social and economic rights in the states. The Indian state might have been formed in response to inequalities in empire, but what about inequalities within the territory of the new state? Debates on the Indian constitution involved a discussion of the inclusion of social and economic rights. They were eventually left out as it was assumed that it would be contradictory to the nature of democracy to constitutionally determine the methods by which the state pursued development and distribution. What this eventually led to, as Gopal notes, is a situation in which those who received social and economic protections of some sort were not seen as entitled to it in the pursuit of equality. Instead, they were 'undeserving citizens' who relied on handouts from the state rather than part of a reciprocal

[99] Dipesh Chakrabarty, ""In the Name of Politics": Sovereignty, Democracy and the Multitude in India," *Economic and Political Weekly* 40, no.30 (2005).

engagement.[100] The absence of a welfare state in India allowed for inequalities to be addressed in the language of gifting. If persons from historically and socio-economically underprivileged communities and minorities were already treated in some way as different and lesser citizens due to an acceptance of these 'gifts' of the state, then the very existence of non-citizens within the state made them objects of its mercy and subject to its whims. Malkki points out that using a universalising term like refugees removes the specific histories and contexts that create displacement. It is derived from efforts to depoliticise these situations and has the ability to silence the specific experiences of refugees.[101] Resisting the blanket development of the term became a means for the Indian state to act in its self-interest by politicising, depoliticising and constantly renegotiating the position of a displaced person within its territorial boundaries. To universalise the definition would erase the individual or group's relationship to the society whose territory they were entering– the Indian story tells us what happens when this umbrella application is resisted.

An interesting question raised by geographers is how internationalism in the abstract manifests itself in specific moments of space and time. In particular, attention has been drawn to how the experiences of decolonising countries tend not to be counted for as examples of the enactment of an otherwise abstract internationalism. [102] While this thesis does not attempt to posit a response to the larger matter at hand, it examines a specific moment that an abstract idea that was being mediated by international order would play out in the specific context of a state

[100] Gopal," Pedagogies of Duty, Protestations of Rights," in *Citizenship and its Discontents,*109-135.
[101] Malkki,"Speechless Emissaries: Refugees, Humanitarianism, and Dehistoricization," *Cultural Anthropology* 11, no.3 (1996).
[102] Jake Hodder, Stephen Legg, Mike Heffernan, "Introduction: Historical Geographies of Internationalism," *Political Geography* 49, no. 2(2015).

in transformation from a colonial to national form, and in turn how this would play back into the larger abstract vision. It used the refugee as a site of contention between the abstract idea of the human versus the realities of the human experience playing out in a state created by the first wave of decolonisation. The idea of foreign policy itself draws a border between what affects the domestic and what affects that outside of this domestic. It is significant that the separation is an ideal rather than reality.[103] In this particular scenario, the refugee is one who belongs outside this domestic, but is inserted into it by circumstance, and therefore a clear assertion that the foreign and the domestic are intertwined. If anything, in the specific time and place of the transformation of the Indian state, this presence of the foreign was a prelude to understanding the domestic. It is equally significant in that it manifests at various scales- the internationalism of the world order, the transnationalism of empire and diaspora, the national of the government, and the local of the people and lower level officials, and finally the individual. This was not a new phenomenon on the subcontinent, and indeed the League of Nations sovereignty had been in contention with that of the empire. In many ways, it is interesting to see how there is an acceptance of a level of activity and the international and transnational scales, but a conscious effort to restrict control to the level of the national/domestic.

India's idea of rights, like that of self-determination and the nation, was in conversation with global discussions. It was self-conscious of its origins being in other parts of the world, and that it did not follow the same sequence as them in their arrival and evolution. The very awareness of how the same ideas would apply differently is where the conception of the refugee

[103] Abraham," Introduction," in *How India became Territorial,* 1-18.

lies: a familiarity with the ideas, but how would they rest against the other because of the moment in which they find application in the Indian context?

In eliminating successive waves of displaced persons from any form of aspiration to belonging in India's citizenry and civil society, the state was maintaining control of who it would act for rather than submitting to international definitions. This supranational order of the UN was not perceived to include India and postcolonial states wholeheartedly in its determination of what it meant to be part of an equal order. An ability to redefine who the refugee was is therefore both a challenge to the West's sole ability to determine that category, but also a means of disagreeing with that club's meaning of who the Indian citizen was and therefore who had claims on the state. Various works have discussed the Partition of India as a significant moment in the transformation from imperial subjecthood to citizenship.[104] This process, as the third chapter of this thesis explores, closely involved the idea of the refugee in bureaucratic forms and involved a degree of control similar to subjecthood in the moulding of the citizen. But as we know, citizenship in empire did not necessarily imply the same rights or even the same guarantees of those rights- citizenship was a site of debate.[105] This site of debate involved creating parameters to test against. But it also lay in the postcolonial conundrum of governmentality, for a government was acting on its population for its welfare, in part by excluding others.

[104] Gopal, *Citizenship and its Discontents*; Chatterji," From Imperial Subjects to National Citizens: South Asians and the International Migration regime since 1947," in *Routeledge Handbook of the South Asian Diaspora*, 183-197.
[105] Cooper, " Citizenship and Empire- Europe and Beyond," in *Citizenship, Inequality and Difference: Historical Perspectives* (Princeton: Princeton University Press, 2018), 41-92.

This thesis explores the question of rights in a state which was theoretically created to acquire those rights denied in empire. Why does there have to be a distinction between the rights of a citizen and the rights of any human within the borders of the nation-state? And specifically, why is important to divorce the refugee from any legal rights stemming from a recognition of their status?

CHAPTERS

The introductory chapter has demonstrated some of the processes at work prior to the Second World War in India, related to movements of people, humanitarianism, and internationalisms. The next chapter in this thesis is set in the 1940s. This decade was significant both as the world transitioned from the Second World War to a new peace, and because India went from colony to independent nation-state. India declined to join the International Refugee Organisation (IRO), and had withdrawn from UNRRA, all prior to the mass migrations of partition. The only law codifying the presence of aliens in India, despite future amendments, was passed in 1946. It places India's idea of refugees within the international moment in the aftermath of the War and the peace that a new international order was trying to frame. In examining the challenge to the liberalism that underpinned both empire and the international order of the League of Nations, this chapter allows for an examination of a decolonised nation-state's vision of internationalism in order to protect the rights of its population that had been denied in empire. It rested on a certainty that despite their victimhood, European refugees threatened the equality – both economic and otherwise – in the international order that the Indian citizen to be aspired to in the eyes of the new nationalist government. In doing so, we realise the grip of the idea of the

nation-state, and membership of this state, as the sole guarantor of rights. It provides the basis of an alternative genealogy of human rights, including that of asylum, based on observations from a different vantage point.

The third chapter will look at the refugees of Partition, specifically how they were understood in relation to the secular, democratic, development-oriented state envisioned by Nehru's government. The idea is to understand how those empowered to shape refugee policy – the Nehruvian elite – approached displaced millions while dealing with problems of the economy, Hyderabad, and Kashmir within the context of determining what the Indian successor state to the Raj was to look like. In the narrative of citizenship, the term 'refugee' was used deliberately to define those the state felt it owed something to. Everyone else, if assisted, was subject to the kindness and charity of a government stretched to its limit building the new nation. Refugees from both sides of the border were not allowed to 'wallow' and become a burden, instead being encouraged to become proactive citizenry of the new nation. Even more than any other citizen, their circumstances allowed the state greater control over them to try to remake the refugees into ideal citizenry. The refugee would become the object of governmentality, and in turn formed the beginnings of resistant politics, albeit one which was more easily subjected to government policy. Any subsequent dissent or complaints against the state would be dealt with in a fashion that would try and bring back the displaced persons back within the Nehruvian vision of the state, even as opposing visions of the state tried to co-opt the refugees to push their own vision of the state. In many ways, the refugees of partition became a microcosmic site of action for the domestic ideologies of the Indian state, blurring the line between subjecthood and citizenship despite the nature of the government in-charge. To build the refugee was to build

the state. In this context, the vision of the host as different from the guest is completely shattered because the refugees are part of the national self. It also opens up the idea of reciprocity, in a more nuanced hierarchical form.

The subsequent chapter will look at India's approach to refugees who were recognised as such by the international regime versus the returning diaspora who were part of the fallout of decolonisation. The circumstances of Tibetans refugees in India in the 1960s attracted international recognition. The question of their asylum provoked domestic debate about India's relations with China and had implications for India's vision of non-alignment, particularly regarding how human rights and self-determination would be brought together in the changing post-colonial world. Ultimately the Indian government led by Prime Minister Nehru would focus on the Indian state's right to grant Tibetans asylum and assistance with limited involvement from the international community, with public opinion calling for the group right to self-determination in Tibet. Simultaneously, the Nehruvian vision of non-alignment was undergoing a change from its immediate post-colonial form. This was in stark contrast to the returning Indians from Burma, who were termed 'repatriates' in the early 1960s despite being treated similarly to the refugees of partition. The term 'refugee' no longer implied belonging to the Indian state as it had in the first 15 years of its existence. The Indian government tried to draw a clear line between those displaced by India's own decolonisation and partition, and a crisis that was a thorn in the side of Sino-Indian bilateral relations in the bipolar world of the Cold War. The 1960s can therefore be seen as India's reframing of the term 'refugee' to reflect its own interests domestically and internationally.

The final chapter will look at India's approach to the influx of millions of East Pakistanis into its territory in 1971. Early into the crisis, India had appealed to the International Community for assistance. To India's mind, the project of Partition was complete, and she was not prepared to accept a massive influx from the Bengal borderland in the vein of Partition's refugees. The Indian state insisted that these were Pakistani citizens in Indian territory, rather than a last migration from the Partition of India whose belonging would therefore be premised on religion. This chapter aims to understand the place of 1971 in India's relationship with refugees who did belong to the subcontinent but who did not belong in India as they were citizens of its fellow successor state to the Raj. It also highlights its relationship with the United Nations High Commissioner for Refugees, which was the international community's primary means of engagement with the subcontinental crisis, while calling for an effective end for Partition in the insistence on complete refugee return. Effectively, India was attempting to understand where humanitarian impulse met realpolitik, in a total reversal of its attempts to depoliticise the Tibetan refugee presence.

This project started with migrations within empire and how they correlate to a lack of equal rights. It finishes in 1971, with the project of Partition finally deemed to have come to a decisive end, when the East Pakistani refugees were seen as disenfranchised citizens of Pakistan rather than Hindus or Muslims belonging to either former portion of the Raj. It argues the idea that India's refugee story predates partition. Further, ending the story of partition with the return of the East Pakistani refugees to Bangladesh signifies a completion of the idea of the refugee as not belonging. The Indian state had achieved its intended secular-democratic form in an ultimate victory against the two-nation theory its Nehruvian architects had rejected.

By the Second World War, it seemed as though Indian borders were kept porous to help solidify the white settler dominions' right to define their own community, as a place to park the unwanted other that was essential to the definition of their national self. Indians displaced back to India from other parts of the empire, no matter what the cause, were encouraged to go to 'their places'. Those recognisably European were treated more closely in accordance with international norms, and often much better than Indians within their own homeland under the Raj. The matter of refugees concerned the borders that had become symbolic of the nation-state's sovereignty. In deviating from international approaches to refugees, going so far as to exclude the term from contemporary legislation, the independent Indian government was ensuring that India's borders would no longer be used, even on humanitarian grounds, to help determine any other nation or nation-state's idea of community over the rights of its own people.

This thesis is a study of deviations from European experience-based notions of hospitality, and how it is manipulated in this new context.[106] The greatest reason for doing so is that the host or nation-state that we are speaking of has not yet been defined, nor does it seem certain that it speaks as one uniform bloc yet. Further, in this situation, there is the overarching notion of reciprocity implicit in a gift. The notion of the gift is intersocietal, and predates a world composed of nation-states. Further, an unequal power relation is created by a failure to reciprocate with a gift of equal value.[107]

[106] Derrida, *Of Hospitality.*
[107] Marcel Mauss, *The Gift: The Form and Reason for Exchange in Archaic Societies*, translated by W.D. Halls(London: Routeledge, 1990). In particular, I found the concluding chapter useful.

Amongst those who were indubitably Indian, access to social and economic rights became markers of a 'gift' that was not reciprocated by 'undeserving' citizens, having the effect of legitimising the inequality of minorities and those from historically socio-economically oppressed communities within the new democratic state. In removing social and economic rights from Indian citizens, we are allowed a window into how a partial absence of rights leads to an unequal power relation. In refusing to be part of the refugee convention, the Indian state's assistance to refugees would also fall into all assistance in the form of a gift – leaving the choice of form to the state.

Gift-giving is always, in some way, coloured by self-interest. This self-interest, combined with the obligation that gift-giving places on the recipient, puts the person providing the assistance in a position of power to outline how deserving the recipient is. In the context of the Indian nation-state, it is interesting that it eventually came to utilise the idea of the refugee as used by the International regime by the end the East Pakistan crisis of 1971. But prior to this, the state seems to be in interaction with the notions of power relations of the gift of relief and refuge, rather than a normalisation of hospitality of the nation-state. The gift of hospitality is tempered by the process of figuring out who the citizen is, and it is only with some form of concrete realisation of the end of colonisation that the conundrum seems to settle and a more European understanding of the nation-state and its hospitality seems to begin to apply.

All of this points to the notion of two ideas born in the West being transformed in this theatre. The first was the Wilsonian notion of the nation-state and self-determination, while the second was human rights. I suggest two operations at work – one was maintaining an

independence from the international order that was based on Eurocentric experiences. The other was the state's relationship with the refugee populations as an object of policy while navigating their relationship with citizenship. The idea of reciprocity pervades the case of refugee situations or indeed in any larger assessment of humanitarianism, if in the guise of self-interest or self-preservation. Unconditional hospitality is impossible. The Indian state's 'gift' of refuge would then make these groups subject populations rather than necessarily sharing in the sovereign power of the state, made possible only by the situation of citizenship in flux in the decolonising world.

"UNSUITABLE FOR EUROPEANS": REFUGEES IN THE 1940S

> Such a union can have nothing to do with imperialism or fascism and must be based on the fullest democracy and freedom, each nation having autonomy within its borders, and submitting in international matters to the union legislature to which it sends its representatives.[1]
>
> - Jawaharlal Nehru, June 1939

Indian visions of the International order during the Second World War would remain closely tied to nationalism. This was no narrow vision, and extended beyond the Congress' realisation that functioning as a junior partner in the British internationalist machine was not to India's advantage. A new internationalism had to be created for the new world order of the United Nations, for 'its [League of Nations'] democracy was a cloak for the subjection of many peoples and nations.'[2]

This statement on the ideal nature of the United Nations is particularly significant in our understanding of the refugee in the Indian context. The idea of the refugee was written in and by the West: agencies to deal with the 'problem' were born in Europe after all. India and Pakistan did not sign the United Nations Convention on the Status of Refugees in 1951, whose definition excluded the mass migrations of Partition. The Foreigners Act of 1946, re-created by an Indian nationalist government in response to the aftereffects of the Second World War, did not recognise refugees as distinct from any other alien. It predated Partition's migrations and associated relief measures, which have traditionally been considered the starting point for

[1] Nehru, *The Essential Writings of Jawaharlal Nehru vol II* ed. S.Gopal and Uma Iyengar (New Delhi: Oxford University Press, 2003), 217.
[2] Ibid.

independent, nationalist India's refugee approaches. India's nationalist government withdrew from the premier international humanitarian organisation UNRRA soon after gaining control of the government. It also refused to be part of the International Refugee Organisation which had a geographically wider definition of the refugee than the 1951 convention. This chapter asks why India opted out of international humanitarian definitions and efforts, particularly refugee related ones, even before the mass migrations and the 1951 convention. It puts the question of the refugee and alien within more global currents rather than immediate subcontinental conditions: at the heart of which decolonising India's understandings of internationalism and the humanitarianism born of international cooperation were. Essentially, it examines what prompted the removal of a particular kind of internationalism as the basis for dealing with refugees.

The desire for equal rights required the Indian state to close off the right to asylum as collateral damage in order to preserve the nation-state. This was to protect its newfound voice to argue for equality in a World Order where it was amongst the very first decolonised states. At the time, the decolonisation and inclusion in the UN of peoples in other colonies was not an inevitability.

In addition to the 1951 Convention, the Indian state never signed the1967 Protocol either, nor does it have a domestic law codifying refugee status and treatment. Despite this, India has hosted significant numbers of refugees. These refugee groups have been treated differently from one another – some with direct government assistance, others with far less. The absence of a formal framework allows for refugee situations to be dealt with on a case-by-case

basis. Sarbani Sen has noted, 'the status of refugee populations in India is somewhat precarious in that it is based on the tolerance and goodwill of the Government rather than on the law.'[3] Occasional interactions with the International refugee regime were also conducted on the Indian government's terms. India's refugee responses have been characterised as ad-hoc or, more notably, as 'strategic ambiguity' by B.S. Chimni. While this characterisation is indubitable, rather than being random acts of self-interest, it is possible to understand India's approach to refugee responses as part of a larger understanding of its place in the international order.

India's approach to refugees lies at the intersection of the Nehruvian conception of One World and the nationalism required to bring about a sovereign nation-state in India. It is premised on the idea that the histories of human rights, humanitarianism, and minorities need to be accounted for separately even though they are not necessarily mutually exclusive –needs and rights, though distinct, are not always separate.[4] As we examine India, we find that the ideas of need are articulated, but that humanitarianism, as understood in the 1940s by the 'West', do not seem to address Indian needs at all. This pushes India towards the development and use of its own resources for its people's progress. Further, the question of rights also develops an alternative genealogy here, closer the Rights of Man vision based on citizenship and collective pursuit of progress and 'need', instead of progress of the individual. The original proclamation of the Rights of Man was associated with the state, nation and citizenry. This version emphasised the collective as the basis for these rights, rather than the individual– the latter's rights derived from membership of a larger entity. Human Rights as we understand them today,

[3] Sarbani Sen,"Paradoxes on the International 'Regime' of Care : The Role of the UNHCR in India," In Ranabir Samaddar (ed.), *Refugees and the State* (New Delhi:Sage Publications,2003), 398.
[4] Laqua, *Inside the Humanitarian Cloud*,180.

and as are enshrined in the Universal Declaration, are theoretically the entitlement of every individual regardless of membership of any state. Rather than seeing the 1970s transnational shift to humanitarian actors – often from the West – tending to the needs of people in states that seem unable to provide for their people, this is an effort at looking at how these ideas intertwine in the 1940s to address both needs and rights.

The 1951 Convention on the Status of Refugees was negotiated and signed in the middle of the refugee rehabilitation resulting from the Partition of the subcontinent into two new states. Most literature on the subject treats this as India's first major interaction with those displaced across national borders. Pia Oberoi's *Exile and Belonging*, the only book-length work on South Asia's refugee regime, starts with these mass migrations.[5] However, independent India was one of the successor states to a previous entity, the British Raj. In the mid-1940s, India was dealing with the consequences of the Second World War, and Indian nationalists were preparing for independent government after a long anti-colonial resistance. The new state would come into being in 1947, and its constitution would be adopted in 1950. It would inherit colonial methods and institutions, which would be altered to varying degrees to govern the post-colonial state.

REFUGEES AND THE SECOND WORLD WAR IN INDIA

The Foreigners Act was passed under the aegis of the Home Affairs ministry in the Indian nationalist led Interim Government. In the Gazette of India of November 1946, Home Minister

[5] Pia Oberoi, *Exile and Belonging:Refugees and State Policy in South Asia* (New Delhi : Oxford University Press, 2006).

Vallabhbhai Patel identified it as a response to the experiences of the Second World War.[6] Despite the presence of 'refugees' and 'evacuees' in India as a result of this war, they find no special mention in this act. Along with the Foreigners Registration Act of 1948, it is one of two laws that deals with any alien in India, from tourists to refugees. The definition of alien precedes the definition of the Indian citizen – indeed, the alien is identified before the sovereign state of India is.

Paula Bannerjee's work on pre-independence India's experiences with aliens discusses the colonial origins of the Foreigners Act and related legislation as a means to control who was a subject of the state. The 1946 Act saw this control pass into the hands of an Indian nationalist government. The refugee was absorbed into the larger umbrella concept of a foreigner or alien. It created an ambiguity where the state could assert a moral responsibility of charity and humanitarianism rather than a legal one. It allowed the state to respond to these situations in a reproduction of colonial methods of controlling movements of people.[7] Identifying who did not belong was not an overnight procedure nor did it emerge in a vacuum. In the previous chapter, I discussed how imperial citizenship had failed Indians, and equality before the law did not translate to equal experiences. Indians were not even citizens enough to merit equal treatment at home. If anything, their policy towards aliens was either a reaction to or an imitation of forms of the exercise of sovereignty by other 'nation-states' – the colony was responding to the prevailing manifestation of the international order, which focused heavily on the nation-state in the interwar years. These other nation-states, particularly white settler colonies, had used their

[6] The Gazette of India, part V, Nov. 9, 1946, 254-8. http://egazette.nic.in/WriteReadData/1946/O-2374-1946-0000-110607.pdf [Last accessed 3 February 2019].
[7] Paula Bannerjee, "Aliens in a Colonial World" In Samaddar, *Refugees and the State*, 69-104.

right to sovereign self-determination to send unwanted citizens to places like India at the expense of these non-self-governing areas.

While there was some sympathy amongst the British regarding the inequalities faced by Indians in the Dominions, there was no recognition of these same inequalities within the Indian subcontinent.[8] Indians did not even merit equal treatment at home. India had been receiving stateless persons, exiles, refugees, evacuees, internees etc. at least since the beginning of the twentieth century, if not much earlier. This chapter will not deal with the multiplicity of terms used for these people, but for the sake of convenience will use the term 'refugee' for all those displaced across international borders.[9]

Many who did not meet the traditional definition of statelessness we now associate with refugees were objects of 'refugee' relief anyway. The Second World War involved India in refugee policies in a myriad of ways, utilising older transnational connections and forging new ones. It helps to understand how those who would govern and legislate for independent India saw stateless and displaced persons from Europe as Indian independence and government were born out of the circumstances of this War.[10] It was both a question of who the European refugee in India was, and the differences between Europeans and Indians in their experience of relief and rehabilitation post-displacement. This occurred at a time when the racial supremacy inherent in the civilising mission, and which was used to deny self-government in the colonies, was being challenged by contemporary events. Japanese victories at the expense of the Allies

[8] Gopal, "The Subject Citizen: A Colonial Anomaly," in *Citizenship and its Discontents,*27-50.
[9] Khan, "Wars of Displacement," In Michael Geyer and Adam Tooze (eds.),*The Cambridge History of the Second World War* vol. 3, (Cambridge: Cambridge University Press, 2015), 277–97.
[10] Ibid, *The Raj at War.*

in Southeast Asia damaged the myth of the white man's superiority.[11] Refugees became a site of contestation for this imperial notion in the face of the British Empire's collapse in the East, for it was being enforced as it was being disproven.

As the Japanese gained ground in South East Asia, residents were evacuated to India. The All India Congress committee publicly criticised the treatment of Indian evacuees from Malaya and Burma.[12] It was particularly appalling to them that luxury quarters were being found for the Europeans displaced from the East, while Indians were left to the mercy of non-official bodies and distant family.[13] Nehru saw this discrimination in the treatment of the refugees of 1942 as a symptom of racialism and imperial arrogance.[14]

Europeans were perceived to have been given preference in terms of escape routes and the urgency of evacuation. The British responses to charges of discriminatory treatment were callous, even chastising Indian evacuees for giving 'self-pitying' interviews.[15] Those in charge of refugee activities were often British, complete with the British astonishment at India's lack of enthusiasm for the moral high ground of a war against fascism. Though many of subcontinental origin fleeing the Eastern theatre were not cared for by the government, requests

[11] Lake and Reynolds, *Drawing the Global Colour Line,*340-341.
[12] See "Treatment of Refugees,"*Times of India*, May 1, 1942,7.For a detailed account of the Indian exodus from Burma and how this groups was treated, see Tinker, " A Forgotten Long March: The Indian Exodus from Burma, 1942," *Journal of Southeast Asian Studies* 6, no. 1(1975).
[13] Nehru, *Selected Works of Jawaharlal Nehru,* vol.12 (New Delhi: Jawaharlal Nehru Memorial Fund 1979),167.
[14] Nehru Memorial Museum and Library (Hereafter NMML), Jawaharlal Nehru (pre-1946), Statements by him 315.
[15] Ibid.

from other parts of empire to settle Jews and aliens from Palestine in India continued to be entertained. [16]

Evacuees and refugees from the Baltic states and other parts of the empire also made it to India. These refugees and/or evacuees technically held British passports. Often, these passport holders surprised the officials themselves, who concluded that their citizenship was purely legal and inherited from a distant British patriarch. Groups like the Maltese posed a particular problem. There was much debate in London about where to send them as other parts of the empire did not want them. Eventually, they were dispatched to India, though even here with some trepidation. [17] They were refugees in India due to their imperial citizenship rather than complete statelessness. The presence of state-issued travel documents like passports indicates the flexible use of a bureaucratic category.

These groups were not treated in traditionally humanitarian or charitable ways. Upon arrival in India, 'refugees' were required to sign an undertaking that they would repay the Government of India the costs incurred to house and maintain them within the country.[18] Once any group reached India, and repatriation was unwanted or unlikely, resettlement was subject to the standard rules of immigration within empire rather than treated as a special category. Most of the time, immigration conditions were less expensive than those for Indians. European refugees who were established as specialists were easily recommended for resettlement in other

[16] National Archives of India(Hereafter NAI), MEA, War Branch, 35(7)-W/41 (Secret).
[17] BLAM, IOR/L/PJ/8/433, Maintenance of British nationals evacuated from Far East: general 1942-36.
[18] Ibid,IOR/L/PJ/8/390, Evacuation and repatriation of British nationals from Hungary, the Balkans, Turkey and Syria, 1944-47.

parts of the Empire, in particular in white settler colonies like Australia and Canada.[19] Until 1947, aliens in British India could become naturalised citizens too.[20] In 1942, limited numbers of refugees could be 'repatriated' from India to South Africa. Evacuees from Malaya could apply if British by birth and of pure European descent, and if they met other Union Immigration conditions.

A large number of the Polish refugees in India were children. Camps were set up in Balachadi and Valivade for these refugees, and the Jam Saheb of Nawanagar became involved in their care. These were set up at a small fraction of the cost for those established for groups like the Maltese. For many of the Poles, India would become a 'second homeland', particularly given the political upheavals and uncertain status of the Polish government-in-exile. They were loath to leave at the end of the war, to the consternation of the new nationalist Indian government.[21] Despite the previous British Indian government's reluctance to have them in the first place, and the new government's desire to see them leave, the Poles had achieved some measure of stability within India with significant assistance from an Indian prince. It did not help that the Poles were one of the few groups within India who benefited from the United Nations Relief and Rehabilitation Administration (UNRRA), which the average Indian did not.

On paper, the British Indian government discouraged the European refugees from finding work, so that they would not 'take the bread out of Indian hands' and in part because

[19] Ibid, IOR/L/AG/40/1/136, Correspondence: Refugee and Repatriation files, mainly of the Government of India, Date Unspecified.
[20] Ibid, IOR/L./AG/40/1/133, Correspondence: Refugee and Repatriation files, mainly of the Government of India: RRO/B 5-48, Date Unspecified.
[21] Anuradha Bhattacharjee and Franek Herzog, *The Second Homeland: Polish Refugees in India,*(New Delhi: Sage,2012).

their presence was based on humanitarian considerations. [22] In reality, War Services and the army encouraged their employment. Refugees camps employed their residents in several offices. It was only government office that was avoided. In camps, European refugees were provided classes in vocations like dressmaking, knitting, carpentry, farming, typing etc. Eventually, only poor unskilled refugees remained in these camps rather than living where they had found jobs as regular residents of India. These were largely the Maltese and some of the refugees from the Balkans, who even upon arrival had been suspected of being unable to repay the government for their relief and assistance.[23] They were confined as they were thought to be too apathetic and ignorant, or because they did not speak English.[24] Yasmin Khan notes in the context of the second World War that 'The refugees unsettled the conservatives of the Raj as impoverished white Europeans on the streets became another visible sign that the white man was not invincible.'[25] These efforts, both towards respectable employment and towards confining refugees point towards maintaining the myth. These were the very grounds on which Indian people had been denied mobility and equal treatment in empire.

Those displaced Indians who were accounted for by the government were usually employed in unskilled jobs like the repair and reconstruction of roads, irrigation works, and railways.[26] The question of training never really arose for Indians 'returning' from other parts of the empire. In the case of the Indians evacuated from Burma and Malaya, Nehru urged that the government follow a scheme of the Punjab government where skilled and semi-skilled men

[22]BLAM, IOR/L/AG/40/1/131, Correspondence, 1940.
[23] Ibid, IOR/L/PJ/8/433, Maintenance of British nationals evacuated from Far East: general, 1942-46.
[24] Ibid, IOR/L/AG/40/1/131, Correspondence, 1940.
[25] Khan, *The Raj at War*,125.
[26] "Madras Council Supports Action Against Congress," *Times of India*, Nov. 20, 1930,11.

were found suitable employment too.[27] The Congress had calculated that more Europeans had been employed than Indians fleeing from Japanese occupied South-East Asia.[28] The lion's share of displaced Indians were left to their own devices by officials of the Raj.

The British Government of India arranged to have the Indian evacuees sent to 'their respective places'.[29] How these places were established is unclear, but this was presumably on the basis of the home village of the ancestor who had first moved to South East Asia in the case of Indians who had never lived outside of Burma or Malaya. Relief activities were often left to local organisations, rather than the government. The Madurai Oorkappu Sangam complained to the Indian Overseas Member that many of these people returned to ancestral villages with no relations or prospects of employment. Funds were collected from the public, because government action was inadequate under these assumptions of 'homecoming'.[30] In contrast the Government of India spent 90 lakh rupees on 50,000 evacuees and dependents of British subjects from enemy occupied territories in 1943.[31] These refugees received financial aid to start businesses or take up a trade as part of a scheme that had been set up in 1942.[32]

When lacking documentation that entitled the stateless to visas, finances came to play an integral role. This was a privatisation and transnationalisation of humanitarian activity to an extent. Jewish refugees from Austria and Germany in India appear to have been allowed to stay when able to offer guarantees of maintenance while in the country. This was through

[27] "Refugees from Burma," *Times of India*, Apr. 29, 1942, 4.
[28] "Indian Evacuees from Burma: Pandit Kunzru's Allegations," *Times of India*, May 7, 1942,7.
[29] "Big Contingent of Refugees," *Times of India*, Sept. 6, 1938, 9.
[30] NMML, M.S. Aney Papers, Subject File 3.
[31] The equivalent of approximately £195,300,000 today, or roughly £4,506,000 in 1943.
[32] "India's Help to Evacuees," *Times of India*, Sept. 29, 1944, 8.

organisations like the Jewish Relief Committee and the Jewish Relief Association in the port cities.[33] As the final destination of the ships carrying Jews was the Far East, a financial sponsor played a decisive role in changing where they disembarked.[34] The refugees could not land in India indiscriminately. Visas were dependent on proof that the refugee could maintain himself or could find a guarantor in India either through previous connections, or by the ethno-religious solidarity of bodies like the Jewish Relief Committee.

It appears to have been important for newspapers to report that the Jewish refugees 'are confident of adapting themselves to in this country and are willing to work hard.'[35] Despite their identity and reasons for statelessness and support in India due to their religion, they were also identified by their nationality- German. There was a degree of resentment that the German Jews secured jobs as doctors, dentists, and as expert advisors to Princely states.[36] Again, these refugees found sanctuary based on private support both in terms of guarantees for maintenance and help in setting up new businesses or finding employment. This was not new to Bombay, whose affluent communities, particularly the Parsis, had engaged in similar activities for a long time. It also recalls earlier experiences with the refugees of the First World War, when the International Refugee Regime could only request states to help repatriate and resettle the Russians at their own expense. The British Indian government would only help politically relevant groups like the Afghan sardars, Europeans, or refugee groups with affluent benefactors so that the state was not responsible for them despite their legitimate reasons for flight.

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[33] "Jewish Relief," *Times of India,* Apr. 12, 1939,4.
[34] These ships were usually headed to Shanghai where those without passports could disembark. "Jewish Refugees in India," *Times of India* Feb. 21, 1939,18.
[35] Jewish Refugees in India," *Times of India*, Jun. 20, 1939,12.
[36] "Germans in India," *Times of India*, May 10, 1939,18.

In other parts of the empire, similar groups of refugees were treated better than the Indian diasporic community despite the fact that they were citizens of the empire. In Kenya, Indians felt that the European community only wished to welcome Jewish refugees as it would ensure purely European domination of the resource-rich Highlands where Asiatics were denied access.[37] The Indian Overseas Central Committee sent messages of support to the East Africa Indian Congress in such struggles, indicating that subcontinental Indians were also aware of this discrimination between the European refugee and the Indian citizen of empire.[38]

Some groups were eventually sent to India because their political views were inconvenient where they had first been placed. One such example is a group of Greeks with liberal Venizelist views who were sent to Egypt, and then on to India. The Greeks also proved to be interesting in that some of the political dissidents sent to India against their will were expected to hold posts in the subsequent post-war Greek government. Potential damage to India's future diplomatic relations with Greece was predicted in official notes on the matter.[39]

Was the bureaucratic category of the refugee or evacuee used for an imperial rather than a primarily humanitarian exercise of administration? That institutionalised differentiation between refugees had to do with ethnicity and nationality – and within that socio-economic status – disturbed Indian politicians. Non-Indian refugees sent to India seemed to be treated better than those of Indian origin, even those unwanted by other parts of the empire and

[37] "Jewish Refugees for Kenya : Indians protest," *Times of India*, Sep. 22, 1938, 5.
[38] "Indians Overseas," *Times of India*, Mar.3, 1939, 5.
[39] NAI, MEA, WAR BRANCH, 35(7)-W/41 (Secret).

effectively dumped in the subcontinent. The privatisation of relief did not alleviate the lot of Indian refugees because it was limited to affluent communities, as it had been in the past. Other places in empire had refused these groups as they were either too poor, too unskilled, or otherwise unwanted as they would not fit within their idea of who belonged within their borders. The universalism of imperial citizenship was bogus –Indian borders were kept porous to help solidify these other people's and places' right to define their own community and as a place to park the unwanted against whom the national self was defined.

SELF DETERMINATION, AN IMPERIALIST INTERNATIONAL AND ITS HUMANITARIAN EXCLUSIONS

The political thinkers of the decolonising world were also its political practitioners, the activities pertaining to the former obscured by their political careers.[40] India was no exception. Nehru, the architect of much of India's early foreign policy, was a man whose politics were strongly affected by his historicism. 'He posited political action, and even life itself, as a dynamic act of mediation between the past, present and future.' Further, Nehru also believed in the Hegelian notion of the state as the "locus and signifying agent" in history, in a world experiencing the crisis of European civilisation and when freedom itself was being renegotiated.[41] The achievement and maintenance of the nation-state was the maintenance of Indian agency.

[40] Shruti Kapila, "Global Intellectual History and the Indian Political." In Darrin M. McMahon, and Samuel Moyn (eds.), *Rethinking Modern European Intellectual History*(New York: Oxford University Press, 2014).
[41] Sunil Purushotham, "World History in The Atomic Age: Past, Present and Future In the Political Thought of Jawaharlal Nehru," *Modern Intellectual History* 14, no. 3 (2017).

Nehru thought in connected global and local terms.[42] This allows us to set up an interesting connection between the national and the international. In recognising that the past shaped the future, Nehru felt that the Second World War had made clear the powerful hold of nationalism even in the 1940s. Nationalism itself was narrow and useless unless it was tied to internationalism. Internationalism itself would fail unless it was tied to nationalism, since it seemed to be the "irrepressible urge" of people in every country. Nehru wrote to the Indian Progressive Writer's association, pushing for them to combine nationalist and internationalist tendencies, and to focus on the potential future emerging from this war rather than its immediate happenings. [43] Nehru wanted to practice a reworked idea of internationalism and nationalism, informed by past experience but in pursuit of future progress for Indians. But the 1940s were formative years, coinciding with the creation of the new Indian nation-state which had been overdetermined precisely in response to the very means of international recognition that it would attempt to alter.[44] In that context, it becomes relevant to understand how those who would shape the nation-state understood their past, and how this past affected India assuming its new place in the world.

By 1947, decolonising India had already experienced the presence of those displaced from Europe by war but did so as a colony rather than a nation-state. By the time India achieved sovereign status, and was welcomed into the world of nation-states, the refugee regime had already been defined several times over. In the 1920s, Nansen had been appointed by the League to oversee the issue of the Russian Refugees in Europe, eventually widening his mandate to

[42]Purushotham, *World History in The Atomic Age*.
[43] Nehru, *The Essential Writings vol. 1*, 688-689.
[44] Abraham, "A Brief History of the Nation-State," in *How India became Territorial*, 46-72.

cover other European groups. UNRRA was born of the wartime United Nations alliance and was focused on material relief for refugees and in projects of national reconstruction. Its activities also involved seeing the refugees in light of their national belongings. Indian nationalists saw UNRRA as draining its resources without any benefit to Indian people despite its worthy larger aims. Further, it was the product of a wartime alliance that India was reluctantly a part of under British rule, in the nationalists' opinion. UNNRA came to be replaced by the International Refugee Organisation(IRO) in the mid-1940s, which the nationalist government of India declined to join. Based on the machinations of the British empire, refugees, evacuees, internees and so on, as defined by European experiences, had already inhabited the subcontinent prior the establishment of its sovereign borders in 1947. As India had experienced the refugee as defined by Europe before the creation of its own nation-state, it would defy the conventional narrative of the Refugee Regime.

This section will attempt to outline how the conventional narrative of refugee rights cannot be assumed in the Indian context because of the move from group to individual rights before the collective right to self-determination had been achieved there. Implicit in this move was the idea of self-determination as the right from which all others stemmed.

The Interwar European minority treaties lie at the heart of this shift. The international order of the League of Nations was more concerned with defending the rights of minorities within Europe than elsewhere. The right to self-determination was also framed with reference to the Austro-Hungarian empire, and was not intended to apply to non-European sites of

empire.[45] Human rights for those who did not belong to a national community needed to be protected by an international organisation. In other words, minorities needed to be protected from the state in which they lived, presupposing that the state could not take care of all its citizens.

The flaw in the system set up at Versailles in 1919 was that ethnonational groups rarely corresponded to territory. The Nazis had exemplified the dangers of ethnonationalism spilling into territorial expansion, based on self-determination and defence of the Germans who were minorities in other states. In part, this prompted a return to the older European idea of state and its citizens defined by territory. The renewed emphasis on the existing territory of the state meant that that the nation was now to be derived from the state (and within its bounds).[46] By the 1940s, the Great Powers would focus on defending the rights of individuals, rather than group identities. But imperial possessions had not yet experienced self-determination, including in its territorial form, which in the Wilsonian liberal imaginary could only be exercised by a group. While the international order had moved on, former colonies and new postcolonial states attached heavy emphasis to the group right of self-determined territorial nation-states.

Newly independent India emerged from a nationalist struggle that utilised the rhetoric of self-determination but operated in a world order that prioritised territory. The definition of the Indian nation, on the other hand, had been forged in response to discrimination faced by a

[45] Simpson, *Human Rights and the End of Empire*; Lauren, *The Evolution of Human Rights*; Mazower, "The Strange Triumph of Human Rights 1933-1950," *The Historical Journal*, vol.47, No.2 (2004).
[46] Alexander B. Murphy, "The Sovereign State System as Political-Territorial Ideal: Historical and Contemporary Considerations," in . Thomas J. Biersteker and Cynthia Weber (eds.), *State Sovereignty as Social* Construct, (New York: Cambridge University Press,1996), 100-102.

diaspora within the British empire. Indian identity had often been formulated outside Indian territory, as with Gandhi in South Africa. There was a territorial notion of a state within the subcontinent, but a transnational Indian identity that had been formed across the empire.

The refugee becomes a particularly interesting figure in India's transformation from colony to post-colonial nation-state. Its experience in providing asylum as an extension of the British Empire made clear that the rights of the internationally determined refugee or evacuee were greater than those identified as Indian, even within the subcontinent. The Rights of Man of the French Revolution had seen the state as the guarantor of rights, taking over from the conception of natural rights.[47] These were ensured by belonging to a state and therefore the rights of a people, and the type of rights, whether civil or political, depended on citizenship. Given that her Citizenship Bill was still some years away, how could a state that had not yet established the citizen-state-territory nexus in clear terms defend the rights of refugees as defined by the International Refugee Regime of the 1940s and 50s?

India courted self-determination as the right from which all other rights stemmed. Anything that challenged the security of this original right was unacceptable, including the violation of sovereign borders implied by the right to asylum. It was denied as a tactic to preserve the state's ability to ensure other rights to its citizens-to-be. The Eurocentric international order that had defined the contemporary refugee also seemed to perpetuate an unacceptable imperialism.

[47] Hannah Arendt, *The Origins of Totalitarianism,* 1st edition 1948 (San Diego; London; New York: Harcourt Brace & Company, 1976),290-292; Moyn, *The Last Utopia.* .

My focus is not on the validity of this contemporary perspective, but on how those who were empowered to frame policy for independent, post-colonial India understood self-determination. Nehru and other arbiters of post-colonial India's foreign policy certainly felt this way as they shaped India's conception of the universal and its relation to the particular in judicial terms. As early as 1938, Nehru was publicly speaking of the principle of collective security, a term learnt from the experiences of the League. For him, any future hope of the principle succeeding depended on the removal of imperialism. Supporting the freedom of India revealed the purity of intent of international collective action.[48] Nehru called for a complete break from the conditions of bitterness created under European domination. Only this break would create the 'psychological conditions' conducive to mass effort in the war and after. To his mind, the British had rejected the Congress' seemingly reasonable offer of support in return for assurances towards an acceptable form of Indian democracy. Instead, British statesmen continued to cling to their old ways and "talk the patronising language of the nineteenth century to us.[49] The language and power of liberalism had been identified as part of what needed to change.

This fuelled mid-twentieth century mistrust of the proposed New World Order as a reincarnation of a prior imperialism. According to Churchill, the provisions of the Atlantic Charter did not apply to India as they had already been covered in the 1940 August Offer.[50] That the August Offer has been deemed unacceptable already did not seem to hold significance.

[48] NMML, Jawaharlal Nehru (pre-1946), Statements by him 281.
[49] Nehru, *The Essential Writings, vol II,* 411-412.
[50] Lord Linlithgow, the Viceroy of India at the time, offered the immediate expansion of the Viceroy's Executive Council, a constitution for India after the War ended, and the assurance that the constitution would not overrule minority opinion. The Congress rejected it in favour of complete and immediate freedom, while the Muslim League rejected it because it made no mention of Pakistan.

Contemporary to this, the All India Congress Committee had come up with its own vision of an international organisation as one based on disarmament. By eradicating war and the domination of one state over another, a comity of nations could come together to work towards a just peace. But the British has decided that Indian claims to internationalism were undermined by the nationalist movement, instead insisting that they should function under the aegis of London. The nature of the potential new international order as envisioned by Britain had been made clear to India, and therefore efforts to change the meaning of this internationalism were already underway in the nationalists' efforts in the early 1940s.[51]

Discussions of the people and places the Atlantic charter applied to perpetuated Indian suspicions of the two-faced nature of the international order. Moyn has pointed out that the universalisation of an idea depends on the context in which it is received, and on competition from other universal ideas. Human rights and self-determination are a prime example of this relationship.[52] Human rights in the transnational and non-state form that we understand today did not exist when the United Nations was founded.[53] To the contrary, human rights seemed to represent a step back from the self-determination of the Atlantic Charter, which was watered down in subsequent conferences on the establishment of a new international organisation. Churchill famously only saw the charter as applying to territories under Nazi control, and not to the British Empire. The Charter, however, would have great 'aspirational' value, including for colonised peoples. Anticolonial movements would interpret the charter differently than had

[51] Nehru, *The Discovery of India (Centenary Edition),* (New Delhi: Oxford University Press,1989),53.
[52] Moyn, "On the Nonglobalization of Ideas" in Samuel Moyn and Andrew Sartori (eds.)*Global Intellectual History* (New York: Columbia University Press 2015).187-204.
[53] Ibid, "Why Anticolonialism Wasn't a Human Rights Movement," in *The Last Utopia,*84-119.

been originally intended, to suit their own contexts.[54] They would focus on self-determination rather than human rights because of their circumstances.

To the Indian Nationalists led by Jawaharlal Nehru, the Atlantic Charter was a "pious and nebulous expression of hope, which stimulates nobody, and even this, Mr. Churchill tells us, does not apply to India."[55] The postcolonial states led by India would work to put an end to the traditions of positivism in international recognition, which understood the international order and law in terms of European realities. This altered the nature of the forum of the United Nations, meaning that at its inception these traits were not evident.[56] India was a site for radical transformation of ideas, whether or not they were of European origin, and also home to a principle of agonism that would draw all people into a political.[57] This is exactly what would happen with her international interactions, whereby the terms upon which the international order of the UN was to be built were challenged.

The United Nations was a wartime alliance that was turned into a peacetime international organisation, and therefore there was continuity between war time aims and those of the UN as it came to be. The liberal, social, and democratic policies espoused by the United Nations were essential to gain support for the war.[58] At the same time, there was a dissonance between rhetoric and reality, for these liberal principles did not seem to apply to the idea of

[54] Elizabeth Borgwardt, "When you State a Moral Principle, You are Stuck with It: the 1941 Atlantic Charter as a Human Rights Instrument," *Virginia Journal of International Law* 46 no.3 (2006).
[55] Nehru, *Selected Works vol. 12*,171.
[56] Mazower, *No Enchanted Palace*; Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge: Cambridge University Press,2005)
[57] Kapila, *Global Intellectual History and the Indian Political*.
[58] Dan Plesch, "How the United Nations Bear Hitler and Prepared the Peace," *Global Society* 22, no. 1(2008).

decolonisation. As Gandhi would write to President Franklin Delano Roosevelt, a known supporter of decolonisation, the rhetoric of the wartime United Nations was hollow in light of the inadequate offer of the Cripps mission to India.[59] The true indication of support for freedom and democracy in India would be when Allied efforts against Japanese aggression were conducted by a treaty with "the Free India Government that may be formed by the people of India without any outside interference, direct or indirect."[60] Roosevelt's reply a month later would place the cause of the war against the Axis powers over Gandhi's concerns, citing a common commitment to freedom.[61]

India was included at the United Nations wartime alliance and conferences, but not its nationalist political representatives. The Indian delegation was selected by the British, making India's inclusion in the conferences a token gesture to the cause of the decolonisation. The San Francisco Conference did not infuse optimism in the anti-colonial Indian mind, as it seemed to be directed towards "covering up essential problems: in the interest of one or the other Great power."[62] Though independence was in sight, representatives of the soon-to-be-decolonised state were kept out of the actual processes of determining the World Order.

It did not help that Jan Smuts, South Africa's Prime Minister, was the author of the Preamble to the United Nations Charter, drawing a line between his faith in the moral burden

[59] The mission aimed to secure Indian support for the War, but Indian nationalists rejected this as they wanted immediate self-government in return for support for the war. The Quit India movement was declared soon after, followed by the imprisonment of most Congress leaders.
[60] Foreign Relations of the United States (Hereafter FRUS), Diplomatic Papers, 1942, Volume I, General; The British Commonwealth; The Far East, , *Mr. Mohandas K. Gandhi To President Roosevelt*, July 1, 1942.
[61] Ibid,*President Roosevelt to Mr. Mohandas K. Gandhi*, August 1, 1942.
[62] Nehru, *Selected Works vol.14*,433.

of empire upon Europeans and the new world organisation. Smuts' preamble also distanced itself from the issue of political rights, limiting itself to the most basic individual rights. Like Gandhi, Smuts believed in duties over rights – rights had to be earned, not given. Unlike Gandhi, Smuts' liberal idealism was racially charged with the language of the civilising mission. The civilising mission's inextricable tie to the economies of the colony is perhaps best outlined by Smuts borrowing the term 'trusteeship' from Cecil Rhodes.[63] Gandhi would also use the term, seeing the wealthy as holding resources in trust for the true owners, the tillers and workers: his socio-economic vision differed in being free of civilisational arguments.[64] The United Nation's adoption of the Trusteeship council in place of the Mandate system would also carry with it the continued burden of this same liberalism that was inherently racially charged, and saw non-Europeans as less capable.

What was the Indian National Congress to do if it was not allowed to shape the new international order at San Francisco in 1945? Those who would eventually build post-colonial India's government were not given an audible voice to frame their non-imperialist One World. Vijaya Lakshmi Pandit, subsequently head of India's delegation to the United Nations, was merely an unofficial observer, though she did much to draw attention to the anti-colonial cause.[65] Jawaharlal Nehru was in prison until very close to the conference and would not be able to reach San Francisco prior to its conclusion. The reason stated for the exclusion of the

[63] For more on Jan Smuts and the United Nations, see Mark Mazower's 'No Enchanted Palace' and Saul Dubow, "Smuts, the United Nations, and the Rhetoric of Race and Rights," *Journal of Contemporary History 43,*no.1 (2008).
[64] See how Gandhi uses the idea in a conversation with Swiss engineer Pierre Cressole in this conversation in Mahatma Gandhi, *The Collected Works of Mahatma Gandhi* vol. 67, (New Delhi: Publications Division, Government of India) 85-87; vol 89, 185.
[65] Bhagavan, "Showdown in San Francisco," in *India and the Quest for One World: The Peacemakers,* (New York: Palgrave Macmillan 2013), 33-49.

Congress nationalists in favour of those appointed by the British Government was that they had not supported the war effort. This claim reiterated the narrative of a moral high ground that had justified British wartime domination of India in the face of promises of self-governance.[66] But Mrs. Pandit had already repeated her party's position that India was 'made a belligerent' by the British, given that its participation in the war was reluctant.[67]

Negotiations for a lasting peace without the real representatives of the Indian people, and which even excluded discussions of the India Question at the Conference, signalled to Nehru and his compatriots the nature of the new world organisation. As Pandit, supported by Molotov, would point out the issue of India was an acid test for the values of the new organisation, but it already seemed to be failing if one-fifth of the world's population was still subjugated even as the principles of the United Nations were being put to practice.[68] The Muslim League, the other major political party on the subcontinent, was also concerned that the Indian delegation would not have the freedom to put forward the nationalist opinion in San Francisco.[69]

Once in charge, the Indian nationalist government had accepted the issue of the veto on the grounds of the need for Great Power cooperation to sustain an international organisation like the United Nations. Despite this pragmatic move, India was wary of bodies such as the

[66] "Pandit Nehru Should Supersede Mr. Gandhi": Sir F. Khan Noon's Views, *Times of India,* May 4, 1945, 5.
[67] "India Not Willing Participant In War": Mrs. V. Pandit's Criticism, *The Times of India,*Apr. 25, 1945,5.
[68] "Declare India Independent At Once": Mrs. Pandit's Plea At San Francisco, *Times of India* May 7, 1945,6.
[69] "None With Credentials Made Offer To Represent India*, Times of India,* Mar. 22, 1945, 7.

Trusteeship Council functioning to defend imperialism as the League of Nations Mandates Commission had. This continuation had even been noted by American executives at the earlier San Francisco Conference.[70] Specifically, India's fear regarding certain UN bodies was that 'the whole process appears to be one of making fine heart-warming declarations of the rights of individuals and nations, and then making every effort to interpret these declarations differently and taking away all the real substance from them.' India feared being 'exploited in this game of greedy and opportunist powers who say one thing and mean another.'[71] It was not reassuring that the United States seemed to accept at face value the liberal humanitarian values that underwrote the problem these colonial territories posed.[72] It is not inconceivable that, to India, the American role in the United Nations' adoption of the Trusteeship Council diluted both its and the UN's commitment to anti-colonialism precisely because of the Mandate precedent.

POLITICALLY HUMAN? HUMANITARIANISM, HUMAN RIGHTS AND ENDING IMPERIALISM

The term 'human rights' became common currency in response to the activities of the Third Reich.[73] It was these atrocities that prompted H.G. Wells to pen his famous The Rights of Man in 1940. Equally notable is Nehru's response to this conception of rights. He thought that, at best, it would serve to educate public opinion but was likely to be meaningless in the same vein

[70] Huntington Gilchrist, " V. Colonial Questions at the San Francisco Conference," *American Political Science Review* 39, no. 5(1945).
[71] Nehru, *Selected Works Of Jawahar Lal Nehru-Second Series, vol.1*, (New Delhi: Jawaharlal Nehru Memorial Trust), .450-451.
[72] E.B. Haas, " The Attempt to Terminate Colonialism: Acceptance of the United Nations Trusteeship System," *International Organisation* 7, no.1 (1953); Annette Baker Fox, "The United Nations and Colonial Development,"*International Organisation* 4, no.2 (1950).
[73] Moyn, *The Last Utopia*. 44-45; Mazower, *The Strange Triumph.*

as the unenforceable Kellogg-Briand pact banning war.[74] He held that the ills of the world were due to political and economic reasons, and that the 'declaration cannot possibly be realised under a system which is dominated by capitalism and imperialism. Thus both of these have to go before one could build anew.'[75] It is also significant that despite his obvious internationalist credentials, Wells also bought into the liberal rhetoric of the civilising mission.[76] Human rights in their early 1940s form did not appeal to Nehru and his associates because they seemed to be premised upon an intellectual tradition that justified considering some parts of humanity as being less human than others. The irony of 'human rights' being championed in Europe by the same powers denying them to persons in the Empire weakened their power.

This view was given an aspirational character by Wendell Wilkie's travelogue 'One World', which called for a reordering of the world that acknowledged the potential role of people under imperial control. Wilkie predicted that the Asian and Eastern European peoples were going to make decisions to end foreign domination, and liberate people for 'economic, social, and spiritual freedom'.[77] Of course, Nehru would ignore Wilkie's claims to American leadership and replace them with a vision of Indian leadership for countries of the 'Third World'. Even prior to independence, then, those who would be empowered to enact Indian foreign and domestic policy had attached the rhetoric of human rights to that of decolonisation. It had now been turned against the Great Powers which had originated it.

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[74]For a greater understanding of the pact, which seems to have extended beyond Nehru and others' characterisation as ineffective, see Oona Hathaway and Scott Shapiro, *The Internationalists and their Plan to Outlaw War,*(London: Allen Lane, 2017).

[75] NMML, Jawaharlal Nehru Papers (pre-1947), Correspondence, XIX, Letter to the Editor of the Hindustan Times , March 4, 1940

[76] Sluga, *Internationalism in the Age of Nationalism*,84.

[77] Wendell Wilkie, *One World,*(New York: Simon and Schuster,1943),145.

The insistence on ending imperialism as a precondition for human rights was no doubt born of a fear of previous experiences in the use of humanitarian rhetoric by the empire to justify its actions. Conquest and subsequent exploitation in the nineteenth century forced the British to evaluate their relationship with the populations they ruled. This culminated in the civilising mission or the 'white man's burden' and the notion of 'trusteeship'. One aspect of this 'burden' had to do with colonial powers bringing humanitarian policy in a region where they had introduced free markets and evangelical charity. For example, rather than address the causes of famine in North India in the 1830s, the British adopted a paternalistic attitude towards relief for the starving based on Christian charity and state supervision, rather than private indigenous methods of relief. This paternalism based on notions of civilisational superiority also created mechanisms of control.[78] Humanitarianism became an excuse for geostrategic intervention and expansion, particularly directed towards the Ottoman Empire's 'massacre' of its Christian population.[79] This started out in defence of the Christians in the Ottoman empire but culminated in Treaty Obligations to the Great Powers.[80]

The *Humanitarian Cloud* entails, amongst other things, humanitarianism's frequent affirmation of the nation-state, often in solidarity and complementary to its inherently transnational nature.[81] India was trying to reshape the world order into one that was committed to freedom and peace for the colonies. Their own previous usage of humanitarianism for political ends indicated that Indian leaders were not blind to the dangers of an international humanitarianism under the auspices of a United Nations that granted vetoes and permanent seats

[78] Barnett, *Empire of Humanity,* 61-64.
[79] For a thoughtful treatment on the subject, see Rodogno, *Against Massacre*.
[80] Simpson, *End of Empire*, 95-96.
[81] Laqua, *Inside the Humanitarian Cloud*, 181.

to these powers. If anything, the fact that India sent a medical mission to Korea in the 1950s instead of the troops recommended by the United Nations indicates its independent deployment of the principle even after independence.[82] It seemed clear that India's humanitarian action would not be co-opted for any politics in the international arena that did not suit the new nation-state.

In February 1947, Nehru had refused to become one of the vice-presidents of the International League for the Rights of Man, which would later be recognised in a consultative capacity by the United Nations. Nehru rejected the offer because he had 'lost some of my [his] enthusiasm for new organisations working for old objectives. I think they are worthwhile and I would hate to discourage any person in this matter. But I feel no urge to join them and be a distant spectator of what they do.'[83] Elsewhere in his many writings, Nehru's idea of spectatorship characterised it as passive, with the spectator described as a 'plaything of others'. India's representatives were, at the time, engaged in the drafting of what would become the Universal Declaration of Human Rights. Nehru's reluctance was not a matter of disinterest, but a refusal to endorse organisations that would use Indian support without framing this universalism in terms that would extend to the Indian cause of decolonisation. It did not see contemporary efforts for refugees as unimportant, but that these were projects that had no meaning for India beyond making it a spectator to the regime.

[82] For a discussion on India's role in the Korean War, see Kim ChanWahn, "The Role of Indian in the Korean War," *International Area Review,* vol. 13, no. 2 (2010).
[83] Nehru, *Selected Works, Second Series, Volume 2*,488.

In Nehru's first radio address as Vice-President of the Interim Government, he spoke of his idea of a World Commonwealth with the 'free cooperation of free peoples.'[84] For the decolonising world, cooperation and rights were for a collective good. Moyn argues for thinking about colonialism as its own trend within the framework of the United Nations, and not within that of current understanding of human rights. The basis for this distinction is that anticolonial movements called for the liberation and collective rights of peoples rather than individuals, while their ultimate aim was to be economic development.[85] In Nehru's own words, "Peace can only come when nations are free and also when human beings everywhere have freedom and security and opportunity. Peace and freedom, therefore, have to be considered in their economic and political aspects…We have, therefore to think in terms of the common man and fashion our political, social and economic structure so that the burdens that have crushed him may be removed, and he may have full opportunity for growth."[86] In the same speech, Nehru goes on to speak of 'universal human freedom.' He saw Asia as a leader and inspiration for Africa, on the grounds that 'the freedom that we envisage is not to be confined to this nation or that or to a particular people, but must be spread out over the whole human race."[87] Nehru does use the terms 'universal' and 'human', but his frame of application is in the interest of the development of a collective identity rather than the individual.

In 1946, Nehru declared in an address that "We seek no dominion over others and we claim no privileged position over other peoples. But we do claim equal and honourable treatment for our people wherever they may go, and we cannot accept any discrimination against

[84] Ibid*, Volume 1*,406.
[85] Moyn, "Why Anticolonialism wasn't a Human Rights Movement," in *The Last Utopia,* 84-119.
[86] NMML, Jawaharlal Nehru (M.O. Mathai) papers, Speeches and Writings by Jawaharlal Nehru 30.
[87] Ibid.

them."[88] India's maiden challenge to the world order came with a suit regarding discrimination against Asiatics in South Africa, ostensibly on the basis of 'universal' principles against racial inequality. In response to the South African representative, Nichols, at the UN, Vijayalakshmi Pandit confirmed that it was not merely South Africa but Western Civilisation that was on trial at the UN. The civilising mission and the liberalism it rested on would not be allowed to become pillars of the new international order. [89] The oddity of the liberal internationalist Smuts shaping the preamble of the United Nations while calling for ghettoisation at home would be brought to the fore. Segregation in South Africa would not become a metaphor for the ghettoisation of India and other potential non-white nation-states that had been the object of the white man's burden.

Pandit further elaborated that 'the issue before this committee is whether Western Civilisation is going to be based on the theory of racial supremacy, or whether the barriers imposed between man and man on grounds of colour are to be broken.' She spoke of the need to maintain 'fundamental decencies and unwritten laws in human, national and international relationships.' [90] To this end, India argued in the General Assembly of the United Nations that it was the appropriate forum to debate the violation of rights in the Charter of the UN, rather than being relegated to the jurisdiction of the International Court. Effectively, India was arguing for this to be a political rather than legal decision. The European provenance of the words of the charter was counteracted by a forceful reinterpretation to redefine international, national and individual relationships. To borrow an idea from Mark Mazower, India's challenge to

[88] Nehru, *Selected Works, Second Series, Volume 1*, 405-406.
[89] NMML, Vijaya Lakshmi Pandit, IInd Instalment, Subject File 2.
[90]NMML, Vijaya Lakshmi Pandit, IInd Instalment, Subject File 2.

discrimination against Asiatics was transformative in that it challenged the European right to rule and opened up the UN as a platform to a hitherto suppressed voice – the former colony turned sovereign nation-state.[91] That two thirds of the General Assembly supported India indicated that times were changing.

While Pandit's words indicate the Interim Government's commitment to reordering the world to include Asian and African nations, she also categorised the treatment of Indians in South Africa as a 'national insult' that needed to be addressed.[92] In 1946, India had not yet divorced the diaspora from Indian nationality, thereby seeing itself as responsible for these nationals in another locale. Seeing this as a national insult did indicate that any form of international system that was less than equal for Indians would be unacceptable to new state. In later years, the South Africa question did not receive as triumphant a response as this first issue, but it established India as a defining participant in the human rights game. Using the voice of the fledgling nation-state for a 'national' cause allowed it to have universal implications for the rights for all colonised peoples. The idea of self-determination rather than human rights as the call of the hour was reinforced by the idea that the former is a pre-requisite for the latter.

India, represented by Hansa Mehta, played an enthusiastic role in the discussions on human rights at the newly formed United Nations. Even in 1947, 'India is particularly interested in this subject, since for many years the government of India have been engaged in attempting to secure to Indians abroad equal fundamental rights with white populations…' [93] 1947 was also

[91] Mark Mazower, *No Enchanted Palace,* 149-153.
[92] NMML, Vijaya Lakshmi Pandit, IInd Instalment, Subject File 2.
[93] Ibid,Hansa Mehta , IInd Instalment, Subject file 5.

the year Nehru had disavowed the diaspora by encouraging it to identify with the nations in whose territories they resided. The 'national insult' was replaced by a rhetoric of rights for the diaspora that had repeatedly been denied them.[94] The Indian perspective, both in public and in government circles, was that this was an Indian population that had been transplanted at the behest and to the benefit of the governments of these countries, but despite that had repeatedly been denied rights.[95] In this context, the idea of absorbing those of Indian origin into a new nation would account for their contribution towards those states. India's international ambitions in the 1940s leaned towards trying to redefine the international order to include itself and other decolonising and post-colonial states. It also meant the creation of an international version of the rights of minorities in a way that was acceptable for the Indian context, for in creating the diaspora as a minority with protected rights in other states, the Nehruvian government was also trying to tackle issues of diversity at home. Enthusiastic participation in discussions on human rights were a window into creating a true universalism, but also one that further solidified what it meant to be Indian after independence.

Internationally, minorities needed to be defined in the Human Rights Council so that India could uphold her pledge to defend the rights of Indian people abroad without infringing upon the work of other 'small' nations.[96] This was particularly true as India was often seen as potentially expansionist in ethnonationalist terms.[97] But self-determination of a necessity had to be liberation from foreign power in the Indian mind, for it would interfere with nation-building

[94] NAI, External Affairs and Commonwealth Relations, UNO1, 5(46)-UNO1/1947
[95] NMML,Hansa Mehta , Ist Instalment, Subject file 15(i); M.S. Aney Papers, Subject File 3.
[96] Nehru, *Selected Works Second Series, Volume 4*,602.
[97] A contemporary example outlining these concerns is Erskine Wyse, *Brown Empire* (London: Background Books,1946).

for a post-colonial state that had inherited wider imperial borders with a multicultural population rather than the more easily determined nation-state form inherited from the fragmentation of aempires after World War I.

The question of minorities is significant for the Indian context – in colonial politics it had always referred to religious communities. The post-colonial state would abolish religion as the grounds for minority rights, creating a new configuration for majority-minority relations in a fledgling democratic nation-state. The British Indian controlled subcontinent had already been fractured into two states on the grounds of self-determination for a religious 'minority' that happened to be a majority population in the territories assigned to it by Radcliffe's border. This truncated territory came as a blow to Indian nationalists of every stripe. The final creation of the minority state lay in the hands of British cartography. In the aftermath of independence and the creation of two new states, the Indian state abolished separate representation on the basis of religion. In the meanwhile, diversity in language, regionalism and so on were problems the new Indian state faced, not to mention the presence of hundreds of princely states that had had their own agreements with the Raj which the Indian successor state inherited. The potential for secession premised on self-determination was massive.

Unlike the stateless, minorities are still included in the political community.[98] In fact, the leaders of the postcolonial states of India and Pakistan were committed to upholding minority rights, so the mass migrations of Partition came as a surprise to them. Intellectually, the minority was very much part of their vision of the state and informed their policies

[98] Arendt, *The Origins of Totalitarianism.* 276

accordingly, particularly in the 1940s. It is also interesting that the Indian constitution of 1950 would limit the freedom of speech, expression and association to Indian Citizens alone.[99] In exercising their collective opinion, the new minorities and dissenting groups in India were tying themselves more firmly to the Indian state as non-citizens could not actually express such opinions. It also prevented unwanted groups from exercising similar rights.

In 1947, India wanted discrimination and minorities to be defined in the interest of a diaspora that it no longer counted as part of the nation-sate. [100] By contrast, self-determination was given a decidedly anti-colonial character as applying only to those under foreign domination, and not minorities. By the Eighth session of the Commission on Human Rights, India's tune about minorities had changed in order to uphold her own right to self-determination. India claimed that the draft covenant point assured human rights even in a totalitarian state. It was only the colonial system of government that could continue to deprive people of rights. Hansa Mehta went on to say that even benevolent colonial rule did not justify the 'enslavement' of a people. In the same session, she disagreed that minorities (particularly religious) were part of this discussion, as that would set a dangerous precedent in response to domestic concerns of the diverse post-colonial state that was in the process of defining itself.[101]

It is no accident that the same archival file in the British Library that notes India's voluntary exclusion from the IRO also points to its enthusiastic participation in the deliberations on what would become the Universal Declaration of Human Rights. In her iconic work *The*

[99] For a discussion on how the fundamental rights came to be limited, read Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (New Delhi: Oxford University Press,1999),86-105.
[100] NAI, External Affairs and Commonwealth Relations, UNO1, 5(46)-UNO1/1947
[101] NMML, Hansa Mehta Papers Ist Instalment. Subject File 15.

Origins of Totalitarianism, Hannah Arendt ponders the connection between human rights and the nation-state. She concludes that the rights of man could only be enforced by a community or a state. As the idea of One World with its community of states becomes reality, this means that there is no place for those who don't fit the mould of any of these communities to exercise their humanity. The deprivation of human rights is not because of a lack of the natural rights of man, but of a theatre in which to exercise them.[102] The Nehruvian vision of the nation-state fit within this conception of the world. The idea was to create a state within which Indians could exercise their rights, hitherto subjugated to the concerns of empire. But in creating this pulpit from which to proclaim her reordering of the world to include colonised peoples, India would also fall into the same trap of the exclusion of others.

SUSPICIONS OF INTERNATIONAL REFUGEE-RELATED HUMANITARIANISM?

If India was trying to create a universalism that was bereft of racial and colonial discriminations, premised on her new national status based on a self-determination that acknowledged minorities as part of the people, then where did this leave refugee-related humanitarianism?

Indian suspicions of new American-led internationalism also extended to humanitarian efforts led by the United Nations agencies. UNRRA had been set up in 1943 to provide relief to any victims of war. The India League of America had lobbied for UNRRA's activities to

[102] Arendt, *The Origins of Totalitarianism.* 295-299.

extend to relief to the famine in Bengal and Assam. This proved to be unsuccessful.[103] Notably though, UNRRA had taken responsibility for the Polish refugees in India in 1946. In the many official communications bringing this into administrative reality, a discussion of the apprehensions of the then Government of India stands out – they were pleased at the idea of financial help but "…they would have to be satisfied that the new authority would not so function as to jeopardise the principles of relief which they have adopted for their own nationals."[104] In fact, Nehru had informed the Poles, who had no desire to return to Poland in the aftermath of the war, that India was already too preoccupied with her own population to be able to take care of the Poles as well, despite their wish to remain.[105]

While these principles of relief find no more elaboration than this passing mention, the words 'for their own nationals' are striking. In the India office records, we are very confusingly told that Indian refugees will be dealt with by the Indian government – so much so that the funding for the Coimbatore camp for refugees was no longer the responsibility of His Majesty's Government, but its finances be kept in suspense and adjusted at the end of the war once the European only camp was open to Anglo-Burmese and Anglo-Indians. His Majesty's Government would only be responsible for Europeans in India. [106] It seems that the same attitude would pervade the relationship with UNRRA, the premier international agency for relief and rehabilitation at the time.

[103] "Letter from JJ Singh requesting support for Mundt amendment," South Asian American Digital Archive," https://www.saada.org/item/20120811-1047 [last accessed 22 Jan 2019].
[104] BLAM,IOR/AG/40/1/135, Correspondence: Refugee and Repatriation files, mainly of the Government of India: RRO/C 21-40, 1921-1940.
[105] Bhattacharjee, *The Second Homeland,* 204-207.
[106] BLAM,IOR/L.AG/40/1/135, Correspondence: Refugee and Repatriation files, mainly of the Government of India: RRO/C 21-40, 1921-1940.

In part, the British Government was not pleased with the idea of UNRRA acting in India for reasons to do with its international observation of the breakdown of their policies. As Manu Bhagavan points out, just prior to the Indian vote on a second contribution to UNRRA, ships carrying wheat to India were diverted to UNRRA countries. The official line was that India was a large country, and the war had only affected the edges of its territory, something that its vast size and economy could bear. Indians like Nehru rejected this position as being ignorant of the nature of colonial economies and imperialism. As Bhagavan concludes, India chose to withdraw from UNRRA despite acknowledging that it did good work because of its failure to acknowledge, let alone dent, contemporary imperialism.[107]

Any question of refugees would be interest to the nation-state, as it involved crossing the borders integral to its sovereignty. As Matthew Frank and Jessica Reinisch note, the question of refugees would only become a pan-European phenomenon when the matter affected almost all European states, creating the notion of an 'us'. Prior to this the interests of the nation-state had triumphed over the international problem of the refugee. In the same article, they also note that a crucial factor in the success of the international cooperation embodied by both UNRRA and the IRO had been the United States' enthusiastic participation.[108] This intersection of humanitarianism and internationalism bore two distinct characteristics then, which awarded benefits to the nation-state and primacy to the United States. India had already withdrawn from

[107] Bhagavan,*Towards Universal Relief and Rehabilitation*.
[108] Matthew Frank and Jessica Reinisch, "Refugees and the Nation-State in Europe," *Journal of Contemporary History* 49, no.3(2014).

UNRRA and had declined to be part of the IRO because its experiences had made clear that it was not part of the 'us' that these other states belonged to.

UNRRA, the premier humanitarian organisation of the war years, would fail to live up to expectations as far as international welfare was concerned. Roosevelt's Freedom from Want, one of the driving principles of the Atlantic Charter, did not seem to apply to the Indian people. As Sunil Amrith points out, Nehru was drawing a clear line between political rights and welfare. It reinforced the idea of an international order of nation-states, with India as one such body. Colonial networks had to be replaced by post-colonial states for an international order that would truly act for all its members.[109] This had to extend to humanitarian action that treated member states as equal participants and equally entitled to receiving such help, something that was absent in the contemporary idea of the internationally recognised refugee.

Even agents of the British Raj were against Indian participation in refugee bodies. Captain A.W.T. Webb, who had overseen the subcontinental refugee situation during the Second World War, understood that India would be one of the five largest contributors to the IRO if she decided to participate. This was not financially viable. Given that the interim government was in power, concerns stemming from the presence of displaced Europeans in India also became stark. The first problem was that India was concerned about the lack of consultation of the country that granted asylum or temporary refuge. A corollary of this concern was to do with those who had contravened passport regulations and people whom Indian leaders

[109] Amrith, " The Political Culture of International Health," in *Decolonizing International Health,* 72-98.

wanted to repatriate.[110] Internal memoranda discussing Human Rights also illustrated that India continued to be suspicious of the weight of power politics in international bodies, implying that India was unlikely to 'get a fair deal.'[111]

More than a decade later, the Indian government had exactly the same concerns. A 1957 memorandum circulated within the Ministry of Home Affairs discussing the Right of Asylum adopted by the 13th session of the Commission on Human Rights deems it too radical for India. The idea that the international community as represented by the UN could grant asylum to anybody who faced threats that violated the declaration of human rights was felt to cut into the concept of state sovereignty. The obligations that this would impose upon the state would affect security and economic and social life. But the memo goes on to mention that the Government of India had always maintained that India was not a suitable country for the residence of European refugees.[112]

That Europeans are specifically mentioned even a decade after the War shows their centrality to discussions on refugee status. The brief to Indian delegates at the Third Session of the Economic and Social Council in 1946 also mentions India as unsuitable for them.[113] In the context of the history of refugees, Nevzat Soguk points out that the foreigner-alien and then the refugee had become a means to define the relationship between a people and territory because

[110] NAI, External Affairs, United Nations I, 5(73)-UNO 1/47.
[111] Ibid, 5(11)- UNO 1/48, 1948
[112] Ibid,UN II, UNII/445(16)/64, 1964.
[113] Ibid, United Nations I,, 5(73)- UNO 1 / 47

their displacement implied that they did not fit into the citizen-territory relationship.[114] Soguk uses this idea for nineteenth century Europe, but the emphasis on alienness in the middle of the twentieth century, when ideas of rights, territory and nationhood had changed, points to the postcolonial necessity for a different idea of the refugee. It became a way to work towards the citizen-state-territory nexus by a process of elimination.

As noted previously, all aliens were granted the same status under the Foreigners Act, creating a notion of the other that was united only in being non-Indian. Indians themselves were still a body that remained undetermined. It was only with the Asian Relations Conference in 1947 that the new state adopted a territorial definition and divorced itself from the diaspora. The Conference, held mere months prior to the establishment of an independent India, would see the Indian delegation bring up the significance of the relationship between a racial group and the state or nation. In the same meeting, the Indian delegation also stated that each nation should have the right to determine its own composition.[115] That this was at the Asian Relations Conference implies that this extended to Asia and was not a reconsideration of the racially charged policies of settler dominions. If anything, it was a conscious means to counter any fears of Chinese or Indian ethnonationalism, another indicator of the legacies of the early half of the twentieth century. In 1946 and early 1947, the Indian state was beginning to define the relationship between its people and territory based on a vision of its standing in the world, both in relation to Western states and other Asian and African states (or states-to-be).

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[114] Nevzat Soguk, " Refugees, Human Displacement, and Statecraft: The Ascent of the Territorial Nation-State," in *States and Strangers: Refugees and the Displacements of Statecraft,*(Minneapolis, London: University of Minnesota Press,1999), 57-100.

[115] Asian Relations Conference, *Being Report of the Proceedings and Documentation of the First Asian Relations Conference New Delhi March-April 1947* (New Delhi: Asian Relations Organisation 1948), 90-91.

Derrida's understanding of hospitality is an interesting straw man to understand refugees in the West. It serves as the European model that India was deviating from, but it was also motivated by many of the same concerns that he outlines. The idea of hospitality requires control over the house or nation, which would also imply being more powerful than the foreigner, so that the host does not become a hostage.[116] In their landmark study on whiteness, Lake and Reynolds point out the racial connotations of belonging that emerged in transnational movements of ideas and responses to events.[117] These notions of whiteness and the nation-state would give birth to institutions with a much longer history: so even as human rights were being codified in the Universal Declaration, these institutions with histories rooted in the liberal internationalism that promoted racial difference persisted. It would take several decades after the Universal Declaration for states that had adopted restrictive immigration policies to loosen up these regulations, and even then, not entirely, as today's crises of displacement and migration clearly tell us. The Indian involvement in drafting the Universal Declaration is tied to its humanitarianism as a step towards altering the world that that latter can function in. Its refusal of the refugee regime, on the other hand, was the acknowledgement that this change had not yet taken root in the international arena. The conditionality of Derrida's framework, written in 1997, is clearly visible in India's international relations in the mid-20th century, which remained mistrustful of internationalism as an extension of imperialism within her newly achieved sovereign borders.

> …India cannot remain in isolation from the rest of the world. It is to the advantage of India, as it will be to the advantage of other countries, to have closer contacts and

[116] Derrida, *Of Hospitality.*
[117] Lake and Reynolds, *Drawing the Global Colour Line.*

> associations. This may help us in many ways and this may also help the cause of world peace. But whatever associations may be built up, they must in no way derogate from the complete independence of India and the freedom of the policy that she pursues. India is too big and important a country to be swept away any more by the gust of wind from foreign shores. We stand firmly on our soil, receptive to all the good that can come to us, cooperative with others but not allowing ourselves to be pushed about in any direction against our will.[118]

An assumption of hospitality is that the foreigner needs to be markedly different from the self, because otherwise they both belong in the home as hosts, making hospitality impossible. The binary that this sets up is that the subcontinental diaspora is identified with the Indian nation, regardless of its legal status, and can therefore return. The Europeans were the only true foreigners to whom refuge had been offered in India, but this hospitality was refused for the future for fear of being held hostage by the Great Powers. These European refugees represented groups that had asserted domination in the past, and in more recent times had been treated better as refugees than Indians as subjects of the Raj.

Arendt notes that the nation-state is premised on equality before law and without this equality it breaks down into a mass of older, more feudal rights and privileges.[119] In India, the idea of the state and sovereignty was adopted from and in response to Western domination. For its context, the over-privileged were the colonist and those he considered his equal. But equality before law via citizenship had not yet been established in the new Indian state, therefore creating the potential for a breakdown. It was tough enough to try and establish who was Indian, but the Indian state could limit risk to itself by definitively determining who did not belong and threatened its power of hospitality. It also created the basis for refugee actions in the near future.

[118] Nehru, *The Essential Writings vol 2*,243-244.
[119] Arendt, *The Origins of Totalitarianism,* 290.

The diaspora had been considered part of the Indian nation until the physical drawing of Partition's boundaries and Nehru's disavowal of the diaspora in 1947. This meant that, up until the 1960s, when any subcontinental group or diasporic community entered India as a displaced person, they were absorbed into the state machinery rather than being given external recognition as refugees, unlike groups such as the Tibetans and Sri Lankans.

This situation raised another conundrum, that between conditional and unconditional hospitality. Certain conditions are necessary to limit whom hospitality can be offered to. Unconditional hospitality risks being "in danger of remaining a pious and irresponsible desire, without form and without potency, and of even being perverted at any moment. Experience and experimentation are the only way to find an appropriate solution."[120] The new Indian state was trying to find a happy medium that rendered asylum into a reasonable reality rather than an unreal promise that compromised state sovereignty. The difference with the international regime was that it did not seem to account for particular non-European experiences, pushing India towards her own brand of experimentation to see what fitted with her own vision of state-sovereignty as a decolonising state in the new World Order.

After the War, even as self-determination lost acceptance in the eyes of the West, it remained a powerful global concept elsewhere despite the West's attempt to shift the emphasis to individual human rights. The existence of self-determination alone was not sufficient reason for it to spread, and often universalisms co-exist with other competitors.[121] In the case of India, self-determination provided a platform to create the basis of the nation-state that could give

[120] Derrida, *On Cosmopolitanism and Forgiveness* (London, New York: Routeledge,2001), 20-23.
[121] Moyn, 'On the Nonglobalization of Ideas'.

reality to such universalisms in a non-discriminatory way. Individual rights were secondary to collective ones at this point of time. The experiences of colonisation had shown that racial discrimination placed Indians below European evacuees, internees and refugees, even within the subcontinent. One of the premises for demanding a nation-state was the equality that had been denied Indians in empire. This was experienced both within India and abroad, implying a strong correlation between equal rights and sovereign status. But sovereignty could only be derived from a collective identity in a world ordered by nation-states: the Indian ability to enjoy rights stemmed from keeping a national community intact.

Most studies of the evolution of the idea of refugees and of the refugee regime derive the beginnings of the problem from the fracturing of the German and Austro-Hungarian empires into nation-states. They tend to agree that refugees are a casualty of this system of nation-states.[122] The pursuit of the homogenous national community implied an 'other' to define the self against. The decolonising world had already experienced the presence of persons displaced from Europe but did so without experience of the nation-state itself. By rejecting the European refugees and the Eurocentric definitions set up by the IRO, India's was maintaining control over who was allowed within its borders. The refugee-alien of the aftermath of the Second World War was a potential means for internationalist agendas in humanitarian guise to pervade the fledgling post-colonial state.

[122] Emma Haddad, *The Refugee in International* Society; C.B.Keely, " How Nation-states Create and Respond to Refugee Flows," *The International Migration Review*30. No.4 (1996); Zolberg "The Formation of New States as a Refugee Generating Process," *The Annals of the American Academy of Political and Social Science* 467 (1983).

In the mid to late 1940s, India was not the recipient of international humanitarian aid, nor was it a humanitarian actor on the ground. UNRRA and the IRO only envisioned India as a contributor to these efforts, without the agency of the actor or the benefit of the object of relief. As Keith Watenpaugh points out in his discussion of modern humanitarianism, it implies an interaction between two persons possessing humanity (even if the recipient possesses it to a lesser degree).[123] In the world of nation-state humanitarianism of the United Nations agencies, the entire international system had to be reordered to recognise India and Indian people. They had to be seen as equal humans, either as recipients or humanitarians, and not just as some source of funds for issues over which it had no real control.

Recognising the international regime's definition would bind both the victims and the receiving state to a particular idea of who deserves care.[124] As Frank Anthony, the Indian delegate at the Joint Second and Third committee of the General Assembly of the United Nations in 1946, would tell the organisation, India would not participate as it had already taken the fullest responsibility for its own refugees –they not the concern of the IRO anyway, and India had already contributed to UNRRA without any benefit to herself.[125] A telegram from the United Kingdom delegation reveals that India did not wish to join the IRO 'partly because India was not a suitable area for resettlement and partly because the IRO made no provision for the return of refugee Indians to non-Indian territories of the Far East and South West Asia in which they had previously been resident.' The Indian delegate had declared this a 'grave omission'.

[123]Watenpaugh, "The Beginning of the Humanitarian Era in the Eastern Mediterranean," in *Bread from Stones,*1-29.
[124] Ranabir Samaddar,"India: Refugees and Dynamics of Hospitality: The Indian Story" In Uma A. Segal, Doreen Elliott, and Nazneen S. Mayadas (eds.), *Immigration Worldwide: Policies, Practices, and Trends*, (New York; Oxford: Oxford University Press,2010),112-123.
[125] NMML, Hansa Mehta IInd Instalment, Subject File-5.

Any problems, like the contemporary one of Chinese labour within India, would be settled by bilateral agreement rather than the involvement of the international community.[126] These discussions at the United Nations coincided with the Interim Government rolling out their version of the Foreigners Act. To comply with the international would mean practicing unconditional hospitality because agency to determine the refugee would no longer lie within Indian hands. Instead it would be subject to Great Power politics rather than the principles of refuge and asylum.

This reaffirmed the oft stated idea of international humanitarianism at the time excluding India from the role of an active agent, limiting it to merely a provider of resources for other groups to use as they wished. Anthony also warned those assembled of the dangers of introducing politics into any discussion on the constitution of an International Refugee Organisation. At the time, USA and USSR were disagreeing over the nature of the refugee problem, with the USSR calling for a greater emphasis on repatriation while the USA wished to shift focus to resettlement in order to prevent Soviet domination over Eastern Europe.[127] The USSR would vote against the constitution as it felt that it encouraged those hostile to its government and would shield these elements. Effectively the potential politico-ideological uses of the international regime had already been made clear even in the debates on the constitution of the IRO. India abstained from voting and participation despite its stated sympathy for the refugee problem as it felt that those immediately concerned with the problem would come up

[126]BLAM, IOR/L/PJ/8/445, United Nations Economic and Social Council: Special Committee on Refugees and Displaced Persons: discussions on proposed International Refugee Organisation, 1946-47.
[127] Loescher, *Beyond Charity.*49-51.

with the best possible solution.[128] Its abstention from all matters to do with the constitution of the IRO and its implementation signified a decisive affirmation of the 1946 Foreigners Act as well, for it de-recognised those displaced from Europe to India as a concern. This can be read as India's realisation that she was neither on the receiving end nor the active humanitarian in her relationship in this new organisation, which did not apply to her relationship with other UN bodies like the Food and Agricultural Organisation, or the World Health Organisation.

This is not to say that the Indian government was not somewhat suspicious of these bodies, particularly given that discussions contributing to their formation had debated structures similar to colonial intrusion.[129] Indeed, even the Indian government's acceptance of food aid was tempered by campaigns to 'Grow more Food' and to change the diet in pursuit of self-sufficiency.[130] Necessity was a different beast than obligation, and the state would bend to cater to the welfare of the new Indians while simultaneously trying to develop itself to a stage where this was no longer essential – a particular combination of Gandhi's idea of the national community and Nehru's statist 'development' agenda.[131] India wished to take part in an international order based on equity.[132]

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[128] NMML, Hansa Mehta Papers, IInd Instalment, Subject File 5.
[129] See Chapter 2 of Amrith's *Decolonising International Health* for Ludwik Rachman's perspective of health as a means of economic control ;Statement of the role of the ILO in India in Nehru, *Selected Works Second Series,vol 4,* 552.
[130] Taylor C. Sherman " From 'Grow more Food to 'Miss a Meal': Hunger, Development and the Limits of Postcolonial Nationalism in India, 1947-1957," *South Asia: Journal of South Asian Studies* 36, no.4(2013); Benjamin Siegel, "'Self-Help which ennobles a Nation': Development, Citizenship, and the Obligations of Eating in India's Austerity Years,"*Modern Asian Studies* 50, no. 3(2016)
[131] Amrith, "Food and Welfare in India c. 1900-1950," *Comparative Studies in Society and History* 50, no.4(2008).
[132] Nehru , *Selected Works, vol 14,* 431-432.

There is also something to be said for the Nehruvian dismissal of a merely humanitarian approach as inadequate, with an emphasis on science.[133] Science was pressed into the service of the state, with the development agenda at its forefront, and India would actively participate in the creation of technocratic solutions.[134] In many ways this was a means to utilise the idea of planning inherited from colonial rule in the international pursuit of economic and social progress to undermine its previous paternalism.[135] The spirit of the Interim Government was to privilege Indians, "Because obviously India is going to be run by Indians for the benefit of Indians"[136] International assistance would also have to be recast in a conceptually palatable light that would uplift Indians without undue exploitation. In a practical understanding of India's own understanding of the geopolitics of international participation, Nehru would write to Einstein:

> Each country thinks of its own interest first and then of other interests. If it so happens that some international policy fits in with the national policy of the country, then that nation uses brave language about international betterment. But as soon as that international policy seems to run counter to national interests or selfishness, then a host of reasons are found not to follow international policy.[137]

It was with Partition that relief and rehabilitation was premised on belonging, rather than an alienness that undermined Indian well-being. By the time the UNHCR rolled around with its limited territorial definition and greater commitment to legal protection than humanitarian field assistance, India was practising these traditional and home-grown forms of assistance and

[133] Ibid,*vol 12,*168-79
[134] Kapila,"The Enchantment of Science in India," *Isis* 101, no.1(2010).
[135] Daniel Gorman, "Britain, India and the United Nations: Colonialism and the Development of International Governance, 1945-1960," *Journal of Global History 9* (2014).
[136] Nehru, *Selected Works -Second Series, vol.1*, 401
[137] Ibid, *Essential Writings vol.2,* 234

UNRRA-style rehabilitation with her refugees. India had already made clear its mistrust of legality alone in guaranteeing equality with the South African Question at the UN – this same belief had been reinforced for refugees.

The opposition to imperially influenced policy was offset by the need to re-order the international, and the opportunity had presented itself in the form of the newly formed United Nations. The deliberations of the Human Right committee were a step towards One World. The legacies of empire were contemporary to an enthusiasm to reshape a formerly imperial international order in the wake of the beginnings of decolonisation. However, matters pertaining to the individual were caught up in the push towards a new definition of rights-based universality while defending the interests of the national. India needed to use the rhetoric of human rights for two purposes. More immediate was the need to protect the Indian minority while avoiding the impression of ethno-nationalist imperial ambition to maintain her position as a leader of Asia and the decolonising world. The other was to end racial discrimination and the domination of one country over another, in the pursuit of peace – as Nehru's niece puts it, 'Civilising a Savage World.'[138] Independent India's stated attitude towards the diaspora was cultural and humanitarian and not political. Their pursuit of rights was dependent on states they lived in. However, this humanitarian concern manifested itself in calling for political solutions to problems like racial discrimination. In addition, encouraging the ECOSOC not to let politics affect refugee policy, and in contrast to the politico-economic aspects acknowledged in biopolitical organisations, indicates the convenient interpretations of the relationship between politics and humanitarianism by India.

[138] Nayantara Sehgal,*Jawaharlal Nehru: Civilizing a Savage World* (New Delhi:Penguin Books, 2010).

If the European refugee could not be allowed because this would let in the forces of Great Power led international humanitarianism, then India's 1940s support of universalisms like human rights can be construed as trying to create an equal world in which a decolonising state could have an equal role in international humanitarianism. In the interim, it would close its borders, and limit its efforts to those whose humanity it acknowledged and in return acknowledged Indians'. The national community needed to be kept independent from European encroachment – history and the contemporary world situation showed that despite the 1940s rhetoric of human rights, the very basis of the political international order that had created and codified this rhetoric implied that the presence of the European even in humanitarian guise would threaten the equality the decolonising world aspired to. Refugee policy in India would fall into the Nehruvian conundrum of the idealism of anti-colonial struggle and equality versus that realities of governing a post-colonial state in the post-war world. It was left to ambiguity because of the circumstances in which the newly independent government found itself – with a commitment to self-determination while attempting to alter the nature of human equality, mediating between unconditional and conditional hospitality. As Nehru would continue in his letter to Einstein in 1947:

> I earnestly hope that we shall continue to adhere to the idealism which has guided our struggle for freedom. But we have seen often idealism followed by something far less noble, and so it would be foolish of me to prophesy what the future holds for us.[139]

[139] Nehru, *Essential Writings vol.2,* 234

BUILD THE REFUGEE, BUILD THE STATE: REFUGEE REHABILIATION AND INDIAN PROGRESS

> You and I had dreamt of India's freedom. What was there in those dreams? It was not merely that British rule be removed and that we should again live in a lowly state. Our dream was that the millions in India should be uplifted, their poverty and unemployment should be removed, and they should get food and clothing and houses to live in. We dreamt of providing education to every child and opportunity to every Indian to take care of himself, make progress and serve the country, and thus the whole country should rise. A nation grows when its people are well off and capable of making progress. We also dreamt that when the doors were opened for India's millions, hundreds of thousands of them would come up as first-rate people who would earn name and fame and have an impact on the world. All those things are still far away because we got entangled in disputes and quarrels. But we have to complete that task and until we do that our freedom is not complete. Until then we cannot whole-heartedly say even Jai Hind. You and I are faced with serious problems. In this city of Delhi and in many other places of the country, our numerous refugee brethren are faced with great hardships. Some arrangements have been made for some of them, but there are many who are still suffering. Prices are also rising, which is another cause of great hardship to the people. These are all big problems. No doubt, it is our responsibility to whom you have given the seats of power, but you must also remember that in an independent country no problems can be solved unless there is full cooperation and help of the people. You have the right to criticize and raise objections. It is correct, because no country can be run by its people always remaining quiet and accepting everything blindly. But if you are a free nation, then mere criticism is not enough. You have to bear the burden and extend your help and cooperation. And if all of us do so even the biggest problems can be solved.[1]
>
> Jawaharlal Nehru
> 15th August 1948

The Nehruvian vision of India was one of progress, to provide opportunity, end poverty and disease, and most significantly to build social, economic and political institutions to the benefit of all Indians. Economic conditions had played a significant part in the case against colonial rule in India. It granted all Indian people equal participation in the state regardless of

[1] Nehru, *Selected Works -Second Series, vol. 7*, (New Delhi: Jawaharlal Nehru Memorial Trust), 172-173.

faith, whether in terms of benefits or duties towards the state.[2] It was also a vision that had not imagined the mass migrations of Partition possible, let alone factored them into state-building efforts. Consequently, the Nehruvian vision of the state struggled to keep re-asserting itself over the disruptions of a 'long Partition'[3] while forging on with post war economic (re)construction and nation-building. Politics now had to keep together what geography could not. The refugees had to become political participants in a new state, even if their political participation occasionally acted in opposition to those who formed government. However, they would also have to contribute to the state under the direction of this very government in a way that superseded politics, in the name of progress and development.

The mass migrations of Partition had come as a surprise to leaders in both new states, who had expected that once Radcliffe's borders had been drawn, minorities on either side of the border would be incorporated into the fabric of the new nations. The idea of a true democratic polity for the subcontinent involved minorities, rather than separate countries based on religion, as creating the two would set them at odds forever as enemies.[4] Political coexistence was the key to preventing perpetual violence based on religious binaries. Minorities as full citizens, ideally, would prevent this violence on the basis of the two-nation theory. Instead of solving the minority concerns that had plagued British India, two new minorities were created by communal violence surrounding the drawing of the new borders – the Hindus and Sikhs in Pakistan, and the Muslims in India. To assist refugees and to incorporate them into national life was intrinsically tied to the state's failures with regards to safeguarding the rights of minorities

[2] Ibid, *Essential writings, vol. 1*, 348-349.
[3] Term borrowed from Vazira Zamindar, *The Long Partition and the Making of Modern South Asia: refugees, boundaries, histories* (New York: Columbia University Press, 2007).
[4] Devji, *The Impossible Indian,*172-3.

against the violence that pushed them out of their homes. The violence of Partition was painted as spontaneous and unexpected in official accounts. The failure to effectively deal with it was what propelled the Indian state towards refuge relief and rehabilitation in response to this perceived 'disruption.'[5] The refugees had been denied a theatre to exercise their humanity in the states where they should have been full-fledged minority citizens. The work of providing them this theatre became a significant exercise for the new Union Government, particularly with those from the Western border.[6] Unlike the idea of 'cities of refuge' in which the refugee could retain his or her unique characteristics rather than become part of the homogenous national whole, the refugees would have to mould themselves into the citizenry of the new Indian state.[7]

The Partition of India is considered a defining moment with regard to refugee treatment within India. For one thing, it saw the movement of millions across the newly created borders of India and Pakistan. For another, these movements would shape discussions on Indian citizenship and belonging, both within the subcontinent and in context of its diasporas. While the previous chapter has outlined mistrust of the international system, this one will look at the beginning of the new state's experiences with non-European refugees. In making the case for refugee regimes on the 'margins', Ranabir Samaddar points out that the first refugees in independent India were acknowledged to be part of the nation, and their treatment was determined by rehabilitation measures and their incorporation into a social security regime,

[5] For the role of violence and its place in the history of Indian nationalism, see Gyanendra Pandey, *Remembering Partition*: *violence, nationalism and history in India* (Cambridge; New York: Cambridge University Press, 2001). For legitimisation of the state via refugee rehabilitation, see Ian Talbot,"Punjabi refugees' rehabilitation and the Indian State: discourses, denials and dissonances," *Modern Asian Studies* 45, no. 1, (2011).
[6] Arendt, "The Decline of the Nation-State and the Ends of the Rights of Man," in *Origins of Totalitarianism,* 267-304.
[7] The idea of cities of refuge is outlined in Derrida,*On Cosmpolitanism and Forgiveness.*.

rather than legal status. He locates the ambiguity in the subsequent interactions of the Indian state with refugees within the contradictory figure of the refugee of partition, who had rights in the new state but was also seen to be the object of charity. He also understands this as the foundation of the definitions of who belonged and who was an alien, outlining their circumstantial nature and the importance of local responses. Camps and captivity also became a feature to deal with these refugees. In short, Partition underpins the beginnings of India's refugee regime balancing power and responsibility in ways other than the international Eurocentric regime.[8] This chapter does not disagree with Samaddar's retrospective assessment, though the previous chapter and the presence of UNRRA indicate some continuity from wartime measures in dealing with refugees in India in terms of the emphasis on rehabilitation. Partition would become a defining moment in terms of the methods used by the Indian state to treat refugees in accordance with the needs of the state at any given point of time. The state was in the process of figuring out its relationship with its citizenry while superseding this political relationship in pursuit of development, and this would leave its mark on India's understanding of the regime.

Previously, other states had used India as a place to park unwanted persons, while restricting Indians' mobility. Now an India with her own sovereign status would grapple to define herself as the truncated successor to the Raj. For better or for worse, official Indian policy on any matter was determined by Nehru and a close circle of advisors. This chapter will examine where the refugees of Partition fit into Nehruvian nation and state building immediately after independence. This nation-building was aimed at creating unity, eliminating poverty and

[8] Ranabir Samaddar, "Power and Responsibilty at the Margins: The Case of India in the Global Refugee Regime," *Refuge* 33, no.1 (2017).

tackling the immediate aftereffects of the Second World War.[9] The Nehruvian idea of nation-building did not apply differently to the refugees of partition, despite their tragic experiences. The circumstances of the refugee were conflated with that of the state, both suffering from the loss of Pakistan: both needed to be rehabilitated. To build the state was to build the refugee and vice versa. As Nehru said, "We have to start this work of healing and we have to build and create."[10]

This is not to say that Nehru and his immediate advisors were the only ones with agency. Lower level officials, non-government organisations, agencies, and political parties, and the refugees themselves were active in these proceedings. The upper echelons would respond to these new currents in a manner befitting their vision for the development of the state. As those empowered to enact official policy in India's interactions with both the International community and the domestic, they are the ones tied to a larger study of the evolution of Indian refugee policy over a longer period of time. There were also trends within the Congress that veered between Nehru's secularism and a more Hindu view of the state, with Sardar Vallabhbhai Patel as Nehru's most significant interlocutor on this matter. However, Patel's death meant that Nehru's vision would eventually gain supremacy in the 1950s, but not before many concessions towards a Hindu majoritarian vision had been made in the immediate aftermath of independence and Partition. The actions of the upper levels of the new government were governed both by concerns for the survival of the newly formed postcolonial state of India and from longer ideological currents which created a complex amalgamation of ideas related to development in

[9] Nehru, *Essential writings, vol 2,* 69-70
[10] Nehru, *Selected Works-Second Series, volume 4,* 208.

India.[11] As Ravinder Kaur points out, in the transition from the colonial to the post-colonial state, several institutions were left intact, and many new agencies were also created by the government that wished to alter and improve society as part of their mandate to deal with the chaos of partition.[12] It is safe to say that the impulse to reform was a driving force in the formulation of refugee policy, while the inheritances of the colonial state had to be adapted in response to new, arbitrary borders. The policy making elite needed to determine the nature of their domestic sphere of operation.

To add a disclaimer, the literature on the Partition of India is extensive, and refugees are assigned an important role in this corpus because their overwhelming numbers would have great impact. There is a vast body of literature on the events leading up to partition that explain the complex machinations behind a decision that was not as inevitable as it is retrospectively viewed, as well as substantial attention paid to the immediate aftermath.[13] Much work in the last few decades has outline the socio-economic, caste-based and gendered experiences of the event, particularly across the Punjab border.[14] This chapter has focused on rehabilitation (or

[11] C.A. Bayly, "The Ends of Liberalism and the Political Thought of Nehru's India," *Modern Intellectual History* vol. 12, no.3 (2015).
[12] Ravinder Kaur, "Government Policies and Practices of Resettlement," in *Since 1947: Partition Narratives among Punjabi Migrants of Delhi,*(New Delhi; Oxford: Oxford University Press, 2007), 84-120.
[13] Anita Inder Singh, *The Origins of the Partition of India 1936-1947,* (New Delhi: Oxford University Press, 1987); Ayesha Jalal, *The Sole Spokesman: Jinnah, the Muslim League and the demand for Pakistan* (Cambridge: Cambridge University press, 1985); B.R. Ambedkar, *Pakistan or the Partition of India 2nd ed.* (Bombay: Thacker, 1945); Ian Talbot and Gurharpal Singh, *The Partition of India* (Cambridge: Cambridge University Press 2009); Neeti Nair, *Changing Homelands: Hindu Politics and the Partition of India* (Cambridge: Harvard University Press, 2011).
[14] Urvashi Butalia, *The Other Side of Silence* (New Delhi:Penguin Books, 1998); Ritu Menon and Kamla Bhasin, *Borders & Boundaries: Women in India's Partition* (New Brunswick: Rutgers University Press, 1998); Ravinder Kaur, " Narrative Absence: An 'Untouchable' account of Partition Migration," *Contributions to Indian Sociology* 42, no.2 (2008); Ibid,"The Last Journey: Exploring Social Class in the 1947 Partition Migration," *Economic and Political Weekly* 41, no.22 (2006).

lack thereof) and where it fits into the plan for nation-building and development. The importance of performing rehabilitation and development of the nation-state is not a new idea: the state itself was publishing books drawing the connection between the two, with U. Bhaskar Rao's *The Story of Rehabilitation*. The remembrance of the violence, and the efforts of the state to use rehabilitation as a legitimising means in the face of this violence have also been written about.[15] The relationship between rehabilitation, welfare, and nation-building has been looked at too. [16] There is even a considerable body of work on agricultural and urban development as it relates to the Partition.[17] Governmental responses to the refugee crises (particularly over the Punjab border) have been found to be in response to each other and to refugee actions themselves in solidifying the nature of India, Pakistan, and even displacement and movement within the subcontinent.[18] The Punjab centred narrative has been challenged with an insertion of what happened in the East. This history too has been examined both over a longer period of time and in accounting for local responses. [19] Continuities from the Second World War and the place of Partition in that particular global current have been identified; its inevitability has also been challenged.[20] Movements of people in Kashmir and Hyderabad have received scholarly

[15] Pandey,*Remembering Partition*; Talbot, *Punjabi Refugees.*
[16]Menon, " Birth of Social Security Commitments: What Happened in the West," in Samaddar, *Refugees and the State* 152-181; Samir Kumar Das, "State Response to the Refugee Crisis: Relief and Rehabilitation in the East," *Ibid*, 105-151.
[17] Tai Yong Tan and Gyanesh Kudaisya, *The Aftermath of Partition in South Asia* (London: Routeledge, 2000); Talbot, *Divided Cities: Partition and its aftermath in Lahore and Amritsar* (Oxford: Oxford University Press, 2006); V.N. Datta, "Punjabi Refugees and the Urban Development of Greater Delhi," in R.E. Frykenberg (ed.), *Delhi Through the Ages* (Delhi: Oxford University Press, 1993); Pippa Virdee, *From the Ashes of 1947:Reimagining Punjab* (Cambridge: Cambridge University Press, 2018).
[18] Zamindar, *The Long Partition.*
[19] Chatterji, *The Spoils of Partition: Bengal and India* (Cambridge; New York: Cambridge University Press, 2007); Haimanti Roy, *Partitioned Lives : Migrants, Refugees, Citizens in India and Pakistan 1947-65*, (New Delhi: Oxford University Press,2012).
[20] Khan, *The Great Partition,* (New Haven; London: Yale University Press, 2007)

attention.[21] Even world histories of refugees acknowledge Partition's refugees as proto-citizens in the new state.[22] In short, this chapter is not trying to re-write the histories of partition, but to use this corpus to understand how it fits into a longer history of understanding refugees in India at a time when the state itself was trying to define itself and its objectives, and how differential treatment towards refugees was understood in terms of where they fit into bigger picture of both development and political consolidation of the state – in short, the future of India.

MINORITIES, MIGRATIONS, CITIZENS

It has been argued that it was not the act of Partition but the withdrawal of the British government that gave way to the violence of un-mixing these populations, thereby undermining the power of both new states to protect those within its borders.[23] In reality, it might have been the notion of drawing these borders to perpetuate the existence of minorities, except in new cartographical forms. There were some voices in favour of the transfer of populations. Ambedkar pointed out that drawing borders would only create new minorities in the states of India and Pakistan, particularly in Sindh and the North West Frontier Province. It was only with a transfer of populations, as with ethnic minorities in Tukey and Greece, that the issue of religious minorities that had plagued Indian politics could be solved. Ambedkar would also cite

[21] Cabeiri DeBurgh Robinson, *Body of Victim, Body of Warrior" Refugee Families and the Making of Kashmiri Jihadi* (Berkeley: University of California Press, 2013); Ibid,"Too Much Nationality: Kashmiri Refugees, the South Asian Refugee Regime, and a Refugee State, 1947-1974," *Journal of Refugee Studies* 25, no. 3 (2012); Sunil Purushotham, "Internal Violence: The "Police Action" in Hyderabad," Comparative Studies in Society and History 57, no.2 (2015); Sherman, " The Integration of the Princely State of Hyderabad and the making of the Postcolonial State in India, 1948-56," *The Indian Economic and Social History Review* 44, no.4. (2007) ; Ibid,"Migration, Citizenship and Belonging in Hyderabad (Deccan), 1946-1956," *Modern Asian Studies* 45, no.1(2010).
[22] Gatrell, *The Making of the Modern Refugee.*
[23] Chaim Kaufmann,"When All Else Fails: Population Transfers and Partitions in the Twentieth Century,"*International Security* 23, no.2 (1998).

the issues of minority politics in Europe and the failure of the state to protect them as a dangerous precedent.[24] He was writing to remove the idea of a religious minority to create room for politics that included the Dalits within the national political community rather than within the frame of nationalism for the Muslim League.[25] The un-mixing of populations and transfers would be rejected because of issues of scale and allocation of resources, and due to a different idea of converting religiously ordered politics to a new citizenship-based minority politics.[26]

Besides this, there was also the question of the idea of a unified religious identity that actually underpinned these political minorities, which had been recognised even by persons like Ambedkar as functioning like ethnic minorities. In the years immediately before Partition, India was in the process of demobilising from the war and its economic consequences, while simultaneously enjoying a growth in industry resulting from wartime manufacturing needs. Its religious solidarities did not yet seem to be cast in stone, what with the idea of monolithic religious communities at odds with socio-economic divergences. The idea of Swaraj was open to interpretation, with no real idea of what its implementation would bring.[27] Previous flows starting from March 1947 had been accepted simply as a choice rather than envisioned as population exchange, part of the movements of people in the aftermath of the Second World War. [28] Subsequently, the issue of population exchanges for Punjab were accepted by both India

[24]Ambedkar, *Pakistan or the Partition* 101-102.
[25]Anupama Rao, "Ambedkar and the Politics of Minority: A Reading," in Dipesh Chakrabarty, Rochona Majumdar and Andrew Sartori (eds.), *From the Colonial to the Postcolonial: India and Pakistan in Transition* (New Delhi: Oxford University Press, 2007).
[26] Nehru and the Congress saw the participation of a political minority in an undivided India, while Jinnah saw the creation of two new states as the death of the old form of politics allowing for this new form to be practiced.
[27] Khan, *The Great Partition,*11-62.
[28] See essays on population transfers in Europe in Jessica Reinisch and Elizabeth White, *The Disentanglement of Populations: Migration, Expulsion, and Displacement in Post-War Europe 1944-49* (Basingstoke: Palgrave Macmillian, 2011).

and Pakistan but extending this transfer to other parts of the country was resisted because it seemed an impossible and overwhelming task for two new states preoccupied with other issues relating to their newfound independence, like the economy and post-war recovery.[29]

To Nehru, the only reason for the acceptance of Pakistan was not a grudging belief in the two-nation theory so much as being able to enact national development for at least some part of the territory that had once been part of the Raj.[30] That Indians had reacted to the two-nation theory by demanding their own state and acting violently at the new borders was a betrayal of the goals of the nation by creating the colossal displacement and responses to it.[31] From the very beginning of the Partition of India, refugees had been a site for contested visions of what India stood for. Their existence implied a victory of sorts for the two-nation theory, fitting into the idea of ethno-religious communities that could not co-exist without the glue of the Raj. The Nehruvian vision of state attempted to re-frame this co-existence in terms of secular democracy.

Partition threatened the idea of territory as the basis of the new state's sovereignty, as part of its claim to legitimacy derived from occupying the borders of the previous entity. The idea of India as the successor to the Raj had been dented by the territorial loss of Pakistan.[32] The large-scale migrations came as a surprise as the Partition was intended to prevent the violence and mass movement that followed. An inability to deal with the violence, particularly

[29] Nehru, *Selected Works-Second Series,vol.4,* 138-149.
[30] For a longer discussion on whether India should be a Hindu state, see Sucheta Mahajan, *Independence and Partition: The Erosion of Colonial Power in India* (New Delhi: Sage Publications, 2000),307-310.
[31] Nehru, *Selected Works – Second Series, vol.4.,*124-126
[32] Abraham, *How India became Territorial,*71.

in Punjab, led to rehabilitation activities being a means to legitimise the new Indian state.[33] This was only possible where refugees were not stateless but theoretically had a choice between two states. The refugees of the Partition of India, and in this case specifically Hindus and Sikhs, were unquestioned citizens of the new Indian nation-state. Rather than fitting neatly into the nation-state-territory-citizen formulation, these groups had to re-determine their relationship to territory based on, often involuntary, classification as belonging to the new Indian nation-state. Loss and victimhood were therefore essential factors in identifying with the new state in territorial terms. However, the new nation-state was also attempting post-facto nation-building exercises and had in mind a role for its citizenry (even though they would not be defined by law until 1955). The Act of 1946 did not recognise refugees, merely aliens. Those who were to be recognised as 'refugees' in Partition's immediate aftermath had some claim to belonging in the Indian subcontinent, rather than strangers with no perceived attachment to this territory pre-dating the arrival of European colonists.

Nehru was conscious of how handling the fallout of Partition would affect the India he hoped to build at home and present to the rest of the world. This India was one where the equality of opportunity would be extended to minorities despite the creation of Pakistan diminishing the presence of India's largest minority. But Nehru was determined that minorities who remained would become full citizens of India, rather than being swallowed by the putative Hindu majority.[34] The minorities would be full beneficiaries of opportunities and benefits, and part of the larger unity of India.[35] Unlike the implications of minority treaties in interwar Europe,

[33] Talbot, *Punjabi Refugees'.*
[34] Nehru, *Essential writings, vol 1,* 164-166.
[35] Ibid, 188.

both Nehru and Jinnah hoped that their states could protect minority populations, who could take part in democratic processes free from the historical burden of minority religious politics during the Raj. This meant that there could not be any further manifestations of the two-nation theory. For those Congress members like Patel who were more sympathetic to Hindu nationalism, Partition was accepted with the implication that the creation of Pakistan for the subcontinent's Muslims meant that India would exist as a Hindu majoritarian state, with its primary concern being security and economic progress. The central government's policy in the face of Partition was to limit the exchange of populations to East and West Punjab, the North West Frontier Province and Baluchistan. Everywhere else, they would only provide facilities but not encourage movement.[36] The government would not condone the creation of more new minorities, which explained its differential attitude to those displaced in various parts of the former Raj. 'Refugees' moved over the Western border, while in the eyes of the new state, those who moved over the eastern border did so for economic reasons and were excluded from most central rehabilitation efforts. This was a privileging of violence in the provision of aid, for the massacres in Punjab overshadowed the small scale but chronic violence in the East.[37] The differential treatment of refugees, even entire crises in the subcontinent at this time indicated the priorities of the central government – the logic of extending relief and rehabilitation lay within the context of larger schemes for the country.

[36] Nehru, *Selected Works, Second Series, vol 4*, 157; For an understanding of partition as it was experienced by people in Punjab, see Virdee, *From the Ashes of* 1947; Publications like Gopal Das Khosla, *Stern Reckoning: a Survey of the Events Leading Up to and following the Partition of India*(New Delhi: Bhawnani, 1949) did much to push the primacy of Punjab as the real zone of crisis created by the Partition.

[37] Roy, *Partitioned Lives,* 11; Chatterji, "Parititon and Migration: Refugees in West Bengal, 1947-67", in *The Spoils of Partition,* 105-158.

The influx of persons across the Eastern border was regarded as temporary for a considerable period of time. In part, it was perceived as an unnecessary addition to the new state's immediate problems and was even treated as a deliberate attempt to disrupt the Indian national project. Sardar Patel saw provincialism, the lack of food, the foibles of the princely states and so on as damaging to the Swaraj that had been achieved. He even issued a threatening statement to East Pakistan regarding expelling Hindus from East Bengal: if they were throwing people out, they would also have to give India enough land to settle them on, since her Swaraj was already imperilled. The influx from the East was being cast as aggression against India rather than a legitimate movement. Patel, like many others in government, thought that the Punjab refugee problem was so large that dealing with an influx from the East would be impossible. Further, he encouraged refugees to cooperate with local bodies and also reminded them that the government was not unsympathetic but constrained by an unprecedented crisis.[38] Accepting more refugees was untenable in his view. Indeed, refugee related aid in the East was limited to relief at most, rather than rehabilitation. As Samir Kumar Das points out, they were not yet entitled to rehabilitation as a right, but relief as charity, because rights would imply some form of national belonging that the government had not yet acknowledged.[39] The refugees from Bengal were initially treated as proto-minority citizens of the Pakistani state for many years, rather than automatically belonging to the Indian one as the Punjabis were. It was primarily economics that governed the idea of the Bengal border, with India acknowledging she did not have the resources for this section of the country.

[38] Vallabhbhai Patel,*The Collected Works of Sardar Vallabhbhai Patel XIII,* ed. P.N. Chopra, Prabha Chopra, S.P.K. Gupta (New Delhi: Konark Publishers), 263-66:340-341.
[39] Das, *State Responses.*

The *bhadralok* or middle class, who had migrated in the first waves from East Pakistan, had resources and relatives in Calcutta and were able to rehabilitate themselves without the state's assistance.[40] It was the poorer sections of society who constituted the problem in Bengal, fleeing in the face of communal violence in 1949-50. The Nehru-Liaqat Pact of 1950 led to optimism that those who had 'migrated' from East Bengal would feel safe enough to return to their homes. This was not to be, and by the mid-1950s, the refugees from Bengal would finally become subject to state policies of rehabilitation and belonging. Of course, this would also be in forms that were complementary to the development of the Indian nation-state, in terms of 'colonising' tribal areas and transporting agricultural methods across the country. Eventually, the Indian state would grant citizenship to any 'migrant' across the Eastern border in an attempt to limit responsibility towards rehabilitation. The fear that this would lead to even further migrations from the East was curtailed by putting a date limit on declarations of loyalty to the Indian state, and also to having one's name added to electoral rolls as a sign of citizenship.[41]

The peculiar case of Bilgis Begum highlights the bizarre nature of the idea of loyalty and the telos of the 'Other' arising out of Partition. She was born in the United Provinces in 1936, as was her father. Her father had migrated to Pakistan, but she had never left India. However, as the domicile of a minor follows that of his/her father, at the time of the commencement of the constitution of India, she did not become a citizen under the provisions of article 5 of the constitution. She married an Indian national in 1952, and therefore became an Indian citizen under section 5(1)(c) of the Indian Citizenship Act: her right to citizenship came through her husband, Abdul Shakoor. In her certificate of Indian citizenship, Bilgis

[40] Chatterji, *The Spoils of Partition,* 113-115.
[41] Roy, "Citizens of the Nation" in *Partitioned Lives,* 118-146.

Begum's 'nationality of origin' is Pakistani because of her father's declared allegiance.[42] Though she was deemed Pakistani by origin, the same logic did not apply to non-Muslims from territory that was now Pakistan. A 1947 memo from the Ministry of External Affairs to all passport issuing authorities in India determined that the government of India considered that the place of birth for such refugees was not a satisfactory criterion for the determination of nationality. In order to overcome this problem, refugees could declare which Dominion they owed allegiance to. If they declared India, their applications were to be dealt with in the same way as for an original resident of the province. They would thus become citizens of India, pending determination by the constitution of India. Similarly, non-Muslims whose ancestral home was in the territory of Pakistan, and who were resident in the 'East Indies'[43] and had no intention of returning 'home' were also to be treated as Indians provisionally.[44]

The question of nationality of the refugees in Princely States acceding to the Indian Union was much discussed, though it was decided that the term 'citizenship of the Indian Union' would only come into vogue once defined by the Constituent Assembly of India and further elucidated in India's Citizenship Law. In the meanwhile, there was the matter of refugees in states that had acceded to India needing to declare their intent to stay. All non-Muslim refugees were to be treated as domiciled in these states – the implication then being that it was only the Muslims who needed to confirm their intentions. In the case of Baroda, for example, it was suggested that they make this declaration before 30th September 1948.[45]

[42] NAI, Home affairs, I.C., 1963, 6/164/63-IC.
[43] Countries in Southeast Asia, most often used for Indonesia.
[44] NAI, Ministry of External Affairs and Commonwealth Relations, PVI, 23(91)-p/47
[45] Ibid,Ministry of States, General, 1948, 8(93)-G(R)/48

The most interesting facet of Partition was this difference between the 'refugees', who were Hindus and Sikhs, and 'migrants', who were Muslims who had fled to Pakistan but then returned to India. This distinction found its way into the Indian constitution and would become a bone of contention in debates in the Constituent Assembly. What is most striking is that Article 7 of the constitution only covers the returning Muslim population that had a permit of resettlement or permanent return – despite acknowledging that they were returning to their homes, they were still created as a population that needed to be regulated by permits, in the vein of foreigners. [46] In many ways, in defining their movements across both borders as voluntary, the Indian state itself was admitting to the telos of Pakistan as a home for Muslims in the subcontinent.

While the Nehruvian state was trying to limit the exchange of populations, the practice of population transfers implied un-mixing people because they did not fit within the nation that was the basis of the new state. By accepting the idea of exchanges on the Western front despite their initial reluctance, the government had put a stamp on the non-belonging of the minority that was the basis of the other nation-state. At the time, the entire question of minorities was framed in religious terms, so despite their commitment to secularism, the nature of minorities and national populations meant that if Muslims were Pakistani, then Indians were Hindu. Accepting this principle in one part of the country meant that it would take root everywhere else. By refusing to accept Bengal as a refugee crisis at first, the upper echelons of the

[46] Jayal, *Citizenship and Its discontents,* 58; Zamindar , " Passports and Boundaries," in *The Long Partition,*161-228; For a history of passports and travel documents as instruments of exclusion, see McKeown, *The Melancholy Order* and Torpey, *The Invention of the Passport.*

bureaucracy can be interpreted as trying, in vain, to limit the consequences of accepting population transfers, and so citizens, on the basis of religious identity.

Alladi Krishnaswamy Ayyar, a member of the Constituent Assembly, reframed the question from one of religion to one of secular loyalty when speaking about Muslim belonging. It was the choice of a country, rather than any pre-determined belonging that governed the distinction between 'refugee' and 'migrant'. His perspective can be read as an attempt to impose the secularism of Nehruvian India onto the religious identification of those displaced by Partition as citizens of one dominion or another.[47] Refugees at this point tended to be Hindu or Sikh, while migrant referred to Muslims, usually those who were returning from Pakistan after initially leaving the territory of independent India.

Regarding evacuee property and citizenship, Ayyar pointed out that though the state had duties towards its citizens, the right to property was in no way directly related to the rights of citizens. This was a retort to the Hindu Nationalist politician Bhopinder Singh Man's desire that Meo Muslims in Rajasthan and UP be denied their own property in the face of the threat to Indian integrity, especially where non-Muslim refugees were suffering hardship.[48] The Meos had been among the many Muslims who had been targeted in the violence of 1947, with entire

[47]Jayal, *Citizenship and Its Discontents,* 58-59; Constituent Assembly of India Debates- volume IX, 12th August 1949. http://cadindia.clpr.org.in/constitution_assembly_debates/volume/9/1949-08-12?paragraph_number=4%2C58%2C105%2C1%2C31%2C57%2C42%2C3%2C26%2C84%2C7%2C12%2C117%2C5#9.117.4 [last accessed 4 February 2019]
[48] Constituent Assembly of India Debates- volume IX, 12th August 1949, http://cadindia.clpr.org.in/constitution_assembly_debates/volume/9/1949-08-12?paragraph_number=4%2C58%2C105%2C1%2C31%2C57%2C42%2C3%2C26%2C84%2C7%2C12%2C117%2C5#9.117.4 [last accessed 21 March 2018]

villages falling victim.[49] Locals authorities were involved in these attacks, with the rulers of Alwar and Bharatpur complicit in the decimation of the Meos.[50] It is also interesting to note that they were largely cultivators, while the landholders in these parts were Hindu Jats. Their return was prompted by the realisation that getting to Pakistan was likely to be more dangerous than staying put.[51] Reports showed them running out of food, fuel wood, losing valuable cattle along the way, and falling ill along the gruelling 150 mile journey to Pakistan.[52]

Ayyar's point is interesting, because it tied the idea of work, rather than property, to the determination of citizenship. Vazira Zamindar points out that in such cases, the Indian state restored property to groups like the Meos on 'humanitarian grounds', even if it was the bureaucracy that had confiscated their property in the first place.[53] What did seem to be accepted at face value, even by Ayyar, was that groups like the Meos were either not citizens, or at least not as Indian as non-Muslim refugees. Zamindar's work further highlights the integral role played by property ownership in the resettlement and rehabilitation of the refugees from Punjab on either side of the border. Many refugees had left behind property on one side of the border, and the agreement to transfer populations entitled them to claim property on the other side. The grab for land and property that this implied would disempower minority citizens, whose homes could be snatched away and on whom the burden of proof lay to indicate that they had not left or been disloyal to the state within whose borders they resided. It was equally clear that the value of the property left behind in India was much less than that which Hindu and Sikh refugees

[49] Khan, *The Great Partition,* 117.
[50] Pandey, *Remembering Partition*,39; Khan, *The Great Partition,*135.
[51] Pandey, *Remembering Partition,* 39.
[52] Khan, *The Great Partition,* 160.
[53] Zamindar, *The Long Partition,* 135-6.

left in Pakistan, leading to a crisis given the central role that it played in refugee resettlement.[54] State policy had to manoeuvre around property shortages, and transform what it meant to be rehabilitated in tandem with the needs of India's development. These circumstances coalesced to create a situation in which the minority citizen came to be discriminated against, even more than the refugee citizen, who had the 'right' to rehabilitation and property. Minority citizens suffered in their requirement to prove their belonging and loyalty to the state. It was not just the duty of the government to protect the minorities, but of the minorities themselves to avoid communal associations.[55] The Meos were made strangers, and their own property was alienated: their Muslim identity stripped them of any history and attachment to the place they had lived in. Its return on solely humanitarian grounds rather than on the fact of their legitimate ownership and belonging in the new India legitimised complete dispossession because their flight was a 'choice'. The Nehruvian state's secular rhetoric masked communal realities, with a reluctant acceptance of what had happened disguised to avoid setting a legal precedent.

Unlike the nation-states created by the break-up of empire in Europe, minorities were not unwanted by those governing the state. As has been pointed out already, the heads of both new states wished to protect the minorities left on their side of the borders. Theoretically, both sides were offering citizenship. As Joya Chatterji notes, in their early discussions of citizenship, both potential new states adopted *jus soli* as the basis for citizenship to deal with minority anxieties. Partition would cause a shift away from this concept and towards declaring national allegiances, which inevitably masked the ethno-religious elephant in the room.[56] The influx of

[54] Zamindar, "Economies of Displacement," in *The Long Partition*, 120-160.
[55] "New Problem: The Duty of the Minorities," *Times of India*, Oct. 20, 1947,6.
[56] Chatterji, *South Asian Histories of Citizenship*,1053-55.

refugees and the violence from which it sprung led to massive efforts to stem the rising tide of demands for a Hindu Raj, with Nehru's extensive efforts to prevent Muslims in India being treated as fifth columnists. Niraja Gopal Jayal points to the consistency in delinking citizenship from nationality, with the Indian government insisting that to accept the citizenship of another state meant giving up Indian nationality.[57] It would remove religion from the official rhetoric on citizenship, and would also extend to diasporic Indians who could either choose to stay where they were or claim Indian citizenship if denied it in their place of residence. In doing so, it would confirm minority dispossession- the very idea of 'humanitarian grounds' in the record would set up the return of property to Muslim returnees an act of charity rather than the right of a citizen.

India was deciding who the individual citizens were to whom to give the constitution to. These individuals were to come together for the common good. Refugees were citizens with the right to vote, but they had to enter into a political relationship with the state to get what they wanted, and they too held a duty towards its development. There were competing visions of citizenship based on religion and ethnonationalism, but these were reframed in national contexts. Policy and even constitutional discussion were being framed by the communal logic operating on the ground, but the people framing the state's long-term official policy towards refugees would do so in terms of nationality and citizenship rather than religion as a push towards a secular identification. This had roots in Indians' historical experience of inequality. The new state called for legal equality for all citizens free from racial discrimination, while it tried to enact the same equality at home with messier differences rooted in religion.

[57] Jayal, *Citizenship and its Discontents,*55-56.

Acknowledgement as a refugee came with the expectation of being a good citizen and contributing to the Nehruvian vision of the common good, which was sacrifice in the name of development: the good minority citizen had to sacrifice for the time being in the hope that the state would eventually correct their dispossession. In many ways, the very different circumstances surrounding movements of peoples to and from the princely states of Hyderabad and Kashmir would prove this logic.

'REFUGEE' IN KASHMIR AND HYDERABAD

For Sardar Patel, Nehru's primary interlocutor at the time, and the strongman behind the assimilation of the princely states, the consolidation of India was the most important task that faced it after Partition: 'peace was necessary for the rehabilitation and all-round progress of the country.'[58] Rehabilitation was not merely about the individual, but about food grain reserves, industry, agriculture, and unity. Regardless of his differences with Nehru, Patel also acknowledged the need to remove all possibilities of communal violence and other sources of disruption in the interest of getting on with consolidating the state. Both visions of the state, embodied by these two Congress strongmen, had similar agendas. The princely states, particularly Hyderabad and Kashmir, were casualties of the period of 'power adjustment' in light of the new subcontinental configuration, as one contemporary observer put it.[59] These states covered a third of the territory of India and had a complex series of treaty arrangements and relationships with the British.[60]

[58] Patel, *The Collected Works XIII*, 64-5.
[59] Phillips Talbot, "Kashmir and Hyderabad," *World Politics* 1, no.3 (1949),332.
[60] Ian Copland, *The Princes of India in the Endgame of Empire 1917-1947* (Cambridge: Cambridge University Press, 2009).

There is a tendency to view Partition in isolation from contemporary events and processes. But the new Indian government did see the problems of refugees, India's economy, Kashmir, and Hyderabad as interlinked with each other.[61] The migrations of Partition are likely to have influenced events like the Police Action in Hyderabad – communal violence in Hyderabad had led to migrations of people too, with the potential to create similar disruptions in the south as there were in Punjab. Nehru himself said that 'Had there been peace in Hyderabad, there would have been hundreds of ways of bringing it round gradually to the idea of accession without resorting to any kind of force or pressure. But the picture changes if there is no peace and a storm rages there which brings millions of people to ruin and forces them to run away.'[62]

In a letter to Jawaharlal Nehru, Gandhian activist Mridula Sarabhai questioned if displaced persons from Kashmir and Hyderabad were to be counted amongst uprooted Indian citizens, in part because they were victims of 'internal commotions.'[63] The term 'internal' indicated the Indian understanding of 'paramountcy', which vaguely indicated the acknowledgement of inheriting British suzerainty in the region. India acknowledged the subjects of both princely states as citizens, despite the choice of autonomy the princely states had been given at the moment of Partition. There was a widely held view that the tendency of

[61] Nehru, *Selected Works-Second Series vol 7*,25-26; "Refugee Rehabilitation not an Isolated Issue," *Times of India*, Aug. 2, 1948, 7; "India Wants Utmost co-operation from Every Citizen," *Times of India*, Aug. 15 , 1948.
[62] Nehru, *Selected Works-Second Series, vol.7,* 166.
[63] NMML, Papers Of Mridula Sarabhai, Roll 1.

minorities to migrate in parts other than Punjab, like Muslims from the Indian Union into Hyderabad was an 'unfortunate consequence of Partition.'[64]

The Nizam of Hyderabad ruled a Hindu majority population in the princely state, which would end up being surrounded by independent India. The Nizam was leaning towards choosing Dominion status under the plan laid down by the British for the princely states, rather than accession to India. The Majlis-e-Ittehad-ul-Muslimeen, a Muslim political organisation that wished to see Hyderabad as a Muslim state and was inclined to join Pakistan were also operative in communal violence, creating flows of people in and out of the state, often depending on their religious identity.

The underlying causes for such internal migrations were part of a problem that had already been recognized, which was how to shape the multiple identities that coexisted within a vast territory. The USSR had become a model to deal with issues like this, and comparisons between Russia, China, and subsequently India's linguistic organisations have been made.[65] British politicians like Churchill and even Stafford Cripps of the Cripps Mission had identified the USSR's model of mechanisation and ethnoterritorial federation, rather than nation-state as an option for India. This was rejected in other quarters, as with the viceroy, Lord Wavell, as India did not have a common religion or language to bind it, and that Cripps seemed to understand depressed classes and India's other problems solely as an economic category.[66]

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[64] "New Problem: The Duty of the Minorities,"*Times of India*, Oct. 20, 1947, 6.
[65] See, for example, Kimitaka Matsuzato,"The Rise and Fall of Ethnoterritorial Federalism: A Comparison of the Soviet Union (Russia), China and India," *Europe-Asia Studies,* vol. 69(2017).
[66] Penderel Moon (ed), *Wavell: The Viceroy's Journal* (London; Delhi; New York: Oxford University Press, 1973).

Though these were not necessarily problems different from those in the USSR, they managed to be strong enough arguments against the model. In this context, the postcolonial Indian state had to create a politics for a state where diversity could exist, but one that could transcend religion and any other primordial identity.[67]

In a September 1947 assessment, Nehru noted that about fifty thousand Muslims from the central provinces migrated to Hyderabad, while Hindus from Hyderabad were leaving the state.[68] The Indian government felt the need to coordinate with the Nizam's government, the government of the provinces that the refugees had migrated to, and the governments of the province they were from. Initially, the central government appointed an official who had previously been in Punjab to investigate the extent of the problem and submit proposals for proper relief and rehabilitation.[69] Placing an officer from Punjab in charge of examining displacements to and from Hyderabad only reinforces Sunil Purushotham's idea that Hyderabad was a potential third front of Partition migrations, treated as such by the Indian state in its initial stages.[70] The issue of Hyderabad was also being painted as the opposite of Kashmir, where a Muslim population was ruled by a Hindu prince.[71] The idea of different politics and nations for Hindus and Muslims was threatening to erupt at the very centre of the new Indian territory.

[67] Regarding the Linguistic concerns that Wavell outlines, India would organise on grounds of language in the 1950s, but at this time it was important to create the notion of India that incorporated these former princely states of Empire but which was still a united whole.
[68] Nehru, *Selected Works, Second Series, vol 4,* 157.
[69] NAI, Hyderabad, POLTICAL, 404-P/47 1947
[70] Purushotham, *Sovereignty, Violence, and the Making of the Postcolonial State in India 1946-52* (Unpublished PhD thesis, University of Cambridge, 2014).
[71] "No Major Issue To Muslims": Dr. Pattabhi's Reply To Dr. Latif', *Times of India*, May 19,1947,7.

There was much suspicion that the Nizam and his government were trying to lure Muslims from other parts of the country to come to Hyderabad to make it a Muslim majority area, thereby folding it into the ideas that had necessitated the partition of India. An entire state risked becoming a fifth column in the Indian heartland. The Nizam denied this and cited 'humanitarian' concerns,[72] feeding the idea that India was unable to take care of its minorities.

The Nizam of Hyderabad had declared his intent to maintain an independent state. The Hyderabad Congress, in response, called for a People's Raj in Hyderabad.[73] Indian Muslims from the Deccan had moved to Hyderabad after the Partition, in part lured by promises of employment and land. The Hindus of Hyderabad had been unsettled by the events preceding the Police Action, and had migrated to states of the Indian Union, concentrated in places like Sholapur, Bijapur, Poona, Bezwada, Nagpur etc. The Muslims of Hyderabad had left their homes in the interior, converging in its capital city and district towns for fear of violent retaliation against Razakar[74] violence.[75]

The Hyderabad issue was almost internationalised at the United Nations, until Police Action absorbed Hyderabad into India, nullifying the matter and effectively turning it into a domestic concern.[76] The problem at Hyderabad had been 'secularised' as a lack of a responsible government, since there could be no state where the will of the people was not met. Democracy

[72] "Influx Of Refugees Into State: Official Policy Explained," *Times of India*, Oct. 25, 1947,9.
[73] "Aim Of Hyderabad State Congress: People's 'Raj'", *Times of India,* Jul.19, 1947, 8.
[74] The Razakars were a private militia in the state of Hyderabad, who supported the rule of the Nizam and were against Hyderabad's accession to India.
[75] NAI, Ministry of States, Hyderabad, 1952, 17(1)-H(52).
[76] For more on Hyderabad and the Police Action, see Purushotham, *Internal Violence.* For the integration of Hyderabad and its role in the Indian state, see Sherman, *The Integration of the Princely State.*

and autocracy were at loggerheads here, in the Nehruvian narrative, and it was up to the people of the state to decide.[77] Police Action would, in this line of argument, clear the way for the people of Hyderabad to enter the realm of representative politics. In the aftermath of the Police Action, the government of Hyderabad was faced with the relief and rehabilitation of these displaced groups. In official records, the Hyderabad refugees differed from Pakistani refugees in that the issue was seen as an entirely temporary migration due to the Razakar riots, panic, destruction, looting of property, and seizures of land. There was no intention of setting up townships, or big business centres, or anything closely resembling the big programmes of construction aimed at the refugees from West Pakistan. Even more striking was that the relief activities were to be carried out by a reformed version of the department that had dealt with relief and rehabilitation matters under the Nizams's rule, likely designed for Muslims entering the princely state after Partition.[78] In many ways, the new Indian Union was claiming the dominance of the colonial power that it had replaced. Hyderabad would be a place in which the Union government would act to rehabilitate the refugees who also constituted a Muslim minority against the misbehaviour of the Hindu population, which it had been unable to do in Punjab. To this end, Nehru was willing to help rehabilitate these groups and provide escorts to encourage them to return to their villages.[79] The crisis of Hyderabad was not allowed to become part of the narrative of loss that came to define both the Indian State and the West Pakistan refugees' experience of Partition, and would instead be folded into a narrative of Hyderabad's continued belonging and development within the Indian state, including its Muslims. The

[77] Nehru, *Selected World, Second Series, vol 5,* 279-280.
[78] NAI, Ministry of States, Hyderabad, 1952, 17(1)-H(52).
[79] Nehru, *Selected World, Second Series, vol. 8,* 107-109.

refugees of Hyderabad were not allowed to become another manifestation of the two-nation theory and Partition, but a local one that had spilled out of the confines of the region.

The Princely State of Kashmir was governed by a Hindu ruler, though its population was largely Muslim. The Maharaja of Kashmir also wished to stay independent, much to the dismay of both India and Pakistan. A Pakistan-sponsored invasion threw the state into disarray, and the Indian government strong-armed the prince, Maharaja Hari Singh, into signing an instrument of accession as a precondition for military assistance. The state would be left in limbo when Mountbatten convinced Nehru to take the matter to the United Nations, where it was decided that a cease fire followed by a plebiscite would take place. All of this happened against the backdrop of a Kashmiri national movement led by Sheikh Abdullah, which acknowledged the syncretic culture that had developed in the state. The violence and uncertainty in Kashmir would also lead to displacements, both within Kashmir and between Pakistani-controlled Azad Kashmir and Indian-held Jammu and Kashmir. Many Kashmiris, mostly Hindu, would also flee to other parts of India.

Kashmir would prove to be a sticking point for India. Whereas the loss of Pakistan was one that India was coming to terms with in trying to place the refugee-citizen within the national fabric, Kashmir was kept out of the national schemes of rehabilitation. The political issue governing the refugees from Kashmir, and that which governed refugees from Pakistan were very different. There was considerable difference in the rehabilitation grants between both sets of refugees. In the Yol camp, for example, there was no economic activity, and the ministry for rehabilitation kept pleading a lack of resources with regard to basic education, even as there was

an excess of the same material at the Kurukshetra camp that housed so many refugees from Punjab.[80] In part, this was because Kashmir's people could not be the citizenry of a new nation for as long as the territory they were expected to return to remained disputed. All relief measures were designed to be temporary, with the idea that the subjects of the princely state would return to claim their possessions. Accepting property as compensation in either India or Pakistan would incorporate them into those states, rather than acknowledging their subjecthood of the disputed territory.[81] Notably, Kashmir would also mark the only attempt of bodies like the International Committee of the Red Cross to try and mobilise for the relief of refugees both in Azad Kashmir and Jammu, perhaps reinforcing the idea that these refugees were something separate from the other massive crisis of displacement on the subcontinent.[82] Speaking at Kurukshetra Camp in April 1948, Nehru pondered repatriating the Kashmiri refugees. He said that while he may not be able to send them back to Mirpur or Muzafarrabad, he hoped that they would be able to go back to other parts of Kashmir to be able to serve it and fight the war to preserve their homeland, presumably as a whole that would become an unquestioned part of India.[83]

Even though they were kept out of the 'Indian' scheme, there was a similar emphasis on what was owed to the place of belonging. While Hyderabad had been absorbed with the intent of creating a seamless identity with the rest of India, Kashmir was made visibly separate, setting a precedent for the treatment of refugees who had, whether in theory or practice, a homeland to return to. This policy would, in fact, be repeated for later groups seeking asylum in India like

[80] NMML, Mridula Sarabhai Part 1, Roll 1
[81] Robinson, "Forging Political Identities" in *Body of Victim, Body of Warrior,*99-136, and *Too Much Nationality.*
[82] Catherine Rey-Schirr, " The ICRC's Activities on the Indian Subcontinent following Partition (1947-1949,"*International Review of the Red Cross* 38 no. 323 (1998).
[83] Nehru, *Selected World -Second series, vol. 6,* 93-94.

the Tibetans. Displacements across the various borders and within the princely states were thus treated differently based on how they related to the position of the new Indian state as it grappled with its colonial inheritances, with the Punjab Border being acknowledged as the primary zone of crisis.

PLANNING AND REHABILITATION

There was a determination to introduce refugee rehabilitation into the mission of planning for the nation, rather than allowing a 'haphazard' assimilation based on personal preferences over optimal action.[84] The refugees were not to become a burden on the nation, but an asset.[85] After all, these refugees were to be citizens of the new state and their rehabilitation needed to be conducted in ways complementary to state-building efforts, despite their initial position as a distraction from other social, economic, and cultural problems.[86] The transition from the colonial to the postcolonial would thus involve the refugees in a massive way as the full potential of Independent India had to be explored through their rehabilitation while recovering from the loss of Pakistan.

Refugee relief and rehabilitation acted as a means to legitimise the new state, both in retrospective accounts like Bhaskar Rao's *The Story of Rehabilitation* and in some contemporary accounts. In the 1948 government publication *Millions on the Move*, an interesting facet is the emphasis on the role of the Military Evacuation Organisation that assisted

[84] "Rehabilitation of Refugees," *Times of India*, Jun. 28, 1948, 6.;"Policy for Resettlement of Refugees criticised," *Times of India*, Mar. 13, 1948, 7.
[85] "A Home and a Job for Every Indian," *Times of India*, Apr. 11, 1948,7.
[86] Nehru*, Selected Works -Second Series, vol 4,* 209.

refugees over the border.[87] The Punjab Border Force under the British had failed miserably to prevent violence and protect lives in Punjab.[88] The Military Evacuation Organisation had been set up on the distinction between an 'us' and 'them' specifically to help with movements once an exchange of population had been agreed. The army had been widely acknowledged as an integral arm of colonial government. This nationalist reincarnation which rescued citizens transformed it from a means of colonial control to body that that worked to protect and uplift Indians. It was also significant that there were a large number of military and ex-military men involved in the violence in Punjab,[89] with the Military Evacuation Organisation acting to reassure citizens of their role as protectors from rather than instigators of violence.

Though Talbot identifies the 1967 *Story of Rehabilitation* as the real eulogy of the state's role in assisting the refugees of Partition, *Millions on the Move* was already creating a picture of a unified state working in harmony to assist its newly created and newly bereft countrymen. The provinces and the princely states were already being portrayed as equally involved in the matter of relief and rehabilitation.[90] As Granville Austin points out in his landmark work on the Indian Constitution, a federation gave way to a stronger centre to deal with the consequences of Partition, including resettling the refugees and dealing with the princely states.[91] The refugee policies of this strong central government were tied to visions of development of the Indian state, but coloured by its interactions with lower level officials and the refugees themselves.

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[87]Government of India, *Millions on the Move: The Aftermath of Partition,* (Delhi: Publications Division, Ministry of Information and Broadcasting, 1949).
[88] Robin Jeffrey, *"*The Punjab Boundary Force and the Problem of Order, August 1947*," Modern Asian Studies* 8, no.4 (1974).
[89] Swarna Aiyer, "'August Anarchy':The Partition massacres in Punjab, 1947," *South Asia: Journal of South Asian Studies* 18,Special Issue(1995).
[90] Government of India, *Millions on the Move*; Talbot, *Punjabi Refugees' Rehabilitation*
[91] Austin, *the Indian Constitution,* 236.

Refugee relief and rehabilitation itself became a means of imposing national unity upon Indian diversity, represented in the shift in the nature of the constitution in the face of the crisis of Partition.

Even prior to this, at the very beginning of the mass migrations, Nehru's government had sent for experts from UNRRA, paid for entirely by India and not the agency itself. UNNRA officials, Molly Flynn and Evert Barger, were sent to India to provide expertise on how to deal with the refugees in 1947.[92] 'Rehabilitation' would have just as pervasive a hold in India, which received minimal international assistance for Partition, as those parts of the world where UNRRA and the IRO were active. India would rehabilitate refugees as citizens, whether or not international assistance was forthcoming. [93] The entire premise of rehabilitation was to restore capability that had been lost. The very usage of the term and corresponding efforts in the Indian context lived up to this expectation.

Flynn and Barger strongly supported greater central control and minimal bureaucracy in dealing with the refugee crisis, particularly in light of the crisis' potential repercussions throughout India – they too seemed to agree that the crisis in Punjab was "the test of responsible government".[94] The UNRRA officials also recommended strong central government control as a means to limit the further spread of communal violence. They also recognised the need for a complete economic overhaul in response to the loss of territory and resources, and the mass

[92]NAI, MEA and CR, FEA Branch, 600-FEA/47, 1947
[93] Gatrell, "Midnight's Refugees," in *The Making of the Modern Refugee,* 148-177.
[94] United Nations Archives, https://search.archives.un.org/uploads/r/united-nations-archives/6/f/0/6f07bb97562bfddd76ce118019cb448a3635ccb1e79c33f88fec3a0aedc538d3/S-1546-0000-0198-00001.pdf [last Accessed 4 December 2018]

displacements. Though India did not receive international assistance, the hastily cobbled together relief efforts were startlingly similar in their outlook to UNRRA's own. Nehru's comment that the report revealed nothing new, though it did shake them up, was indicative of the longer wartime methods being put into practice rather than complete disruption.[95] The 1951 convention, signed in the middle of India's own crisis, also passed India by in terms of what relief should look like – nation-state based, and oriented towards developing and (re)constructing the state.[96]

It is also remarkable that India's plans for the relief and rehabilitation of refugees, particularly those of Punjab, mirrored UNRRA's. The aspects of national sovereignty and reconstruction that, for example, characterised UNRRA's work in Poland bore remarkable similarity to that in India. The rhetoric of duties coloured rehabilitation and refuge in both. Displaced persons from Poland were encouraged to leave their camps and contribute to Poland's development and reconstruction, just as Nehru would recognise that "the wealth of a nation is its people-not gold and silver. Refugees are as much our wealth."[97] Refugee communities in both were set up as model communities.[98] This is not to obscure the contextual differences in the case of both countries, nor ignore UNRRA's obvious internationalist agendas and transnational operations, but to draw attention to similarities in rhetoric. What is of note is the operation of a similar idea of rehabilitation operating in India as it was with UNRRA, which

[95] Nehru, *Selected Works- Second Series, Vol 5,* 140.
[96] United Nations Archives, https://search.archives.un.org/uploads/r/united-nations-archives/6/f/0/6f07bb97562bfddd76ce118019cb448a3635ccb1e79c33f88fec3a0aedc538d3/S-1546-0000-0198-00001.pdf [last accessed 4 February 2019]
[97] Nehru, *Selected World- Second series, vol 4,*209.
[98] Jessica Reinisch, "'We Shall Rebuild Anew a Powerful Nation': UNNRA, Internationalism, and National Reconstruction in Poland,"*Journal of Contemporary History* 43, no.3 (2008).

was unsurprising given India's wartime experiences and associations. Though India's refugees were not a direct product of her involvement in the War, they too were part of post-war nation-building and (re)construction.

Even prior to the definition of citizenship in India, the non-Muslim refugee of partition was acknowledged to be *en route* to becoming a citizen of the new nation-state. In Hannah Arendt's frame, they did not lack a theatre to exercise their rights. There were multiple conceptions of what citizenship should be in the early years of the independent state – this included the liberal idea, which saw the individual as rights bearing; the republican idea that placed the common good before the individual; and the ethno-national that emphasised descent. In India's case, Ornit Shani has identified a fourth, Gandhian conception of non-violent dissent as a means of enacting citizenship and belonging within the new nation-state. These methods of citizenship interplayed with each other, rather than any member of the state practicing one form exclusively. Gandhi's version of citizenship, while bringing many marginal groups into the fold, invoked a pedagogy of duty towards the larger nation.[99] The people, including the refugees, were just as responsible to the state as the state was to them. As Faisal Devji points out, Gandhi wanted to withhold relief to force a political relationship between people and the new states, and force the state into responsibilities towards their minority citizens to the prevent flow of refugees altogether.[100] In lieu of that, the refugees were to be forced into a political relationship with the state, rather than becoming inactive agents. By 1948, Mohanlal Saksena, Minister for Rehabilitation, was telling the displaced masses that they were no longer refugees

[99] Ornit Shani, "Gandhi, Citizenship, and the Resilience of Indian Nationhood," *Citizenship Studies,* 15 (2011).
[100] Devji, "Conclusion" in *The Impossible Indian*, 185-192.

but part of the country as a whole, and that they needed to start behaving like 'true nationals who had every right to demand of the government to do what they deemed was necessary for their well-being.' Rather than wait for the government to come up with constructive ideas, the refugees were encouraged to present concrete ideas for model townships and other means of rehabilitation rather than place the burden of rehabilitation solely on government initiative.[101] Even accounts of partition that were more inclined to justifying the communal aspects of partition like M.S. Randhawa's *Out of Ashes* laid emphasis on parasitic elements being the only persons unable to find their feet, even where it involved deviating from traditional occupations as middle men towards cultivating land and manual labour. [102]

Nehru made it clear that idleness in camps and living on dole were not to be a permanent solution. The men and women in camps had to work to pay back the country by rendering service to themselves, to the camp, and to the country.[103] The Minister for Rehabilitation, Mohanlal Saksena, felt that stopping 'gratuitous' relief was necessary to shake the refugees into activity rather than remaining passive recipients.[104] The rhetoric of duty and self-reliance was also convenient in terms of an uneven social revolution where the state lacked the resources to adequately rehabilitate the vast numbers who had been forced out of their homes. Further, though the state was in favour of individual rights, it placed limits on them in the interest of reform, reserving a space for state-led intervention.[105]

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[101] "Refugees Urged to United in Task of Rehabilitation," *Times of India,* Jul. 11, 1948,1.
[102] M.S. Randhawa, *Out of the Ashes: An Account of the Rehabilitation of Refugees from West Pakistan in Rural Areas of East Punjab,*(Chandigarh: Public Relations Department, Punjab, 1954),218.
[103] Nehru, *Selected Works- second series*, vol 6,100.
[104] Kaur, Distinctive Citizenship: Refugees, Subjects and Post-Colonial State in India's Partition," *The Journal of the Social History Society* 6, no. 4 (2009),434-435.
[105] Austin, " Fundamental Rights II," in *The Indian Constitution*.

MANY PROBLEMS, COMBINED SOLUTIONS

Nehru's ideas of social welfare predated the Partition and the refugee crisis by at least a decade. In 1940, he was already thinking of the meaning of social work. To him, it was not dealing with the just surface manifestations of a problem, but going down to the roots. Even more significantly, this implied that no major problem could be solved in isolation since they were all tied together, and in turn were directly hinged on economic structures.[106] By 1949, Nehru felt that the Relief Ministry could not operate as any other branch of the government, but had to act in the spirit of social welfare. Rather than mere bureaucracy, he wanted the human touch. It wasn't enough to give orders, but to provide the training to make them happen.[107] To Nehru's mind, rehabilitation projects and townships would be a laboratory of innovation to be applied to other similar projects and to the nation as a whole.[108] Rehabilitation projects and townships were 'a Road to New India,' not for refugees alone, but models for what the Indian state should look like. [109]

The 'problem' of refugees would become a vision for development. The townships were unattached to the past, as were the displaced refugees who had become disconnected from their past by displacement. It provided a means to create a whole new ideal citizen of India who would build and contribute to the progress of the state. Schemes like the Nilokheri township fit

[106] Nehru, *Essential Writings, vol 2,* 38.
[107] Nehru, *Essential Writings, vol 2*, 82-83.
[108] L.C. Jain, *The City of Hope: the Faridabad Story* (New Delhi: Concept Publishing Company, 1998),54.
[109] S.K. Dey, *Nilokheri*, (Bombay; Madras: Asia Publishing House, 1962), 65.

squarely into this vision of refugee relief as social welfare that tackled several of India's problems at once.

The government recognised the need to build new cities, both for refugee resettlement because of the limits to which existing big cities could expand. [110] The basis of these schemes tended to be modelled on the idea of an investment that would provide longer term returns. The state could not permanently act as parent to the displaced persons, so the cost of townships and facilities for livelihood had to be paid back. The officials who had conceived of these projects did not see them as dole but the right to earn a living and live in a holistic fashion based on the communities developed out of these experiences. To S.K. Dey, architect of the scheme, the Nilokheri project was thus the Welfare State in action.[111] Nehru himself wished to see the townships replicated throughout the country. The townships were microcosms of a vision for the future of India, combining the development of industry with the outlying areas.

The Nilokheri scheme was the first state-led community development scheme in independent India, and also aimed at rural and urban integration. Its uniqueness, which caught the eye of development experts internationally, was that it was built from the ground up by the refugees of partition. From its initial status as a rehabilitation project, it would become closely associated with development concerns like food production.[112]

[110] Nehru, *Selected -Second Series, vol. 5,* 144-145.
[111] Dey, *Nilokheri,* 36-41
[112] Jack Loveridge, "Between Hunger and Growth: Pursuing Rural Development in Partition's Aftermath, 1947-57," *Contemporary South Asia* 25, no.1 (2017).

Dey felt that in the earliest days of relief and rehabilitation, the entire machinery had got the problem wrong. To him, it seemed as though the focus was on looking for houses for those displaced by partition, as evidenced by the emphasis on evacuee property and so on. 'For work alone gave certainty to livelihood to those who were willing to work for a living. If work is there, home follows; so do clothing, schooling for children, medical relief, and other amenities of life'. Perhaps even more revealing of his big picture approach, Dey notes that even prior to Partition, most living in India had been at the subsistence level. Like Nehru, Dey's ambitions were not limited to the immediate problem at hand, but intimately tied to the future of India as a whole. He wanted to plan a new agro-industrial complex with the 'displaced millions as the vanguard of the movement.' The plan was based on the idea of a small community that would eventually encompass India's entire rural population.[113] Dey credits his buzzing vocational centre amidst the idleness and misery of the Kurukshtera camp as inspiring Nehru's further ideas about vocational training and townships.[114]

The refugees from Pakistan were often middle men, and therefore did not have the capacity to contribute to the national output. There needed to be an emphasis on training them in these skills.[115] The Nilokheri scheme planned to train the refugees in order to provide the requisite artisans and other personnel required for a township or colony to function by itself. Officers were to be trained as part of this scheme to be sent to other budding townships in India.[116] The resettlement of the refugees of Partition was to be tied to that of development in the rest of the country. So rather than rely on settlement and development schemes near big

[113] Dey, Nilokheri, 11
[114] Dey, Nilokheri,18.
[115] Ibid, 6-8.
[116] NAI, Ministry of States, Rehab, 1949, 2(36)-R/49.

cities which would limit the scope for long term expansion, it was suggested that an all-round, planned development of the country rather than particular areas be considered. Resource rich central provinces were suggested as a suitable site for settlement of refugees from the West, given that the population already there was mixed and scarce.[117]

Agricultural resettlement for rural refugees from Punjab acted to rid them of the worst evils of absentee landlordism and feudal structures. The refugees in East Punjab had been resettled on agricultural land by early 1951, and the system of graded cuts led to larger landlords being assigned smaller tracts than those they had previously controlled. Conversely, even landless agriculturalists were given some small tract.[118] Even before the Zamindari acts had been put in place then, we see the development of socialist approaches and abolition of feudal structures in favour of a more equitable distribution of land. Perceived social ills were being rectified alongside rehabilitation schemes.

The narrative of Partition has often been Punjab-centric, and both collective memory and state narrative have privileged Punjabi refugee resettlement and rehabilitation. Punjabi refugees' own remembrances emphasise self-reliance, while state narratives focus on its role in pushing them to stand on their own feet. Some accounts combine this Punjabi chauvinism with the narrative of state help, pointing out that because of 'his intelligence and practical common sense, the refugee farmer is taking to progressive agriculture like a duck to water. He knows that the secret of the so-called Grow More Food is more irrigation, and helped by the State

[117] Nehru, *Selected Works- Second Series, vol 5,*143.
[118] Kudaisya, "The Demographic Upheaval of Partition: Refugees and Agricultural Resettlement in India, 1947-67," *South Asia: Journal of South Asian Studies* 18, no. 1(1995).

Department of Agriculture he has tried to pump as much water from the bowels of the earth as possible…'[119] This particular narrative draws attention to the state acknowledgment that the Punjabi refugee must adapt to the new methods and technologies that it was attempting to set up. This was in contrast to Bengal, where the state, but particularly central government, did not have such expectations.

The West Bengal government's preferred method of dealing with refugees in camps was dispersal, with a preference for settling these groups outside of Bengal. The Dandakaranya project in Madhya Pradesh was the largest of these government efforts performed upon reluctant refugees and with much government cajoling. It should be recalled that migration from Bengal took place in waves, rather than following the dramatic population exchange in the West. The earlier groups from East Bengal who arrived in Calcutta tended to be middle-class and have the resources and connections to settle themselves. Subsequent waves were usually lower caste, either *namasudras* or *pounda-khastriyas*, who had strong ties to the land and agriculture as an occupation. For the most part, these were the occupants of the varying forms of refugee camps created in Bengal by the state government.[120]

One of the more interesting projects arising from the resettlement of the Bengali refugees from East Pakistan was in the Andaman and Nicobar islands. By December 1949, Vallabhbhai Patel informed the constituent assembly that 777 people were settled on the islands, from 187 families. Of these East Bengali families, 176 families were cultivators, one the family

[119] Randhawa, *Out of the Ashes,* 222
[120] Das,*State Response*; Debjani Sengupta, "From Dandakaranya to Marichijhapi: Rehabiliation, Representation and the Partition of Bengal," *Social Semiotics* vol.21 no.1 (2011).

of a confectioner, one that of a compounder, and two did not belong to any category (proven to be of no importance as they had already been sent back to the mainland). The families were offered free passage; ten acres of land free of cost along with remission of land revenue for the first two years; grants of a maximum of Rs.100 per month per family for the first 9 months;2 buffaloes for ploughs, and a she buffalo for milk; seed paddy, agricultural implements and manure for free; artisans and non-agricultural families were given half an acre of land for construction of houses and financial assistance for up to 3 months; all families were to be given building materials free of cost. But by this time, it was already clear that the government was not able to meet these commitments, and some of the refugee families had returned.[121] In part, the officials in charge of the project blamed the refugees selected, claiming that their ninety percent success rate was remarkable given the state of the refugees. The cultivators were given less than the ten acres promised to them, and the government officials claimed that they only sowed half the five or six acres granted. The officials cited cattle shortages, and the refugees being unaccustomed to the virgin soil after the soft, fertile soil of Bengal. The refugees themselves also pointed to the failure to provide the promised implements to carry on the work of clearing the thick jungle cover. However, in the end, though the government acknowledged making tall promises to the refugees at the time of selection, refugee discontent was blamed on the laziness of those who felt it was the government's duty to feed and maintain them forever.[122] By 1952, the settlement of Bengali refugees in the Andaman and Nicobar islands was part of the Colonisation and Development scheme, to the detriment of the tribes already resident there. Refugee resettlement represented an expansion of the transformative power of the new Indian state in 'developing' the British penal colony of the Andaman islands. The refugees were made

[121] NAI, MHA, Andamans, 1949.
[122] NAI, Ministry of Home Affairs, Andaman Section 1949, 53/10/49- AN

part of the Grow More Food campaign, an attempt at making both the refugees and the state self-sufficient,[123] albeit with limited technological and state assistance in comparison to their fellow citizens in the North West.

The Dandakaranya project in the latter half of the 1950s was the second big project aimed at dispersal to relieve the pressure on land in Bengal. Debjani Sengupta points out that it was a resettlement project rather than rehabilitation, along with the limited economic assistance that that implies. It also marked the public incorporation of resettlement and rehabilitation activities of Bengali refugees into that of citizens' duty to assist in the development of the nation.[124] Like the previous project, however, it would be under-resourced with limited considerations for the particular requirements of the refugees and what they had previously been used to. The Bengali refugee was now covered by the rhetoric of duty towards national construction as well.

'If you have rights in India, you have certain duties too.'[125] The debate between what the state owed to the refugees, and what the refugees owed towards the development of India would become a long-standing bone of contention in the narratives of rehabilitation. The spectre of self-reliance loomed large, as did that of the degree of state help in achieving it. As Ravinder Kaur points out, becoming a full-fledged citizen of the new nation involved being able to survive without state help outside the camps.[126] Besides the colonial notion of repaying the state for

[123] Uditi Sen, " Dissident Memories: Exploring Bengali Refugee Narratives in the Andaman Islands." In Panikos Panayi and Pippa Virdee (eds.) *Refugees and the End of Empire*(Basingstoke; New York:Palgrave Macmillan, 2011), 219-244.
[124] Sengupta, From *Dandakaranya to Marichijhapi*, 104-5.
[125] Nehru, Selected World, second series, vol 6,101
[126] Kaur, *Distinctive Citizenship,* 430.

assistance received as a refugee, Partition's refugees would have to help build a future for India rather than wallow in their victimhood, regardless of the source of these worries. The state would push refugees to perpetuate progress even in the face of their losses and despite the impositions of bureaucracy.

REFUGEE DISSATISFACTION AND POLITICAL ENGAGEMENT

As has been noted, there was some dissonance regarding the role of the state and the role of the refugees in achieving successful rehabilitation, and of the nature of refugee relief itself as a basic right versus charity.[127] In 1959, Mehr Chand Khanna, the Minister for Rehabilitation, stated that the Rehabilitation of refugees from the west was complete. The All Indian Refugee Organisation wrote to Jayaprakash Narayan to express the view that this was a premature declaration and not rooted in fact. This particular case involved resettling the refugees who had lived for a decade in Delhi's *Purana Qila*, or Old Fort, in areas far away from the business interests they had built up over these years. But the letter also reveals the refugees' experience of corrupt officials, arbitrary actions, and favouritism. Further, it indicated extreme discontent with the management of compensation and evacuee property, more than a decade after Partition.[128] The refugees had clearly organised themselves to both disagree with and push the government to meet their demands. Refugee dissatisfaction made them susceptible to the advances of other political parties, and bodies like the All India Refugee Organisation formed wings of larger political organisations. An interesting phenomenon rising out of Partition was

[127] Joya Chatterji, "Right or Charity? The debate over Relief and Rehabilitation in West Bengal," in Suvir Kaul (eds.), *The Partitions of of Memory: The Afterlife of the Division of India,* (Bloomington: Indiana University Press, 2001);Ravinder Kaur, *Distinctive Citizenship.*
[128] NMML, J.P. Narayan, IIIrd Instalment, file 521.

courting refugees as a political constituency contemporary to the codification of Indian democracy.

The refugees of Partition, particularly Hindus and Sikhs from the West, were indubitably citizens of India. They were to be placed on the electoral rolls for independent India's first elections. Perhaps the most interesting facet of the question was that of permanent residence for the purpose of determining the constituency that the refugee would belong to, since the camps were not deemed to be permanent and, as Assam MP Rohini Kumar Chowdhury pointed out, the state was moving refugees from one part of the country to another. In discussing the preparation of the electoral rolls, a parliamentary motion from 8th January 1949 stated 'that, subject to the law of the appropriate legislature a person who has migrated into a Province or Acceding State on account of disturbances or fear of disturbances in his former place of residence shall be entitled to be included in the electoral roll of a constituency if he files a declaration of his intention to reside permanently in that constituency.' The intention to reside permanently, rather than proof of residence, was specifically designed to cater to those displaced by the birth of two new nation-states, but the discussion went further to encompass the refugees living in the camps who obviously had no intention of remaining permanently but whose right to vote was unquestioned despite a lack of clarity regarding where they would settle.[129] The camps, then, were a form of constituency unto themselves, and the refugees were already being recognised as significant voters in India's elections. It would bring relief and charitable

[129] Constituent Assembly of India Debates, Volume VII 19th November 1948.http://cadindia.clpr.org.in/constitution_assembly_debates/volume/7/1949-01-08?paragraph_number=110%2C142%2C118%2C181%2C189%2C202%2C67%2C86%2C121%2C63%2C174%2C169%2C62%2C185%2C141%2C199%2C122%2C204%2C112%2C175%2C188%2C116%2C246%2C12%2C244%2C268%2C282%2C108%2C61%2C25%2C111%2C115%2C113%2C40#7.83.110 [last accessed 4 February 2019].

activities in camps into close association with the political support of the victims of the same crisis whose relief and rehabilitation the Congress-led state was using to legitimise independent rule and strong central control. Refugee dissatisfaction would have potent political potential in democratic electoral politics.

The most often cited example is that of the Communists in Bengal, whose rise to power was closely associated with their capture of the dissatisfied East Pakistan refugees whom the centre failed to adequately acknowledge.[130] However, even prior to the communist takeover, the Congress was distressed at the influence of the Hindu Mahasabha over refugee camps. Mridula Sarabhai and J.B. Kripalani's visit to the Bongaon Camp revealed that local Congress workers were not involved in relief activities lest they clash with those of the Hindu Mahasabha. In part, this was because the Mahasabha had been active since the beginning of the exodus in the East, which the Congress had been slow to respond to. [131] Sarabhai observed in 1950 that the refugees in Delhi who had begun to be self-reliant had been whipped into a state of disappointment leading them to demand compensation based on some rogue element's suggestion, presumably in pursuit of scoring points against the Congress. Sarabhai classified this as damaging to the secular ideology of the new state. For whatever reason, the local rehabilitation machinery tended to ignore the Congress entirely, leaving the refugees to drift towards communalist organisations where they felt they were more likely to receive the help they felt they deserved.[132]

[130] For a more detailed understanding of the relationship between the two, see Chatterji *The Spoils of Partition.*
[131] NMML, Mridula Sarabhai, roll 17.
[132] NMML, Mridula Sarabhai, roll 15.

A similar tendency was noticeable with RSS and Hindu Mahasabha activity coinciding with a large refugee presence in the United Provinces. [133] In fact, in 1948, the Working Committee of the All-India Hindu Mahasabha decided to suspend all political activities in favour of relief and rehabilitation work, with a focus on the social, economic, and religious problems in the way of creating a Hindu society in independent India.[134] The RSS acted to assist Hindu refugees, creating massive goodwill against a government that was trying to push them into becoming model citizenry.[135]Despite best government intent, the very citizens being moulded in its camps were also more sympathetic to a different vision of the state, precisely because a secular vision had failed to account for their mass displacements. It was only with the death of Gandhi that the government was able to limit the activities of the Hindu Right to some extent and reinforce its sovereign position.[136]

Despite declaring its cessation of political activities, the Mahasabha's lobbying on behalf of the refugees was a means to a larger vision of the state entrenched in the politics of what Indian democracy should like that. Refugee 'rights' and organisations became a legitimising political platform for the communal organisations that the Congress felt were disrupting their vision of a United India, or, in the case of Bengal, paved the way for the communists who provided the refugees with political leadership, in return for a mass base.

[133] Khan, "The Arrival Impact of Partition Refugees in Uttar Pradesh, 1947-52," *Contemporary South Asia*, 12, no.4 (2003). 516-518.
[134] "Mahasabha to suspend Political activities,"*The Times of India*(New Delhi), Feb 16, 1948, pg 5.
[135] Walter Andersen, "The Rashtriya Swayamseval Sangh II: Who Represents the Hindus?" *Economic and Political weekly* 7, no.12 1972: 633-640.
[136] Khan, "Performing Peace: Gandhi's Assassination as a Critical Moment in the Consolidation of the Nehruvian State," *Modern Asian Studies* vol. 45, No.1 (2011).

Sarabhai's observations reveal the Congress understanding of refugee dissatisfaction was that it was a product of alternative communalist visions of the state that encouraged criticism of the Congress and Nehru's government. They did not seem to think of the problem was that the refugees felt that relief and rehabilitations should have been conducted differently. To them, the solution was to get the local Congress re-involved to secure the political constituency of the refugees to bring them into the fold of their own secular democratic vision of the state[137] Refugee policy and the politics around it by Nehru's Congress government was a series of emergency-like responses to unforeseen circumstances that were formulated in keeping with the politics needed to perpetuate their developmentalist, secular, democratic state. Whether or not this happened, this was the intent.

OUSTIDE THE INTERNATIONAL REGIME

At a time when the International refugee regime was dissociating itself from enforceable rights as it formulated the Office of the High Commissioner for refugees, refugees in India, particularly Hindus, were acknowledged to have rights and claims on the new state.[138] India was deviating from the regime in this way, in part because the independent state's first experience with refugees was of those acknowledged to have rights as citizens. In many ways, the Indian state was perpetuating an UNRRA style vision within her borders even as the International regime moved in different directions, precisely in response to immediate circumstance. Peter Gatrell points out that in the case of the IRO, India supported a narrower definition of refugee situations, despite not being a part of it. This had to do with a broad definition making

[137] NMML, Mridula Sarabai, roll 15.
[138] Gatrell, "Putting Refugees in their Place," *New Global Studies* 7, no 1 (2013).

satisfactory solutions in certain situations less satisfactory.[139] There seems to be no word as to what situations they were referring to, but it seems clear that India was keen to limit the arenas which the international regime would reach, which in itself is telling of some of the postcolonial state's concerns.

Regarding the international dimensions of Partition, both India and Pakistan had requested aid for the refugees, which had been denied at the United Nations on grounds of the refugees not fitting into the definition of statelessness. In 1947, Nehru and Secretary General of the Ministry of External Affairs G.S. Bajpai were discussing what international appeals should be made for the issue of displaced persons on the subcontinent. They decided not to take a 'begging bowl' for food, in part because it would be odd to ask for food at a time when India was buying 33 millions dollars' worth of food abroad (India would eventually become dependent on food aid in the 1950s).[140] Instead, they wanted to place requests with diplomatic missions, non-profits and NGOs for medical supplies, warm clothing and cash to continue with India's dignified stance on the matter. American organisations like the Church World Service, the National Catholic Welfare Service, the Quakers, the American Red Cross, and the General Federation of Women's Clubs were all active in India at the time.[141] These organisations would not make much impact in the face of the overwhelming nature of the migrations. However, this move deliberately removed the politics of Partition from the international order of nation-states, instead limiting outside participation to apolitical material assistance. All definitive, politically

[139] Gatrell, *Putting Refugees in their Place*, 11.
[140] Refugee rehabilitation and resettlement projects in later years would become closely tied to the Grow More Food campaign. See Subir Sinha , "Lineages of the Developmentalist State: Transnationality and Village India," *Comparative Studies in Society and History* 50, no.1 (2008);Sherman, *From Grow More Food*.
[141]NAI, MEA and CR, FEA Branch, 600-FEA/47, 1947.

inclined aspects of relief and rehabilitation would be enacted by the Indians and Pakistanis, whether in planning rehabilitation, transferring asserts, or enacting controls on the movement of peoples between the two new states.

The 1951 convention's definition did not cover the subcontinental crisis at all, limiting the mandate of the United Nations High Commissioner for Refugees to those displaced within Europe by the war. It also marked a shift towards legal protection rather than field assistance. UNRRA's methods would be left behind by the international order at the time when India was in the throes of implementing rehabilitation programmes, and in fact beginning to acknowledge the need to extend this aspect to the Eastern border as well.

The Korean situation would be similar in that there were technically two Koreas for those displaced to claim citizenship of and belonging to, but since it fitted into the strategic interests of the Western powers, a separate organisation would be created for those displaced there.[142] One argument even goes so far to claim that the Koreans who left did so for peace of mind rather than any immediate danger like those considered refugees, or for economic reasons of labour migrants.[143] In fact, most of those displaced from Korea who were resettled went to the United States, which had supported South Korea in the war. Even those who were not covered by the territorial parameters of the 1951 convention but were internationally acknowledged as refugees played into bipolar political agendas, regardless of the nature of the definition that privileged violence and certain geographies.

[142] Zolberg et al, *Escape from Violence,*134-135.
[143] Ji-Yeon Yuh, "Moved By War: Migration, Diaspora, and the Korean War," *Journal of Asian American Studies* 8, no.3(2005).

Therefore when the High Commissioner for refugees wrote to India in 1952 asking about the number of European refugees in India, the Assistant Secretary of the Government of India let him know that there were no special laws or regulations for the admission of European refugees other than those governing any other aliens/ foreigners: information for these people in the country was not available. Indian citizenship law had not yet been enacted, but those who met qualifications according to the Constitution of India had already been accepted as Indian citizens, and certainly some more would also be when law came to be enacted. India did not have the time or money to think about European refugees as it was preoccupied with its own colossal refugee crisis.[144] Once again, in the matter of refugeedom, Europeans were being treated better than Indians, and therefore could not be allowed into the home for fear of overwhelming the host.

The Indian situation would also defy contemporary ideas of repatriation and return. Geography played a very hazy role, for the refugees displaced in India, particularly the western border, could not go back to the land their families had been associated with. On the other hand, they were moving to a political entity to which they were assumed to belong, almost as though they were being 'repatriated'. While the return of minorities to their countries of origin was theoretically possible, in practice violence prevented it. Their 'native' or 'ancestral' place did not exist in specifics, only being determined as India. This would make them citizens of India as a whole, over any regional loyalties within the state. It was a departure from the colonial practice of returning people to 'their places', absolving the government of any responsibility or

[144] NAI, External Affairs, United Nations I, 1952- UI/52/6122/1003.

association. Instead, they were now subject to central control more than any other group in the country, and in many ways signify the centre's means of dealing with the state's progress, both economically and ideologically.

The case of Partition turns the principle of hospitality on its head. At this point, 'Pakistanis' were not foreign enough to provide hospitality to, as they were so recently part of the 'Self' under the Raj. Pakistan and its people had only just decided not to be part of the home, much in the fashion of the prodigal son. The 'refugees' and 'migrants' of the fallout could not be offered hospitality as there was no question of their return or even limited participation in the new state whose territory they had left. The moment of partition was not an invasion of the home so much as a bewildering moment of splitting the home and its inhabitants, and of trying to make the sibling a stranger. This alienation would only be completed in 1971, when the Indian state's refuge was defined as hospitality alone because there was no question of the refugee belonging to the state.

Pamela Ballinger questions why only one regional regime, the European one, became codified as the international norm for refugees.[145] The Indian one began with the expulsion both of European refugees and therefore any Eurocentric regime centred on them. It would begin its career dealing with what we could technically call 'national refugees', who also experienced different legal categorisations and differential experiences. At the time, geography had been disrupted as the basis for the nation, bringing politics to the forefront to establish nationhood. Freedom was not an immediate achievement, but subject to a longer process that came with the

[145] Pamela Ballinger, "Entangled or Extruded Histories: Displacement, National Refugees, and Repatriation after the Second World War," *Journal of Refugee Studies* 25, no.3(2012).

burden of independence, and therefore true national sovereignty was intrinsically linked to political power and relationships.[146] The process of Partition, including refugees, could not be divorced from independence and its accompanying endeavours. Partition brought with it a second idea, which was that of a break from the past in that all of the issues that had plagued India in its colonial existence with regard to separate electorates, and even the phenomenon of territorial truncation were not to be repeated. The refugees, whose very existence was evidence of the effects of these longer histories were to be re-written into the state's myth of nation-building and construction. The refugees' break from the past was a microcosm of India's break from it in pursuit of a meaningful independence.

A peculiar aspect of this larger vision manifests itself very clearly in the refugee experience, which is the expertise and scientific rule of the development-oriented state and a state that was seeking consolidation by politics, specifically those of representation.[147] The whole idea of planning predated the actual achievement of independence, and Partition would throw a spanner in those works. Refugee rehabilitation would be governed by both the scientific impulse of planning for the economy and security of the country, but also straddle the political dimension in ways that pushed the country towards an unsaid, even deliberately concealed, Hindu leaning. The Congress development agenda was a means to move away from the politics of the rights and charity debate to the pursuit of national progress. The break from the colonial past, despite being inherently tragic, was in pursuit of the good of the collective. The political relationship was occasionally made secondary to a vision of India's development and each

[146] Uday S. Mehta, "Indian Constitutionalism: The Articulation of a Political Vision," *From the Colonial to the Postcolonial*, 13-30.
[147] Chatterjee, "The National State," in *The Nation and its Fragments* (Princeton: Princeton University Press, 1993), 200-219.

citizen's contribution to this progress, despite their experience of the break. The outlawing of the Hindu right in the aftermath of Gandhi's death, and the annexation of the princely states were also versions of the same issue, where the greater good needed to be forcefully applied rather than politically mediated, indicating the placing of expertise above political relationships in pursuit of a greater good.

The refugees of Partition would inform the Indian state of the place of the 'refugee' within the arena of the citizen-state-territory nexus precisely because it danced around degrees of belonging in the Indian state. The Punjabi Hindus and Sikhs were immediately incorporated into this mechanism, and their means of rehabilitation were tied to economic development for the state. The Bengalis were eventually folded into this category and would also be used to extend the reach of agriculture. The treatment of Muslims within debates of citizenship would be symptomatic of differing visions of a state ideology. That Kashmir and Hyderabad were prevented from becoming part of the same narrative indicates an early recognition of responsibility for refugees with the need of the centre to assert power over an already truncated identity. Political consolidation and development all occurred against the backdrop of rehabilitation, and therefore the refugees would be set up forever as a figure thought of in terms of their (potential) relationship with the state, regardless of the duration of their stay. They had political voices, but were simultaneously objects of planning and development, making them the ultimate manifestation of the contradictions of politics and development. The promise of economic progress against communal violence would be felt most closely in the refugees' experience of a secular, democratic, planned India. The ideas of discipline, governmentality and that of reciprocity between citizen and state would transform from the colonial to the newly

postcolonial nation. Refugee rehabilitation was the clearest platform upon which to examine these contradictions play out, for it would form the most direct control upon any group of citizens that the central government would possess, in turn feeding its powers, unity, and even its dissident voices.

NEHRU'S NON-ALIGNMENT DILEMMA: THE TIBETAN REFUGEES IN INDIA

> I am quite clear that we should not participate in this so-called Refugee Year – an odd name. Nor should we participate in the sale of stamps. I do not quite know what complications might arise if we participated. The term 'refugees' covers a variety of persons and it may well be that this is used not only for humanitarian purposes, but for other and rather political purposes also. Thus there is the idea of helping Chinese refugees in Hongkong. Then there are white Russian Refugees. Who will deal with this fund? If we take any step in this direction, we shall get badly entangled. Therefore we should keep away from this refugee year.
>
> All the world knows about our own refugee problem, which has been one of the biggest in the world. Now we have a relatively minor but nevertheless troublesome problem of Tibetan refugees.[1]

In 1959, World Refugee Year would mark the UNHCR-centred regime's attempt to recognise and assist in refugee crises beyond Europe. The Tibetans arrived in India just in time to herald the beginning of this year of the refugee, placing them in an interesting position in the eyes of the international regime.[2] Nehru's questioning of the term 'refugees' above is revealing, acknowledging as it does that refugee experiences were hardly uniform. Equally significant is the downplaying of the Tibetan refugees as a minor problem, which in scale paled in comparison to the mass migrations of Partition.[3] It is worth asking where the Tibetan refugees stood in India's larger conception of refugees, and not merely as a problem requiring ad-hoc solutions.

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[1] NAI, External Affairs. United Nations I, 22(3)-UNI/59.
[2] Gatrell, *Free World*, 47-76.
[3] There is some disagreement as to the exact number, but the estimate is usually 80,000 Tibetan refugees in 1959-63.

The uneasy relationship between politics and humanitarian action towards refugees in the world of the Cold War had played out several times in the preceding decade. All this was in an era that involved the pursuit of wider anti-colonial self-determination that overlapped with pure national self-interest for new states. This is set against what Samuel Moyn describes as the 'hydraulic relationship' of self-determination and human rights in this decade, 'to the extent that one appeared and progressed, the other declined or even disappeared'. [4] In his assessment, the emergence of individual human rights was an effort by Western powers to divert focus from self-determination that had greater force and power for anti-colonial movements. [5] The concept of self-determination had gained ground alongside the anticolonialism of the early twentieth century, whereas the concept of human rights was of relatively recent provenance. In the immediate decades after the Universal Declaration of Human Rights, self-determination emerged the victor in this competition as the decolonising context gave it greater appeal for a wide audience.

In 1959, India granted the Dalai Lama asylum in India. This marked the beginning of a wave of Tibetan refugee arrivals in India. By 1963, there were 38,000 Tibetan refugees in India. 15,000 of this number were settled in agriculture, 10,000 temporarily engaged in road work, 5,000 were lamas, 6000 were children, and 2,000 were old and infirm.[6] By 1971, India acknowledged the presence of 56,000 Tibetan refugees within its borders.[7] The Tibetans would be the first refugees in the new country who were not considered to naturally belong to the state,

[4] Moyn,*The Last Utopia,*88.
[5] Ibid*,*84-119.
[6] UNHCR, Fonds 11, series, Box 257, 115/IND/TIB[2].
[7] Ibid, Executive Committee, 22nd session, 1971 (English).

either as members of an imperial diaspora from the subcontinent or as refugee-citizens of Partition. The refugees of Partition had been seen as a domestic concern and the subjects of developmental projects, and this would continue to extend to members of the 'returning' Indian colonial diaspora until the early 1970s. The Tibetans, however, did fit into the mould prescribed for international recognition as refugees according to the UN Convention, but India remained reluctant to call for international involvement. Despite Indian aversion to becoming embroiled in the political question of Tibetan autonomy and independence from China, it was a good host to the Tibetans in exile. But Nehru's fear of provoking Chinese aggression begs the question of why India would throw caution to the wind and accept these refugees at all. Was this humanitarian sympathy simply a product of a public support for hospitality at odds with the government's understanding of the state's geopolitical interests, or was this a deeper thread in a peculiar international moment where self-determination met neutrality using human rights rhetoric?

In this chapter, I will look at the Tibetans who arrived with or immediately after the Dalai Lama in 1959 and the 1960s and focus on how the Tibetan question provoked domestic debate about India's relations with China and larger visions of non-alignment. The refugees from Tibet were placed under the jurisdiction of the Ministry of External Affairs, rather than that of Relief and Rehabilitation.[8] This marked a clear distinction between those displaced by the impact of decolonisation, like the Burmese Indians, and this new group. The arrival of the Tibetan refugees prompted a need for reimagining the refugee, both against international definitions and previous understandings of the refugee used within the state. The refugee had to

[8] UNHCR. Fonds 11, Series 1, Box 253,15/GEN/TIB [2].

be divorced from politics and the right to citizenship and statehood, so that India was not seen as interfering in any other nation's statehood and sovereignty by exercising her own sovereign right to grant asylum. The idea of self-determination was being negotiated differently by nation-states in the West, with Bandung signifying the return to the Leninist vision. [9] Further, it was also a reflection on how the idea of the 'Self' and the 'Other' in the multicultural postcolonial state differed from the West, necessitating a difference in the nature of the interaction with this 'Other'. The refugee was being thought of differently as his circumstances unfolded in a theatre other than where the idea had first been conceptualised. The hospitality due to the refugee was also being examined against the nature of self-determination and political community. This was at a time when self-government had yet to be realised in many territories still under colonial rule.

The Tibetan refugees prompted meditation on the idea of the rights of the citizen and the rights of the refugee as a human. It goes back to the idea that stateless people do not belong to a political community and territory and so have no rights in it. However, preserving sovereign borders is an act of protecting processes and rights as much as territory, in that borders maintain the space to exercise them in. The Tibetan refugees are an example of allowing people across the border while simultaneously protecting them but limiting the nature of the rights that they are allowed to enact within the Indian theatre. It would create the Tibetan as objects of relief and paternalism, within India's own democratic processes without really allowing them a voice in these. In doing so, it shifts the 'problem' of refugees away from the refugees transcending

[9] A previous chapter has discussed India's understanding between rights and self-determination. It is also important to note that the Great Powers were also thinking of the implications of the idea of self-determination, and it was not coeval with anticolonial movements. Discussed in greater detail in Joseph Massad, "Against Self-Determination," *Humanity* vol. 9, no.2. (2018).

the border. Instead, it becomes a question of the effects of the meaning attached to the presence of these refugees by those other than their hosts.

COLD WAR REFUGEES?

All of this was unfolding as the refugee was becoming a site of Cold War contestation. USA's position on Tibet since December 1950 had been to recognise the Tibetans' right to self-determination; this had been communicated to Britain and India and maintained in the face of the 1959 rebellion. The American government's, and by extension the Western bloc's, selective support of the idea of self-determination was convenient for its own international aims. It was limited to understanding self-determination as Tibetan autonomy rather than independence.[10] In 1959, the British government had also called for an Indian denunciation of China's aggression in Tibet, but Nehru's sympathy towards the Dalai Lama was not enough to push him towards this move that would tilt India from its neutral stance.[11] The Indian government was aware of the West's official line on Tibet early in its negotiations with Mao's China, and thus of its potential to become part of the Cold War the way of Korea had. The Dalai Lama had visited India in 1956 and wished to stay but had been persuaded by the Indian government to return to Lhasa.

The Cold War was a driving force in international relations in the 1950s, whether directly or indirectly. The United States was concerned with acquiring influence in Asia and

[10] FRUS, 1958–1960 , Volume XIX, China, Memorandum From the Assistant Secretary of State for Far Eastern Affairs (Parsons) to Secretary of State Herter,14,October , 1959.
[11] Rakesh Ankit, "Between Vanity and Sensitiveness: Indo-British Relations during Vijayalakshmi Pandit's High-Commissionership (1954-61)," *Contemporary British History* 30, no.1 (2016), 32.

had identified India as the only potential Asian rival to Communist China. However, the Indian state was committed to Non-Alignment. Refugees in the 1950s were often seen through an East-West lens, and the Western Bloc employed a rhetoric of refugees fleeing persecution from communist states. The United States tended to support parallel programmes via voluntary agencies independent from the UN as a result of the East-West stalemate regarding the role of UN agencies. The West preferred resettlement over repatriation. The USSR-led Communist bloc was more sceptical of refugee crises and tended to oppose refugee related interventions that did not involve repatriation in opposition to the free world rhetoric used to resettle those leaving Communist states. In addition, the United States would only act to assist geopolitically useful refugee populations within the bipolar rhetoric and actions of the Cold War, creating the internationally recognised refugee as a political pawn while leaving out significant crises of displacement. The India-Pakistan refugees had remained outside the international regime, but Korea and Palestine drew its attention.[12]

Nehru's government seemed a reluctant host for Tibetan refugees, for fear of upsetting relations with China.[13] In 1959, Central Intelligence Agency chief Allan Dulles' assessment of the situation was that Nehru was caught between public opinion in India that was sympathetic to Tibet while needing to conciliate China, explaining why Nehru had adopted a 'neutralist' attitude of asylum to the Tibetans while avoiding overt political support that would offend China.[14] Nehru's decision of non-intervention and recognition of Chinese suzerainty in Tibet in the 1950s was framed with the intent of preventing Cold War rivalries from playing out in India.

[12] Loescher, *Beyond Charity,*55-74.
[13] Tenzin Gyatso the fourteenth Dalai Lama, *Freedom in Exile: The Autobiography of the Dalai Lama*, (New York : Harper Collins Publishers 1990),147.
[14] FRUS, 1958–1960, Volume XIX, China, 382. Editorial Note.

He was also concerned about the changing nature of Afro-Asian solidarity as national self-interest projected towards the future began to outweigh a unity premised on a shared past experience. Chinese aggression would force India to request military aid from one of the Cold War power blocs, which is exactly what happened in 1962. Given this, it is worth asking why India risked accepting Tibetan refugees at all. In these circumstances, the term 'refugee' came to differ both from India's own recent experience of Partition and from that of the International Regime that was redefining itself to look at crises outside Europe.

Before trying to understand the Tibetan refugee crisis, there are two aspects of Cold War polity that are particularly important to address. The first is the place of human rights in Cold War rivalries, while the second is the nature of India's 'neutrality': this involved the question of race and the solidarity of the Afro-Asian states and India's own non-alignment.[15] India's need to express moral sympathy was under discussion in the context of defending a non-aligned policy that had taken a beating over crises like that in Hungary.

The 1956 crisis in Hungary had proven to be a watershed moment, tying together many of the themes discussed throughout this chapter, and bringing up India's own approach to these ideas. Though Nehru's reputation took a beating given his differing approaches to the Suez and Hungary crises, his perspective on intervention in Hungary in the first place warrants some attention. To Nehru, the idea that the West had been invited to intervene was the issue, rather

[15] For India's foreign policy and non-alignment, see Andrew B. Kennedy, "Nehru's Foreign Policy: Realism and Idealism Conjoined," in David Malone, C. Raja Mohan and Srinath Raghavan (eds.), *The Oxford Handbook of Indian Foreign Policy* (Oxford: Oxford University Press, 2015); A.P. Rana, "The Intellectual Dimensions of Non-Alignment," *Journal of Asian Studies* 28, no.2 (1969); A.Appadorai, "Non-Alignment: Some Important Issues," *International StudieS* 20, no.1 (1981).

than the second Soviet invasion. He was opposed to the idea of an election under UN auspices, a view generally attributed to the circumstances of the delayed plebiscite in Kashmir.[16] India had initially disagreed with international opinion on Hungary's sovereignty as it was a member state and not a colony.[17] Nehru's larger world view, even in the case of the Hungarian crisis, was caught somewhere between the idealism and realism that were hallmarks of non-aligned policy.

UNHCR would also play an important mediating role in in the crisis. The repatriation of some Hungarian refugees opened up contact with the Eastern bloc, while USA was willing to designate UNHCR to deal with a large scale refugee crisis for the first time rather than relying on American agencies.[18] Though its actions in Hungary marked UNHCR's independence, the 1956 situation in Hungary had fed into the Western rhetoric of those fleeing communism.[19] To allow UNHCR to act as in Hungary would bring this rhetoric to non-aligned India and imply recognition of China as a persecuting state as the Soviet government in Hungary had been recognised by Austria and Yugoslavia. Former Socialist, and leader of the opposition Swatantra party Minoo Masani called for India to emulate the actions of neutral Austria during the 1956 Hungarian Crisis. Despite its diplomatic relations with Hungary, Austria had still opened its doors for refugees escaping Soviet repression.Nehru was reluctant as this would internationalise the crisis, and claimed the Tibetan issue was not a similar one.[20]

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[16] Nataša Mišković, "Between Idealism and Pragmatism:Tito, Nehru and the Hungarian Crisis, 1956," in Nataša Mišković,,Harald Fischer-Tiné, and Nada Boskovska (eds.), *The Non-Aligned Movement and the Cold War: Delhi-Bandung-Belgrade* (Abingdon:Routledge, 2014),125-6.
[17] Burke, *Decolonization and the Evolution,* 47.
[18] Loescher,*The UNHCR and World Politics: a perilous path* (Oxford: Oxford University Press, 2001), 82-91.
[19] Gatrell, *Free World,*52-3.
[20] *Lok Sabha Debates, Second Series,* Volume 28, 1959, (New Delhi: Lok Sabha Secretariat), 8461.

HUMAN RIGHTS VERSUS SELF DETERMINATION

As seen in the second chapter, India's international representatives had lobbied for changes in other parts of the world using the language of human rights, as with the treatment of Indians in South Africa. The Tibetan crisis marked the first evocation of human rights by Indian popular opinion to influence its own government. It also fell within an interesting period of the history of human rights. The 1950s and 60s are often considered a lull in this history. But Roland Burke points out that though the 1970s were the landmark decade for transnational human rights, the seeds were sown in bodies created in the 1960s. These same bodies had developed out of networks of 'anti-colonial agitation' of the 1950s.[21] The International Commission of Jurists (ICJ) was one such body and had labelled China's actions in Tibet a genocide in their 1960 report.[22]

Human rights became one of the many sites for competing world visions, with the traditional divide between civil and political rights championed by the West, and social and economic rights propagated by the Soviet bloc. Within this scheme, the Soviet sympathy for collective rights was closer to the anti-colonial cry for self-determination. [23] The 1950s were an important decade in the African and Asian nations' understanding of the relationship between

[21] Burke, 'How Time Flies': Celebrating the Universal Declaration of Human Rights in the 1960s, in *The International History Review* 38, no.3 (2016).
[22] International Commission of Jurists Legal Inquiry Committee on Tibet, *Tibet and the Chinese People's Republic : A Report to the International Commission of Jurists* (Geneva: International Commission of Jurists, 1960).
[23] For an overview of human rights during the Cold War, see Rosemary Foot, "The Cold War and Human Rights," in Melvyn P. Leffler and Odd Arne Westad (eds.)*The Cambridge History of the Cold War vol.3*(Cambridge: Cambridge University Press, 2010); For its uses in international relations, see David P. Forsythe, *Human Rights in International Relations, 4th ed.* (Cambridge: Cambridge University Press, 2018).

human rights and self-determination. There appeared to be a distinction between those who associated self-determination with democracy and individual rights, and those who saw it as more strictly anti-colonial and a matter of sovereignty. The bloc of these nations at the UN in the early 1950s leaned towards the idea of democracy and self-determination. This vision saw individual rights and national freedom as interdependent. India, regarded a moderate nation in this regard, was just as much in agreement with the perspective that rights were a product of belonging to a 'self-determined society'. Within Burke's timeline of the development of human rights, the democratic approach to self-determination would ebb by the 1960s, giving way to a narrower version dominated solely by sovereignty.[24] The crisis with Tibet seems to fall into this transformation. However, the Bandung conference allowed Afro-Asian voices to associate human rights as embodied by the Universal Declaration with self-determination, and this would make it to debates at the UN about the larger nature of human rights in relation to decolonisation.[25]

It is critical to observe India's understanding of the hierarchical relationship between the collective right to self-determination and individual rights. Even in 1952, the Indian delegation at the Eighth session of the Commission for Human Rights would say:

> If right to self-determination means right to shape one's life or one's destiny whether political, economic, social or cultural, then in a truly democratic state one can say this right exists for all its peoples. It is only in a totalitarian state or in states where colonial systems of government, i.e. where the rulers are aliens, exists, that this right does not exist. So far as the totalitarian states are concerned, the articles in the draft covenant are

[24] Burke, *Decolonisation and the Evolution,* 35-58.
[25] Steven L.B. Jensen, *The Making of International Human Rights: The 1960s, Decolonization, and the Reconstruction of Global Values* (Cambridge: Cambridge University Press, 2016), 18-47.

already there which would promote the realisation of the right; in case of peoples under colonial system of government that it does not exist.[26]

Within the larger hierarchy of what it meant to be self-determined, India clearly placed democracy above totalitarianism, that is a form of self-determination that involved the individual. However, it would still see the sovereignty of a totalitarian regime as a form of self-determination that could, using the draft Covenant, give way to a relationship with individual rights. It was only alien colonial rule that denied self-determination to people. This interpretation was an act of self-preservation against India's own separatist movements, but it also created a hierarchy of what was important for self-determination: sovereignty above individual rights.

NEUTRALITY AND CHANGING AFRO-ASIAN SOLIDARITY

By the late 1950s, Nehru's idea of non-alignment was two-fold. Given that India was relatively weak militarily, its security had to rely on friendship with other countries. But non-alignment was larger than pure national interest, and the realism of limited resources was tempered by the idealism of India's rhetoric of peace finding echo in other parts of the world. Nehru pointed out the hypocrisy of propagating world peace and disarmament as a leader of the movement while engaging in less peaceful methods closer to home. By the same logic, earlier in 1958 Nehru had rejected the idea of a 'Third Force' proposed by opposition politicians, which would create a third power bloc.[27] Nehru's rejection was based on a lack of nuclear, monetary, and ballistic

[26] NMML, Hansa Mehta Papers, Ist Instalment, Subject File 15.
[27] J.B. Kripalani, Ram Manohar Lohia, Minoo Masani and other prominent socialists had discussed these ideas. Rammanohar Lohia, "Foreign issues before Asian Socialists", Socialist Asia – Fortnightly

power, and because this would be giving in to Cold War ideas of hostility. Non-alignment was not a negative policy but positive and dynamic according to its Indian architects.[28] Nehru was responding to critics with the idea of dynamic inclusion to alleviate the constant tension of a world divided along Manichean Cold War lines, reducing the friction by providing mediating powers that would interact with those in either ideological camp.

The Asian-African conference in Bandung is considered the logical predecessor to the founding of the Non-Aligned movement in Belgrade in 1961. This moment constituted the birth of the Third World, which looked to democratise the international order as represented by the United Nations.[29] There needs to be a line drawn between non-alignment and Afro-Asian solidarity, with these nations acting more in their self-interest rather than solely in the service of a wider principle and unity of past experience. The Non-Aligned movement was an intellectual rival to the loose African and Asian solidarity underpinning the Bandung conference. [30] It was not another iteration of the nature of Afro-Asian solidarities in the face of the bipolar world order.[31] Indian foreign policy changed with the shift from the racial, postcolonial unity underpinning Afro-Asian solidarity in 1955 to a more diverse set of nations that did not necessarily share this history but were unhappy with the direction of the contemporary world order in its aftermath, culminating in the founding of the Non-Aligned

Bulletin 1. No. 8. (1952); Minoo R. Masani, "The Mind of Asia," *Foreign Affairs*, 33, no. 4 (1955): 548-565.

[28] Nehru, *India's Foreign Policy*,79-80.

[29] Vijay Prashad, *The Darker Nations: A People's History of the Third World,*(New York; London: New Press, 2007)*,* 31-50.

[30] Robert Vitalis, "The Midnight Ride of Kwame Nkrumah and Other Fables of Bandung (Ban-Doong)," in *Humanity*, Vol 4, no. 2 (2013).

[31] Westad, *The Global Cold War: Third World Interventions and the Making of our Times* (Cambridge: Cambridge University Press, 2007)*,* 73-109.

movement.[32] The realisation that racial difference was not enough of a binding order led Nehru, Nasser and Tito to define political aims – it symbolised the end of an international order premised on race, but its unity lay not in this shared past so much as looking towards a future that was threatened by the demands of the bipolar world and the nuclear threat.[33] This points to an international policy that was looking ahead to the future despite its origins in a solidarity rooted in the racially differentiated international order of the past. It was in keeping with the Nehruvian trend of emphasising past continuities, while simultaneously navigating the idea of the present as a 'radical newness,' which needed to be governed by new modes of thought. Thought traditionally ascribed to both the Eastern and Western blocs of the Cold War were not suited to the increased responsibility of the atomic age.[34]

CHINA'S POSITION

The place of Tibet in modern Sino-Indian relations was of longer standing. The Simla Convention of 1914 had created the McMahon line as the border between India and Tibet, besides recognising Inner Tibet as a Chinese sphere of influence. Outer Tibet was to remain autonomous, with special trading privileges for British India. India would continue to treat Tibet as the previous British Government had until the mid 1950s. With India's support, Tibet was deemed an autonomous region under Chinese suzerainty in 1951 by the Seventeen Point agreement that the People's Republic forced on the Dalai Lama's government. At this point, Nehru and others realised the impossibility of trying to resist the People's Liberation Army's

[32] Abraham, "From Bandung to NAM: Non-Alignment and Indian Foreign Policy, 1947-65,"*Commonwealth & Comparative Politics* 46, no. 2 (2008)
[33] Abraham, "Prolegomena to Non-Alignment: Race and the international system," in Mišković et al, *The Non-Aligned Movement and the Cold War,* 76-94.
[34]Purushotham, *World History in The Atomic Age*.

invasion, instead prioritising peaceful relations.[35] In the interest of preserving and furthering her bilateral relationship with the People's Republic, India and China signed the Panchsheel agreement in 1954. The terms of the agreement were mutual respect for each other's territorial integrity and sovereignty, mutual non-aggression, mutual non-interference, equality and cooperation for mutual benefit and peaceful co-existence. Besides these five principles of coexistence outlined in the Panchsheel agreement, India also gave up special trading rights in Tibet in 1954.[36] Tibet expert and former Indian Civil service officer Hugh Richardson would criticise India's actions as a discontinuity with British policy, instead saying her acceptance of the situation as China's internal matter was pure self-interest in pursuit of maintaining a relationship with a 'powerful and determined China.[37]

However, the agreement had not solved the contentious border issues, against whose backdrop the Tibetan refugee crisis would unfold. Nehru and Zhou En Lai had been engaged in discussions over India and China's borders. The Panchsheel agreement, rather than a definitive understanding of these borders, had still left India with fears of infiltration into its territory. Drawing and re-drawing borders became a passive-aggressive exercise for both Asian giants, with both parties reversing previous positions on a frequent basis. Nehru and others in the Indian foreign policy establishment wished to patrol these borders, particularly along Uttar Pradesh and Tibet. The aim was to create effective control over the border rather than allow a slow infiltration that would change the realities of the situation governing cartography. Granting the

[35] Dawa Norbu, "Tibet in Sino-Indian Relations: The Centrality of Marginality," *Asian Survey* 37, no.11(1997).
[36] John Avedon, *In Exile from the Land of Snows* (London:Wisdom, 1985); Tsering Shakya, *The Dragon in the Land of Snows: A history of Modern Tibet since 1947*(London: Pimlico, 1999).
[37] NMML,Vijaya Lakshmi Pandit Ist Instalment, Subject File 62.

Tibetans asylum was a setback in the discussions, in part responsible for Zhou backtracking to the idea that the 1956 map (that had since been altered) was the one that both parties had agreed on.[38]

> In a world of conflicting ideologies there is, to our way of thinking, no civilised method of living in harmony with those who disagree with us but peaceful co-existence. To this end we uphold Pancha Shila or five principles, first so named in the preamble of our treaty with China regarding Tibet, signed in 1954, but since accepted by other countries as a code of international morality….
>
> Because of our faith in the efficacy of this outlook we remain in the Commonwealth- an example that an association of nations can exist, mutually beneficial to one another, without necessarily having an identity of opinions. Because of it, too, we support the United Nations as a focal point of international relations, and seek to enlarge its membership. This, also, is the reason why we support the entry into it of the People's Republic of China, for without Asia's largest nation in its councils the United Nations is not a truly representative body.[39]

Vijaya Lakshmi Pandit's words indicate a conflation of the principles of Panchsheel with the principles enumerated in the United Nations Charter. India's own participation in both of these organisations was driven by a faith in the power of co-existence. China was brought into this larger idea of co-existence in part through the platform provided by India's own non-aligned or neutral situation, allowing for a bilateral agreement while India argued for this co-existence in the wider world to be recognised at the United Nations as well.

When China questioned India's intentions in Tibet, India would retort by pointing out continued Indian support for PRC representation at the UN.[40] Even prior to the Tibetans' flight,

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[38] To better understand the complexities of India and China's border dispute in the 1950s, see Raghavan, "The Disputed India-China Boundary 1948-1960," in *War and Peace in Modern India* (Basingstoke: Palgrave Macmillan, 2010),227-266.
[39] Vijaya Lakshmi Pandit, "India's Foreign Policy,"*Foreign Affairs*.34, no.3 (1956), 436.
[40] "Uproar in Lok Sabha: Circulation Of Peking Paper's Charge" *Times of India,* Apr. 2, 1.

India had pushed the matter of the PRC's inclusion in the United Nations as it undermined co-operative efforts to maintain peace.[41] India described its exclusion as a failure of the universality that the UN claimed for itself. Nehru's vision was of non-aligned countries as those able to facilitate interaction to prevent tensions that would lead to inevitable war. In fact, Nehru seemed to believe the crisis in Korea[42] could have been avoided entirely if the People's Republic rather than the Republic at Taipei had been represented at the UN for negotiation. The PRC's inclusion would be more effective than a military alliance like SEATO in assuring security in the region by placing responsibility on China to follow directions from the United Nations, rather than continued non-cooperation that would allow it to remain an 'irresponsible' actor.[43] India's engagements with China at this stage seemed to favour the idea of a space to defuse tension in an otherwise divided world, rather than simply solidarity with another Asian giant.

Even as early as the Bandung Conference, Chinese internal opinion differed in that it did not see Panchsheel and the Final Communique issued at the conference as an openness to the principles of the United Nations.[44] Zhou En Lai had even tried to use used the UN exclusion as a cover for wanting to avoid any commitment to the Universal Declaration of Human Rights at Bandung.[45] The Chinese communists were interested in forging Panchsheel-style agreements with other Asian and African nations with a view to the primacy of the clause of non-

[41] Nehru, *India's Foreign Policy,*168-169.
[42] William Stueck, *The Korean War: An International History* (Princeton: Princeton University Press, 1995), 51.
[43] Nehru, *India's Foreign policy,* 91-92.
[44] Report from the Chinese Foreign Ministry, 'Several Distorted Views on the Asian-African Conference', May 11, 1955,Wilson Center Digital Archive http://digitalarchive.wilsoncenter.org/document/114687 [last accessed 4 November 2018]
[45] Burke, *Decolonization and the Evolution,* 22-24.

interference,[46] rather than on the nature of the relationship between national liberation and individual rights that governed the Afro-Asian nations' wider understanding in this period. The final communique forced China's association with the Universal Declaration of Human Rights, at the insistence of the leaders of the smaller African and Asian nations. Their vision was sovereignty-focused, rather than one premised on the relationship between human rights and the self-determined state. This places the Tibetan refugees at the forefront of debates amongst Afro-Asian Nations about the nature of rights and state.

INDIA ACCEPTS THE REFUGEES

The immediate reason for the Dalai Lama's flight from Tibet were the violent Chinese responses to the 1959 uprising. Tibetans already settled in India requested that Nehru's government guarantee the Dalai Lama's personal safety, allow the entry of refugees from Tibet, send a medical mission, and sponsor the Tibetan case at the United Nations.[47] As history tells us, the Indian state would only do the first two. Immediately after the Dalai Lama first arrived in India in March 1959, Nehru wanted to grant asylum only to those refugees with travel documents.[48] Though travel documents would not eventually be part of the Indian state's conditions for asylum, this impulse was a means to downplay a situation ripe for exploitation by the Cold War influenced refugee rhetoric. According to Nehru, the Tibetan issue raised, in order, three concerns for India: Protection of Indian national interests, maintaining friendship with China,

[46] Summary of the Talks between Premier Zhou and Nehru and U Nu, Apr. 16, 1955, Wilson Centre Digital Archive http://digitalarchive.wilsoncenter.org/document/114671 [last accessed 4 November 2018]
[47] Shakya, *Dragon in the Land of Snows,* 213.
[48] "Premier Urged To Take Firm Stand On Tibet," *Times of India,* Apr. 2,1959,3.

and support for Tibetan autonomy.[49] This last was presumably under Chinese suzerainty, and betrayed Indian concerns for the colonially-created Tibetan buffer between the two states. Krishna Menon, India's Defence Minister, said the Indian government wished to keep the issue of Tibet outside the UN not because of a lack of sympathy, but from a desire to keep Tibet out of the Cold War.[50] India interpreted the USSR's silence over the Tibet as a silent disapproval of its actions, but understood that the Soviets were likely to throw their weight behind communist China if forced to discuss it openly.[51] In refusing to internationalise the issue, the Indian state was maintaining neutrality to keep out 'free world' interference in bilateral matters.

It is worth noting the realities of the colonial notion of the buffer state against the postcolonial search for leadership in Asian and African states. Recognition of China's suzerainty in Tibet seemed to be a case of quid pro quo. In negotiating with China on Tibet in 1954, the Indian government sought to secure recognition of its own primacy in Nepal, Sikkim, and Bhutan; effectively, this was a former colony re-enacting colonial forms of dominance. [52] The major conundrum for the Indian government was how to act on behalf of the refugees without giving the impression of interfering in China's domestic policy in keeping with Panchsheel. As early as 1956, Nehru was already expressing his reluctance for another Bandung-style conference, where ideological stances had given way to power bloc military alliances. Nehru's reluctance was not mirrored in other quarters. At the All India Conference

[49] "Grant Of Asylum To Dalai Lama Not Unfriendly Act", *Times of India,* Apr. 10,1959, 1; Subimal Dutt, *With Nehru in the Foreign Office* (Minerva Associates: Calcutta, 1977),154.
[50] "India's Frontiers Will Remain Sacrosanct," *Times of India*, Sep. 11, 1959, 1.
[51]FRUS, 1958–1960,Volume XIX, China, Telegram From the Embassy in India to the Department of State, September 5, 1959.
[52] John Garver, *The Protracted Contest: Sino Indian Contest in the Twentieth Century* (Seattle: University of Washington Press, 2001), 145.

for Afro-Asian solidarity, women's leader Rameshwari Naidu said that "friendship between India and China are the corner-stones of Afro-Asian solidarity and a powerful factor for world peace." At the same meeting, she continued "we have to be very watchful and work ceaselessly for the consolidation of our freedom as well as for the maintenance of solidarity among ourselves." [53] The problem was a clash between an envisioned world order and India's own national interests.

These visions of India's foreign policy, the international order, and ideas of co-existence were not limited to India's officials, and were widely discussed in the press and amongst the political opposition.[54] These voices questioned the Non-Aligned argument for India's non-intervention in Tibet after the 1959 rebellions. J.B. Kripalani pointed out in a speech in the Lok Sabha that Nehru himself had rejected the idea of this expansion as a symptom of world communism. Further, Russia had not indicated her approval of China, and the Americans had (at the time of this speech) 'chosen to be unaware of our case.' [55] Kripalani upheld the principle of neutrality, but accused those empowered to enact Indian foreign policy of diluting its true nature by failing to denounce China's actions when they had done so in other cases.[56] The government fear of the Cold War in India was largely unconvincing in favour of a bad neighbour explanation, with Kripalani understanding that bilateral tussle justified military aid from every quarter.[57] Members of the opposition, notably A.B. Vajpayee of the Jan Sangh, called for a

[53] "Afro-Asian Solidarity: Tibetan Affairs Cause Concern," *Times of India,* Apr. 3, 1959,7.
[54] Nancy Jetly, "Indian Opinion on the Tibet Question," *International Studies* 10, no.4 (1968).
[55] NMML, J.B. Kriplani papers, IInd Instalment, File no. 28.
[56] J. B. Kripalani, "For Principled Neutrality: A New Appraisal of Indian Foreign Policy" *Foreign Affairs* 38, No. 1 (1959), 55.
[57] NMML, J.B. Kriplani papers, IInd Instalment, File no. 28.

review of India's entire relationship with China based on Tibetan independence.[58] Ashok Mehta of the Praja Socialist Party agreed, like many others, that the fall of Tibet was a precursor to invasions of Nepal and India. [59] Opposition parties and the intelligentsia had strong opinions, and drew a direct line between India's foreign policy considerations and the Congress government's domestic position. Frank Moraes, the editor of the *Times of India*, discussed China and Panchsheel in an article on India's domestic political landscape titled 'Succession and Division in India'. He thought that while Nehru's position remained unimpaired externally, his prestige within the country had suffered regarding Tibet and China's actions along the border. Moraes saw Panchsheel as 'dead as a doornail'.[60]

It is ironic that Nehru's very attempts to downplay the potential exploitation by the United States and damage to the Indian-Soviet relationship were used against him by domestic voices. The opposition and intelligentsia held a curiously colonial understanding of the idea of India's responsibilities and the strategic value of an autonomous Tibet, entirely divorced from Cold War politics. In 1962, the Dalai Lama himself placed the Tibetan issue as part of a longer history of Chinese imperialism and aggression. He lamented the Soviet affiliated states' actions at the United Nations, pointing out that the Kuomintang had exhibited similar tendencies in the region.[61] This seems like an odd decision, given that the KMT was the body represented in the United Nations as the legitimate government of China in international eyes. But that this sentiment seems to have been mirrored in Indian parliament and public opinion made it a means to encourage Indian involvement against imperialism rather than an unwilling party in the Cold

[58] "Premier Defines India's Stand On Tibet ,"*Times of India*, Mar. 31, 1959, 1.
[59]" India Urged To Uphold Tibetans' Cause"*Times of India*, Mar. 30, 1959, 5.
[60] Frank Moraes, "Succession and Division in India," *Foreign Affairs* 39, No. 4 (1961), 634-635.
[61] Dalai Lama, *My Land and My People* (New York:McGraw-Hill,1962), 230.

War. The Dalai Lama seems to have understood the Indian public's failure to transition from its immediate post-colonial universalisms like anti-imperialism and anti-colonial struggle to the realpolitik relationship between human rights and self-determination within the wider rhetoric of the Cold War.

While on the one hand, public opinion made this into a bilateral issue between India and China, it also appealed to the universalism of human rights within the decolonising state's understanding of self-determination as the right from which all others stemmed. The Sarvodaya Party's Jayprakash Narayan saw the crisis as damaging to India's moral prestige, making it complicit in the violation of the universal principle of human rights.[62] Mehta also saw it as a question of the suppression of the Tibetan people rather than an internal Chinese matter.[63] Vajpayee called for divorcing the matter altogether from India's concerns about power bloc involvement, placing it within the universality of Human Rights. [64] There were appeals to the notion of self-determination. Narayan, Moraes, and Masani we all involved in the creation of the Afro-Asian Convention on Tibet in 1960. The Convention was not a governmental affair but was attended by key public figures and politicians (often socialist) from several African and Asian nations. The premise of the convention was to discuss self-determination for Tibet, which the representatives saw as another example of the denial of political rights of the people of Africa at the time. The broader mandate of the Convention, using Tibet as a starting point, was to move public opinion all over the world to support nations suppressed by others. Most significantly, it wished to 'raise awareness among participants of the threats to human freedom

[62] "Tibet Human Rights Issue," *Times of India,* May 31, 1959,1.
[63]"India Urged To Uphold Tibetans' Cause," *Times of India* , Mar. 30, 1959, 5.
[64] *Lok Sabha Debates, Second Series,* Volume 33,1959, 3686.

and dignity.'[65] There was agreement that the statement of the committee on Political Rights overlapped with that on Human Rights, marking a clear association of self-determination with individual human rights for Tibet and the refugees.[66] Domestic opinion was critical of the government's failure to condemn China's 'imperial' actions in Tibet.[67]

Nehru's approach, however, was that China's actions were different from the type of colonialism experienced in the past, even if its actions were worse.[68] Previous denunciations of imperialism had been racially charged and applied only to Europeans or Americans. That he dismissed the notion of self-determination proves to be interesting, for the issue of Asian powers becoming expansionist, and of communism as imperialism much closer to India had been floated at the Bandung Conference in 1955 as well, under the guise of the issue of Soviet expansion.[69] In this time when African and Asian nations were also undergoing a period of what constituted self-determination, it is possible that this was in the interest of remaining a viable mediator between the world and the PRC. How could India support human rights without challenging the supremacy of self-determination against racially charged European colonialism?

KEEPING THE INTERNATIONAL 'REFUGEE' AT BAY

[65] "Preface," in *Report of the Afro-Asian Convention on Tibet and Against Colonialism in Asia and Africa,* (New Delhi: Afro Asian Council, 1960).
[66] Ibid, 89-92.
[67] *Lok Sabha Debates, Second Series,* Volume 34, 1959, 6507-8.
[68] Ibid, Volume 49, 1960,5172.
[69] Abraham, *From Bandung to NAM*, 204-205.

The High Commissioner's representative to India described the situation of Tibetan refugees as "the most confused refugee problem the High Commissioner's ever had to deal with." At the outset of the issue, the United Nations and its agencies were attempting to determine if Tibet was an independent state or if the Tibetans were similar to Chinese refugees in Hong Kong. For the UN, where most states did not recognise the People's Republic, the refugees could technically seek the protection of the Republic of China at Taipei. India, which did recognise the PRC, was not a signatory to the 1951 refugee convention. It was further complicated as both the Republic of China and the People's Republic held that Tibet was a part of China.[70]

The international community's recent foray into a refugee crisis involving China had proven to be relatively ineffective. Hong Kong had deliberately been kept out of the mandate of the 1951 convention on the status of refugees. The British government in Hong Kong did not want to internationalise their crisis, while the White Russians in China were part of an older wave of refugees who were folded into the rhetoric of the 'free world'. Both groups were not covered by the mandate of the UNHCR, though the former had been recognised as an international concern. In terms of aid to the Chinese refugees in Hong Kong, American agencies allied with their government's foreign policy in assisting certain refugees for a Cold war agenda, the UNHCR wanted to expand the scope of its activities, and the British colonial government had wanted to preserve its interests, while the Republic of China only assisted a limited number of refugees to discredit the PRC.[71] The Hong Kong crisis had, in many ways, brought up similar concerns. To start with, the British government had thought, erroneously, that it was a temporary

[70] UNHCR, Fonds 11, series 1, Box 253, 15/GEN/TIB [1].
[71] Glen Peterson, "To Be or not to Be a Refugee:The International Politics of the Hong-Kong Refugee Crisis, 1949-55," *The Journal of Imperial and Commonwealth History* 36, no.2 (2008).

problem and to bring UN relief into the matter would only attract more refugees. As it became clearer that it was a permanent situation, exacerbated by riots and unrest, the British government was caught between wanting international assistance to augment its own resources and preventing it from becoming a Cold War issue. The Beijing propaganda machine had highlighted the political dangers on this front, while the Americans were only keen to involve themselves strategically while thinking of the problem largely as a British responsibility. [72] All of this combined to indicate that international assistance, while helpful with a financial burden, was fraught with complex politics whether or not a region was covered by the 1951 convention. The overlap of the aftermath of empire, Cold War politicking in refugee relief, and the question of two Chinas were alarmingly similar to the Tibet refugee situation, and the Indian government led by Nehru was acutely aware of the complications arising from this for the government of Hong Kong.

At the outset, High Commissioner For Refugees Lindt had hinted that India would be justified in asking the UNHCR for help with the Tibetan refugees. UN secretary General Dag Hammarskjold also wrote to Nehru endorsing the UNHCR's unofficial offer of help and stated that the UN did not want to complicate 'the straightening out of a delicate situation.' India declined, as it would associate humanitarian relief with the broader issue of Tibet that would be raised in the United Nations.[73] "The question of these refugees is an internal matter for India which has to be dealt with by the Government of India in consultation with and according to the advice of your good self. Other countries are not concerned... it would be against international

[72] Chi-Kwan Mark, "The Problem of People: British Colonials, Cold War Powers, and the Chinese Refugees in Hong Kong, 1949-62," *Modern Asian Studies* 41, no.6 (2007).
[73] UNHCR, Fonds 11, series 1, Box 257, 15/IND/TIB[1].

convention and usage for refugees, who have taken asylum in India, to use the soil of India for any kind of hostile activities against another country." Nehru's letter to the Dalai Lama made clear that India had taken sole responsibility, albeit with occasional acceptance of international aid from the UN and other countries, because it wished to keep these hostilities from occurring on India soil. [74] More interestingly, Nehru's letter seemingly rebukes other countries for a political utilisation of refugees in defiance of the convention that these very states had signed. It was not merely a matter of bilateral relations between India and China, but also extended to a condemnation of the 'free world' rhetoric that focused on communist persecution instead of a less politically charged, more universal idea of refugeedom. As we know retrospectively, humanitarianism is hardly ever a neutral activity, but Nehru's government seemed to be determined to infuse the sentiment into the matter of asylum at this moment.

The non-official Central Relief Committee would co-ordinate relief matters with government support. [75] Only the CRC had the power to waive customs on goods for relief work.[76] In later years, even after the 1962 Sino-Indian war, donors were concerned that this would weaken their control over funds. Its importance was political, as it kept the administration informed of exactly how and where private funds were being used.[77] In designating a single non-governmental body as the primary channel for aid to the Tibetan refugees, the Indian government was distancing itself from China's 'internal matter' while remaining in control of aid from Indian and international sources. The Indian government was removing any possibility of bringing a third party into the conflict. Foreign agencies involved included the American

[74]NMML, Jawaharlal Nehru Papers (after 1947), S.A., , 706 part 2.
[75] *Lok Sabha Debates, Second Series,* Volume 32, 1959.1623.
[76] UNHCR, Fonds 11, series 1, Box 257, 15/IND/TIB[2].
[77] UNHCR. Fonds 11, Series 1, Box 20, 1.IND.TIBET [1].

Tibet Relief Committee, the Catholic Relief Committee, the Indian National Christian Council, and the Co-operative for American Relief Everywhere, which were similar to American refugee relief programmes that had bypassed the UNHCR in the past. [78] USA wanted Tibet recognised as an independent state, but wanted the Asian states, led by India, to initiate this to avoid the appearance of overt Cold War considerations.[79] Presenting Tibet as a human rights and genocide issue was an attempt to force the African and Asian nations to vote to save face on a matter they felt strongly about.[80] An internationally recognised refugee crisis would polarise foreign policy against Communist China. Despite the UNHCR's relative independence from US government approved relief, India shied away from internationalising the issue in terms that were influenced by the West.

Prior to the 1962 war, India avoided internationalising the issue at the United Nations General Assembly, both politically and by refusing even the High Commissioner's solely humanitarian assistance. To invite the UNHCR to India would imply agreement of its definition of the refugee, recognising the PRC as persecuting its own citizens. The UNHCR tried to exercise its 'good offices' role, having determined that the position of Tibetan refugees in India was similar to that of Chinese refugees in Hong Kong. The High Commissioner was empowered to write to member nations and specialised agencies to draw attention and encourage them to send contributions directly to the Government. Since India had not asked for UNHCR help, officially they were simply "following the problem." The Central Relief Committee also

[78]UNHCR, Fonds 11, series 1, Box 257, 15/IND/TIB[1].
[79]FRUS, 1958–1960, Volume XIX, China, Memorandum From Acting Secretary of State Dillon to President Eisenhower, April 30, 1959.
[80] Ibid. Telegram From the Delegation to the U.N. General Assembly to the Department of State, September 18, 1959.

encouraged the UNHCR to 'stimulate" contributions'. The UNHCR itself could not be operational in India as it was subject to formal or implicit agreement of the authorities of a given country, which India shied away from.[81] Given Indian reluctance, since the early days of the crisis the international regime utilised other agencies as a means to funnel aid to the Tibetans. They found funds with bodies like the British Council of Churches, and the Australian National Committee for World Refugee Year.[82] In 1964, the UNHCR suggested to the Indian Red Cross that it collaborate with the League of Red cross societies as it had in the past. They wished to help facilitate permanent settlement via the Indian Red cross, since the UNHCR was not operational in India. Only Indian organisations could pitch humanitarian projects to the government, thus allowing the International League to act through the local branch of the Red Cross.[83] Effectively, in agreement with High Commissioner Felix Schnyder, India understood his 'good offices' role as creating a situation where it could benefit from increasing cooperation from private and public quarters. It would act via other organisations so as not to associate international censure with relief work.

No international organisations or big NGOs had been allowed to help prior to 1962, save for local branches of bodies like the Red Cross. This was to prevent placing Tibetans in the same category as those escaping the Eastern bloc. After the war, Nehru was still hesitant to involve the UNHCR, remarking to Save the Children's Alexandra Metcalfe, also the daughter of former Governor-General Lord Curzon, 'ah, but that would mean international inspection.'[84] Once the UNHCR had become involved officially, India insisted that assistance to the Tibetan

[81] UNHCR, Fonds 11, series 1, Box 253, 15/GEN/TIB [2].
[82] UNHCR, Fonds 11, series 1, Box 253, 15/GEN/TIB [1].
[83] Ibid, Box 257, 15/IND/TIB[3].
[84] Ibid, Box 253, 15/GEN/TIB [1].

refugees would remain outside of its normal functioning and that it was not in a position to contribute to the UNHCR funds, as it had with the International Refugee Organisation in the 1940s. However, it would accept the proceeds from an All-Star Festival held for the benefit of the refugees.[85] There also seemed to be concerns that any form of assistance for the Tibetan crisis could be construed as belonging to the regular programme and terms of the UNHCR, both as a recipient and as a country bound by the terms of the convention. India would only accept an ad hoc payment of $100,000 from the UNHCR. Even in 1964, the Indian government was insistent that the UNHCR try and obtain further donations for India, but that these potential donors were to then get in touch directly with the government. Further, the Indian government disagreed with the suggestion of a UN representative in the CRC, only agreeing to include technical experts.[86]

The High Commissioner explained to the Dalai Lama that UNHCR inaction was due to India's worries about political embarrassment.[87] Though it was after 1962 war and India's crushing defeat, Joyce Pearce of the Ockendon Foundation also echoed the idea of India's embarrassment. It was only in the second half of the 1960s that UNHCR assessed that the fundamentals of the issue were no longer tied to diplomatic or political concerns. Even then, the Indian government would only allow international aid provided it did not cause international comment.[88]

[85] Ibid, Box 257, 15/IND/TIB[2].
[86] UNHCR, Fonds 11, series 1, Box 257, 15/IND/TIB[3].
[87] Ibid, Box 253, 15/GEN/TIB [2].
[88] Ibid, Box 20, 1.IND.TIBET [1].

RETURN?

An intriguing facet of the Tibetan refugee question is the question of return. Conventional belief is that the 1962 war made it evident they were to stay in India indefinitely, but as early as August 1959, Nehru was conceding that "… the likelihood of these refugees going back to Tibet in the foreseeable future is very small. We cannot speak of individuals here but of groups. Therefore, we must expect a great majority of them to remain here."[89] There was also the question of whether China wanted these refugees back in Tibet, after accusations of Indian collusion in creating the rebellion in the first place. In September 1959, Krishna Menon spoke of the Chinese fear that the Tibetan refugees would return to raise revolt. He had reassured them on the grounds that the refugees were not in a 'fighting mood' and had been disarmed in accordance with international law upon crossing the border into India.[90]

In Lok Sabha in 1960, Laxmi Menon of the Ministry of External affairs said, "it is not likely that these people will return to their original homes. The Government is fully aware of the situation and the need to face it and is making arrangements for their training, for their rehabilitation, and for their settlement and absorption in our country."[91] Some Tibetans were settled on agricultural land. [92] This began with Bhalukpung in NEFA and Periyapatna in Mysore.[93] In a way, it became a means to use foreign aid to expand agricultural and other development plans. The Tibetans did not have to pay for the land and seemed to be disinterested

[89] *Lok Sabha Debates, Second Series,* Volume 32, 1959, 1623.
[90] "India's Frontiers Will Remain Sacrosanct," *Times of India,* Sept. 11, 1959, 1.
[91] Nehru, *Selected Works- Second series*, vol. 57, 352
[92] *Lok Sabha Debates, Second Series,* Volume 53, 1961, 7877-78.
[93] *Ibid,* vol. 47, 1960, 2288.

until the Indian state began to tax them. They became 'objects' of development in India, with no real say over the enactment of development-oriented refugee policies.[94]

The MP Chintamoni Panigrahi even asked in November 1960 how many Tibetan refugees had expressed their willingness to stay in India permanently in the context of this settlement on agricultural land.[95] Earlier that same year, another MP had asked if the refugees were to be given citizenship. In arrangements for the refugees, there was clearly an expectation of at least a long-term stay that mirrored the refugees of Partition despite shooting down expectations of citizenship.

This expectation was reflected by the Tibetans as well. In his internationally publicised memoir *My Land and My People* of 1962, the Dalai Lama imagined that the generation of Tibetans to grow up in India would be the 'nucleus of peaceful religious life' and authentic Buddhists. It was not likely that their peers under communist rule would escape communist ideology.[96] Regarding relief and rehabilitation measures, the Dalai Lama noted "In the earliest days of planning, we had hoped that the refugees would be self-sufficient within five years. Thereafter, it was intended that the Tibetans would begin to contribute to India's economy by raising an agricultural surplus which could then be sold."[97] The Tibetan refugees seemed to be absorbed into development planning in Nehru's India. This is similar to Partition schemes of

[94] For a more detailed account of Tibetan reception to India's imposition of these policies, and also the idea of the 'object', see Jan Magnusson, "Tibetan Refugees As Objects of Development: Indian Development Philosophy and Refugee Resistance in the Establishment of Luzkung Samdrupling, the First Tibetan Refugee Seettlement in India,"*Himalaya* 30. no.1-2 (2010).
[95] *Lok Sabha Debates, Second Series,* Volume 47, 1960,2288.
[96] Dalai Lama, *My Land and My People*, 226.
[97] Gyatso, *Freedom in Exile*, 178.

including refugees in activities contributing to the development of the state, and their emphasis on young people. It was distinctly different from the policies of the Raj, where refugees recognised as political dissidents were refused or isolated to prevent local unrest. The Tibetans did not have forefathers from the erstwhile Raj, and therefore lacked a sense of belonging predicated on a shared past. Despite this, their economic activities were geared towards self-sufficiency and contributing to the state, much like other recent 'refugees'. These multi-generational plans, though they did not indicate complete absorption, also did not show that return was envisaged by those deciding how to address the problem of refugees.

By 1968, the CRC had concluded that success in the Tibetan case lay with proper permanent rehabilitation, but obstructions included the Tibetans' lack of industrial skills and, more significantly, the idea that they would be going back to Tibet with the help of the UN.[98] It was only in 1968 that the matter would go from the Ministry of External affairs to the Ministry of Labour, Employment and Rehabilitation, marking their status as refugees within the more traditional vein of those of Partition.[99] However, their status as foreigners had been repeatedly reiterated in various forums by this point – including the Tibetan refugees in such programmes was only a reaffirmation of their equal humanity with Indian citizens despite limited political rights. It created them as a sort of second-class citizenry on whom obligations and duties were imposed rather than democratically decided, in return for sanctuary.

After the 1962 conflict, it became particularly important to reduce the number of Tibetans in close proximity to border areas, and in any large concentrations. The Ockendon

[98] UNHCR, Fonds 11, Series 1, Box 20, 1.IND.TIBET [1] vol. 1.
[99] Ibid, Fonds 13, Sub-Fonds 1, Series 3, Box 2, 14-28/02, vol. 2.

Foundation reported that the Government of India asked that a Tibetan training school be moved from Mussoorie to Mysore as it did not want a large concentration of Tibetan adults there.[100] In 1965, the Ministry of External Affairs thought it was particularly important to remove them from NEFA, as representatives of the Dalai Lama had made political promises regarding control over certain areas, like Tuting, once the Dalai Lama was reinstalled in Tibet. Though unlikely to actually happen, Indian officials were worried it would prompt Chinese attacks. Eventually, it was decided that twenty five percent of the Tibetans would be removed, with the resettlement of the remaining Tibetans a long-term strategy. [101]

> The political and humanitarian aspects of the Tibetan cause are so inter-connected that although our aims are to help preserve Tibetan culture, religion and education, a work of humanitarian nature, it will undoubtedly have much bearing on the political field. In fact, we feel that the hope and aspiration of all our fellow countrymen in Tibet is today balanced on the survival of 80,000 refugees as a strong and distinctive Tibetan community under the leadership of the Dalai Lama. And this question of survival being very much dependent on our financial position we fervently hope Your Excellency and your government will give this appeal a most sympathetic consideration.[102]
>
> In a Letter from Tibetan Trustee S.T. Rinchen to American Ambassador, Chester Bowles,
> 5 November 1965

The Tibetans themselves saw that humanitarian activities could not be politically empty, for these activities did have a larger meaning for the Tibetan nation regardless of its geography. This makes Nehru's seemingly contradictory stance on Tibet clearer. Though the Dalai Lama had been granted asylum, India would not officially recognise a government-in-exile and requested the Dalai Lama to refrain from making political statements that might endanger

[100] Ibid, Fonds 11, Series 1, Box 20, 1.IND.TIBET [1].
[101] NAI, MHA, NEFA section, NI/102(1)/65.
[102] NMML, J.P. Narayan IInd Instalment, Subject File 695.

India's international relations. But when the Dalai Lama did, Nehru defended his right to do so as part of India's liberal constitutional principles though such rights did not technically extend to foreigners, or he spoke of these matters being difficult to place within well-defined parameters.[103] Further, both India and international agencies would deal with the Dalai Lama and his government in all matters pertaining to the Tibetans in India.[104]

The Dalai Lama seemed keen for reform, and to build institutions that would bring the traditionally isolated Tibetans into the modern world. In his 1962 memoir, he outlined his plans for the fledgling Tibetan government in exile. These included parliamentary democratic practices and a constitution. [105] But this modern government would also retain a Tibetan identity, for the Dalai Lama was equally keen to preserve both the documents that the fleeing Tibetans had brought with them, and the traditions of the lamas. Nehru actively encouraged the Dalai Lama to focus on educating children to keep alive Tibetan culture and learning. [106] A UNHCR representative even had to talk the Dalai Lama out of teaching children solely in the Tibetan language. The Dalai Lama wished to retain a Tibetan core while bringing the Tibetans up to speed with the times. To begin with, he was anxious that Tibetans be settled abroad as he was afraid that they would be dispersed over India and their situation wold get worse as the living conditions of the mass of Indian population was lower than that of the Tibetans. Despite an initial desire to have them settled abroad, by 1963 the Dalai Lama realised that this core Tibetan community could only kept intact in India for logistical reasons.[107] Even if he had no direct

[103] *Lok Sabha Debates, Second Series,* Volume 52, 1961, 6991.
[104] George Woodcock, "Tibetan refugees in a Decade of Exile," *Pacific Affairs* 43, no. 3(1970), 414.
[105] Dalai Lama, *My Land and my People*, 231-233.
[106] UNHCR, Fonds 11, series 1, Box 253, 15/GEN/TIB [1].
[107] Ibid, Box 257, 15/IND/TIB[2].

contact with his people who had remained in Tibet, and would be derecognised in his official capacity by the Chinese in 1964, the Dalai Lama planned to create a viable modern government that could in theory govern an autonomous Tibet. India had provided the Tibetans with a theatre from which to exercise democracy.[108]

It is possible to characterise these issues as exploiting the uncertain relationship between a community in exile and the territory to which they belonged. During the Second World War, the Western powers had held that occupation by a belligerent power did not imply a loss of sovereign status.[109] Further, recognition and support of communities in exile was meant to support them against those who had illicitly occupied an the territory of an independent nation.[110] Though these governments had been given official recognition, there seems to be an overlap of this conception in the case of Tibet, which was not. In fact, this seems to have been mirrored even in international discussions on the matter. Olaf Caroe, former administrator with the Indian Civil service, former governor of the North West Frontier Province, and prominent British Cold War strategist would say at a London gathering

> I have seen it suggested in letters to *The Times* and elsewhere that the fact that people of Tibetan race live south on the Indian side is an argument for ceding an area to China. That would be a good argument for ceding Liverpool and Glasgow to the Irish! Of course it is an impossible argument in the international conception that frontiers should be drawn according to ethnic origins.[111]

[108] For an understanding of how Tibetan practice of democracy has stemmed from the Central Tibetan Administration set up in India, see Lobsang Sangay, "Tibet: Exile's Journey," *Journal of Democracy* 14, no.3 (2003).
[109] F.E. Oppenheimer, "Governments and Authorities in Exile," *The American Journal of International Law* 36, no. 4 (1942).
[110] Philip Marshall Brown, "Sovereignty in Exile," in *The American Journal of International Law,* Vol.35, no. 4 (1941),666-68.
[111] Olaf Caroe, "Tibet, the End of an Era," *Journal of the Royal Central Asian Society* 47, no.1(1960).

Caroe's take on the situation is an accurate reflection of the change in understandings of nationalism's relationship with ethnicity and territory. While Caroe and fellow former ICS officer Richardson were critical of how India had treated Tibetan territory, it is worth asking whether India was actually, in a roundabout way, reinforcing the idea that frontiers do not correspond to the nation that claims them in the case of Tibet. If anything, India had created an extraterritorial Tibet where these people could form a community that would keep alive the association of a certain political group with the territory regardless of exercised control over it. As an aside, it is also worth noting that the question of race was not the grounds for difference even in Indian politics, for the Indian state acknowledged the presence on those who were indubitably Indian citizens in border areas who likely had ancestry similar to the Tibetans.[112] The UNHCR also reported that Tibetan Muslims, unlike the others, had been given Indian citizenship[113], perhaps indicating the religio-political nature of the Tibetan community within India that laid claim to Tibet as the territory associated with their political community.

Giorgio Agamben's idea of *homo sacer* is important here: it was derived from the notion of someone who can be killed without consequence in Roman law. In his outlining of this notion of 'bare life', *homo sacer* is the one who has no recourse to the law and legality but yet is included within in. The refugee is a sort of return to this figure, outlining the difference between human and citizen.[114] Agamben's understanding of Arendt's writings dictates that the refugee should, ideally, show the validity of human rights that exist whether or not a person is acknowledged to belong to a state. Arendt's refugee proves that the he is removed from human

[112] NMML, J.B.Kripalani papers IInd Instalment, File 12.
[113] UNHCR. Fonds 11, Series 2, Box 274, 11.IND [Vol 1].
[114]Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford: Stanford University Press, 1998).

rights because the loss the state becomes a loss of humanity that seems only to be conferred on citizens. Agamben's proposed solution is reciprocal extraterritoriality, breaking the idea of the state-territory-nation, thereby freeing the definition of people from the notion of the nation. This would allow for political communities in exodus to exist, in his conception, across Europe. Towards the end of his assessment on Arendt's refugee, Agamben points out how the expulsion of 452 Palestinians acted extraterritorially on the idea of Israel, perforating the idea of its territory and making that no-man's land more integral than the rest of Israel as part of its identity. These expelled people are not, as within Arendt's conception, the beginnings of yet another nation-state, but very possibly the beginnings of a notion of extraterritoriality or aterritoriality that can allow the existence of multiple political communities.[115]

Agamben's conception rests on reciprocity. What is interesting, however, is that the Indian state seems to have been grappling with the idea of hospitality but also with that of her own sovereign borders. In this situation, the extraterritoriality that Agamben describes as reciprocal is applied only unilaterally by India. A situation was created that allowed for the decoupling of the Tibetan people from their territory and nation-state, thereby allowing a community to exist in the territory associated with an Indian political community. This group had been rescued from having no theatre for their rights by the being within Indian territory. This was only possible by refusing them the rights of citizens and citizenship and removing those who could be given citizenship from close definitional proximity. This was not the internationally accepted definition of refugees, nor the prescribed solution to their difficulties,

[115] Agamben, "Beyond Human Rights," in Pablo Virno and Michael Hardt (eds.) *Radical Thought in Italy: A potential politics* (London, Minneapolis:Minnesota University Press, 1996), 159-166; For a detailed understanding of the reciprocity and self-interest underlying gift giving, see Mauss, *The Gift.*

thereby becoming a uniquely Indian conception of refugees at the time as it was unilaterally imposed.[116]

Seyla Benhabib's reading of Arendt describes it as a 'civic' rather than ethnic reading of rights – a mutual recognition of people as rights-bearing. A world organisation could not grant rights, only a political community could do so 'willy-nilly'. Using both Kant and Arendt, she concludes that the right to seek asylum belongs to the individual, but the right to grant it is the sovereign right of the state. Benhabib understands their disapproval of borders, but makes an argument for borders that are porous, justifying borders only to the extent that they optimise democratic practice, rather than closed borders that are only an exercise in sovereign power.[117] Though her case studies are set in Europe, conceptually it is this protection of democratic processes and systems – the self-determination and sovereignty that allows for Indian people to pursue socio-economic development and equality in the world order – that appears to be at play in the case of the Tibetans. This sits well with the solution posed by Agamben, as it explains the impulse of the state to protect its processes, while simultaneously allowing for an understanding of political community that was deliberately kept away from the nation-state as embodied in India's treatment of the Tibetans. The gift of asylum was met with the expectation of apolitical existence to preserve the Indian state and therefore the freedoms and rights enjoyed by its people. It created the Tibetans as second-class citizens, with no part in democratic processes, but simultaneously treated them as familiar: they were akin to a subject population but acknowledged as familiarly human.

[116] Agamben, *Beyond Human Rights*; For a detailed understanding of the reciprocity and self-interest underlying gift giving, see Mauss, *The Gift.*
[117] Seyla Benhabib, *The Rights of Others: Aliens, Residents and Citizens* (Cambridge; New York: Cambridge University Press, 2004).

BURMESE INDIAN 'REPATRIATES'

These ideas of political community and territory did not, for India, apply to smaller Asian states where the diaspora had been resident. As mentioned earlier, citizenship for Tibetans became an issue as early as 1960. Unlike the refugees of Partition, Tibetans were not considered 'natural' citizens. But the association of the refugee with the figure of the citizen during Partition had made this conflation familiar. Refusing Tibetans citizenship therefore redefined the term 'refugee' by dissociating it from the nation-state. In fact, when asked in the Lok Sabha whether the same relief was to be extended to Indian nationals repatriated from Malaya and Ceylon as to Tibetans, Nehru responded negatively, as he thought these were different cases altogether. [118] Even in 1965, after the war had made the possibility of Tibetan return even more implausible, the government maintained that Tibetans in India were to be treated as foreigners rather than Indians.[119] The Tibetans in India had rights because their humanity had been acknowledged, rather than due to any sort of belonging. The diaspora, however, would return to their political community, which was territorially bounded and premised on access to citizenship. It had been denied humanity by the political communities that laid claim to other destinations, and that did not want to exercise this reciprocity.

In the years prior to independence, anti-colonial struggle in India had involved notions of a 'Greater India' that had near-paternalistic ties to the rest of South and Southeast Asia. In some form or the other, Indian nationalists were guilty of harking to this idea, or at least that of Indian leadership, despite the acknowledgement of other nations' right to nation-statehood and

[118] *Lok Sabha Debates, Second Series, Volume 32, 1929,*1623.
[119] Ibid*, Third Series,* volume 46, 1965, 6386.

non-interference in their affairs. The Asian Relations Conference already marked some dissonance with these ideas. Even once independence had been achieved and international affairs headed in a different direction, the rhetoric of 'Greater India' and its implied leadership or domination of other nations had a threatening afterlife for the smaller states of Asia.[120] Burma was one such nation-state, and would go on to attempt a policy of neutralism, not just in terms of Cold War power blocs but also in her relations within Asia.[121]

The Indian presence in Burma was a product of a diaspora whose movement started under British rule in the 19th century. The subsequent role this diaspora played in Burma has been part of several academic works.[122] The most prolific of this particular group of the Indian diaspora were the Chettiars, who became associated with banking and moneylending. The problems of the community, as outlined most notably by Usha Mahajani, see the changing position of the Indian minorities as dependent on nationalism and the forms it took over time. There had already been an exodus of Burmese Indians in recent memory to escape the Japanese invasion over the Second World War in 1942. This movement, which occurred while the Raj was in place, was labelled a movement of refugees.[123] Subsequently the Asian relations conference would reveal Burma's concerns that the Indian minority might eventually

[120] T.A. Keenlyside, "Nationalist Attitudes Towards Asia: A Troublesome Legacy for Post-Independence Indian Foreign Policy," *Pacific Affairs* vol. 55 no.2 (1982).
[121] For example, in his introduction, Robert A. Holmes describes the post 1962 move towards communism as a correction of a previous westward leaning rather. Robert A. Holmes, "Burmese Domestic Policy: The Politics of Burmanization," *Asian Survey* vol. 7 no.3(1967).
[122] Amrith *Migration and Diaspora in Modern Asia*; Nalini Ranjan Chakravarti, *The Indian Minority in Burma: The rise and decline of an immigrant community* (London: Oxford University Press, 1971); Tinker *The Union of Burma: A Study of the First Years of Independence* (London; New York: Oxford University Press, 1957); Usha Mahajani, *The Role of Indian Minorities in Burma and Malaya* (Bombay: Vora, 1960); Sean Turnell, *Fiery Dragons: Banks, Moneylenders and Microfinance in Burma*(Copenhagen: NIAS, 2009).
[123] See Tinker,*The Forgotten Long March.*

overwhelm the Burmese in the new state, potentially giving way to a new means of imperialism.[124] The same conference had resulted in a report that called for the equal treatment of all regardless of race, but also understood that immigrant populations needed to decide to which state their loyalty belonged so that the economic development of the state in which they were resident would not suffer.[125] India, in the meanwhile, was insistent that her diaspora should continue their lives where they were rather than maintain primary allegiance to India. But the Burmese constitution and legislation on citizenship negated Indians' identities as a minority, and this gradual exemption from citizenship and business meant only 700,000-800,000 Burmese Indians remained in Burma in the 1960s. [126] But as late as 1959 Lakshmi Menon mentioned that the Chettiars in Burma should do better to fit in rather than send remittances to Tamil Nadu.[127] The obvious reluctance of the Burmese state to allow the Indian diaspora to remain was met with an insistence on India's part that all would be fine if the diaspora included itself more in the state in which it was resident. The eventual nationalisation of banks, trade, commerce and so on would finally make it impossible for Burmese Indians to remain on any sort of equal terms with the Burmese, thus leading to another exodus of mostly middle-class Indians.[128]

Burma actually offered to mediate between India and China over their border disputes, and had supposedly adopted an attitude of neutralism.[129] Nehru and U Nu of Burma shared a

[124] Asian Relation Conference, *Being Report,* 96
[125] Ibid,100-101.
[126] Renaud Egreteau, " India's Vanishing "Burma Colonies" : Repatriation, Urban Citizenship, and (de)Mobilization of Indian Returnees from Burma(Myanmar) since the 1960s," *Moussons* 22 (2013), 14.
[127] Staff Reporter. "Friendly Relations with Neighbouring Countries,"*Times of India,* Jul. 12 1959,3.
[128] Myron Weiner, "Rejected People and Unwanted Migrants in South Asia," *Economic and Poltical Weeekly* 28 no.34 (1993),1738.
[129] Raghavan, *War and Peace*, 244.

friendly relationship, despite India's annoyance at Burma's offers to mediate on the India-China border over the 1950s. Earlier nationalisations in Burma had taken place under the Democratic government led by U Nu. In 1963, a military government under Ne Win had taken power in a *coup d'état.* Though the earlier nationalisations had sent diasporic Indians back to India, the Indian government had wrangled half-hearted compensations from the Burmese government. This was not the case in 1963. Though Nehru insisted, as he had more than a decade earlier, that these nationalisations were not discriminatory, they left Indians without a livelihood.[130] This, along with the Military government's seemingly pro-China attitude led to a chill in previously friendly relations. In fact, local Indians and bodies like the Burma Displaced Persons' organisations thought Chinese influence was responsible for the 'harassment' of Indians. This opinion was reinforced by the fact that the Chinese presence in Burma was on the rise.[131] However, there is a deeper understanding to this, for those of Chinese origin were also persecuted in Burma in the 1960s, leading to the question of the relationship of Southeast Asian states with India and China. [132]

To briefly dwell on the Asian Relations conference of 1947, the right of each nation to determine its own composition had been agreed upon. The subject came up precisely because the smaller nations in Asia were afraid of the large Indian and Chinese diasporic presence that was the product of imperial movements of people. As early as 1947, there had been talk of a South East Asian Federation that would then form a bloc of Asian power as a whole rather than a monolithic idea of Asia led by either big Asian nation-state. Aung San of Burma and Nehru

[130] "All Help To Repatriate Indians From Burma: agitated M.P.s assured by Prime Minister**,"** *Times of India,* Apr. 29, 1964, 11.
[131]"Miserable Plight Of Indians In Burma," *Times of India*, May 11 , 1964, 7.
[132] Holmes, *Burmese Domestic Policy.*

were Asian leaders who sought both anti-colonialism in international policy, but also wanted an active voice for the region in negotiating and building a new world order. [133] The 1950s would see the appearance of national self-interest more clearly in a group loosely united by anti-colonial ideology. Ne Win's Burmese Road to Socialism can be seen in the light of an assertion of separation from Chinese or Indian led visions of Asia, in addition an example of a small state asserting an independent existence in the bipolar world of the Cold War.[134] There was even acknowledgement in India that it might not fully understand the foreign policy of its smaller neighbours as they attempted to navigate the contours of world and regional geopolitics. India and Burma would need to clearly define their relationship that seemed to have been premised on some previous understanding that was unclear.[135]

Jawaharlal Nehru's visions of internationalism were not incongruent with nationalisms: they were mutually dependent. The Indian government's official line was that this was not so much a souring of India-Burma relations as an expression of Burma's own nationalism and self-placement in the international order that India simply did not understand yet. The Burmese Road to Socialism was Burma's prerogative, and Nehru's government repeatedly reiterated that this was not tied to a Burmese tilt towards China so much as Burma's own negotiation of being stuck between two big regional powers and the East-West binary while simultaneously trying to create a state that benefitted the Burmese.[136] Remittances played a big role in this situation, predating the nationalisations that acted as a tool of expulsion for the Burmese Indians. Rather

[133] Amitav Acharya, "Asia is Not One," *The Journal of Asian Studies* 69, no.4 (2010).
[134] Holmes, *Burmese Domestic Policy.*
[135] "Good Neighbours," *Times of India* Sept. 4,1964, 8.
[136] "All Help To Repatriate Indians From Burma: agitated M.P.s assured by Prime Minister**,"** *Times of India,* Apr. 29, 1964, 11.

than being part of the Burmese state, the Indians there appeared to be allied with the Indian state's pursuit of profit. Where previously the Burmese government and the Indian government had negotiated to assert a framework to establish legitimate family ties justifying this economic burden, the 1960s saw this discarded.[137]

The expulsion of Indians from Burma raised interesting questions about Indians overseas. The matter came up in Lok Sabha discussions, and overseas Indian groups complained that New Delhi had not done enough to safeguard their interests in the face of political developments in Asian and African states. However, even in the Indian press there was recognition that there were limits to what New Delhi could do without courting charges of interference in the affairs of these smaller decolonising states. Public opinion even seemed to agree with new Delhi's policy about asking these groups to adapt to the countries of adoption. But it also insisted that the Indian government could make conditions better through informal channels, and also improve the circumstances of those forced to leave, e.g., arranging for them to be able to transport a larger share of their jewellery and assets.[138]

This is in keeping with Latha Vardarajan's analysis of the longer-term trends in India's approach to the diaspora in the transition from 'colonial transnationalism' to 'postcolonial nationalism.' Unlike India's current approach to its diaspora, and the nationalist movement's own acknowledgement of the role Indians abroad had played in that movement, the immediate years after independence under Nehru marked a distancing from the diaspora to a more

[137] For an example of India's policy about remittances, see "Envoy Clarifies India's Position: remittances to & from Burma,"*Times of India,* Jul. 5, 1961, 8.
[138] "Indians Overseas" *Times of India* , May 2, 1964, 6.

territorial understanding.[139] Rather than seeing this as India tacitly accepting ethnic nationalisms in new nation-states that South Asian minorities did not fit into[140], or even simply as a missed opportunity to utilise this diaspora,[141] it is important to fit India's approach to its diaspora within the aims of anti-colonialism. A prime reason for demanding an independent nation-state was the socio-economic development that had been denied under colonialism. The Nehru government's refusal to act on behalf of Indians dispossessed by nationalisations in other countries was part of a larger principle to respect the achievement of their socio-economic goals and not necessarily an ethnic policy. The treatment of Indians in these places was attributed to their failure to associate themselves with national interests there and to have even become exploiters themselves. For India, a foreign country, to intervene on their behalf would only indicate their non-belonging in these places. This was particularly true in the case of Burma. In light of the defeat by China, critics of the government would claim India had lost face even amongst Asian nations, which is why 'Indians' were being treated poorly as a reflection on the nature of the nation-state itself.[142]

The emphasis on Indianness abroad needing to be non-exploitative highlights an interesting aspect of India's acceptance of its returning diaspora from Burma. It indicated the nature of the relationship it wished to maintain with fellow Asian and African states. They were

[139] To trace the role of the diaspora until 1947, see chapter 3 of Abraham, *How India became Territorial,* 73-106.
[140] Judith Brown, "Making a Modern Diaspora," in *Global South Asians" Introducing the Modern Diaspora* (Cambridge: Cambridge University Press, 2006), 29-58.
[141] M.C. Lall, *India's Missed Opportunity – India's relationship with Non-Resident Indians* (Aldershot: Ashgate Publishing ltd., 2001).
[142] Latha Vardarajan, "Putting the Diaspora in Its Place: From Colonial Transnationalism to Postcolonial Nationalism," in *The Domestic Abroad: Diasporas in International Relations* (New York; Oxford: Oxford University Press, 2010), 51-77.

a returning portion of the self that ran the risk of undermining a common economic goal, also laid down both at the Asian Relations Conference in 1947 and at Bandung in 1955. Therefore, they would be reabsorbed seamlessly in part to prevent risking an imposition of the very exploitation that India had opposed. Here again the larger question of the ultimate aim of self-determination and economic progress was at odds with the idea of human rights and human well-being. India would not overdetermine herself to the detriment of others right to self-determination, at least not in the case of a much smaller neighbour. Of course, its struggle against racial inequality in South Asia would not be covered by this because the rhetoric of exploitation could not be applied to Indians in that scenario, making these decisions a question of India's larger historical and contemporary relations with the state in question.

Accepting Burmese Indians as 'repatriates' or 'returnees', in the 1960s (but not those who arrived earlier) is puzzling given they had been called 'refugees' in the 1940s. The refugee had been detached from Indian citizenship. Under the aegis of the Supreme Court, the Burmese 'repatriate' was one who had left Burma on or after 1st June 1963. This was conditional on the Indian government via its High Commission identifying them as 'Indian'. Burmese repatriates of Indian origin who did not have Indian passports (despite being issued Emergency certificates by the High Commission/ Embassy) and had the intention of permanently settling in India could acquire Indian citizenship in accordance with the Indian Citizenship Act, 1955, after spending six months in India. These 'repatriates' from Burma were to be given concessions necessary for rehabilitation pending their registration as Indian citizens.[143] Rehabilitation for these groups involved setting up colonies, providing this first generation of returnees with loans and assisting

[143] NAI, Home Affairs, Indian Citizenship, 1966, 1/2/66-IC.

with their education. These activities were carried out as an extension of the relief and rehabilitation measures of Partition. [144] The Burmese repatriate was entitled to be part of the state as he was coming back to his ethnic homeland and was seen as a by-product of decolonisation. It was an attempt at seamless reintegration by sending these returnees to the homes of their forefathers.[145] The Indian nation was reabsorbing expelled diasporic populations, both solidifying its own character and allowing other Asian and African states to determine their own nature. This was particularly necessary in a time when other states had expressed concern about expansionist Asian giants.

TIBETANS IN INDIAN HOSPITALITY

Most studies of rights and the nation-state inevitably acknowledge Hannah Arendt, as this thesis has. The previous chapter has used Arendt's idea that it is non-belonging to the state and its constituent community that marks the loss of rights. The Tibetans, on the other hand, were provided some rights in India despite the loss of state belonging or even protection under the 1951 convention. The Indian state could only afford to provide other rights at the expense of political rights to protect her own sovereign borders that allowed it to enforce human rights within. To preserve its own nation-state, India ended up challenging the very idea of the refugee and what their relationship to the nation-state is. Ideas of reciprocity, the renegotiation of territory and political recognition, and the protection of one's own democracy by an optimal use of the rhetoric of borders and what goes on within all played a part.

[144] Egreteau, *India's Vanishing "Burma Colonies*, 14-15.
[145] Subir Bhaumik, "The Returnees and the Refugees" in Samaddar, *Refugees and the State: Practices of Asylum and Care in India* (New Delhi: Sage 2003),193-196.

There were implications to having a distinctly Tibetan population within India, whether intentional or not. In discussions with the Dalai Lama's brother, Gyalo Thondup, in 1959, American officials had urged that the matter be raised as one of human rights rather than Tibetan independence at the United Nations. This was because the claim for independence was more likely to fail and could be exploited by the Chinese. Regardless of how moderate sympathy on human rights grounds might seem, it would indicate UN support for the people of Tibet.[146] The US government also felt that the Tibetan cause and morale in India required the continued presence of the Dalai Lama there. It was important not to break with India.[147] Nehru himself characterised India's acceptance of refugees as 'more effective testimony to its [India's] moral sympathy than a few words here and there.'[148] By allowing a distinctly Tibetan population to settle in India, one which recognised the authority of the Dalai Lama, India effectively maintained the nation of Tibet. This meant that despite China's occupation, it would always be denied absolute legitimacy, as Tibetans had neither been wiped out violently, mixed with the Han people, nor accepted China's rule. Tibet's identity would be kept distinct from China's even if it no longer inhabited the territory with which it had been traditionally associated. This brought up the issue of how to justify such a situation without offending a neighbour, opening unwanted avenues into citizenship, and avoiding Cold War imposed responsibilities of the refugee regime out. It closely mirrors the situation of Palestinians - to keep the refugees stateless

[146]FRUS, 1958–1960, Volume XIX, China, Telegram From the Delegation to the U.N. General Assembly to the Department of State, October 8, 1959.
[147]Ibid, Memorandum From the Assistant Secretary of State for Far Eastern Affairs (Parsons) and the Acting Assistant Secretary for International Organization Affairs (Walmsley) to Secretary of State Herter, August 5, 1959.
[148] "Liberation of Tibet", *Times of India*, Apr. 26, 1961, 8.

kept alive their 'right to return.' Humanitarian activities would, inadvertently or not, assist in maintaining this *status quo*.[149]

As Pratap Bhanu Mehta reminds us, India was initially opposed to sovereignty alone as the principle underlying the United Nations, but its setbacks in Kashmir and its position as a leader of the Non-Aligned movement that opposed Great Power intervention implied a commitment to sovereignty over an ideological leaning towards human rights.[150]A major principle of Panchsheel was non-interference in the domestic affairs of another country. This remained India's official stance on Tibet, as it did not wish to risk India-China peace despite sympathy for Tibet. But refuge provided to the Dalai Lama was framed as a defence of India's own sovereign right to grant asylum to whomever it wanted.[151] Contemporary discussions of Sino-Indian relations by government officials only discussed Tibet in the context of border problems, with no mention of the refugees and disputed suzerainty in Tibet, be it Viajayalakshmi Pandit in the United Kingdom, or internal memos and brochures by the Ministry of External Affairs.[152] In his 1965 statement to the United Nations, the Indian delegate Rafiq Zakaria said that the Indian state had refrained from using the Tibetan refugees as pawns in their relations with China.[153] In discussions relating to India's position on the issue of Tibet, the representatives of the government, Lakshmi Menon and Swaran Singh, insisted that India would support the issue of Tibet, but in the context of requesting a return to enjoyment of human rights.

[149] Jalal Al Husseini and Ricardo Bocco, "The Status of Palestinian Refugees in the Near East: The Right of Return and UNRWA in perspective," *Journal of Refugee Studies* 23, no. 2-3 (2009).
[150] Pratap Bhanu Mehta, "Reluctant India," *Journal of Democracy,* vol. 22, no.4 (2011),99-101.
[151] "Premier Defines India's Stand On Tibet,"*Times of India,* Mar. 31, 1959), 1
[152] J.B.Kripalani papers IInd Instalment, File 12; Vijayalakshmi Pandit Papers, IInd Instalment, subject file 6.
[153] "India Seeks Immediate Restoration Of Tibetans' Rights",*Times of India*, Dec. 15,1965), 9.

The question of an *émigré* government was dismissed.[154] The Tibetans had been allowed into the community of India to share, to an extent, the rights stemming from its self-determination rather than China's. China's suzerainty would be acknowledged, even as late as 1965. The only concession India would make were the failures of certain human rights, while Tibet's political rights were subjugated to China's sovereignty. Rather than claiming interference in China's territory, India's own territory was the one being altered or interfered with in that it allowed Tibetan asylum seekers to cross its borders. As a matter within its sovereign borders, including the right to provide asylum and relief, it was a matter of national interest and free from external interference. Even UNHCR access to the Tibetan refugees after the failure of India-China peace-making signified by the 1962 war was on the premise that it would remain outside of the ordinary functioning of the organisation.[155] The crisis would also be framed so that there was no assumption of belonging in the new use of the term 'refugee'. It would continue to defend the idea of self-determination as supreme, that the sovereign state was the right from which all others stemmed, and that asylum was the choice of the state in question. India controlled who entered its borders and how it treated them, thereby turning the Tibetan issue one of rights within India rather than humanitarian action in response to circumstances outside it.

The actions of the Indian state and of Indian public opinion are reflective of both sides of the hospitality question as understood by Europe. A prerequisite of hospitality is the presence of a door or threshold to be thrown open to welcome those in search of it, which places control in the hands of the would-be host. But there is a hostility in the very presence of this door or

[154] *Lok Sabha Debates, Third Series,* vol. 48, 2975-82.
[155] Oberoi, *Exile and Belonging*, 93.

threshold that could bar entrance. [156] The way to deal with the 'double bind' of respecting the singularity of the other and keeping the hosts space intact is negotiation.[157]

The idea of hospitality also implies welcoming another without wishing to transform him or her. [158] The Indian conception of the refugee was undergoing a change at this point so as to extend such hospitality to another rather than turn them into an extension of oneself. That diasporic groups like the Burmese Indians were 'repatriates' despite receiving aid from the same bodies as the refugees of Partition confirms that the idea of the refugee was undergoing a process of dissociation from citizenship and belonging. Diasporic groups like the Burmese Indians were extensions of the hosts because they had failed to transform themselves into citizens of any other state, and therefore 'repatriates' despite receiving aid from the same bodies as the refugees of Partition. Nomenclature would seem unimportant, except that the term 'refugee' was also in use for a population defined by Indian humanitarianism that had been the subject of discussion at the United Nations. Regardless of the intent behind this reclassification, it was a recognition of the refugee as an international stateless person rather than one who could be assimilated. This usage of terms underpins an understanding of the Tibetans as a community subject to international refugee norms despite India's non-assent to them.

There was a general recognition of the limits to what New Delhi could do without courting charges of interference in the affairs of these smaller decolonising states. The Burmese

[156] Derrida," Hostipitality," *Angelaki 5*, no. 3 (2000),14.
[157] "Politics and Friendship,"*A Discussion with Jacques Derrida*
Centre for Modern French Thought, University of Sussex, 1 December 1999. *Available at :* http://www.livingphilosophy.org/Derrida-politics-friendship.htm [last accessed 11 May 2017]; This is a precursor to the Derrida, *Of Hospitality* (Stanford: Stanford University Press,2004).
[158] Ibid.

Road to Socialism was Burma's prerogative, and Nehru's government repeatedly reiterated that this was not tied to a Burmese tilt towards China. Instead, it was seen as Burma's own negotiation of being stuck between two big regional powers and the East-West binary while simultaneously trying to create a state that benefitted the Burmese.[159]

If Indian public support implied assistance to the refugees, it would not come at the cost of Indian security – instead of declaring China a state that had treated its citizens badly as the international regime's definition implied, India's justification was its own sovereign right to grant asylum. [160] The Tibetans were the foreigners or strangers who had been offered hospitality, but they were not to become a vehicle for the perspectives on group rights coloured by the 'free world' that India was finding difficult to reconcile with national interest. At the same time, the arrival of Tibetans would prompt the need to change the meaning of the refugee since they were not, in fact, part of the national fabric and could not be construed as part of the self. By officially keeping the international order out, the free world rhetoric that the US wished to colour the Dalai Lama and Tibetans with was counteracted.

However, this rhetoric of kindness and familiarity was also underpinned by the idea that Indians had long been denied equality under imperial control. The Tibet question highlights the issue of equality of humans against the rights provided by citizenship. The appeals made on behalf of Tibetans by Indian politicians (and batted away by the government) presumed their political representation as a right rather than being based on their helplessness. That these

[159] "All Help To Repatriate Indians From Burma: agitated M.P.s assured by Prime Minister**,"** *Times of India* ,Apr. 29, 1964, 11.
[160] "Premier Defines India's Stand On Tibet," *Times of India,* Mar. 31, 1959,1.

refugees too were part of self-help plans made for an interesting case since Indian state's conception of the refugee of Partition had been the same. Unlike depictions of humanitarian relief from other parts of the world, there was no denial of the Tibetan's equal humanity and capability to that of refugees of the past. They were only excluded from being part of the political community in the state in whose territorial bounds they resided: a citizen without the right to political representation because they had brought their representatives with them. It was, in many ways, a means to rewrite the hierarchy of humanitarian ideas that underpin refugee situations.

In this case we are discussing the idea of the refugee and its relationship with those who provide asylum. It was not the 'other,' in this case the Tibetan, who was the issue. Instead it was an inconsistency of Western liberal thought underpinning this conceptualisation. There was a removal of the hostility towards the 'other' who had been welcomed and invited to join in a vision of progress, by reaffirming India's sovereign right as a host to do so. Instead, India's government emphasised the right to welcome people within Indian borders as a recognition of a solidarity of human needs rather than due to hostility towards a foreign power. It served as an acknowledgement of the familiar rather than a fear of the other, but one that rested on the sovereign right to make this acknowledgement in the first place. [161]

In transforming its own usage of the term 'refugee', India was grappling with the universalisation of the term refugee into the dangerous politically charged 'free world' rhetoric. This would also affect the nature of the self-determination as the right of all people. In declining

[161] For a detailed handling of how notions of the 'Other' also relies on an inconsistency of Western values and thought, see the critique of Derrida in Chapter 6 of Norton, *On the Muslim Question.*

UN help, and limiting the role of the High Commissioner to good offices, and even declining to be part of World Refugee Year, the refugee was reframed – in international terms as the object of sovereign right to grant asylum and other rights to a people rather than a matter of the home state's circumstances creating displacement while domestically turning the refugee away from the automatic idea of citizenship. In doing so, the Indian state would, intentionally or not, bring the ideas of humanity and citizenship in closer contact within its conception of refugeedom.

POLITICAL SOLUTIONS, HUMANITARIAN APPEAL: EAST PAKISTAN REFUGEES AND NAVIGATING SELF DETERMINATION, 1971

> It was heart-breaking to find that while there was sympathy for the poor refugees, the disease itself was ignored.[1]

Indira Gandhi's words sum up the conundrum of the subcontinental refugee crisis. From the end of March 1971, East Pakistani refugees flowed into India. By the end of the year, there were about ten million refugees in India. Towards the end of April, India appealed to the United Nations for help with refugee relief. Unlike with the Tibetan refugees in the previous decade, India used humanitarian language to call for a political solution, effectively tying refugee return to self-determination under the Awami League of East Pakistan. Conversely, the international community would attempt to depoliticise the crisis by couching it in solely humanitarian terms, while leaving the crisis' political aspects to the unilateral discretion of Pakistan. As Sisson and Rose point out, it wasn't until the autumn of 1971 that war was even on the cards.[2] India went to war with Pakistan in 1971, as all attempts at a political solution forced by world opinion had failed. Soon after the end of the war, most of the refugees returned to East Pakistan. This war is often characterised as a case of humanitarian intervention on behalf of refugees fleeing genocide, regardless of the geostrategic benefits to India from a friendly, non-aligned Bangladesh replacing Pakistan on India's eastern border.[3]

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[1] NMML, P.N. Haksar papers, IIIrd Instalment, Subject file 173.
[2] Richard Sisson and Leo Rose, *War and Secession,*(Karachi: Oxford University Press, 1992),4.
[3] Thomas M. Franck and Nigel S. Rodley. "After Bangladesh: The Law of Humanitarian Intervention by Military Force," *The American Journal of International Law* 67, no. 2 (1973); Bibliography; Ved P. Nanda, "A Critique of the United Nations Inaction in the Bangladesh Crisis," *Denver Law Journal* 49: (1973); Moyn, *The Last Utopia,*219.

The results of the 1970 election in Pakistan had returned a majority for the East Pakistani-led Awami League. The subsequent refusal of General Yahya Khan's government to recognise the Awami league's demands led to unrest.[4] Under Sheikh Mujibur Rehman, the Awami league launched a non-cooperation movement in the beginning of March, which spiralled into violence. By the end of March, Operation Searchlight in East Pakistan forced residents across the border into India. It is also important to note that an East Pakistani resistance movement was already acting against the army and would form part of the influx into India. This was at a time when it was recognised by agencies on the ground that the eastern states had not even been able to absorb all the previous refugees from the Partition of India.[5] At the time, Indira Gandhi's Congress Party (I) had been elected with an overwhelming majority campaigning on the slogan '*Garibi Hatao'* (Remove Poverty). The nature of the new government allowed for the foreign policy machine to be a fairly tight circle of Indira Gandhi and her closest advisors, with no push to bend to opposition demands on the matter. The Indian government allowed the formation of a government-in-exile under Tajiuddin Ahmed and Syed Nazrul Islam, and also granted refuge to both civilians and para-military forces.[6] Further, though it would not recognise the government until December, diplomatic missions were set up in Calcutta and Delhi.

By the end of the crisis, it was estimated by Indian and United Nations records that approximately ten million refugees had come to India, and almost all had returned to the newly formed state of Bangladesh in the first half of 1972. The United Nations had become involved

[4] The six-points laid forth by the Awami League called for all matters barring defence and foreign policy to become the responsibility of the provinces.
[5] UNHCR,Fonds 11, Series 2, box 731, 410.IRC.IND.
[6] J.N. Dixit, *Liberation and Beyond:Indo Bangladesh Relations* (Delhi: Konark Publishers 1999), 47.

via Focal Point, headed up by the United Nations High Commissioner for Refugees, Sadruddin Aga Khan. It ran two parallel operations, one for refugee relief in India and one for assistance in East Pakistan. These two issues were kept separate despite the United Nations acknowledging the common cause of both.[7] In many ways the crisis marked an expansion of the activities of the office of the UNHCR and international refugee regime to a non-European part of the world that had also never acceded to the Convention or Protocol on the status of refugees. It also coincided with an increasing emphasis on the UN's 'good offices' role, which emphasised solely humanitarian intervention as a means to alleviate burden to allow for a resolution of the conflict. But while this was the mandate of the UN agencies, the Security Council would remain silent on the causes of refugee flows.

The purpose of this chapter is to understand where this refugee situation falls in the Indian establishment's understanding of its relationship with refugees and the International Refugee Regime. The refugees from East Pakistan were portrayed as citizens fleeing persecution from their own state in India's rhetoric. This was a shift from previous understandings of those from the Eastern half of Bengal based on their shared past under the Raj. This held true despite religion, for though large numbers of those fleeing East Pakistan were Hindus, the Indian state was not keen to accept them. The refugee crisis symbolised a solidification of Radcliffe's borders in India's own conception of belonging, and therefore the end of India's experience of the long Partition. India's citizens were those who were within these borders, regardless of their commonalities with people on the other side. From the beginning of the 1971 influx, Indian territory was held to coincide with its citizens, with the

[7] UNHCR, Fonds 11, Series 1, vol 1, Box 20, 1.IND.PAK [3].

refugees disrupting this relationship. Movements across this border would be considered illegal migration or humanitarian crisis, both of which implied return rather than an assumption of any right to remain in Indian territory or share in her political community. India had become a whole constituted of the diverse elements within its borders which a mere two decades prior had thrown the subcontinent into demographic upheaval. Pakistan, on the other hand, was seen as suffering from a crisis of state stemming from its basis in religion, without any other commonality between its two wings. Besides this, Indira Gandhi's government was also dealing with major geopolitical shifts stemming from Russia's overtures to Pakistan, the Nixon administration's 'tilt' policies that adversely affected India, and the consequences of the Sino-Soviet split. Though India and the Soviet Union would famously sign a treaty of friendship in August 1971, the Indian government was concerned with the lack of effective action on the Pakistani Civil War because of Cold War geopolitics.

Humanitarian action was shifting to transnationalism from earlier nation-state based action.[8] Amnesty International's Nobel Peace Prize in 1977 was a culmination of the power of this new humanitarianism, but also came with the transformation of the revolutionary aims of 1960s social movements to a more realistic moment that was cognizant of its limitations in the 1970s.[9] The Biafra crisis had placed non-state actors at the forefront of humanitarian action. A secessionist movement against the Nigerian state that caused significant displacement, the Biafran side's publicity campaign, run by Markpress, set into motion events that would

[8] David G. Chandler, "The Road to Military Humanitarianism: How the Human Rights NGO's shaped a new Humanitarian agenda," *Human Rights Quarterly* 23, no. 3 (2001).
[9] Jan Eckel, "The International League for the Rights of Man, Amnesty International, and the Changing Fate of Human Rights Activism from the 1940s through the 1970s," *Humanity* 4, no.2 (2013).

transform the nature of humanitarianism, and place famine at the centre of their campaign.[10] Oxfam would tire of waiting for permission from Lagos to enact relief, and would go ahead with a heavily political programme drawing attention to the crisis as part of its relief.[11] Even the ICRC would briefly incur the wrath of Lagos, though differences with its stated principle of neutrality would give birth to Médecins sans Frontières. MSF's subsequent actions leave no doubt about its political nature. Non-state humanitarian actors were being pushed towards confronting human rights in a political perspective rather than just in terms of human need. As with the crisis in Bangladesh, most officialdom stood by the principle of sovereignty above all else, and against secession.[12] Though Biafra set the stage for Bangladesh in that the world had already been confronted with the political aspect of humanitarianism, it would also differ in several ways. The first was that Bangladesh involved a majority population, the demography of which was allegedly being altered by the refugee crisis. The second was that the UNHCR, and therefore the nation-state based international refugee regime, was involved as the refugees had crossed what was recognised to be an international border.

Decolonisation and state formation in Africa had placed the bulk of the world's refugees outside of Europe, where previously the UNHCR's mandate had been to assist those who had been displaced by the Second World War in that continent. In addition, the 1960s had also seen the rise of the 'integrated zonal approach' that combined refugee relief with development, in

[10] Lasse Heerten, ""A" as in Auschwitz, "B" as in Biafra: The Nigerian Civil War, Visual Narratives of Genocide, and the Fragmented Universalization of the Holocaust," in Heide Fehrenbach and Davide Rodogno (eds.), *Humanitarian Photography: A History,* (Cambridge: Cambridge University Press, 2015).For more detailed handling, Heerten, *The Biafran War and Postcolonial Humanitarianism: Spectacles of Suffering,* (Cambridge: Cambridge University Press, 2017).
[11] For Oxfam's own version, see Maggie Black, *Oxfam:A Cause for our Times* (Oxford: Oxford University Press, 1992) , 109-131.
[12] Barnett, *Empire of Humanity,*

particular the idea of hunger, which ultimately would become the primary focus of humanitarian action.[13] Though it had chosen to 'duck'[14] out of the crisis in Biafra, in part limited by its mandate that limited activities to refugees who had actually crossed an international border, the Office of the High Commissioner for Refugees was responding to these changes. It was becoming more expansionist in its scope, as embodied by the policies of Felix Schnyder and his successor Sadruddin Aga Khan in their emphasis on the 'good offices' role, and widened refugee definitions as in the 1967 protocol. In part, the 1967 protocol was also a response by the international regime to the creation of a regional refugee regime by the Organisation for African Unity. The Indian government was tapping into and also responding to these trends in international humanitarianism. It was also a bone of contention that the international community, as represented by the UN, saw humanitarianism as divorced from political action in the context of this crisis. The biggest United Nations refugee programme, hailed as a success by the UNHCR, was not received as such by India. Though it had raised unprecedented amounts for refugee relief, it had not raised enough to cover India's costs and had not attempted to tackle the root of the influx. A deeper conceptual question in this context is reconciling Indira Gandhi's admittedly realist approach to international and domestic politics with that of a changing humanitarianism that was increasingly aware of its own limitations. Further, it is worth noting that India's nation-state based vision of this action tapping into these trends forced the transnational into the international.

[13] Gatrell, "Bricks or Dynamite? Achievements, Disappointments, Opportunities," in *Free World? The Campaign to Save the World's Refugees 1956-63*, 211-241.
[14] Used by Barnett in *Empire of Humanity.*

DELIBERATING A RESPONSE

The Indian state was quick to respond to the refugees. Every refugee seeking the government's help was given a standard food ration worth one rupee per day per adult, with 400 grams of rice, 100 grams of *dal*, 300 grams of vegetables, salt, and spices. Children and pregnant mothers were also given rations of milk.[15] The voluntary agencies working with refugees included the All India Marwari Samelan, Bharat Scouts and Guides, Bharat Sevasram Sangh, Bangladesh Mukti Sangram Sahayak Samiti, Central Relief Committee, the Indian Red Cross, Indian Medical Association, Ramakrishna Mission, St. John's Ambulance Service, Cooch Behar Relief Services, Dighi Hospital Mission, and the West Bengal Council for Child Welfare. Non- Indian voluntary agencies like Oxfam, Save the Children, War on Want, Caritas India, Catholic Relief Services, and the Christian Agency for Social Action were all allowed to provide direct assistance.[16] The presence of organisations like Oxfam and War on Want as some of the first agencies on the scene indicated the contemporary understanding of the intimacy between refugee crises and development related issues like hunger- after all, Biafra had caught the world's attention as a crisis of starvation, not of displacement and genocide.

In terms of local reception, the primary concern was that refugees would mix with the local population and become a burden. The concerns of local officials and the public would thus inform shutting down, or at least a certain management of the influx into the country. Also, the border states felt the contradiction of dispersing the demographic burden and alterations to local economies versus the need to keep the refugees in camps close to the border to ensure their

[15] "Bangla Desh refugees now more than 258,000,"*Times of India*, Apr. 22, 1971, 8.
[16] UNCHR, Fonds 11, series 2, box 646, 400.IND.

speedy return. Locals felt a social and economic pressure, and, in turn, the refugees felt they were the victims of harassment and unfair measures to contain the crisis. [17] As with previous refugee influxes into the country, there was the larger question of what to call the people forming this one. To use terms like 'refugee' or 'evacuee', to the West Bengal government, would have implications under international law. As with Partition, they wanted to call these refugees migrants. Antara Datta rightly categorises this as a product of India not wanting to be bound by the international regime's commitments to refugees, and a manifestation of its voluntary exclusion from it.[18] India would eventually call them refugees and engage with the international regime for assistance and to manoeuvre for a political solution that would end with a friendly, non-aligned neighbour in the East. This provides a window into a conscious effort to play a system that was in flux, after an initial impulse to keep the crisis from international machinations.

India also emphasised that this was not Partition, and Pakistan was pushing out its own citizens rather than the influx representing the continuation of the refugee-citizen flows. It was also made clear that India would not shoulder the demographic burden permanently.[19] These citizens had, after all, recently been part of a democratic election that had returned a majority whose will was thwarted by West Pakistan. In a country where locals were also unlikely to have documents, refugees were given identity cards according to the Foreigners Registration Act.[20] Lack of a refugee card left a refugee liable to prosecution under the Foreigners Act.[21]

[17] For a more detailed treatment, see Datta, *Refugees and Borders,* 86-154 and K.C. Saha, "The Genocide of 1971 and the Refugee Influx in the East" In Sammadar, *Refugees and the State*, 211-248.
[18] Datta, *Refugees and Borders,*60-61.
[19] "Drastic steps on D.P. flow are hinted at," *Times of India,* May 31 1971,1.
[20] "DPs adjust themselves to life at Mana camp,*" Times of India*, Jul. 4, 1971,*6.*
[21] UNHCR, Fonds 11, Series 1, vol 1, Box 20, 1.IND.PAK [1].

Further, rations had been tied to possession of this card.[22] Upon the mass outbreak of cholera, issuing cards also became associated with cholera inoculation.[23]As far as possible, the Indian government was keen not to move refugees from the border states, primarily West Bengal and Assam, ensuring that the rest of the country would share the burden for resources. Dispersing the refugees from the border states would give the impression that it would be absorbing the refugees.[24]In the few cases that the refugees were moved, every attempt was made to isolate them from the local population.[25]

This was already different from the way 'migrants' and refugees were treated a mere year ago, when they had been absorbed into rehabilitation schemes and dispersed from the Eastern Border. Even in 1970, during negotiations regarding migrations from East Pakistan into India, the Pakistani government had suggested that Indians could turn back the 'refugee' influx. Swaran Singh, the Foreign Minister, rejected this as callous, and a continuing indication of the state's failure to take care of its citizens. He also added that the Minister for Rehabilitation's observation that these persons did not carry passports or proper documentation was further indication that they had been pushed out of their homes rather than left voluntarily. However, at this point of time, Singh regarded the matter as a bilateral issue, where international propaganda and the United Nations were considered ineffective with regard to the burning issue of the day. In fact, the Indians were keen on removing any third party that wished to mediate between the two, choosing instead to focus on trying to create a situation that would lead Pakistan to 'the deliberate conclusion that it is in their interest also that they should really stop

[22] "Refugees Entering Nadia at Alarming Rate," *Times of India*, Apr. 26,1971, 9.
[23] "Inside Refugee Camps,"*Times of India*, Jul. 4,1971, 1.
[24] "Influx of DPs aggression," *Times of India*, May 26, 1971, 11.
[25] "Assurance to Bengal", *Times of India,* Jun. 6, 1971, 1.

it.'[26] Even in 1970, the Indian state was certain that Pakistan was deliberately mistreating its own citizens under the guise of tensions arising from the cartography and communal circumstances of the Partition of the subcontinent. The very different response in 1971 would tie the immediate political circumstances of the recent elections to India's attitude towards the new refugees. Unlike Partition, the events of the year would push India to request international assistance where previously her line had been bilateralism, and even the threat of force to assist Pakistan towards the aforementioned 'deliberate conclusion.' This appeal to the international order can also be interpreted as a further demarcation between this influx and previous movements.

Foreign Secretary T.N. Kaul retrospectively summed up India's position at the beginning of Mrs. Gandhi's prime ministerial tenure: The Soviets were getting closer to Pakistan and the Nixon government was prejudiced against India. Kaul's assessment of Nixon's 'Asian doctrine' identified its aims as wanting to reduce Soviet influence in India, cut India to size, help American client states and exploit Sino-Soviet differences by befriending China.[27] Further, in its recent negotiations with the Soviets, the Congress-led Indian government had been concerned with the principle of Non-Alignment. To ally itself to closely with the Soviet Union would give the opposition fodder against a foreign policy that would alienate the West.[28] Indira Gandhi was, like Nehru, outraged by a world in which matters for the whole world were decided by a few powers.[29] Mrs. Gandhi was not alone in this belief, for national newspapers in

[26] NAI, MEA, XPP/3070/14/70.
[27] Triloki Nath Kaul, *Diplomacy in Peace and War,* (New Delhi: Vikas Publishing House, 1979), 175.
[28] Raghavan, *1971: A global history of the creation of Bangladesh,*(Cambridge, Mass.; London: Harvard University Press, 2013), 112.
[29] Shashi Tharoor, *Reasons of State: political development of India's foreign policy* (New Delhi: Vikas Publishing House, 1982), 91.

India also seemed sceptical of the United Nations system, particularly as nationhood, sovereignty, and power politics seemed to govern its action and inaction.[30] In the early days of the influx, a concern for the Indians was that accepting UNHCR help would also call for some kind of UN observation, and based on past UN behaviour, it would be an endless international watch tantamount to spying. Contemporary opinion also saw India's early experiences with the UN in Kashmir in its early day as a reason for keeping the United Nations out of successive refugee crises, barring only the Tibetans.[31] Effectively, India did not trust the international community to see the matter outside of an India-Pakistan dispute arising out of the way the subcontinent had been partitioned. For India, this happened a time when it did not consider itself to be worrying about her large neighbours, China and Pakistan. It also distracted from India's focus on the medium and small nations of Asia and Africa. [32]

Kaul also claims that, prior to the crisis, India was a leader in the non-aligned world's quest for development and aid, citing the 1969 meeting at Lusaka.[33] In 1970, Foreign Minister Swaran Singh's address to the General Assembly reflected India's interest in development. Quoting Indira Gandhi regarding the threat of neo-colonialism, Swaran Singh pointed out that those who held political and economic dominance in the world also imposed ideas. The Indian state called for a move away from these impositions and towards models of development more beneficial to the nature of each individual country.[34] India wanted to progress free from

[30] UNHCR, Fonds 11, series 1. Box 307, 20/IND[1].
[31] UNHCR, Fonds 11, Series 1, volume 1, Box 20, 1.IND.PAK [1].
[32] Kaul, *Diplomacy in Peace and War*, 175-176.
[33] Ibid.
[34] Sardar Swaran Singh at the United Nations, 25th Session, 1858th Plenary Meeting, 2nd October, 1970, *Available at* http://www.pminewyork.org/adminpart/uploadpdf/72545lms23.pdf [Last Accessed 1 Fberuary 2019]

pressures from better developed and armed countries. Domestic policy is closely tied with international developments, and India was no exception to this. Indira Gandhi's government had come to power a week prior to first of the refugee arrivals. Development was on the Indian agenda, both in its non-aligned context, in its representations at the United Nations and at home.

PAKISTAN'S 'INTERNAL PROBLEM'

A seemingly constant spate of arrivals from East Pakistan was met with various immediate responses within the Indian establishment. V.P. Dutt, a foreign policy advisor to Mrs. Gandhi's government, called for decisive action against Pakistan in June.[35] He was not alone in favouring the Indian army marching into East Bengal as soon as possible. P.N. Dhar observed with some astonishment that the Gandhian Jayprakash Narayan was amongst these voices. P.N. Haksar, Mrs. Gandhi's principal secretary, exercised considerable effort to 'divert his [Narayan's] energies mobilizing world public opinion against Pakistan instead.' Indian public opinion, it seems, was quite divided on how to handle the issue. There were some who thought only Hindu refugees should be allowed across into India. Others that P.N. Dhar describes as self-proclaimed 'realists' were convinced the refugees would never return, and India should focus solely on resettlement. Others were worried of further radicalisations in Eastern India if East Bengal became independent. Some voices called for another exchange of populations.[36] Opposition voices were willing to politicise the matter of aid to East Pakistan, appealing both to a shared past and calling for official recognition of Bangladesh. A.B. Vajpayee of the Jan Sangha went

[35] NMML, P.N. Haksar papers, IIIrd instalment, Subject file 229.
[36] P.N. Dhar, *Indira Gandhi, the 'Emergency', and Indian Democracy,* (Delhi;Oxford: Oxford University Press, 2001),157-158.

so far as to suggest that Indian youth should be allowed to cross the border to assist in East Pakistan.[37] However, this appeal to a shared past was exactly what the government wished to avoid.

Indira Gandhi was in favour of cautious action. General Manekshaw had advised that India would struggle to fight a two-front war, particularly through the summer and monsoon.[38] Though Mujib's government requested formal recognition, India would hold off on this until December. Recognition would certainly launch an India-Pakistan conflict in the Indian foreign policy establishment's opinion, and therefore to recognise the Awami League's government would be tantamount to committing India to military intervention.[39] Dutt tells us that the Indian intention was to remove the East Pakistan crisis from a longer history of Indo-Pak conflict since 1947.[40] From the very beginning of the crisis, India was keen to rouse international opinion against the atrocities being committed in Pakistan. Starting in May, the Indian government began to resent advice of 'restraint'. In the first instance, this advice came from the United States, which irritated India as it placed her on par with Pakistan.[41] The Indian appeal to the international community's commitment to human rights was shaped by her position as a non-aligned state in a bipolar world. Pakistan was an ally of the US-British bloc and a more reliable partner for the US than India in its position vis-à-vis China and the Soviet Union. Dutt's recommendations take note of these biases in the Western bloc's easy acceptance of Yahya's false claims of a return to normalcy in East Pakistan in the early days of the conflict. World

[37] "Delhi Urged to give open support to Bangladesh,"*Times of India,* Mar. 29, 1971.
[38] Dixit, *Liberation and Beyond*, 51.
[39] Ministry of Defence, Government of India, *The India Pakistan War of 1971:A History,* Ed S.N. Prasad, (Natraj Publishers: Dehradun, 2014).
[40] NMML, P.N. Haksar papers, IIIrd instalment, Subject file 229.
[41] "India takes exception to US advice of restraint,"*Times of India,* May 29, 1971, 8.

opinion needed to be favourable to an independent East Bengal, since strategic Cold War positions would not favour potentially non-aligned leadership where previously allied West Pakistani leadership had existed. The Indian retrospective view from the second half of 1971 assessed India's initial non-intervention as a calculated move in this direction: in its earlier days, the establishment opinion seems to have been that it would convert the humans right based issue of the freedom of East Pakistanis from tyrannical Western Pakistani rule into India-Pakistan violence.[42] The Indian government was keen to remove the Bangladesh issue from that of Partition in every way. It was neither religious nor part of the crisis of post-colonial borders. Instead, India wished to frame it as a crisis of injustice within those borders that would cause people to transcend them, feeding into the newly developing rhetoric of transnational humanitarianism starting with Biafra. The nature of the injustices would also highlight the collective nature of the East Pakistanis' right to a government they had elected.

The UN conference on Human Rights in Tehran marked a shift towards collective rights, particularly in the 'Global South', with democracy subjugated to development goals, coinciding with increasingly authoritarian regimes in many former colonies. The Third World was complicit in the damage to individual human rights in this decade, choosing sovereignty above all else. Individual rights would take a hit, and self-determination and sovereignty would reign supreme.[43] Ayub Khan's Pakistan marked an iconic version of this regime, holding out the promise of development with the blessing of the United States. The East Pakistan crisis in 1971 marked an interesting place within these circumstances. The demographic realities of the

[42] NMML, P.N. Haksar papers, IIIrd instalment, Subject file 229.
[43] Burke, "From Individual Rights to National Development: The First UN International Conference on Human Rights, Tehran, 1968," *Journal of World History* 19, no.3(2008).

refugee crisis seemed to offer a solution to the contradiction of the majority of the Pakistani population choosing self-determination in the Eastern Wing, thereby making secession an untenable claim. A majority could not secede, but a demographic alternation by pushing those citizens who hindered a certain western dominated vision of Pakistan could change the realities of the majority.

India was not keen to be a scapegoat for Pakistan's troubles. Instead, the Indians saw Pakistan's internal problems being forced into India, with the influx of refugees creating, in turn, an internal problem for India by posing a massive burden on its resources. The Indian state was becoming convinced that Pakistan was seeking to solve its political and other problems at the expense of India.[44] Its stated fears were confirmed with the large number of Hindus crossing over to India. Indian analysis understood it would reduce the support to the Awami league as the crisis was portrayed as the product of 'wily' Hindus misleading Bengali Muslims. The outflow of people would diminish opposition to Western Pakistani dominance by reducing the Bengali majority in East Pakistan. The Indians also felt that would fuel Hindu-Muslim riots that would contribute to a depiction of the crisis as part of the long-standing Hindu-Muslim aspect of India-Pakistan conflict[45] This was not an issue of the two states at loggerheads over the borders that the British had imposed, and the Indian state had no intention of absorbing the millions of the Hindu minority that Pakistan had failed to protect. In the Indian mind, Pakistan's version of the two competing visions of the nature the Raj's successor state was failing and

[44] "Prime Minister's Statement in Lok Sabha on Situation in Bangladesh, on May 24, 1971," *Bangladesh Documents I* (Dhaka: University Press ltd., 1999), 674.
[45] Dhar, *Indira Gandhi, 153-54.*

India was being forced to bear the brunt of this failure even though her own secular vision had successfully prevailed within her borders.

For India, the rhetoric of human rights was essential to keep Asian-African support. These decolonised nations would not look kindly on the situation if seen solely through the lens of secession.[46] The Indian government refuted allegations of encouraging secession by arguing that the majority of Pakistan's people lived in the Eastern wing. Pakistan's recent attempts at democracy via the election were being undercut. In a democratic set up, India argued, the majority had certain rights. They could not be accused of secession if they asserted those rights.[47]

In a departure from previous understandings of colonialism, India used the right of anti-colonial self-determination in a decolonised state against West Pakistan. Krishna Menon, by now a member of the World Peace Council, compared the situation of East Pakistan to that of Mozambique and other colonial territories. Pakistan was upset at this charge, as it felt that to question 'colonial' conditions was to challenge the territorial integrity of Pakistan. Ranjit Gupta, the Indian representative discussing the implementation of the Declaration of Decolonisation by the UN family in September, commended the UN agencies for the refugee assistance for 'refugees from colonial territories' in India. When questioned, he said it was not out of line to commend Focal Point's efforts towards a refugee crisis and that specialised agencies could help struggles against colonialism in all its forms.[48] To portray the crisis as an

[46] NMML, P.N. Haksar papers (IIIrd instalment), Subject file 229.
[47] "Prime Minister's Reply to the Discussion Regarding Situation Arising Out of the Arrival of Refugees from East Bengal in Lok Sabha on May 26,1971," *Bangladesh Documents I,*680.
[48] UNHCR, Fonds 11, Series 1, vol 1, Box 20 1.IND.PAK [4].

anti-colonial struggle would associate with it previous, legitimate forms of self-determination and distract from charges of inciting secession. After all, it could not meet the definition of liberation from foreign domination, and so had to be framed in terms of the violation of collective economic rights and development that were so in vogue at the time. The rhetoric of civil war alone was not enough, as this was a time when *de jure* sovereignty of weak states was internationally acknowledged despite a lack of *de facto* sovereignty. India's actions would end up being seen as an intervention from an outside state in the international relations perspective[49] Presumably it would need some justification, and colonialism certainly represented an illicit form of domination, making it an ideal rhetorical vehicle. Retrospectively, the creation of Bangladesh is widely considered a successful manifestation of a secessionist movement assisted by an outside power. India was keen to express that she was not defending secession, but democratic ideals and group rights. By doing so, she was feeding, or even perhaps framing, the idea that postcolonialism and democratic politics were not mutually exclusive, and that political rights had a collective manifestation too.

It is also worth pointing out that encouraging secessionist self-determination was not in India's interest, given her own regional and linguistic movements. In fact, there was even the possibility that an independent East Pakistan would lead to the dream of a United Bengal, fostering tensions in the Indian territory of West Bengal.[50] Perhaps this can also account for the Indian characterisation of the crisis being a failure of the Pakistani state's basis in religion rather than the impossibility of regional variations in the subcontinent under the banner of one nation-

[49] Anne Hironaka, *Neverending Wars: The International Community, Weak States, and the Perpetuation of Civil War* (Cambridge, Mass.: Harvard University Press, 2005), 6; 127-8.
[50] "P.M.'s Caution shows she is aware of Danger," *Times of India*, Mar. 30, 1971, 8.

state. Pakistan had failed to establish a viable relationship with its citizens, allowing them to take part in the promise of progress and equality that came with the idea of self-determination. To quote Mrs. Gandhi's letter to Nixon, 'as we see it, the rulers of Pakistan would wish the refugee problem in India to result in an aggravation of social tension and religious strife. They probably have a vested interest in this. Apparently, Pakistan is trying to solve its internal problems by cutting down the size of its population in East Bengal and changing its communal composition through an organised and selective programme of eviction; but it is India that has to take the brunt of this.'[51] This was viewed as part of a longer trend, where Pakistan made hostility towards India a basis for unity where none existed. The crisis in 1971 was a manifestation of the same, with implications for India's own security.[52] The story was spun to highlight that people had to be made to fit the state or to leave, rather than it representing their best interests and will.

The Indians conveyed their analysis to other powers. In conversation with Kissinger, Principal Secretary P.N. Haksar spoke of religion as an unviable basis for a nation-state of regional variety as Pakistan had. In fact, Haksar's argument was based on a comparison between India and Pakistan as being cut from the same post-colonial cloth. While Pakistan imposed military rule and didn't recognise religious and linguistic differences, Haksar claimed India had escaped the trap of unviability by adhering to democracy and secularism to address its internal diversity.[53] In one fell swoop, the Indian establishment squarely placed blame on Pakistan and

[51] Foreign Relations Of The United States, 1969–1976, Volume XI, South Asia Crisis, 1971, Document 46 - Letter From Indian Prime Minister Gandhi to President Nixon New Delhi, May 13, 1971.
[52] "World Govts. Not Helpful. Deplores PM," *Times of India,* Nov. 4, 1971,11.
[53] NMML, P.N. Haksar, IIIrd Instalment, Subject file 229.

discounted any appeals to Hindu majoritarian feeling in dealing with non-Muslim refugees from Pakistan. Though India feared communal violence internally, in their external rhetoric they were keen to frame India as a secular democracy and Pakistan as the only state concerned with longer term religio-political trends in the subcontinent. In many ways, the crisis was also the platform for a triumphalist narrative of India's own navigation of building a postcolonial state.

In the same conversation, Haksar also absolved the refugees of harbouring communal feeling. There was a real fear that in the event the refugees returned, Pakistan would only accept the Muslim refugees, not the Hindus.[54] He claimed that Hindu refugees had no desire to remain in India, no doubt a rebuttal to the worldwide tendency to see anything involving India and Pakistan as a question of Hindu and Muslim homelands. He would attribute their presence this as a commitment to their real homeland, which had kept them there all this time despite the 'long Partition'. The core of the problem was the nature of democratic rule envisioned by the Awami League versus Yahya's military suppression.[55] The refugees from East Pakistan, regardless of religious affiliation, were legitimately the responsibility of the territory from which they had fled in keeping with understanding human rights of individual citizens rather than the rights of a religious group. The refugees themselves were keen to return. The only party that seemed averse to this was the one causing the violence. This brought the matter back to Pakistan attempting to force their unviable vision of the state by eliminating all elements that did not fit it by imposing the same unviable vision on ideologically viable India. The refugees from Pakistan constituted an invasion of this unviable vision into India, and were a symptom of the failures of this regime to actually cater to its citizens.

[54] Dixit, *Liberation and Beyond,* 65.
[55] NMML, P.N. Haksar papers, IIIrd instalment, Subject file 229.

India's support for the armed insurgency against West Pakistani military rule was a case of relief to refugee camps aiding civil war. The camps provided a supply for recruits to the guerrillas, and also served to take care of the insurgents' dependents. According to Sarah Kenyon Lischer's outline, the refugee camps in India served to check all the boxes for manipulation of such camps to violent political agendas –'feeding militants, sustaining and protecting militants' dependents, supporting a war economy, and providing legitimacy to combatants'.[56] India actively engaged with these efforts, both to assist towards political ends within East Pakistan and to control the nature of the guerrillas who were in India. The Ministry of Defence's account of the aid provided to the Mukti Bahini cites that the defeat of the guerrilla force and the 'freedom movement' would hinder the return of the refugees. Further, India was concerned about the Mukti Bahini being co-opted by the Naxalites. The Indian state was careful of its handling of the Mukti Bahini, with the choice of moderate Awami leaders or East Pakistani military men as leaders. As the Bahini expanded to recruit young refugee men, the Indian government became more involved.[57] India's support to the Mukti Bahini also served to keep alive the possibility of a political solution.[58] In supporting a resistance movement that was composed of East Pakistanis, in the eventuality of military action by India, it would be perceived as assistance to the legitimate efforts towards self-determination by East Pakistanis rather than a continued India-Pakistan conflict.[59]

[56] Sarah Kenyon Lischer, *Dangerous Sanctuaries: Refugee Camps, Civil War, and the Dilemmas of Humanitarian Aid* (Ithaca: Cornell University Press, 2005), 6.
[57] Sisson and Rose, *War and Secession,* 143.
[58] Ministry of Defence, *The India Pakistan War of 1971*, 47.
[59] Sisson and Rose, *War and Secession,* 151.

INTERNATIONAL RESPONSES: DIFFERING ON RIGHTS AND SELF-DETERMINATION

As Raghavan points out, Bangladesh was the poster child of a transnational global humanitarian movement while simultaneously the pariah of the international system of sovereign nation-states as a challenge to that sovereignty.[60] India was attempting to navigate precisely this situation in its response to the crisis. The political solution that India desired was most closely supported by transnational, non-nation-based organisations that had, in recent memory, upset governments in the Biafra crisis. On the other hand, the idea of sovereign nation-state-based action that India supported would not necessarily fly at a time when state sovereignty trumped any other considerations in the order of the UN.

By the end of April, India's permanent representative at the United Nations requested help for refugee relief. India's proposals with regard to the UN's role in the conflict involved restoration of human rights to the people of East Pakistan by their government, international assistance for the refugees, persuading political normalisation in East Pakistan, that the government of East Pakistan be held responsible for the refugees, and that the Secretary-General keep the problem under constant review.[61] After initially resisting UN intervention, in the middle of May the government of Pakistan also made overtures to the United Nations. The Indian government responded by pointing out the human rights aspects to counter Pakistan's charges of Indian interference and attempts to frame it as an India-Pakistan matter. India held that rather than interfering in Pakistan's internal matters, Pakistan was trying to divert the

[60] Raghavan, "Poster Child and Pariah," in *1971,* 131-54.
[61] "India Can't keep quiet",*Times of India,* May 25, 1971,1.

world's attention from the real problem, which was the violation of human rights within East Bengal.[62] In 1966, India had accepted the principle of non-refoulement via the Bangkok principles.[63] It was committed not to sending refugees back to certain persecution, but would not let its non-accession to the refugee treaties become the international excuse to ignore the crisis.

World newspapers and media outlets were comparing the crisis to Biafra and Nigeria. For example, *The Globe and Mail*, a Canadian newspaper, reported the perspective of the three Canadian MPs who had visited the subcontinent. In addition to agreeing upon a popular climate in East Pakistan, they all seemed to view this as a crisis that was similar, though on a greater scale than Biafra and Nigeria. They went so far as to see it a s a greater problem than Vietnam. Oxfam, which had become involved in relief, urged that no diplomatic niceties get in the way of relief and rehabilitation. They pointed out that world peace might be at stake, and that overcrowding, famine, and possible cyclones would produce a disaster dwarfing all others the world had seen.[64]

Even prior to their official appeal, the Indian government had been in touch with the United Nations Secretary General, U Thant. In the first instance, he recommended that India contact the International Committee of the Red Cross directly. However, in early April, he also approached the International Committee of the Red Cross on behalf of the USA. This move

[62] "Pakistan Changes Tactics, seeks U.N. Aid", *Times of India,* May 19, 1971, 7.
[63] Asian-African Legal Consultative Organization (AALCO), *Bangkok Principles on the Status and Treatment of Refugees ("Bangkok Principles")*, 31 December 1966, available at: http://www.refworld.org/docid/3de5f2d52.html [last accessed 4 February 2019]
[64] UNHCR, Fonds 11, Series 1, vol 1, Box 20, 1.IND.PAK [3].

ended up being perceived as hypocritical in the Indian press. It brought up the question of why this was done in some cases and not others.[65] Minister for Rehabilitation, R.K. Khadilkar, claimed that the reason the refugees from East Pakistan did not get the same kind of international attention as Biafra was because the Great Powers were on the side of Pakistan, and that the influx constituted aggression. [66]The Security Council, which was the UN body empowered to discuss a political situation, remained in stasis. U Thant recalls in his memoirs that most members of the Security Council refused the discuss the East Pakistan situation at all : 'There was not even the shadow of a consensus whether the dispute involved India and Pakistan, or West Pakistan and East Pakistan, or India, Pakistan, and "Bangladesh.'[67] On the other hand, the Secretary General could not intervene except on humanitarian grounds. U Thant designated the United Nations High Commissioner for Refugees, Prince Sadruddin Aga Khan, the Focal Point for all UN agencies for relief efforts for these refugees in response to India's request. Though restricted by the limits of a humanitarian mandate, he was hopeful that his office could help initiate a dialogue between the two states.[68]

As early as May 1971, it was clear that Focal Point hoped to assist to the Indian government with the problem, but would not assume responsibility for it.[69] Focal Point had a three-fold mechanism, which was to mobilise and secure international support and contribution, to arrange and procure supplies in a coordinated manner and deliver them to India, and to liaise

[65] "U Thant's "silence" on East Bengal situation," *Times of India*, Apr. 2, 1971, 18.
[66] "Influx of DPs aggression," *Times of India,* May 26, 1971, 11.
[67] U Thant, *View from the UN* (David and Charles: United Kingdom, 1978),423.
[68] Sadruddin Aga Khan, Statement of Prince Sadruddin Aga Khan, United Nations High Commissioner for Refugees, about refugees from East Pakistan, and complete text of Press Conference questions and answers, 5 May 1971 http://www.unhcr.org/en-au/admin/hcspeeches/3ae68fb330/statement-prince-sadruddin-aga-khan-united-nations-high-commissioner-refugees.html [Last accessed 1 February 2019]
[69] UNHCR, Fonds 11, Series 1, Box 70, 1/9/1/FP/IND.

with the Government of India. The agencies associated were UNICEF, FAO, WFP and the League of Red Cross societies. While it was acknowledged that Focal Point was strictly a coordination exercise within the UN agencies, the International Community was also interested in using it as a means to collect precise information about the crisis in the face of differing accounts of events and numbers.[70]

The International Community, Pakistan and India all agreed that voluntary repatriation was the solution. But as Sadruddin Aga Khan pointed out, this was only effective when the host and origin countries agreed on all aspects of the solution.[71] The problem was agreement on the nature of conditions to inspire confidence to encourage the refugees to return. UNHCR representative Thomas Jamieson reported from his own visit to parts of East Pakistan that though reception centres were well staffed, amnesty had been declared, and the president of Pakistan had made an appeal, there was not enough of an incentive for the refugees to return. He too understood the need for a 'political solution' to inspire 'confidence and faith'. But Jamieson also put his finger on the problem, which was that though there was a need for a 'political solution', his mission was purely humanitarian. Further, though he would never express this to either party, Jamieson did not think mediation was needed between India and Pakistan so much as between East and West Pakistan. In terms of personnel on the ground, Oxfam's representatives also seemed to regard the scale of the suffering as too vast for voluntary

[70] Ibid. vol 1, Box 20. 1.IND.PAK [4] .
[71] Sadruddin Aga Khan,*Opening Statement by Prince Sadruddin Aga Khan, United Nations High Commissioner for Refugees, to the Executive Committee of the High Commissioner's Programme, twenty-second session, 4 October 1971* http://www.unhcr.org/en-au/admin/hcspeeches/49f811268/opening-statement-prince-sadruddin-aga-khan-united-nations-high-commissioner.html [Last accessed 1 February 2019]

agencies and individual governments to cope with, calling to restore public confidence instead.[72] P.A. Cullen of Austcare said that at least half the refugees were unlikely to return unless the Awami League was in power. Even a World Bank report on the situation had been edited for fear of offending Yahya Khan.[73] Given that this assessment was made in May, it seems to be quite clear that the political circumstances as represented by India were not off the mark according to international observers either, both in terms of the necessary means to curb refugee creation and political biases towards Pakistan. It was institutional recognition of these issues that was proving to be difficult, particularly in the face of Nixon's unwillingness despite American opposition and newspapers clamouring for greater action.

It is interesting to try and understand India's reluctance to host UN observers against these assessments, given that by the end of October it became clear that no solution was forthcoming amidst India's oft reiterated stance that mediation was not needed between India and Pakistan, but between the two wings of Pakistan.[74] New York Times reporter Sydney Schanberg also pointed out that the request to station observers came from the United States. This only furthered Indian mistrust of the United States and the influence it exerted in preventing a political solution from the International Community, while equating India's responsibility as equal to Pakistan's in creating the situation.

The Pakistan government was willing to accept UN observers to encourage the refugees to return. In July 1971, India rejected UN observers. India objected on the grounds that that it

[72]UNHCR, Fonds 11, Series 1, vol 1, Box 20, 1.IND.PAK [3]
[73]Ibid, 1.IND.PAK [1].
[74] "Indira welcomes decision," *Times of India*, Oct. 27, 1971, 1.

would indicate parity with Pakistan regarding blame, and also lull world opinion into some kind of complacency. The Indian government was insistent on a political solution that allowed political power to East Bengal. To India, posting UN observers would not prevent the atrocities within Pakistan, nor achieve any step towards a political solution. It would only give the illusion of international action and distract from the issue of exerting pressure on Pakistan to find a political solution. India would also point out that UNHCR officials and other aid workers could attest to the fact that India was not preventing the return of the refugees.[75] India was making the case for recognising Pakistan's one-sided demographic violence that was being ignored in International politics.

The world was watching as India and Pakistan edged towards war. Western states in particular called for India and Pakistan to come to a mutually acceptable solution. The Soviet Union, its satellites, and neighbouring non-aligned states all called for a political solution.[76] But as Raghavan points out, the Soviet Union was concerned with preventing war in the region based largely on the premise of the circumstances of the Sino-Soviet relationship. In its pursuit of prevention of war in the region, the Soviet Union wished to help India with the refugee problem to remove any potential cause for aggression, but treated it as a separate circumstance than the political settlement in Pakistan. To this end, even the signing of the Indo-Soviet treaty was not intended to precipitate war, but act as a deterrent. The Soviet Union was not necessarily

[75] Lok Sabha Debates, Fifth Series, Volume 7, 1971,48-49.
[76] "Summary of Discussions on the Report Submitted by the UNHCR as UN Focal Point for Relief Assistance to East Bengal Refugees in India, in the Third Committee of the U.N. General Assembly, November 18 and 19, 1971,"*Bangladesh Documents I,* 108-115.

going to buy into a new state so close to China, so it refrained from tying the humanitarian aspect with that of allegedly secessionist self-determination.[77]

The Indian government was furious that the United Nations would concern itself with a hypothetical threat while ignoring the genocide within East Pakistan.[78] It saw this as one sided and in a statement made in October asserted that the UN observers were inclined to divorce the violence at the border and guerrillas from what was happening inside East Pakistan.[79] Stationing observers on both sides would confirm the image, unjust in India's mind, that in part the crisis was of its own making. However, India saw the continuing influx of refugees, even in August, as a sign that the atrocities in Pakistan prevented the refugees from going back.[80]By the middle of August 1971, the Indian government asked foreign personnel of voluntary agencies to leave. Some, like War on Want, were asked to leave within 48 hours, while others like Save the Children were given two weeks. The Government argued in favour of language, local familiarity, local working, and the difficulties of special accommodation for international workers. The UNHCR, however, did not challenge the right of the Indian government to accept assistance in kind but not in voluntary services, and saw it as a comparatively minor issue in context of the magnitude of the problem.[81] It is worth questioning why the Indian government was opposed to foreign personnel and NGOs acting in the country at this period of transformation of humanitarianism. Did they agree with their assessment of crises and effective

[77] Ragahavan, " The Reluctant Russians" in *1971,*108-130.
[78] "Russia not for UN Observers," *Times of India,* Jul. 27, 1971, 1.
[79] "Prime Minister Indira Gandhi's address at Columbia University, New York, November 6 1971," *Bangladesh Documents II,* 274.
[80] Lok Sabha Debates, 5th Series, Volume 7,1971, 34.
[81] UNHCR, Fonds 11, series 2, box 646, 400.IND.

solutions while simultaneously not wanting non-state actor led humanitarianism infringing upon their sovereignty?

The Indian government's attempted expulsion of foreign personnel of international non-governmental organisations also had an interesting side note, which was the curious position of Operation Omega. Omega was the product of the transnational turn in humanitarianism, and many of its leaders had been associated with humanitarian activity in the Biafra crisis. Omega crossed over from India to East Pakistan to conduct relief, a move that was both highly illegal and overtly political. Omega also publicly understood that Pakistan did not represent or speak for its Eastern Wing and did not act in its interests, thus necessitating aid. Effectively, Omega was connecting humanitarian relief with political legitimation.[82] The Indian government's take on the matter was merely to express gratitude in parliament for the 'humanitarian efforts' to save the people of Bangladesh.[83] Operation Omega's activities were all conducted by British and American citizens, protected by the British Mission in India, despite the fact that the Indian government had prohibited foreign aid workers from border areas, allegedly for security reasons.[84]

Indian newspapers like the *Indian Express* and the *Patriot* all zeroed in on the attempts of the world community to spy on the Mukti Bahini, in efforts to aid the Pakistani military regime. India's understanding was that the UN was mistakenly trying to 'neutralise' the Mukti

[82] Florian Hannig, "Negotiating Humanitarianism and Politics: Operation Omega's Border breaching Missions during the East Pakistan Crisis of 1971," in Johannes Pullman (ed.), *Dilemmas of Humanitarian Aid in the Twentieth Century* (Oxford:Oxford Univeristy Press, 2016).
[83] Lok Sabha Debates, 5th Series, volume 8, 1971, 81-82.
[84] Julian Francis, "Rememvering the Month of March 1971," http://oxfamblogs.org/bangladesh/remembering-month-march-1971/

Bahini, which was a symptom rather than the cause of the problem. In fact, Indian opinion seemed to feel that the United Nations only wished to interpret the matter in a manner similar to the Kissinger-Nixon vein of American opinion, who were supporting their ally, Pakistan.[85] Schanberg observed that it was unlikely that UN observers would be able to prevent guerrilla action. At most, their presence would bring censure to India for guerrilla activities.[86] As Zolberg et al. point out in their iconic text, "India's ability to derive political mileage from the refugee situation does not deny its objective reality."[87] Even international media that acknowledged India's support of guerrilla activity did not see it as playing a role in causing or perpetuating the refugee crisis. Nor did its presence deny the legitimate nature of the larger problem. India contended that Members of Parliament from other countries, journalists and NGOs had all been allowed access to the camps. Only official UN observers were denied access to the border areas. Indira Gandhi said that only once the United Nations representatives had created conducive 'conditions' in Bangladesh would they be allowed to access camps to persuade the refugees to return. According to her, it was pointless to see why refugees were not returning to East Pakistan when there was still a daily influx in the tens of thousands coming in.[88] Other objections to stationing observers were premised on Sadruddin's comments to the Prime Minister that foreign personnel who spoke different languages with diverse backgrounds might hamper rather than help the process of repatriation. The Indian government was unwilling to suffer the world's biases in their treatment of refugees, and made it clear that since India was not hampering the return of the refugees, there was no good reason to post a few men on their side of the border.[89]

[85] UNHCR, Fonds 11, Series 2, Box 1109, 610.IND.PAK[volume 2].
[86] Sydney Schanberg, "Pakistan Divided," *Foreign Affairs* Vol. 50, No.1. (1971), 134-135.
[87] Zolberg et al. *Escape from Violence,* 144.
[88] Indira Gandhi, *The Years of Endeavour: Selected speeches of Indira Gandhi* (New Delhi*:* Publications Division, Ministry of Information and Broadcasting, 1975),125.
[89] UNHCR, Fonds 11, Series 2, Box 1109, 610.IND.PAK[volume 2].

In addition to relief aid in India, another programme called UNEPRO was designed to provide relief in East Pakistan to lure refugees back to East Pakistan. India's representative at the United Nations said no amount of food would bring the refugees back as long as political persecution persisted.[90] This effort was a typical example of the 'good offices' role of the United Nations, premised on alleviating the burden of a humanitarian crisis so as to allow the concerned parties to negotiate a solution. Agencies like the International Rescue committee also saw their role in a similar light. Though their activities were essentially humanitarian, they saw themselves as helping India endure severe internal pressures and thus were buying time for the solution that must come. [91] In India's book, the problem was whether the correct parties to the dispute had been identified.

POLITICAL SOLUTION OR MATERIAL AID: DEBATING RETURN

For India, the barrier in the way of repatriation was Pakistan's definition of normalcy. In many ways, the Indian state was also adding fuel to a story of inevitable collapse of an unviable system. This system was characterised as so flawed that even the wealth of UNEPRO would not draw back the refugees living uncomfortably on the Indian side of the border. June saw the military governor of East Pakistan's first allegations that India was blocking routes of return for the refugees to go back to East Pakistan.[92] The Indian government thought it paramount to disabuse world opinion of the notion that India was luring the refugees. In public meetings, Indira Gandhi described their discomfort in camps to highlight that their temporary preference

[90] "Statement by the Indian Delegate, Mr. Samar Sen, on UNHCR's report in the Third Committee of the U.N. General Assembly, November 18, 1971,"*Bangladesh Documents II,* 107.
[91]UNCHR, Fonds 11, Series 2, box 731, 410.IRC.IND.
[92] Lok Sabha Debates, 5ht series, volume 6, 1971, 85.

for India came from a fear of atrocities rather than incentives from India. In Mrs. Gandhi's own words, 'No human being can stand in mud and water all day and night with a child in his lap, because there is no dry place to sit, if he can go back to his homeland and find a resting place there.'[93] That these local discomforts were actually acknowledged, and even publicised, by Indira Gandhi and others was clearly a tactic to emphasise both India's lack of culpability in luring the refugees and highlighted India's own lack of resources to the international community. Locally, this was important to assuage fears of permanence for the refugees in India. Doing anything of this nature would confirm the worst fears of the locals. Indeed, to highlight the harassment of the refugees would only further serve to maximise the nature of the violence in Pakistan, if this antagonistic reception was preferable to what was happening in the refugees' home.

As Jamieson would report to UNHCR headquarters, India had no intention of letting the crisis turn into a protracted situation like that of the Palestinians – relief efforts like setting up schools and so on were deliberately avoided to create impermanence.[94] In the Palestinian case, the work of the United Nations Relief and Works Agency for Palestinian Refugees in the Near East had transformed into something more permanent. Immediate relief activities had given way to long term educational and health initiatives in partnership with agencies like UNESCO and WHO, all of which had also imbued an air of permanence to the refugees' presence in host countries.[95] Most current literature discusses the idea of longer term responsibilities in refugee camps creating a situation where humanitarianism provides what the state has failed (or is

[93] Gandhi, "Meeting the Crisis,' *The Years of Endeavour*,535.
[94] UNHCR, Fonds 11, Series 2, Box 1109, 610.IND.PAK[volume 4].
[95] For a summary of UNRWA's work, see Lex Takkenberg, "UNRWA and the Palestinian Refugees After Sixty Years" Some reflections," *Refugee Survey Quarterly* 2, no.3 (2009).

unwilling) to provide.[96] In the 1970s then, refugees in India became a matter for international discussion that India was trying to divorce from arguments about the fallout of decolonisation.

Refugee identification was acknowledged as a universal concept, within the bounds of United Nations' revised description in the 1967 Protocol, which had removed the spatial and temporal restrictions applied to the 1951 convention. Why did the Indian state did not accede despite this new definition that accounted for the movements stemming from decolonisation even in light of the United Nations' efforts in East Pakistan?

The East Pakistan crisis had been taken to the United Nations Secretary General, and the implementation of Focal Point indicated that the crisis was too big for the offices of the UNCHR to deal with alone. In its early years, the International Refugee Regime had prioritised resettlement in a foreign land over repatriation, much to Soviet discontent. This was primarily targeted at Europeans fleeing repressive communist regimes. American aid often acted directly in favour of these refugees, bypassing the UN entirely. In the 1960s, the International Regime as embodied by the UNHCR was shifting focus to newly decolonising states, particularly those in Africa. This wave of decolonisation brought up concerns for regional stability and strategic advantage. Since the UNHCR's largest donors were in the Western Bloc, there was support for UNHCR involvement beyond Europe with an eye to Cold War concerns.[97] In fact, as Bem points out, the 1967 protocol that removed special and temporal recognition was actually pushed

[96] For a quick understanding of more recent approaches to protracted refugee situations, see James Milner, "Protracted Refugee Situations," in Elena Fiddian-Qasmiyeh, Gil Loescher, Katy Long and Nando Sigona (eds.), *The Oxford Handbook of Refugee and Forced Migration Studies* (Oxford: Oxford University Press, 2014).
[97] Loescher, "The Cold War and the Early Development of the UNHCR," in *Beyond Charity,* 55-74.

through by Western powers, particularly European countries. India would continue to remain outside the regime despite the Protocol. It has been argued that the protocol, rather than being effectively useless, normalised the immediate post-war Eurocentric definition of the refugee outside of Europe as well. Therefore, rather than removing the barriers to protection in group situations, refugee determination would be based on individual circumstances even outside of Europe where this determination was likely impossible, motivated primarily by logistics related to caring for the vast numbers moving across international borders. The corollary to this would be that the 'good offices' role of material assistance would prevail as they had in the face of 1960s decolonisation in Africa, rather than a focus on legal protections or even political solutions. Effectively, in pursuing this definition, it would place the lion's share of the burden on the refugee receiving countries in immediate proximity of the troubled areas, rather than making them the concern of the international regime by limiting the definition to individual fear of persecution.[98] It is significant that the Indian government's appeal for aid was to the Secretary General, obviously in pursuit of a political solution, rather than just a humanitarian appeal for assistance. India would insist it was an international responsibility in the face of its continued non-accession to the UNHCR instruments on the matter. In many ways, this can be read as India's understanding of how the regime should have worked, rather than how it had been 'expanded.'

[98] Kazimierz Bem, "The Coming of a Blank Cheque - Europe, the 1951 Convention, and the 1967 Protocol," *International Journal of Refugee Law* 16(2004).; Sara E. Davies, "Redundant Or Essential? how Politics Shaped the Outcome of the 1967 Protocol," *International Journal of Refugee Law* 19 no.4 (2007); Guy S. Goodwin-Gill, *The Refugee in International Law,* (Oxford: Oxford University Press, 2007), 24-28.

The Focal Point role played by the United Nations High Commissioner for Refugees became an important milestone in that organisation's history. For one thing, it is central to the idea of an expansionist UNHCR taking its functioning worldwide. While envisioned in Felix Schnyder's tenure, it was under Sadruddin Aga Khan that UNHCR expanded the 'good offices' role to India.[99] The operation brought to light transnational currents which in turn moved fundraising. For Sadruddin, who had struggled to achieve the UNHCR's usual operational budget in past years, 'It shows that when there is a dramatic need, on which governments focus their political attention and on which public opinion is moved, and rightly so, by the tremendous attention of the mass media, then governments and voluntary organizations generally find no trouble in raising funds. It is interesting to note this because many of us were struggling desperately to obtain the necessary financial support for our regular programme for so many years.'[100] Despite its recognised success as an international effort to help refugees, the programme did not raise nearly enough money to cover India's costs. The 'good offices' role proved inadequate in relieving tension for the parties involved to solve their dispute, mainly stemming from the Great Powers refusal to acknowledge the nature of the problem as presented by India. The legal scholar B.S. Chimni argues that India should never accede to the convention due to the failure of the Global North to honour it.[101] To use this idea retrospectively, all of the failures inherent in the misbalanced system seem to have been evident in the crisis of 1971.

[99] Loescher, "The UNHCR and World Politics: State Interests vs. Institutional Autonomy," *The International Migration Review* 35, no. 1 (2001).
[100] Sadruddin Aga Khan, *Oral Statement of Prince Sadruddin Aga Khan, United Nations High Commissioner for Refugees, to UNHCR headquarters staff on 1 February 1972*. Available at http://www.unhcr.org/en-au/admin/hcspeeches/3ae68fb314/oral-statement-prince-sadruddin-aga-khan-united-nations-high-commissioner.html [last accessed 24 May, 2018]
[101] Chimni,"Status of Refugees in India: Strategic Ambiguity." In Samaddar *, Refugees and the State*, 443-471.

By October 1971, it had become clear that India's efforts to motivate international pressure for a political solution were failing, even with the Soviet Union. By the 3rd of December, India officially joined the war. The 1971 report of the International Committee of Jurists acknowledges the inadequacy of the international community's response to the crisis. In fact, it points out that humanitarian reasons and the burden of the refugees with no end in sight explained India's position. One these grounds, the ICJ felt that India was entitled to unilateral action rather than collective UN action. But they disagreed that it could be in support of self-determination as India stated. It could only be legitimate when framed as a humanitarian intervention.[102] In his memoirs, U Thant too treated the crisis as damaging to the principles of international cooperation embodied by the United Nations.[103] Certainly India's memory of 1971 would be affected by this.

As with all refugee situations, the influx from East Pakistan was tied to sovereign concerns. In discussing its international aspects, Antara Datta examines how the refugee crisis became central to notions of sovereignty in the subcontinent.[104] The international order was caught in the middle of the dilemma of humanitarian action versus national sovereignty. Indira Gandhi's government was accused of wilfully bifurcating Pakistan in pursuit of a non-aligned partner to bolster India's strategic position in the region. Refugees were portrayed as a means to this end. After initial accusations that the refugees were really destitute Indians, Yahya's government attempted to portray the refugee crisis as a product of Indian propaganda. Datta's

[102] International committee of Jurists, *The Events in East Pakistan* (The Secretariat of the International committee of Jurists: Geneva, 1972) 94-96.
[103] Thant, *View from the UN,*436
[104] Dutta, "The World at War: India, Pakistan and the United Nations," in *Refugees and Borders*, 18-43.

work highlights that counting the refugees was an important exercise in sovereignty. Pakistan's inability to keep people within her border challenged its sovereignty, while India was assert itw own by insisting that it had control over its borders and who entered by counting them and issuing refugee cards. That people were leaving Pakistan in favour of India was another indication of the unviability of its position as a sovereign nation-state.[105] The Nixon administration was particularly sceptical of Mrs. Gandhi's intentions towards their subcontinental ally, despite American officials on the ground and the opposition calling for greater attention to atrocities.[106] The Indian agenda in foreign policy terms was to politicise the matter from a humanitarian angle, rather than allow the narrative that the Indian state was intervening in Pakistan's business. To this end, the Indian state frequently reiterated both its own precarious financial position as a result of the aggression constituted by pushing millions across her borders.

As Indira Gandhi pointed out in a statement to the Lok Sabha in May, relief could not be a permanent state of affairs.[107] If conditions in Bangladesh were not conducive to the return of refugees, India made it clear that they were not to be rehabilitated in its territory. From the middle of June onwards, India openly declared it would have to safeguard its interests if no political solution to the East Pakistan situation was found. This would mark the beginning of India's frequent warnings that it would have to take some sort of action, thought it was never specified what, if a political solution was not found.[108] In his excellent chapter on the reactions

[105] Ibid.
[106] For a more detailed understanding of Nixon and Kissinger's interpretation of the crisis, see Gary J. Bass, *The Blood Telegram: Nixon, Kissinger, and a Forgotten Genocide* (New York: Alfred A. Knopf, 2013).
[107] Gandhi, "A Gigantic Problem," in *Years of Endeavour*, 527.
[108] "We will protect our interests,"*Times of India,* Jun. 19, 1971, 9.

of other states, Srinath Raghavan outlines how, for the most part, other states chose to see the situation in East Bengal and the refugees as different crises. Those who did understand the two as intertwined and were inclined towards a political solution were often not empowered to do so.[109] Even countries with a history of co-operation with India in the Non-Aligned Movement like Indonesia came out in support of Pakistan's continued unity.[110]After a meeting with Chancellor Willy Brandt in June 1971 , Swaran Singh said that beyond the six month mark other countries of the international community would have to host the refugees.[111] This brings up a question that current literature on the matter describes as a North-South impasse in burden-sharing for refugee situations.[112] In fact, the representatives of several countries at the United Nations expressed optimism that this would help avert the risk that relief should become institutionalised, and that it would develop into a permanent burden on the international community. [113]

REACTING TO A DISRUPTED ECONOMY?

Over the course of 1971, India repeatedly reiterated economic disruption. In his tour in June, Jayaprakash Narayan would tell journalists, 'The political burden that this influx has created for us is tremendous…No matter how much good will our people have for these victims but with all the good will in the world you cannot but feel disturbed because the whole life of the people already living is disturbed because refugees have occupied all buildings,schools are closed,

[109] Raghavan, " The Chinese Puzzle," in *1971,*184-204.
[110] "Suharto supports Yahya," *Times of India* , May 31, 1971, 7.
[111] "Other Nations asked to take refugees," *Times of India,* Jun. 12, 1971, 1
[112] See Alexander Betts, *Protection by Persuasion* (Ithaca: Cornell University Press, 2009).
[113] UNHCR , Ex Comm, 22nd session, 1971 (English).

wages have gone down as the refugees offer themselves at cheaper rates, prices have gone up, social tensions have built up.'[114] Swaran Singh's 1971 address to the United Nations was markedly different from the year prior. Aside from the normal factors affecting India, he highlighted India's own position as a poor country that was generously providing humanitarian relief at the expense of its own development. Schools had to be closed to shelter refugees, hospitals diverted their attention to refugees rather than locals, crime and prices were on the rise. Despite a huge international response, the lion's share of the burden was borne by India.[115] Even the international press recognised that the refugee crisis was likely to have set the economy back. In a November 1971 campaign, for example, BBC's Mark Tully asked Mrs. Gandhi about the state of *Garibi Hatao* in light of the refugee crisis.[116] P.N. Dhar, a close advisor at the time, said that instead of working with the planning commission for development, he ended up scrambling to find resources to finance the refugee camps.[117] In November, Khadilkar declared that despite this burden, that until normal conditions returned in Bangladesh, it was not possible for humanitarian reasons to stop or limit the flow of refugees from Bangladesh.[118] This was very clearly tapping into larger trends in international humanitarianism at the time, which emphasised the role of development and education, particularly since disruptions to schools and local economies were repeatedly stressed by Indian representatives. India's generous humanitarianism was at the expense of her own considerable development needs, and it was up to the world community to end (or at least condemn) the political situation that had created a crisis for both the refugees and for Indian citizens.

[114] NAI, MEA, United Nations 1, 1971, UN-I/151(65)/71
[115] Sardar Swaran Singh at the United Nations 26th Session,1940th Plenary Meeting, 27th September, 1971 https://www.pminewyork.org/pdf/theme/1971.pdf (last accessed 5 February 2019)
[116] Gandhi, " A Serious Situation," in *The Years of Endeavour,* 539.
[117] Dhar, *Indira Gandhi*, 158.
[118] Lok Sabha Debates, 5th series, volume 8, 1971, 132.

As early as May, the need for cash gifts rather than help in the form of personnel had been stressed by India.[119] By the 22nd of June, the contributions of the UN system for Focal point were still in the state of pledge. Only 6 million dollars out of the 40 million pledged (70 million if bilateral agreements with India were to be counted) had been delivered to India. The governments tended to make donations in kind or reserve contributions in cash for the purchase of goods to be dispatched to India. Nobody seemed to favour actual payments to the Indian government.[120] By September, the Indian government was looking for donations with a focus on the Indian economy rather than a 'shopping list' where donors could see what was most easily available in their own country and send it. [121] An example was that the international community kept sending wheat to India, which India did not need. The Bengali refugees were used to eating rice, and vegetable oil was another necessity. Despite the UNDP warning governments of this need, India continued to juggle ways to inform the international community of what it felt was required.[122] Further, the Indian state wanted unattached contributions with flexibility. It wanted to sell excess resources and credit itself so that it could buy other necessary resources. Obviously, the United Nations was wary of this, and advised against collections of too much of any one resource. The purpose of the donation was to be determined by donor stipulations.[123] The Indian government had a problem with this, no doubt in part as prior to international aid, the needs of the refugees had been met from India's own buffer food stocks.

[119] UNHCR, 1972, Fonds 11, Series2, Box 1110, 610.IND.PAK[Volume 7].
[120] UNHCR, Fonds 11, Series 1, vol 1, Box 20, 1.IND.PAK[3].
[121] Ibid, Series2, Box 1110, 610.IND.PAK[Volume 8].
[122] Ibid, Series 1, vol 1, Box 20, 1.IND.PAK [4].
[123] Ibid, Series 1, Box 70, 1/9/1/FP/IND.

To the Indian mind, food donated was given to India to replenish their own foodstuff that was used to feed the refugees, or as cash for corresponding expenditure.[124]

After the war, there was the question of whether the continued UNHCR aid would be based on an itemised list of what was needed or based on overall cost to India. The United Nations suspected that the Indian government would claim that the International community had failed their responsibility by $100 million and would retain equipment and goods which had been delivered thus far.[125] This fear proved to be unfounded, as the Indian government was happy to release goods like blankets with the refugees themselves.[126] The Government of India was inclined to think of international contributions not just as international assistance to the refugees but as international community contributions towards the overall economic burden borne by India. This was expected to be $480 million, as compared the mere $220 million pledged in international aid. To India, the departure of the refugees from Indian territory did not absolve the international community from honouring their promises and did not place India under a moral obligation to transfer the Bangladesh contributions. Despite this, the Indian government allowed refugees to take blankets and so on with them, and transferred equipment like trucks provided for the relief operation to Bangladesh.[127]

In their post-facto report of 1972, the International Commission of Jurists noted the disruptive effect on the Indian economy. The World Bank reported that if the crisis had gone

[124] Ibid, Series2, Box 1110, 610.IND.PAK[Volume 8],
[125] Ibid, Box 1109, 610.IND.PAK[Volume 5].
[126] UNHCR, Fonds 11, Series2, Box 1109, 610.IND.PAK[Volume 6].
[127] Ibid, Box 1110, 610.IND.PAK[Volume 8].

on for even three more months, it would have cost India $700 million dollars. [128] It is worth noting that Focal Point had raised only $187 million by 1972, much less than the cost of keeping refugees for even three months.[129] More significantly, the ICJ seems to have agreed that the only viable solution to this economic burden was a political solution to the crisis. Since the United Nations was doing nothing, the ICJ said that it was hard to see how the condition would have come about without the liberation of Bangladesh.[130] Scholars like Navine Murshid agree with the ICJ that the economy was the primary motivator in India's December war with Pakistan.[131] Interestingly, a contemporary study of the camps reveals that despite legal efforts to keep the refugees from the economy, new community structures had developed amongst them. They began to engage in small scale economic activities, but when performed by a population of ten million, this had potentially explosive consequences for the host state.[132] Regardless of whether economics were the sole motivation for the war, it is undeniable that the refugee presence placed a burden on a developing nation-state with leadership elected on the premise of economic advancement.

Given the nature of the new 1967 Protocol on the Status of Refugees' emphasis on individual rather than group situations, combined with the older manifestations of the refugee regime searching for financial contributions from parts of the world where their activities would

[128] International committee of Jurists, *The Events in East Pakistan*, 92-93.
[129] Sadruddin Aga Khan, Oral Statement of Prince Sadruddin Aga Khan, United Nations High Commissioner for Refugees, to UNHCR headquarters staff on 1 February 1972. Available at http://www.unhcr.org/en-au/admin/hcspeeches/3ae68fb314/oral-statement-prince-sadruddin-aga-khan-united-nations-high-commissioner.html [last accessed 1 February, 2019].
[130] International committee of Jurists, *The Events in East Pakistan*, 92-93.
[131] Navine Murshid, "India's Military Intervention in Bangladesh," in *The Politics of Refugees in South Asia* (London;New York: Routeledge, 2014), 104-118.
[132]Partha N. Mukherji, "The Great Migration of 1971: II: Reception." *Economic and Political Weekly* 9 no. 10 (1974).

not extend, the disproportionate burden on the countries of the global south became increasingly clear. Even when recognition of refugee crises extended beyond Europe, it continued to be in economic and financial terms that were unviable for receiving states in the global south, because the international community did not want to be too closely involved and liable. India was experiencing first-hand what it meant to receive the full extent of international humanitarian support, and found it severely wanting. In insisting on an apolitical international humanitarianism, the international community was actually perpetuating an economic burden that it was not adequately helping to shoulder, thereby making it just as complicit in the demographic and economic violence that the Indians saw the Pakistani state inflicting upon them.

RETURN OF REFUGEES, RETURN OF STABILITY

After the war, the government was insistent that all of the refugees would return, though the representatives of international agencies were doubtful of the return of the Hindus.[133] India's fears that Pakistan's refugee numbers, alarmingly close to the exact number of Muslim refugees, were assuaged by the return of the Hindu refugees as well. The Indian government began the process of repatriation without waiting for international assistance. Its rationale was that if they had waited for international assistance in the early days of the crisis, the refugees would have died, and if they had to wait for international assistance for repatriation, the refugees would never leave. In fact, many refugees did not even wait for Indian government assistance but left on their own. Even the UN reports pointed that many refugees but departed for their villages

[133] UNHCR, Fonds 11, Series 2, Box 1109, 610.IND.PAK[volume 5].

themselves, before official Indian repatriation efforts began. By the middle of February, approximately 8 million had crossed back into Bangladesh according to UN estimates.[134] The Indian estimate that all the refugees would leave within the first two months of 1972 seemed not to be off the mark. In many ways, the return of almost all ten million refugees to the newly created Bangladesh in the early months of 1972 vindicated India's position as far as the relationship between self-determination and repatriation was concerned. Despite efforts to seek an international solution, India's interaction with these particular refugees had led to what was labelled a 'humanitarian intervention' to prevent a protracted displacement.

Indira Gandhi and her government were, by near universal agreement, of the realist school of thought. The East Pakistan crisis brought this realism in close contact with humanitarian principles. Jack Snyder, for one, argues that realism and humanitarianism are not mutually exclusive. In fact, a realist strategic understanding of the causes of humanitarian crisis can be useful in locating a viable solution.[135] In 1971, Sadruddin Aga Khan called for realism to buttress the idealism of the United Nations. Amongst the fields to which he applied this realism, he highlighted the role of world governments in working closely with United Nations experts, both in accepting their plans and in public opinion informing the United Nations' efforts. [136] In 1970, mere months prior to the beginnings of the East Pakistan crisis, he spoke of national sovereignty as a hindrance to the functioning of the principles of the United Nations.

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[134] Ibid, Box 1110, 610.IND.PAK [Volume 7].
[135] Jack Snyder "Realism, refugees, and Strategies of Humanitarianism," in Gil Loescher and Alexander Betts (eds.), *Refugees in International Relations* (Oxford: Oxford University Press,2011),29-52.
[136] Sadruddin Aga Khan at the annual dinner of the United Nations Association of Great Britain and Northern Ireland, 20 July 1971http://www.unhcr.org/en-au/admin/hcspeeches/3ae68fb410/speech-prince-sadruddin-aga-khan-united-nations-high-commissioner-refugees.html [last accessed 1 February, 2019]

In the same speech, he emphasised the need for the United Nations to increase humanitarian efforts since it could not maintain peace and security by other means.[137] He was clearly trying to come to terms with the inherent contradictions in the world order of the United Nations. For him, the UNHCR could only ease a fraught situation by promoting solutions to refugee problems. Its 'good offices' role was a by-product of refugee relief efforts. He recognised the exclusively humanitarian role of the UNHCR, but simultaneously was of the opinion that the world, whether within or outside of the UN, should work towards solutions that caused flows of people. [138] Conversely, he also felt that the humanitarian efforts should be kept separate from the political lest the latter jeopardise the former in the East Pakistan case.[139] There was more than one realist interpretation of humanitarianism at the time. In this case, Indian realism was in competition with the UNHCR's, both in relation to the form humanitarianism should take. The former eventually resorted to intervention, while the latter continued to rely on mediation via relief.

In a speech at Columbia University in November, Indira Gandhi would speak of the 'terrific burden' on India, and say that the crisis might cause 'a real threat to our political stability and even our independence.' She would go on to assert that India wanted support, but

[137] Sadruddin Aga Khan, "Does the United Nations deserve our trust?" Transcript of oral statement to the Institut universitaire de hautes études internationales, Geneva, 14 December 1970 http://www.unhcr.org/en-au/admin/hcspeeches/3ae68fb124/united-nations-deserve-trust-transcript-oral-statement-prince-sadruddin.html [last accessed 1 February, 2019]
[138] Sadruddin Aga Khan, Opening Statement to the Executive Committee of the High Commissioner's Programme, twenty-second session, 4 October 1971 http://www.unhcr.org/en-au/admin/hcspeeches/49f811268/opening-statement-prince-sadruddin-aga-khan-united-nations-high-commissioner.html [last accessed 1 February, 2019]
[139] Sadruddin Aga Khan, At the Annual Dinner of the United Nations Association of Great Britain and Northern Ireland, 20 July 1971 http://www.unhcr.org/en-au/admin/hcspeeches/3ae68fb410/speech-prince-sadruddin-aga-khan-united-nations-high-commissioner-refugees.html [last accessed 1 February, 2019]

was willing to fight alone. The upheaval in the aftermath of the election had gotten to the point where India had reached the 'limits of its endurance.'[140] Prior to the war, then, India was using language of interference and burden in her own sovereign space. However, eventually the war would be justified as one of self-determination for Pakistan, which forms an interesting aspect of India's own ideas of what constituted human rights and consequently humanitarian response in the face of the refugee crisis.

It is acknowledged in refugee studies that events in the 1990s, like the massacre and refugee crises in Rwanda, cost the international community billions in aid, while it would have saved lives and funds had peacekeeping been funded instead of mere humanitarian rehabilitation after the fact. Loescher and Dowty make a case for refugee flows as an imposition that would thus fall under Chapter VII of the UN Charter, which would legitimise action that went beyond purely humanitarian intervention: a state's freedom from external interference ends when its actions infringe upon other states sovereignty. Effectively, what might have been a domestic matter is internationalised the minute it causes refugee flows that affect another state. [141] Refugee flows are aggression against the state, and should be treated as such, and humanitarian help does nothing but prolong the problem. It is worth asking if India reached this conclusion about two decades before the rest of the world, precisely because it was a state experiencing the issue. The entire situation was susceptible to Cold War alliances that obscured the reality, as Pakistan was shielded by USA and China's vetoes. Chapter VII legitimation and international action for India were unlikely, given both Cold War realities in the subcontinent, and also

[140] Jonathan Kendal, "Mrs. Gandhi Calls Refugees Burden," *New York Times* , Nov. 7, 1971.
[141] Alan Dowty and Gil Loescher, "Refugee Flows as Grounds for International Action,"*International Security,* 21, no.2 (1996).

contemporary international acceptance and emphasis on national sovereignty outweighing all else.[142]

Sisson and Rose saw the refugee crisis as creating an occasion for India and Pakistan to go to war, rather than the underlying cause.[143] It is difficult to verify what the alternative solution might have been to convince the refugees to go home In its legal study of the matter, the International Committee of jurists concluded that India's military intervention in East Pakistan on grounds of self-determination for Bangladesh was illegal. The same report concluded that had India's military intervention been framed as a humanitarian action in the face of the UN's continued failure to deal with human rights violations, the military intervention would have been justified.[144] A contemporary academic assessment, on the other hand, justifies the right to self-determination, in part because of the deprivation of rights of a majority of Pakistanis and genocide.[145] Nicholas Wheeler sees India's justification of the attack in terms of self-defence as disproportionate to the scale of military action launched. But he also points out that India would go on to elaborate that the influx of the refugees also constituted an aggression justifying India's use of self-defence as a legitimate reason to violate Article 2(4) of the United Nations Charter. Though self-defence, in the face of 'refugee' and military aggression remained India's primary justification for the war, Wheeler also points out that humanitarian justification does exist. However, in India's rhetoric the humanitarian language tied to the refugee influx saw its solution as self-determination for the people of East Pakistan – effectively India was calling for

[142] Bass, "The Indian Way of Humanitarian Intervention," *Yale Journal of International Law* 40, no. 2 (2015).
[143] Sisson and Rose, *War and Secession,* 188-191.
[144] International committee of Jurists, *The Events in East Pakistan*,91-96.
[145] Nanda, "Self-Determination in International Law: The Tragic Tale of Two Cities--Islamabad (West Pakistan) and Dacca (East Pakistan)," *The American Journal of International Law* 66, no. 2 (1972).

exceptional disregard of the UN principle of self-determination not applying to UN member states on humanitarian grounds in the case of Bangladesh. But Wheeler also questions why the Indian state did not act earlier on the same premise, if humanitarianism was its justification. It was clear that the security and electoral concerns of ten million refugees in India played into the decision.[146] This was questioned within the country as well. The Indian Government's cautious approach to the issue was called out by opposition parties, who went so far as to accuse it of 'encouraging and appeasing' Pakistan. Other upsets included the suspicion that the cholera epidemic suffered by the refugees was a form of bacteriological warfare.[147]

It is the failure of the United Nations to act that is the most interesting, especially in the face of the Secretary General's recognition that the humanitarian aspect was inextricably tied to political and economic concerns despite UN action treating the two as separate.[148] Even the High Commissioner for Refugees was of this opinion as early as June, though obviously hampered by the restriction to a solely humanitarian role. In a meeting in Kashmir, Indira Gandhi said that in the face of the treatment of the East Bengalis, Kashmir had made the right decision to accede to India in 1947. She also reassured the people that the refugees would have to go back, since India could not afford to keep them, nor had they any desire to stay.[149] In tying the two issues together, the idea of United Nations inaction and the importance of India's own choice to act become important considerations. The United Nations presence in India had been spearheaded by its refugee agency, and whether or not the this was purely cosmetic, the failure

[146] Nicholas Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000), 60-65.
[147] "PM refutes charge of Appeasing Pakistan," *Times of India,* Jun. 8, 1971,1.
[148] UNHCR, Fonds 11, Series 2, Box 100, 100.IND.PAK [vol. 1].
[149] "Kashmir vindicated by Bangla crisis: PM," *Times of India*, Jun. 19, 1971,1.

of the United Nations to stop the causes of the refugee flow into India would dissociate it from the refugee regime. The realism behind the 'good offices' role would also be proved unsatisfactory, premised on the perceived misidentification of India as one of the parties responsible. This misidentification was largely at the behest of the Nixon government, who effectively put a spanner in the works with their continued support to Pakistan. The international refugee regime was ineffective despite its largest fundraising operation, because to Indian eyes the world was following USA's policy – the only concession to India was some monetary assistance towards refugee relief while continuing military aid to Pakistan that in turn caused flows of refugees into India.[150] In defending Pakistan's internal sovereignty, the Cold War International community was stepping on India's, recreating similar financial and sovereign concerns that had kept it out of the IRO two decades prior. To add to this, India's citizenship project had drawn to a close – from the 1970s onwards, it was no longer accepting responsibility for former citizens of the empire who had accepted residency or citizenship elsewhere regardless of the postcolonial or Cold War geopolitical concerns that pushed them her way. The International Community's failure to act with regards to displacement would not be allowed to hinder the development of India's post-colonial non-aligned nation.

STATE ENOUGH FOR REFUGE?

In summary, the 1971 crisis signalled the end of the project of Partition, as the Indian state refused to recognise the refugees as potential Indian citizens and thereby justified the borders between the two states. India saw Pakistan's policy as demographically transformative,

[150] Dixit, *Liberation and Beyond,* 55

lessening dissenting voices in the East. Simultaneously, this created problems for India in its eastern corner particularly with regard to communal issues. India was acknowledging the role of demography as political, even violent, far before the 1990s brought this idea into vogue amongst the community of nation-states. Its handling of the situation of *all* the refugees as Pakistani citizens would indicate that citizenship trumped religion with regard to subcontinental belonging. There would be no longer manifestation of the two-nation theory, which had clearly been proven wrong by the very existence of Pakistan's internal differences. India would inadvertently or intentionally end up supporting the idea that there was no really effective humanitarianism without politics. The international regime was still a tool of great power concerns, and in this case an ineffective one that had cost the country money by allowing for refugees to pour in without sufficient assistance nor attention to the political problem at hand. India was not getting a fair deal, and as a nation-state complete with military power, was essentially calling for political action in association with humanitarianism.

By insisting on political recognition while using humanitarian language, particularly that of burden, India connected refugee flows with the question of collective rights rather than individual rights that were being violated. The ICJ and the rest of the international community seemed to be willing to agree that India's intervention was justified in economic terms and against genocide, but not in support of the principle of self-determination resulting the break-up of Pakistan into two new states, begging the question of how one could exist without the other. That implied that India could have invaded in self-defence or in defence of individual right to life. There was a need to delineate the difference between human rights abuses versus areas where humanitarian relief was needed, precisely because a secessionist situation would

fall into the complex debate on self-determination. It also brings up the question about whether large scale human rights violations were enough of a reason to end the sovereignty of a state, which at the time was met with a resounding no from everyone other than India and her ally, the Soviet Union.[151] Demography would end up playing an important role. The numbers would consistently be important, particularly the dissonance between Pakistan's count that was eerily close to the number of Muslim refugees, and India's that counted the Hindus as well. In India's recognition of the Hindus as Pakistani minority citizens, the very idea of secession was countered by that of a majority, which challenged the notion altogether since it had asserted its democratic will and elected the Awami league by a majority vote. In using the rhetoric of self-determination as the basis for the rights of Bangladesh, India was also reinforcing this as the original right from which all others stemmed, consistent with her own emphasis on economic and social rights. Self-determination was not as faulty a ground as it would seem, so much as India's rogue challenge to what human rights really were. India would continue the trend of challenging prevailing notions of the international precisely by harnessing its rhetoric, and in the case of 1971 as the posterchild of postcolonial democracy and development in a time when authoritarian regimes seemed to have become a stereotype for the developing world.

The 1971 crisis marks an interesting avenue into India's adoption of the principal of the host and the stranger. Rather than the traditional framework of the other receiving the hospitality of the host, in this scenario, this appeared to be a deliberate element of othering in order to be able to offer hospitality in the first place. The deliberate distancing from a shared history and

[151] Bradley R. Simpson, "Self Determination, Human Rights, and the End of Empire in the 1970s," *Humanity: An International Journal of Human Rights, Humanitarianism and Development* 4, no.2 (2013).

common ties in favour of acknowledging a traditionally fluid border as sovereign fact allowed India to be able to offer hospitality rather than a circumstance where the refugees were really just an extension of the self. In this larger circumstance, religion and shared past were abandoned in favour of sovereign territorial belonging as the basis for self. In this way, India was entering into the traditional Eurocentric framework of conditional hospitality, precisely by resisting efforts to continue to subcontinental long partition in favour of refugee hospitality as being offered to those who had left their own country for a strange land. In resisting the international community's lack of political pressure, the state was also preventing itself from being held hostage by an international regime that would place what it felt was an undue burden on its resources. In this way, we can perceive the 1971 crisis as being a complete acceptance of the principle of the guest as the other or stranger, while protecting from the international refugee regime committing the Indian state to refugee related actions that would hold it and its resources hostage. It would go beyond that and act as a bridge in the differences between transnational humanitarianism that emphasised human rights, and the humanitarianism of the international order of nation-states that emphasised sovereignty above all else, as supported by fellow postcolonial nations. India would use the traditional development rhetoric of the postcolonial state, and the primacy of its own sovereign rights to argue for self-determination for the other as a curious political mix only possible in the odd mix of realities of the 1971 refugee crisis.

CONCLUSION

> "The problem lies in the so-called investigation by the Election Commission and the Border Police. Its purpose is only to pander to the prejudices of the Assamese majority and the government, who believe that there are millions of Bangladeshis in Assam. Hence, if they don't find Bangladeshis, they accuse Indian citizens of being Bangladeshis, grossly violating their citizenship rights and making a mockery of the fundamental rights enshrined in the Constitution,"- Aman Wadud, lawyer acting on behalf of suspected 'foreigners'.
>
> "The Muslims in Barak Valley are older settlers than the Hindus, many of whom came only during and after 1971. Many Muslims from here had actually gone over to what was then East Pakistan. The BJP's pro-Hindu politics is behind the push for the Citizenship (Amendment) Bill, 2016. But for the Assamese nationalism that drives politics in the Brahmaputra Valley, Bengali Hindus and Muslims are the same — both are unwanted. That is why we are trying to set aside religious differences for a united stand against the disenfranchisement of Bengalis, which is what NRC is all about," says Hilaluddin Laskar, a professor of philosophy in Hailakandi.[1]

In 2018, the Indian government updated the National Register of Citizens (NRC), applicable to those residing in the state of Assam. About 4 million people were excluded from this draft list of citizens. They were all deemed to be migrants or refugees from nearby Bangladesh. The premise of the NRC was to establish those who had lived in the state before 24 March 1971. Most of those who suffered this loss of rights were Bengali Muslims. On the surface of it, this was a convenient way to project that the rights of the rest of India were being defended by keeping out those illicitly claiming to be citizens. It also played on regional politics in Assam, where differences between locals and the transplanted Bengali population had long existed.

[1] Rahul Karmakar, "Ground Zero: The Suspected Foreigners of Assam," *The Hindu* (online edition) , 14 July 2018 https://www.thehindu.com/news/national/other-states/staring-at-statelessness/article24413512.ece .[last accessed 5 February 2019]

This was the same government that had introduced the Citizenship (Amendment) bill, and which expelled the Rohingya Muslims.[2] The former legitimises the idea that India will offer sanctuary to all but Muslim minorities, indicating that it does not think their persecution is real. The latter reaffirms this as the Rohingya Muslims in India were removed on the grounds that they threatened national security. This is a concern that is echoed world over, and most often in tandem with that of the threat of religiously motivated terrorism based in Islam.

The Indian state has, arguably, entered a moment of reconstitution under the present government: in many ways it uses the rhetoric of 1971 to alter the nature of the state built in the 1950s. It accepts the past of Indian hospitality as legitimate but is using the history of the return of the refugees on the Eastern border to alter who the Indian citizen is, harking back to the idea that the project of citizenship was already complete in 1971. Those who remain are stragglers from that refugee influx who should have returned, turning them from accepted refugees to illegal migrants who had overstayed their welcome. In this case, there is an obvious religious connotation in re-casting some as refugee-turned-illegal-migrant, utilising pre-existing dimensions of a locals-versus-migrants conflict to reinforce who can benefit from the promises of development in the country. There is, therefore, no universalisation of the term refugee in the state to allow for acts that create the presence of a community a gift of kindness or humanitarian tolerance of the Indian people rather than a right held by the seeker – in this case, the kindness of the state has been abused, and a welcome overstayed. The constitutive and destructive powers of the idea of the refugee seem to have reasserted themselves in subcontinental politics, in particular to define the people from whom the government derives its

[2] See pages 1-2 of this thesis.

sovereignty. The institutionalisation of ad-hoc treatment is itself being used to break down pre-existing ideas of state and citizenship, and therefore rights.

The bureaucratic category of the refugee, as the rest of this thesis has shown, has been dealt with on a case-by-case basis in conversation with the larger idea of the postcolonial nation-state in the world of the UN. It started with the question of migrants in the Raj and the treatment of Indians against refugees within the subcontinent. In the second chapter, we saw how the inequalities of the international system created a circumstance in which the idea of the refugee was removed as a universal concept in India's understanding, because India did not feel that the state or Indian people were recognised as equally human and therefore humanitarian. Instead, the focus turned towards eliminating the outsider who threatened the promise of economic progress and equality that independence brought- in short, a notion of welfare guaranteed by the nation-state and its structures.[3] The third chapter examined how Partition's refugee, though unexpected, was folded into plans for state and institution building. In many ways, the refugee had the potential to start anew, as he did not carry the baggage of belonging or local ties because of the loss of Pakistan, making him the ideal figure to mould into the new citizen in context of policy makers. However, refugee resistance and politics also paved the way for participation in

[3] This is part of an interesting version of understanding human rights in context of their reinforcement of neoliberalism from the 1970s onwards. In the postcolonial vision, there is an attachment to development, which has been examined to an extent in this project. Since this thesis stops short of that period, I will not speculate in that direction, especially since the literature on neoliberalism, inequality and human rights is of exceptionally recent vintage. See Moyn, *Not Enough: Human Rights in an Unequal World* (Cambridge Mass.:The Belknap Press of Harvard University, 2018); For another take on the matter that also brings up the divorce from movements towards self-determination, see Joseph Slaughter, "Hijacking Human Rights: Neoliberalism, the New Historiography, and the End of the Third World," *Human Rights Quarterly,* vol. 40, no. 4 (2018). Alongside these, there are also challenges to the relationship of self-determination, and how its use and transformation is not limited to anti-colonial states, as with Massad, *Against Self-Determination.* I also look forward to engaging with Adom Getachew, *Worldmaking After Empire: The Rise and Fall of Self-Determination* (Princeton: Princeton University Press, due February 2019).

democratic life, and definitions of what it truly meant to be a citizen in that context as well. The fourth chapter looked at the dissociation of refugee from citizen, with the arrival of the Tibetans. It also brought into stark contrast the political sensitivities of discussing self-determination against human rights, and the need to navigate these in context of national security and self-interest. The refugee became an object upon whom a particular kind of assistance was imposed with no right to change it, but also a symbolic political community premised on a sovereign state's right to allow who they wished within their borders even if they were not its citizens. To do this, the idea of a 'returning' diaspora had to be removed from the rhetoric of the refugee. It was an attempt at turning humanitarianism apolitical in recognition of its extremely political nature. The last chapter is the complete reversal of this, when accepting a refugee community was not the lesser evil or useful at all. It was also an end to the idea of automatic citizenship based on a shared past, indicating that India's territory and citizenship now corresponded. In calling for a political solution, India was calling for securing the rights of the displaced rather than limiting solutions to an inadequate band-aid of material assistance. India was under no obligation to give these refugees rights, merely whatever limited kindness they could afford. Their rights had to be secured by the state in which they were citizens, with international cooperation, which was trying to disenfranchise them in order to reinforce a dictatorial electoral 'minority' politics over the majority. Human rights and self-determination had come full circle – India was asserting the idea that the former was a precondition for the latter, but only where the electoral majority wanted it to be so. The refugees became an issue in asserting the majority and therefore self-determination over secession.

The idea of the refugee was becoming one of belonging, this time seemingly predicated on religion, while that of migrant increasingly associated with that of illegality. Those Bangladeshis who were thought to have remained since 1971 and were technically refugees were infused with an air of illegality stemming from a history where they had been deemed unwanted. They could not partake in Indian citizenship on grounds of choosing to belong to the neighbouring state. The same attempt at secularism for a religiously coloured national determination over Partition that had happened in the 1950s and 60s is in a process of reversal, in order to create a Hindu notion of belonging.

In many ways, India's story with refugees is one of the complexities of the Rights of Man idea, and that of individual rights. Citizenship of a self-determined state was removed from rights in the international definition. However, it would remain the right from which all others stemmed. For India, these rights had been lobbied for as the rights of the citizen, first as citizens of the empire, and failing that, anticolonial struggle. They had never been about the individual, but of the individual's relationship to a collective identity. In turn, it reinforced that it was membership of this group that gave the individual his rights. As we recall, India believed in human rights, helped draft the Universal Declaration of Human Rights, and then incorporated them into its Constitution. In some ways, human rights were not a challenge to the Rights of Man, so much as a reinforcement of this idea. The difference was not the question of the rights and the state, but who the Man (or Human) was. Indians had joined these ranks by their achievement of self-determination and a sovereign voice. The primacy of the citizen remained.

The Right to Asylum was the right of the citizens of the sovereign state, to grant at will, not the right of the people seeking it. Self-determination really was the original right, from which all others stemmed, in this alternate genealogy of rights and therefore refugees. If rights could only be enforced for the citizen, and the state was the only object of the human rights conventions, then it makes sense that this last right also finds power of enforcement in the state and not the international order.

Bangladesh, in many ways, was portrayed as an illegitimate defence of self-determination. The ICJ's insistence that the defence of individual rights or the protection of the Indian economy were more legitimate than self-determination is part of the final push towards the 1970s vision of individual rights, including their concerns with those of a neoliberal economy. The idea of what could be defended using the rhetoric of rights was what the United States was willing to support. India's insistence on the validity of a struggle for self-determination (made all the more convenient by its non-conformity to secessionist movements) based on expressions of electoral democracy highlighted the inconsistency of the rhetoric of rights relating to refugees. In the same way humanitarianism had seemed to function in the past, it was ignored when convenient, and pushed when convenient. Tibet represented the principle that the self-determined nation could choose to do as it pleased within its sovereign borders, including to help a group in crisis. The consistency in the Indian conception of refugee, even now, is that of the group as its basis, and its relationship to the state in pursuit of social justice. What seems to be changing is who that group constitutes.

The idea of refuge was drawn from inequality within empire. The international idea of the refugee had to be removed from India's own understanding. It was then rebuilt. The first to experience it were its own citizens, both as objects of development and those with an electoral stake in the newly sovereign entity. The next refugees in the state, the Tibetans, would have their rights defended on the grounds of India's own right to grant asylum, while potential citizens had to be removed. And lastly, India's linking of the self-determined state with the access to rights became almost propagandist and in defiance of the international association between rights and self-determination. It also challenged the use of a newer idea of humanitarianism to utilise the primacy of the rights of the individual and so discredit the rights of the group.

The genealogy of rights in the postcolonial world thus differs from its trajectory in the West, premised as it is on the idea of citizenship and the realisation of a state. In many ways, the idea of the individual undercuts the legitimacy of group rights and makes them illegitimate. Human rights seem to exist only in the counting of their violations, rather than as part of a push towards guaranteeing people justice. Writing as a stateless person, Hannah Arendt too understands the primacy of citizenship, and the implications of the loss of it regardless of what title is given to the person who has lost it. More significantly the idea of humanitarianism as catering to a population that has suffered only reinforces the idea of rights existing in their violation. It is only in the twentieth century that the loss of rights and ideas of statelessness and exile became suspicious: What made them suspicious? [4] Refugees have always been objects of

[4] Though this is not the thrust of her argument, I am grateful for a better conceptualisation gained from both a conversation with and the book by Lyndsey Stonebridge, *Placeless People: Writing, Rights and Refugees* (Oxford: Oxford University Press,2018).

humanitarianism and relief, rather than understood as bearing human rights. If the refugee doesn't have human rights, only access to the band-aid of humanitarianism, then who is this rights-bearing person?

There seems to be second coming of the liberalism underpinning the original conception of the Rights of Man and of empire, justifying the latter as a means to achieve the former without ever granting them. Our answer lies in Europe's outsourcing of refugees, in laying claim to a convention it will not enact for fear of compromising its own culture. It lies in the guarantees of the European state providing less than the bare minimum to refugees while it thinks of its poor, who have more that the refugees, as being in a catastrophic situation. When these same circumstances are turned inwards, European states, too, resort to collective identity, and to citizenship as the only entitlement to rights. Refugees must be 'grateful for what they get' and attempts to help them overwhelmed by policies of discouragement. This is not a 21st century history, but one that begins in the 1970s, when self-determination is deemed to have been achieved and the inheritances of empire are seen to be at an end. So, is an alternative idea with the state and citizen the heart of any potential future model for refugees? What does the future of the refugee look like when we put the collective identity of its recipients at the centre of the 'problem'?

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