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Making Refugees *in* India

Ria Kapoor

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RIA KAPOOR

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Introduction

In 1948, aviator and plane manufacturer Antonius Raab and his wife Hilda were deported from India, despite their status as subjects of the princely state of Baroda.¹ They had arrived in India in 1941, classified within the subset of ‘Balkan Refugees of Various Nationalities’ who came to India from the ‘Mid-East’. They had been sent onwards to the subcontinent from Cairo, as many dissident or politically inconvenient evacuees from Europe were. Antonius was noted in British records as a German with a Costa Rican passport, while Hilda is recorded as being of Czechoslovakian origin. Within the larger bureaucratic category of refugee, British officials managing such movements of people considered them ‘suspects’ as nationals of an enemy power.² Raab’s Costa Rican documents—and the principle of nationality arising from the husband’s status that would extend to Hilda—were disregarded by British officials in both Egypt and in India.³ Despite their well recorded anti-Nazi sentiments and Antonius’ Costa Rican documents, the Raabs were treated like the bulk of Axis power nationals.⁴ By 1942, Antonius was officially identified as a ‘non-Nazi’.⁵ Under the orders of V. Shankar of the Government of India, Raab was subsequently declared an ‘alien friend’ rather than an ‘alien enemy’.⁶ And yet, the Raabs found themselves leaving for Italy in 1948 despite their desire to stay in the country.

India’s first home minister, Sardar Vallabhbhai Patel, explained to the Constituent Assembly in 1948 that the decision to remove the Raabs from

¹ ‘Deportation of Antonius Raab, a Baroda State Employee’, Official Report of the Constituent Assembly of India (Legislative) Debates, Vol. 6, 1948, pp. 575–7.

² National Archives of India (hereafter NAI) Digitised Public Records, Home Political, EW, 1941, ‘The Question of Accommodating Certain Balkan Refugees of Various Nationalities from Mid-East’.

³ NAI Digitised Public Records, Home Political, EW, 1941, ‘The Question of Accommodating Certain Balkan Refugees of Various Nationalities from Mid-East’.

⁴ NAI, Digitised Public Records, Home Political, EW, 1941, ‘The Question of Accommodating Certain Balkan Refugees of Various Nationalities from Mid-East’.

⁵ NAI, Digitised Public Records, Home Political, EW, 1941, ‘The Question of Accommodating Certain Balkan Refugees of Various Nationalities from Mid-East’.

⁶ NAI, Digitised Private Papers Sardar Patel, ‘Baroda 1948–49’.

India under the Foreigners Act of 1946 had been made by the previous, wartime British government.⁷ After the Second World War, new British policies dictated that all foreigners who were ‘enemy nationals’ should be refused visas and any extensions. Refugees, on the other hand, were to be referred to the (British) government of India, who would make any decisions on this front.⁸ In 1945, the British Indian government had decided that the Raabs should be ‘repatriated’, even against their will if necessary.⁹ Antonius is hardly the sort of figure traditionally thought of as a refugee, particularly not in the latter half of the 1940s in India—a skilled aircraft manufacturer of German origin, employed by an Indian prince. Yet, he had occupied that category, within the subset of enemy alien, in the Indian subcontinent. His position underlined that such humanitarian categories were hardly static or consistent, and utilised in arbitrary ways that aligned with the movements of people across imperial outposts.

Rather than providing clear answers, the Raabs’ story complicates the category of the refugee in India. Even as the Raabs were challenging their deportation by the British Indian government, a nationalist, Indian-led government would take the helm—and this latter government oversaw their departure. The Foreigners Act of 1946 that the Raabs were removed under was vague about the circumstances of the foreigners themselves, uniting all aliens in being non-Indian despite their reasons for being in India. In the midst of this, the category of refugee shifted in the Indian vocabulary from the internationally recognised refugees, internees, and evacuees of the war to mean solely those displaced by the mass migrations of the subcontinental Partition in 1947. The Raabs’ deportation points to a changing idea of the refugee, an inconsistent refugee policy, shifts from the colonial to the postcolonial, and also highlights questions of belonging in the independent state. The case is a microcosm of the many currents that governed India’s larger refugee policy in the years to come, perched on the transition from colonial to independent. The colonially created ‘refugee’ was folded into the undifferentiated category of foreigner by the officials of the new Indian state, under a law inherited from colonial predecessors. How did

⁷ ‘Deportation of Antonius Raab, a Baroda State Employee’, Official Report of the Constituent Assembly of India (Legislative) Debates, Vol. 6, 1948, pp. 575–7.

⁸ NAI, Digitised Public Records, Home Political, E, 1945 NA F-10-16, ‘Post-War Policy Inn [sic] Regard to the Admission and Control of Foreigners’.

⁹ NAI, Digitised Public Records, Home Political, EW, 1941, F-24-7, ‘Missionaries originally Intermid [sic] at the Central Internment Compound their Subsequent Transfer to A Parole Centers or Family Camp Reunion of German Internees With their Families’.

this relate to the progress and development that had been promised with the achievement of the independent sovereign state? It is here that the constitutive and destructive powers of the category of the refugee become clear.

India never signed the 1951 United Nations Convention on the Status of Refugees, nor the 1967 Protocol that widened its geographical mandate. In the seventy years since independence, India has provided sanctuary to millions of refugees, beginning with those of Partition and extending to the Tibetans, Afghans, and Sri Lankan Tamils. The modern refugee, who crosses international borders seen as integral to sovereignty and who has lost the protection of his own state, had been defined as such by Europe well before the independent Indian state came into existence. The origins and conditions governing refugees thus had their origins away from subcontinental peoples' experiences. India's stance on refugees has recently seen a shift, with the recent Citizenship Amendment Act's naming of particular religious communities and geographies as well as the expulsion of the Rohingya Muslims. Despite the seeming change, it lies within the longer history of India's relationship and understanding of the category of refugee in ways other than those prescribed by international consensus. That choice had everything to do with an understanding of the refugee that simply could not align with India's own experiences, and a vision for what self-determination meant for the Indian people.

The 'problem' of the refugee became institutionalised in the twentieth century, starting with the displacements in Europe as a result of the First World War. The first High Commissioner for Refugees, Fridtjof Nansen, would be appointed by the League of Nations to deal with the largely continental question of displaced White Russians and Armenians in Europe. The Great Powers who held sway over the contemporary international order after the First World War had created the model of the modern refugee, but one that privileged the European experience. While that idea would evolve into the UN Convention and subsequent Protocol, present-day practices surrounding the refugee have never shed the core ideas derived from early twentieth-century European experiences.

Those who have had a greater say in international law, organisations, and practice—often actors from Europe and North America—have obviously had a greater influence on the prevalent international idea of the refugee. Buying into international instruments would thus acknowledge their understanding of the refugee experience as universal, even if it obscured the realities of mobility, displacement, and vulnerability for those who were not from or of the so-called West. As Valentine Daniel has pointed out, the

refugee is a discourse upheld by a manufactured infrastructure and categorisations that have the power to legitimise and verify the truth of the refugees' experiences. Any study needs to account for how localised experiences reflect wider global prejudices.¹⁰ To further borrow from anthropologists, refugees are a product of the national order of things, and need to be understood within that longer history—and so within that national order's relationship to the international order, and to colonial experiences.¹¹ In the case of India's approach, its leaders' understanding of the construction of universal principles and their relationship to Indian experiences within the British Empire made the internationally created refugee suspect.

Much of this had to do with India's colonial past, and the racial, social, and other limitations on Indian colonial subjects in that British imperial polity. An analysis of the clinical legalese surrounding refugee policy and justifying its limitations, particularly in the former imperial metropole, demonstrates these measures are really the product of a racialised thinking. This rhetoric has been sanitised over time, erasing the language of difference in favour of that of illegality.¹² These discriminatory hierarchies were clear to Indian political actors when they had been colonial subjects engaged in anti-colonial struggle, and they were quick to recognise their continuation in new guises. Therefore, understanding personhood and refugeehood needs to extend beyond an idea born in a world of imperial hierarchies. The core of this study is to understand India's needs and responses to these global prejudices. India's 'strategically ambiguous', ad hoc approach to refugees thus has a startling ideological consistency when viewed in tandem with the longer question of anti-colonial self-determination and its postcolonial afterlives.¹³

¹⁰ E. Valentine Daniel, 'The Refugee: A Discourse on Displacement', in Jeremy MacClancy (ed.), *Exotic No More: Anthropology on the Front Lines* (Chicago: University of Chicago Press, 2002), 280.

¹¹ Liisa H. Malkki, 'Refugees and Exile: From "Refugee Studies" to the National Order of Things', *Annual Review of Anthropology* 24 (1995).

¹² For a significant attempt to understand the coloniality underpinning Britain's present-day refugee policy see Lucy Mayblin, *Asylum After Empire: Colonial Legacies in the Politics of Asylum Seeking* (London: Rowman & Littlefield, 2017). The book draws on the 'myth of difference' outlined in B.S. Chimni, 'The Geopolitics of Refugee Studies: A View from the South', *The Journal of Refugee Studies* 11, no. 4 (1998).

¹³ The characterisations of India's regime are borrowed from 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 and B.S. Chimni, 'Status of Refugees in India: Strategic Ambiguity', in Samaddar, *Refugees and the State*, 396–442.

The process of making refugees in India drew on the principle that the individual's enjoyment of rights rested on the larger Indian collective's rights. Partition has been regarded as the defining moment in India's refugee policy, even its very foundation as a sovereign, independent state. But prior to 1947, Indians had been subjects of the British Raj, and these experiences coloured most of their postcolonial institutions, whether with surprising continuities or obvious disruptions. The 1946 Foreigners Act remains the primary legislation (subject to amendments) that deals with aliens in India, from displaced persons to tourists, and predates Partition. The 1948 Foreigners Registration Act cemented this earlier law's dissolution of categories into the larger one of 'foreigner' in associated documents, while the 1920 Passport (Entry into India) Act remains in force to this day too. Indians had written a uniform policy of asylum out of the story even prior to the creation of the new state. It points to Indian refugee policy's origins in the colonial past rather than beginning abruptly in 1947. The story begins with the prospect of the nation-state rather than its ultimate realisation, as citizens of empire realised their status was a veneer for a limited subjecthood.

Beyond international definitions, philosophy and theory have understood the refugee in ways that cannot explain this Indian practice arising from that region's particular colonial experiences. Hannah Arendt famously observed that it was not the loss of rights but the loss of a theatre in which to exercise them that afflicted refugees—that is, the loss of citizenship.¹⁴ Within refugee studies too, those occupying the category are acknowledged to be a casualty of the system of nation-states.¹⁵ As Giorgio Agamben points out in his reading of Arendt, refugees serve to remind us of the limits of human rights, for their experiences disprove that such rights are inherent—for they should otherwise exist even where the nation-state could not protect them. His recommendation, that of the 'perforation' of the nation-state and an extra-territorial recognition of rights in light of these failures, would not come as

¹⁴ Hannah Arendt, *The Origins of Totalitarianism* (San Diego: Harcourt Brace & Company, 1976), 295–9.

¹⁵ Emma Haddad, *The Refugee in International Society: Between Sovereigns* (Cambridge: Cambridge University Press, 2008); C.B. Keely, 'How Nation-States Create and Respond to Refugee Flows', *The International Migration Review* 30. no. 4 (1996); Aristide Zolberg, 'The Formation of New States as a Refugee Generating Process', *The Annals of the American Academy of Political and Social Science* 467 (1983).

news to the Indian state as revealed in Chapter 4 of this work.¹⁶ These conceptualisations, often consciously based on a Western experience of receiving refugees, cannot apply worldwide. All see the early twentieth-century break-up of European empires and the rise of the nation-state form that failed to protect minority citizens as the start of the refugee as a ‘problem’. And so, all these understandings rest on the basis of what could not be true for India in the first half of the twentieth century—that citizens had a certain set of rights.

The process of making refugees in India began alongside the country’s anti-colonial nationalists’ realisation of the revolutionary, ‘worldmaking’ potential of self-determination that gave rights (via meaningful citizenship) to those who had been denied them in an imperial world order.¹⁷ 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 so-called ‘Wilsonian moment’. The version espoused by the anti-colonialists of the world was closer to Lenin’s revolutionary vision of self-determination rather than Wilson’s, which tried to walk back the concept from the precipice of such a revolution.¹⁸ Jawaharlal Nehru, India’s first Prime Minister and architect of much of the anti-colonial nationalist Indian National Congress’ programme, famously believed that securing Indian independence was a necessary precondition for a more equal world. Through his vision of One World which viewed the atomic age of the Cold War as destructive beyond the science of the bomb, he sought to eradicate the vestiges of an equally disastrous imperial order. The rights that leaders like Nehru called for challenged the effects of imperialism, colonialism and the world order these processes had built. Human rights as we understand them today were thus not the same rights that anti-colonial nationalists were campaigning for. Prior to the worldwide uptake of this more individualised idea of rights in the 1970s, anti-colonial

¹⁶ Giorgio Agamben, ‘Beyond Human Rights: A Potential Politics’, in Pablo Virno and Michael Hardt (eds.), *Radical Thought in Italy: A Potential Politics* (Minneapolis: University of Minnesota Press, 1996), 159–65.

¹⁷ I borrow this term from Adom Getachew, *Worldmaking After Empire: The Rise and Fall of Self-Determination* (Princeton: Princeton University Press, 2019). While her framework focuses on the Black Atlantic, there are parallels with the Indian project, particularly the Nehruvian one.

¹⁸ A term popularised by Erez Manela, *The Wilsonian Moment: Self-Determination and the International Origins of Anticolonial Nationalism* (New York: Oxford University Press, 2007). For Lenin’s conception of self-determination, see V.I. Lenin, ‘The Right of Nations to Self-Determination’, in Bernard Isaacs and Joseph Fineberg (trans.), *V.I. Lenin Collected Works vol. 20* (Moscow: Progress Publishers), 393–454. Also available at <https://www.marxists.org/archive/lenin/works/1914/self-det/> [accessed 22 June 2020].

movements focused on collective rights—notably self-determination as the right from which all others stemmed.¹⁹ Decolonising states developed their own relationship with individual human rights, contributing to their worldwide realisation even as these states' leaders measured them against the notion of sovereignty and self-determination.²⁰ The Indian state was attempting to seize for its people the promise of liberal universalism, finally weeding out the racial and civilisational superiority that had previously barred them from equality within the empire and the international order.

The idea of the nation-state, which could guarantee such rights, had been decided by certain powers long before some parts of the world were admitted to the club, along with international organisations that could govern their behaviour. The League of Nations certainly did not represent all of the peoples of the world, let alone in an equal way. Nor was the nation-state a foregone conclusion in the 1940s, with many visions of what access to citizenship, sovereignty, and their benefits could look like.²¹ India's own journey towards the territorial form was governed by external facing concerns of international representation. Internal diversity and difficulties of belonging posed by a substantial diaspora further complicated the realisation of the postcolonial nation-state.²² Self-determination also had to reign supreme for another reason, that of altering the very nature of supranational forums—prior Indian experiences with international agencies had made clear that the transformation of international organisations also required a decolonisation of their methods and goals.²³ Humanitarianism often had (and still has) political motivations, and certainly political implications, that could not be allowed to threaten newly acquired collective rights where they

¹⁹ Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge, MA: Belknap Press of Harvard University Press, 2010).

²⁰ To understand the relationship between human rights, anti-colonialism and cultural relativism, see Roland Burke, *Decolonization and the Evolution of International Human Rights* (Philadelphia: University of Pennsylvania Press, 2010).

²¹ A recent reminder of this is to be found in Frederick Cooper, *Citizenship in between Empire and Nation: Remaking France and French Africa, 1945–1960* (Princeton: Princeton University Press, 2017).

²² Itty Abraham, *How India Became Territorial* (Stanford: Stanford University Press, 2014).

²³ Sunil Amrith, *Decolonizing International Health: India and Southeast Asia 1930–65* (Basingstoke: Palgrave Macmillan, 2006). For an understanding of how UNRRA failed to do so, see 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* (New York: Routledge, 2015), 121–35. For an example of India's transformation of this world order as an actor from the so-called Global South, see Alanna O'Malley, 'India, Apartheid and the New World Order at the UN, 1946–1962', *Journal of World History* 31, no. 1 (2020).

had so far been absent.²⁴ Refugee history has moved beyond institutional histories of international world order and the Office of the United Nations High Commissioner for Refugees (UNHCR). The refugee has been recognised as an important player in the story of the nation-state and its citizens.²⁵ This widened historiographical field has paved the way for an Indian view of the ideas and practices surrounding refugees.²⁶

Immigration and asylum regulations tend to prioritise the needs of the receiving nation-state, in particular governed by concerns for a hazily defined 'national security'. A conventional understanding of such hospitality, whether to immigrants or to refugees, sees it governed by a conditionality so as to prevent the host becoming a hostage to these guests.²⁷ I contend that this understanding does not account for experiences of states like India. Self-determination had brought with it the potential to change the world, and this needed to be jealously guarded—but not from the refugee. The relationship between host and guest in India does not meet the standard of hostility implicit in this conditionality either.²⁸ It was not the guest or the refugee who threatened the Indian state so much as the afterlives of an imperially created international order that India strove to transform. The refugee was familiarly human rather than a dreaded intruder. That latter role, of hostage-taker, was played by an international order that placed burdens on former colonies rather than alleviating them, and so restricting the hard-won rights of the Indian people.

²⁴ Michael Barnett, *Empire of Humanity* (Ithaca: Cornell University Press, 2011); Davide Rodogno, *Against Massacre: Humanitarian Interventions in the Ottoman Empire 1815–1914* (Princeton: 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).

²⁵ The creation of the refugee as a 'problem' is best understood through the work of Peter Gatrell: Peter Gatrell, *Free World: The Campaign to Save the World's Refugees 1956–1963* (Cambridge: Cambridge University Press, 2011); Peter Gatrell, *Making of the Modern Refugee* (Oxford: Oxford University Press, 2012). For ideas of the place of refugees in the history of the nation-state, and the need for histories of refugees, see Philip Marfleet, 'Refugees and History: Why We Must Address the Past', *Refugee Survey Quarterly* 26, no. 3 (2007); Philip Marfleet, 'Explorations in a Foreign Land: Refugees, States and the Problem of History', *Refugee Survey Quarterly* 32, no. 2 (2013).

²⁶ The first book-length work is Pia Oberoi, *Exile and Belonging: Refugees and State Policy in South Asia* (New Delhi: Oxford University Press, 2006).

²⁷ Jacques Derrida and Anne Dufourmantelle, *Of Hospitality* (Stanford: Stanford University Press, 2000). For an argument against universalising the hostility supposedly inherent in hospitality, see Anne Norton, 'Democracy', in *On the Muslim Question* (Princeton: Princeton University Press, 2013), 118–40.

²⁸ For a theorisation of hostility inherent in hospitality, see Jacques Derrida, 'Hospitality', *Angelaki* 5, no. 3 (2000).

The story of the refugee in India is also one of the tensions of progress and the individual enjoyment of rights within the sovereign nation-state. 'Awake [ning] to life and freedom', as Nehru promised in his famous midnight speech on India's Independence Day, was hardly an equal proposition, and the progress of the larger community could dispossess its component groups and individuals. Even those acting out authoritarian forms of government in the postcolonial world did so in the name of the people.²⁹ The Indian state's revolutionary promise, and its approach to a democratic participatory politics, was not always a guarantee of all Indian peoples' rights when it came to a vision for the nation's progress and the greater good. Nehru himself was aghast that student protests in the 1950s would use methods of anti-colonial agitation against the postcolonial state, despite acknowledging the importance of dissent in a democracy. In granting popular sovereignty, the Nehruvian postcolonial state had created citizens that it had a direct relationship with. Nehru thought it obliged them to this state rather than choosing to act independently from, or even against, it.³⁰ The freedom of Indian people, and the Nehruvian belief in its subsequent worldwide emancipatory potential, came at a price.

This project is obviously adjacent to those histories of social and economic rights that the framers of India's constitution never codified in a binding way in the constitution, lest dictating the methods of development and distribution cut against cherished democratic principles. Thus, the Directive Principles remain a guideline despite their inclusion in this document. By not codifying such rights, enacting social and economic protections themselves created a lesser, 'undeserving citizen' who needed help from the state rather than exercising the reciprocal obligation of rights and duty outlined in the constitution.³¹ The Constituent Assembly debated social and economic rights, and in making them non-justiciable placed them in a second-tier category to civil and political rights. Just as the question of equality for individuals who belonged to historical socio-economically disadvantaged minorities was mediated through their group identity, so too was the progress of the individual subjugated to larger Indian

²⁹ Barry Hindess, 'Citizenship and Empire', in Thomas Blom Hansen and Finn Stepputat (eds.), *Sovereign Bodies: Citizens, Migrants and States in the Postcolonial World* (Princeton: Princeton University Press, 2005), 241–56.

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

³¹ Niraja Gopal Jayal, *Citizenship and its Discontents: An Indian History* (Cambridge, MA: Harvard University Press, 2013), 109–35.

progress. The Assembly had decided that correcting backwardness and uplifting the state as a whole were its main goals, but in practice progress towards that modernity could dispossess these vulnerable groups further.³² Projects like the dams that Nehru had cast as the ‘Temples of New India’ brought with them massive internal displacement, submerging entire villages or affecting the livelihood of local residents for miles around. The state rarely compensated these people, instead justifying an (unwilling) sacrifice for the greater good, often made by the same groups whose circumstances had necessitated other sorts of protections.³³ In making such rights unenforceable, the state dispossessed and displaced persons while creating a rhetoric of the failures of these citizens to dutifully contribute to progress, instead needing state assistance to lift them out of poverty. The absence of a welfare state in India allowed for inequalities, even those perpetuated in the name of progress, to be addressed in the language of charity rather than rights.³⁴ The history of refugees is a similar history to those of socio-economically oppressed communities, of minorities and of what was owed to the postcolonial state.

Indians needed the vehicle and protections of the nation-state in order to challenge the inequalities in so-called universal principles, making the figure of the refugee difficult to reconcile. Protecting refugees certainly upheld the liberal idea of rights, but their crossing of national borders left open the door to another threat. In being a subject for universal concern and international governance (and possible intervention), the refugee became a threat to the sovereignty of the democratic nation-state governed for and in the name of the Indian people. Understanding the challenge posed by the internationally defined refugee requires rejecting the individuality associated with the refugee, as the bounds of personhood extend far beyond this to

³² For a discussion on backwardness and the constituent assembly, see Jayal, *Citizenship and its Discontents*, 136–62.

³³ For the speech from which the phrase ‘Temples of New India’ is taken, see Jawaharlal Nehru, *Selected Works of Jawaharlal Nehru*, Second Series, vol. 26 (New Delhi: Jawaharlal Nehru Memorial Fund, 2000), 130–4. For an overview of displacement caused by projects like dams and the loss of rights and displacements from 1951 until recently, see Smitu Kothari, ‘Whose Nation? The Displaced as Victims of Development’, *Economic and Political Weekly* 31, no. 24 (1996); Biswaranjan Mohanty, ‘Displacement and Rehabilitation of Tribals’, *Economic and Political Weekly* 40, no. 13 (2005); Arun Kumar Nayak, ‘Big Dams and Protests in India: A Study of Hirakud Dam’, *Economic and Political Weekly* 45, no. 2 (2010).

³⁴ A connection examined in the case of Partition’s refugees in Joya Chatterji, ‘Right or Charity? The Debate over Relief and Rehabilitation in West Bengal’, in Suvir Kaul (ed.), *The Partitions of Memory: The Afterlife of the Division of India* (Bloomington: Indiana University Press, 2001), 74–100.

relationships, communities, and societies. Instead, clarity lies in appreciating both where the refugee has come from and what this means for those receiving them.³⁵ India treated incoming groups in accordance with their potential to either fit into or assist the national project in defiance of the Manichean terminology of the Cold War that divided the world into communist and Western democratic camps just as the new state was finding its feet.

Outline

This work writes the postcolony into histories of refugee-related humanitarianism by examining India's voluntary exclusion. Looking at refugees in India is an exercise in understanding the interaction of universalisms like human rights, nationalism, and the experience of the individual. The refugee was 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. India accepted human rights as legitimate, but kept asylum 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 mid-twentieth-century wave of decolonisation, and of the differences between human and citizen in the postcolonial state.

Inequalities experienced by Indians in empire were clearly based on a racialised hierarchy, which begs the question of whether the new Indian government was reacting with a similarly racialised thinking. I do not believe the majority of leaders of the newly created Indian state were 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 benefit from the development promised by the acquisition of this new state. Its mistrust of the European refugee was more of a reaction to the exclusions of transnational whiteness and the nation-states that rested on its discriminatory practices, rather than an idea to be emulated in reverse.³⁶

³⁵ Daniel, 'The Refugee', 278.

³⁶ 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).

Chapter 1 is set in the early twentieth century and serves as a prehistory of the refugee under colonial rule in India. It primarily examines the interwar years, with some reference to earlier events. Its focus is on the place of Indians in the transnational British Empire even as the nation-state-based order of the League of Nations came into being. Looking at these side-by-side brings issues of citizenship within the empire, including the place of minorities, into tension within the prevailing international norms for bureaucratic categories like refugees and their relationship to sovereign territory. In particular, it emphasises a lack of sovereign power for a people, and the resultant lack of equal rights for Indians. Layering issues operating at various geopolitical scales helps to understand how imperially created categories—in an international order where empires held sway anyway—could affect how the refugee was understood as the transnational empire gave way to the postcolonial nation-state.

Chapter 2 is set in the 1940s. In this decade, the world transitioned from the Second World War to a new peace, and India went from colony to independent nation-state. India declined to join the International Refugee Organization (IRO) and had withdrawn from its predecessor, the United Nations Relief and Rehabilitation Administration (UNRRA), both prior to the mass migrations of Partition. The only law codifying the presence of aliens in India, though subject to future amendments, was passed in 1946. The chapter places India's idea of refugees within the international moment in the immediate aftermath of the Second World War. Examining the anti-colonial nationalists' challenges to the liberalism that underpinned both empire and the international order of the League makes clear the decolonised nation-state's moves towards a new internationalism that protected the rights of its population that had been denied them in empire. They rested on a certainty that despite their victimhood, interventions on behalf of European refugees threatened the worldwide equality—both economic and otherwise—that the new nationalist government aspired to for its Indian citizens-to-be. The iron grip of the idea of the nation-state, and membership of this state as the sole guarantor of rights pushed Indians towards rejecting international norms. It is thus the point at which India's alternative genealogy of human rights, including that of asylum, diverged from those of the international order.

Chapter 3 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 aim is to understand how those empowered to shape refugee policy—the Nehruvian elite and their

critics—approached the displaced millions alongside the other problems of the newly independent, decolonising state. Uplifting an economy that had been ravaged by colonialism, the crises of the princely states of Kashmir and Hyderabad, and the clash of the secular ideal of India with a Hindu nationalist vision all intertwined with the rehabilitation of Partition's refugees. In the new Indian narrative of citizenship, the term 'refugee' was used deliberately to define those whom the state felt it owed something to. Everyone else, if at all in receipt of government assistance, was subject to the kindness and charity of a government already stretched to its limit building the new nation. Refugees were not allowed to 'wallow' and become a burden, with the government machinery encouraging them to become proactive citizens of the new nation. Their discontent with this situation formed the beginnings of a resistant politics. While the government tried to soothe dissent to bring the refugees in line with the Nehruvian vision of the state, opposing voices co-opted the refugees to push their own vision of the state. The refugees of Partition became a snapshot of the domestic ideologies of the Indian state, demonstrating the blurry line between subjecthood and citizenship that carried on into the postcolony. To build the refugee was to build the state. In this context, the more Eurocentric vision of the host as different from the guest was completely shattered because the refugees were part of the national self. Instead, refugee rhetoric aligned with that of Indian progress, and the many versions of what that could look like.

Chapter 4 looks at India's approach to refugees who were recognised as such by the international regime versus the new state's treatment of a returning diaspora who were part of the fallout of decolonisation. The circumstances of Tibetan refugees in India in the 1960s attracted international attention. The question of providing them 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 postcolonial 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 postcolonial form to one which actively responded to Cold War currents. 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 fifteen 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 both domestically and internationally.

Chapter 5 examines India's approach to the influx of millions of East Pakistanis into its territory in 1971. Early in the crisis, India had appealed to the international community for assistance. To India's mind, the project of Partition was complete, and it was not prepared to accept a massive influx from the Bengal borderland in the vein of Partition's refugees. India's representatives insisted that these were Pakistani citizens entering Indian territory, rather than a last migration from the Partition of India 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 not to India, at least not any longer. It also highlights India's relationship with the United Nations High Commissioner for Refugees, the international community's primary channel of engagement with the subcontinental crisis. India reframed the crisis away from Partition, insisting that the international community assist it in achieving a complete refugee return rather than buying into a religious logic to the influx. 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 book starts 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 with the East Pakistani refugees seen as disenfranchised citizens of Pakistan rather than Hindus or Muslims belonging to either state born of the Raj. It argues that India's refugee story predates Partition. The Indian state had achieved its intended secular-democratic form in a victory against the two-nation theory, held by the Muslim League and Hindu nationalists alike, that saw Hindus and Muslims as separate, distinct cultures and therefore called for separate homelands. This Nehruvian architecture is subject to change as the present government's re-conception of the Indian state has brought up the relationship of citizen and refugee once again through amendments to India's citizenship law.

My work is a study of deviations from European experience-based notions of the refugee and hospitality, and how they are manipulated in this new

context. Indian leaders' idea of rights, like that of self-determination and the nation, was in conversation with global discussions. They were conscious of the origins of this discourse in other parts of the world, and that it did not follow the same sequence as these places in its arrival and evolution in India. Awareness of how similar ideas applied differently to different contexts also explains that the conception of the refugee relies on the moments in which it found application 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 largely remained in the hands of the Nehru-Gandhi family and those who worked closely with them. The timeline for this project corresponds roughly with the Indian National Congress elite's hold on the state, prior to the fuller realisation of political society in the 1970s and 1980s and the simultaneous rise of more pragmatic electoral politics.³⁷ Even as the Congress-led state was establishing this ad hoc relationship between citizen and refugee as the mainstream version, other ideas of this relationship developed too. Religiously defined notions of citizenship and refugee rights, which are in vogue today, bubbled under the surface. Their proponents engaged with these larger conversations on self-determination and rights, even as a state-led secular-democratic rhetoric papered over these prejudices in the first decades of the republic.

All of this points to the notion of two ideas born in the West being transformed in this theatre. The first was the notion of the nation-state and self-determination, while the second was human rights. I suggest two operations at work: one was maintaining independence from an international order based on Eurocentric experiences; the other was the state's relationship with the refugee populations as an object of policy that acknowledged its impact on citizenship. The Indian state's granting of asylum would then make refugee 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.

³⁷ For an understanding of the idea of 'political society', see Partha Chatterjee, *Politics of the Governed: Reflections on Popular Politics in Most of the World* (New York: Columbia University Press, 2004).

Indian resistance to an umbrella refugee definition and associated universalising practices reveals the realities obscured by such an artifice of terminology. Underneath legal language and the prevalent notions of migration—in which some people should settle for a flimsy ‘safety’ over an enjoyment of the simplest of rights of citizens—that dominates the news, is a weaponisation of the category of the refugee. The legacies of empire and its attendant hierarchies still govern the worldwide conversation on migration and the fear of unassimilable minorities. Assessments of these peoples’ situations are far more ad hoc and flexible than the static, absolute norms that today’s immigration regimes and associated propaganda would have us believe. Like B.S. Chimni, I reject the idea that refugees from the Global South are something different from those, mostly European, refugees who came before so much as those receiving them classifying and filing them differently.³⁸ India serves as an example with its open and frequent redefinitions of the bureaucratic category of refugee and of migrant, and therefore the larger self-determined collective, that so clearly operate elsewhere. This global history of a postcolony offers insight into what is, essentially, a worldwide postcolonial problem.

Concealed in Indian practice, as so much of India’s political thought is, is a clearly stated theory of the refugee that sees this category as both constitutive and destructive of citizenship and therefore self-determination. Born at the pinnacle of Nehruvian India’s worldmaking ambition, it offers a version of the refugee that is not Eurocentric. Instead, a close look at the Indian conception also has the effect of understanding the current international refugee regime as but one version of the relationship of citizenship (or the loss of a meaningful version of it) and rights. At every turn, India challenged the meaning of the refugee, preserving self-determination as the right from which all others stemmed, even as the promise of its revolution dimmed in the 1970s.

³⁸ Chimni, ‘The Geopolitics of Refugee Studies’.

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The Refugees' Imperial Past

The Search for Self-Determination in Empire

In 1927, Brussels played the unlikely role of host to anti-imperialists from all over the world. Belgium was still reeling from the revelation that King Leopold's humanitarian organisation that had ruled the Congo Free State had in truth mistreated and mutilated residents of the Congo, who had been forced to labour in rubber production. The shame of the scandal had made it easier to persuade the authorities in Brussels to permit a World Congress of Oppressed Peoples. In the avenues of a city that had flourished from the spoils of colonisation and subjugation, representatives from Asia and Africa mingled with European and Russian trade unionists and even members of British Labour. Any event of this magnitude was bound to be of concern to the Great Powers, and spies infiltrated the ranks of the attendees.¹ Brussels became a site for the solidarity of anti-colonial movements, and what would eventually become the Third World.²

Jawaharlal Nehru, a member of the anti-colonial nationalist Indian National Congress, had been travelling in Europe in 1926, having escorted his wife Kamala to a Swiss sanatorium. Aside from winter sports and improving his French, he filled his days socialising with exiled Indian dissidents. Berlin was a natural point of convergence for radical thinkers and communists, and where he first heard of the gathering at Brussels. Nehru immediately wrote to the Indian National Congress, suggesting that he represent their interests at the event. Its leaders acquiesced, and Nehru was off to what would become the founding of the League Against Imperialism.³

Nehru, who would go on to be independent India's first Prime Minister, made a credible debut on the world stage at Brussels and articulated

¹ Nehru recalls the story of a French spy who dressed in blackface to mingle amongst the delegates as an African representative. Jawaharlal Nehru, *An Autobiography*, 3rd edition (New Delhi: Oxford University Press, 1982), 164.

² This introduction to Brussels in 1927 is drawn from Vijaya Prashad, 'Brussels', in *The Darker Nations: A People's History of the Third World* (New York: New Press, 2007), 16–30.

³ Nehru, *An Autobiography*, 161.

the tenets of India's internationalism that would dominate its politics in the following decades. Heading the first nationalist Indian delegation to the United Nations, his sister Vijaya Lakshmi Pandit would recall his words from this maiden outing:

The Indian National Congress stands for the freedom of India; freedom for the poor and the oppressed from all exploitation... We realise that there is much in common in the struggle which various subject and semi-subject and oppressed peoples are carrying on today. Their opponents are often the same, although they appear in different guises. The means employed for their subjection are often similar... As our great leader Mahatma Gandhi has said, our nationalism is based on the most intense of internationalism. The problem of Indian Freedom is for us a vital and urgently essential one; but at the same time it is not merely a purely national problem. India is a world problem and, as in the past, so in the future, other countries and peoples will be vitally affected by the condition of India.⁴

Nehru introduced India's freedom from British colonialism as an essential precondition for the transformation of the imperial world order. His socialism became more moderate in the coming years, but the internationalist core would remain. The very name of the organisation born at Brussels, the League Against Imperialism (LAI), implied criticism of the imperial associations of the premier world organisation of the time. Nehru saw India as a poster-child for all oppressed peoples and declared that the Indian problem 'affects a large number of countries directly, and the world indirectly, in the sense that it affects the most powerful imperialism of our time'.⁵ His experience with the LAI gave Nehru a wider understanding of imperialism which saw class and anti-colonialism as intertwined, and which allowed for a conflation of India's status with other, similar resistances.⁶ Nehru's

⁴ Vijaya Lakshmi Pandit, *The Scope of Happiness: A Personal Memoir* (New York: Crown Publishers, 1979), 220. For the full text of Nehru's speeches at this conference, see Jawaharlal Nehru, *Selected Works of Jawaharlal Nehru* (New Delhi: Jawaharlal Nehru Memorial Fund, 1979), vol. 12, 270–6.

⁵ Nehru, *Selected Works*, vol. 2, 275. For a detailed study of how Nehru's nationalism and internationalism developed in tandem against wider currents, see Michele L. Louro, *Comrades against Imperialism: Nehru, India and Interwar Internationalism* (Cambridge: Cambridge University Press, 2018).

⁶ Louro, *Comrades against Imperialism*, 19–64.