

## New Education Policy- Lost Opportunity for Refugee Children

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### Abstract:

This Paper delves into the relationship between India's New Education Policy (NEP) 2020 and the educational rights of refugee children, emphasizing both the potential and the limitations of the policy framework. As a participant in the United Nations Convention on the Rights of the Child (CRC), India bears the responsibility of ensuring equitable and inclusive education for all children, including those displaced by conflict and persecution. Despite this obligation, refugee children face significant barriers such as a lack of documentation, economic hardships, and gaps in policy recognition, which hinder their access to formal education. The analysis assesses India's global commitments and identifies how the NEP 2020 could bridge these disparities. Key recommendations include formally categorizing refugee children as a vulnerable group, adopting community-specific learning strategies, and collaborating with global organizations to create sustainable solutions. These steps would enable India to align its educational goals with international standards and foster inclusivity.

**Key Words** – Refugee, New Education policy.

### Introduction

Article 26 of Universal Declaration of Human Rights (UDHR) the United Nations Convention on the Rights of Child (CRC) and other international framework have recognized education as a fundamental right of each and every human being. Being signatory to these international frameworks specifically to CRC India is obligated to provide free and compulsory primary education to all Children. Further it must ensure equal access to secondary education for all children regardless of their nationality.<sup>1</sup> However this responsibility is encountered with the void with regard to refugee children in India. These children still continue to face systematic barriers such as socio-economic marginalization, documentation and language barriers.<sup>2</sup> Education plays the key role in integrating refugees into the host communities and enhancing their socioeconomic prospects however the policy framework in India remains largely silent on their inclusion in formal education system.<sup>3</sup>

Though India not being a Signatory to 1951 Refugee Convention or its Protocol (which set global standards for refugee protection) it has been following the customary international law of non-refoulement by accepting Tibetians seeking political asylum, Afghans fleeing decades of conflict, Chakma's from Bangladesh and recently Rohingya's from Myanmar.<sup>4</sup> India's policy for the treatment of refugee is governed by ad hoc executive policies and domestic legislation such as Foreigners Act 1946 which offers little in terms of legal guarantees for their rights including access to

<sup>1</sup> General Assembly, "Convention on the Rights of the Child" (1989) <[https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_44\\_25.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_44_25.pdf)>

<sup>2</sup> Reinking AK and Southern Illinois University-Edwardsville, "Addressing the Needs of Refugee Students in School Environments," vols 22-22 (2019) <<https://files.eric.ed.gov/fulltext/EJ1229442.pdf>>

<sup>3</sup> UNHCR - The UN Refugee Agency, "Education 2030: A Strategy for Refugee Education | UNHCR" (UNHCR) <<https://www.unhcr.org/media/education-2030-strategy-refugee-education>>

<sup>4</sup> "REFUGEE PROTECTION IN INDIA: INTERNATIONAL OBLIGATIONS AND NEED FOR LEGISLATION," vol 23 <<https://supremoamicus.org/wp-content/uploads/2021/01/Isha-Bhardwaj.pdf>>

education.<sup>5</sup>This is splintered legal framework creates a void for refugee children who are excluded from the formal education system throwing them into perpetual cycle of poverty and marginalization.

India in the year 2020 unveiled new education policy which represented paradigm shift in the country's approach to education it was aimed at transforming India's education system by 2040 emphasizing upon universal excess equity and quality.<sup>6</sup> Flexible learning pathways, special focus on disadvantaged group such as Schedule Cast (SC) Scheduled Tribe (ST) and Other Backward Classes (OBC) are some of the key features of the policy for the promotion of foundational literacy.<sup>7</sup> However the policy stops short of explicitly addressing the educational leads of refugee children leaving significant gaps in its inclusivity agenda.

Bringing inclusivity in education policies will foster social cohesion, empower marginalized communities and will contribute to India's human capital thus, education for refugee is not merely a matter of human right but it is also a strategic imperative for India. This paper is going to examine the intersection of New Education Policy and Refugee Children's Right to Education, arguing, that targeted policy interventions are necessary for Comprehending India's commitment under International Law and the Domestic Law. This paper has been divided into three parts. In part I the researcher will try to explore India's international commitment under the Child Rights Convention (CRC) and other global frameworks highlighting the legal and moral imperative for inclusive education for refugees. In this part the researcher will critically evaluate the current legal and policy landscape in India which often excludes refugee from accessing formal education.

Part II of the chapter will examine the opportunities and the gaps within the New Education Policy 2020 in addressing refugee children's educational needs. In this chapter the researcher will try to identify areas where the policy framework aligns with the international standard and also those areas where it falls short. In Part III of the paper the researcher will try to conclude by suggesting some policy recommendation for bridging the gaps. Further the author will try to address how India can fulfill its obligation under CRC and set a global example in inclusive education policy by addressing the unique challenges faced by refugee children.

### **I - International Commitments and Refugee Rights to Education.**

India's commitment to ensure the right to education for children's of refugee originates from its obligation under various international conventions, regional frameworks, and other domestic laws. Education is a corridor stone of sustainable development however the situation for children's of refugee remains precarious marked by systemic exclusion and neglect of Education. India has ratified the United Nations Convention on Right to Child (CRC) in 1992 which under scored the universal right to education. Article 28 of the convention mandates the state parties to provide free and compulsory primary education and make secondary education accessible to all children emphasizing non-discrimination.<sup>8</sup> Article 22 categorically addresses the rights of children's of refugee, it requires state to ensure that the children of refugee seeking refugee status receive appropriate protection and humanitarian assistance.<sup>9</sup>

Additionally, the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by India in 1979, obligates states to guarantee universal access to education, with a focus on the progressive realization of this right for marginalized groups, including refugees.<sup>10</sup> Furthermore, the Global Compact on Refugees (2018) calls on states to facilitate the inclusion of refugees in national education systems as a pathway to social integration and self-reliance.<sup>11</sup> The Bangkok Principles on the Status and Treatment of Refugees (1966), adopted by the Asian-African Legal Consultative Organization, further highlight the importance of socio-economic rights, including education, for refugees in the region.<sup>12</sup>

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<sup>5</sup> Foreigners Act, 1946, Act No. 31 of 1946,

<sup>6</sup> Ministry of Human Resource Development, Government of India, "National Education Policy 2020" <[https://www.education.gov.in/sites/upload\\_files/mhrd/files/NEP\\_Final\\_English\\_0.pdf](https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf)>

<sup>7</sup> Id

<sup>8</sup> General Assembly, "Convention on the Rights of the Child" (1989) <[https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_44\\_25.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_44_25.pdf)>

<sup>9</sup> Id

<sup>10</sup> United Nations, "International Covenant on Economic, Social and Cultural Rights" (1966) <[https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_2200A\(XXI\)\\_economic.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_2200A(XXI)_economic.pdf)>

<sup>11</sup> United Nations and Office of the United Nations High Commissioner for Refugees, *Global Compact on Refugees* (United Nations 2018) <<https://globalcompactrefugees.org/sites/default/files/2019-12/Global%20compact%20on%20refugees%20EN.pdf>>

<sup>12</sup> Refworld - UNHCR's Global Law and Policy Database, "Bangkok Principles on the Status and Treatment of Refugees ('Bangkok Principles')" (*Refworld*, February 12, 2024)

Through judicial interpretation and policy reforms the right to education could be extended to refugee children under the large ambit of India's constitutional and legislative framework. Right to education for children aged 6 to 14 is a fundamental right guaranteed by Article 21 A of the Indian constitution.<sup>13</sup> This constitutional mandate ensuring free and compulsory education in government and aided school is operationalized through Right of Children to Free and Compulsory Education Act, 2009 (RTE act).<sup>14</sup> In the case of *Mohini Jain vs State of Karnataka*<sup>15</sup> the Supreme Court declared education is a fundamental right linked to right to life mentioned under Article 21. Further in the case of *Unni Krishnan J.P vs State of Andhra Pradesh*<sup>16</sup> the court has reinforced India's obligation to provide free education at primary level. There are many other rulings which though were not explicitly directed at refugees but have postulated broad principles of inclusivity and non-discrimination to be applied ensuring education for refugee children.

However the situation for refugee children in India is starkly different despite the robust and international legal frameworks. Families of refugee including those of Afghan Tibetan and Myanmar origin face numerous barriers to access formal education. As most of the school in India require identification documents for admission. Children's of refugee often fleeing conflict or persecution are unlikely to possess such documentation effectively bearing their entry into education.<sup>17</sup> Although the Right to Education act ensures free education but the process is indicted with associated cost such as of uniforms, textbooks or transport making it financially difficult for refugee families to get their children into formal education.<sup>18</sup> Children's of refuge often faces language differences and cultural unfamiliarity with the population of host country. The lack of support system such as language or cultural orientation escalates this marginalization.<sup>19</sup> Apart from above discussed stigma there are many other social exclusion and discrimination whether it is from Peers, teachers and local communities which children of refugee face on day to day basis.<sup>20</sup>

Education policy 2020 is hailed as a transformative framework for achieving universal access to education. The policy focuses on foundational literacy flexible learning pathways and special provisions for vulnerable groups aligning with India's obligation whether under the domestic law or under the international legal framework.<sup>21</sup> Inclusivity for the marginalized group have been emphasized in the new education policy however it does not explicitly recognize children of refugee as a vulnerable category leaving a void.<sup>22</sup> A deliberate and a targeted approach is required to address these gaps. If India recognizes children of refugee as a disadvantaged /vulnerable group under NEP it will exempt them from documentation requirement, it will help them to provide financial assistance and it will help them to provide linguistic support: by this India can fulfil its international commitment and uphold the constitutional values. The integration of the children of refugee in the mainstream education is not only moral and legal imperative but will also be a strategic step towards fostering social cohesion and sustainable development.

## II - The New Education Policy 2020: Opportunities and Gaps

The New Education Policy (NEP) 2020 aims to revolutionize India's education system by addressing systemic inequities and enhancing the quality of education across all levels. It focuses on universal access, equity, and inclusivity, offering innovative solutions to tackle educational disparities.<sup>23</sup> The major key highlight of the NEP 2020 is its goal to achieve 100 percent gross enrolment ratio in school education by 2030. <sup>24</sup> This objective of NEP 2020 aligns with the CRC's emphasis on universal access to education and offers a Framework to bridge the disparities for disadvantaged group of people. This

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<<https://www.refworld.org/legal/resolution/aalco/1966/en/18604>>

<sup>13</sup> Constitution of India 1950, Article 21A

<sup>14</sup> Right of Children to Free and Compulsory Education Act, 2009,

<sup>15</sup> (1992) 3 SCC 666

<sup>16</sup> (1993) 1 SCC 645.

<sup>17</sup> R. Chandra, "Refugee Rights in India: A Policy Review," 12 *Indian Journal of Public Policy* 45 (2020).

<sup>18</sup> UNICEF, "Education for Refugee Children: Challenges and Opportunities" (2021).

<sup>19</sup> "REFUGEE PROTECTION IN INDIA: INTERNATIONAL OBLIGATIONS AND NEED FOR LEGISLATION," vol 23

<<https://supremoamicus.org/wp-content/uploads/2021/01/Isha-Bhardwaj.pdf>>

<sup>20</sup> "Education 2030: A Strategy for Refugee Education | UNHCR" (UNHCR)  
<<https://www.unhcr.org/media/education-2030-strategy-refugee-education>>

<sup>21</sup> "National Education Policy 2020"  
<[https://www.education.gov.in/sites/upload\\_files/mhrd/files/NEP\\_Final\\_English\\_0.pdf](https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf)>

<sup>22</sup> id

<sup>23</sup> "National Education Policy 2020"  
<[https://www.education.gov.in/sites/upload\\_files/mhrd/files/NEP\\_Final\\_English\\_0.pdf](https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf)>

<sup>24</sup> id

will help the country not only to enhance its human capital by providing opportunities for largely undeserved demographic people but will also help to promote inclusivity reduce social economic inequalities and foster social cohesion. Supplementary program for children's of refugee in native language combined with the regional language instructions can facilitate smoother assimilation of them into Indian schools while preserving their cultural identities. Additionally the policies focus on competency based and experience based learning offers adaptable approaches that can accommodate diverse learning needs including those of children's of refugee. The NEP's promotion of flexible curricula and multilingualism provides significant opportunities for integrating refugee children, many of whom encounter linguistic barriers in accessing education.<sup>25</sup> In today's era of technology it can be used to address educational inequities through initiative like e-learning remote learning and digital content in multiple languages the same has been emphasized by NEP 2020.<sup>26</sup> This can be used to address lack of access to traditional school infrastructure, This will serve as a critical bridge between the formal education system and children's of refugee. This programs design to enhance digital literacy within the settlements of the refugee would empower the families of refugee and will help the state to uphold the constitutional morals.

In spite of the above stated opportunities in the NEP there are few gaps which needs to be addressed in order to fulfil the objective of inclusive education. The New Education Policy must propose an alternative mechanism for enrolment in the schools on the place of documentation required for admissions such as Aadhar cards or birth certificate which throws vulnerable groups into perpetuating cycles of educational deprivation and poverty. New education policy does not have provisions for community sensitization or for anti-discrimination policies this gap risks alienating refugee students within the education system. The policy is eclipsed with a void addressing socio cultural challenges faced by children of refugee such as bullying marginalization discrimination and so on which not only hinders their academic process but also affect their psychological well being.<sup>27</sup> Another Void in New Education Policy 2020 is the absence of targeted financial assistance or scholarship for refugees.<sup>28</sup> Refugee families, who often survive on limited resources, struggle to afford ancillary costs associated with education, such as transportation, uniforms, and learning materials.

### **Part III - Policy Recommendations for Inclusivity.**

This part of the research paper will try to suggest some policy intervention which will help India to align any NEP 2020 with its international commitments and ensure equitable education for refugee children. The first thing is to acknowledge and identify children of refugee as a vulnerable group which requires special attention. The policies should detail the measures for their inclusion in mainstream education including exemptions from the documentation requirement in getting admissions. For example schools can adopt procedures for admissions based on affidavit community attestations or UNHCR issued identity cards.<sup>29</sup> This will ensure that the unique needs of the children of refugees are addressed systematically reinforcing India's commitment. Secondly NEP should promote localized and community specific learning models which can address the linguistic and cultural needs of the children of refugees for example schools which are situated in the region with high concentration of refugees could introduce bilingual curriculum that incorporate the refugees native language alongside regional languages.<sup>30</sup> Partnership with the NGO's ; community groups and international organizations like UNICEF can help to facilitate the design and implementation of such programs. NEP should also target financial assistance such as if scholarships and subsidies which can alleviate the economic barriers faced by the refugee families. Programs like midday meals and free distribution of school supplies which is already operational for disadvantaged Indian children should be extended to the children's of refugee. International organizations like UNHCR can facilitate the design and implementations of such programs ensuring sustainable development this will not ensure enhancement in enrolment and retention but will also reflect India's commitment to equitable access to education. And at the last educators who play a pivotal role in fostering inclusivity within classrooms it must be trained through various training programs these programs could focus on creating inclusive classroom environments managing linguistic diversity and addressing discrimination additionally.

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<sup>25</sup> id

<sup>26</sup> id

<sup>27</sup> "REFUGEE PROTECTION IN INDIA: INTERNATIONAL OBLIGATIONS AND NEED FOR LEGISLATION," vol 23 <<https://supremoamicus.org/wp-content/uploads/2021/01/Isha-Bhardwaj.pdf>

<sup>28</sup> "Education 2030: A Strategy for Refugee Education | UNHCR" (UNHCR) <<https://www.unhcr.org/media/education-2030-strategy-refugee-education>>

<sup>29</sup> id

<sup>30</sup> UNICEF, "Education for Refugee Children: Challenges and Opportunities" (2021)

### **Conclusion**

In India's journey towards an inclusive education system that is accessible and transformative, the New Education Policy (NEP) 2020 represents a watershed movement. India being a country assimilating people from different corners of the world must provide every child regardless of their socioeconomic background, the power of Education to build a better life. This will remain incomplete unless specific and categorical efforts are made to assimilate children's of refugee within the framework of New Education Policy 2020. Children of refugee are the most marginalized group in the society which is embodied in the principle articulated by Nelson Mandela : "Education is the most powerful weapon which you can use to change the world." Their inclusion in India's education system is not just a matter of moral and legal responsibility but also an investment in creating a more cohesive and equitable society.

By initiating the initiatives like Right to Education Act and Mid-day meal scheme which aims to uplift the disadvantaged communities, India as a nation has shown its commitment to inclusive education. However, the challenges faced by the children of refugee including documentation barriers, linguistic hurdles and socioeconomic constraints require smooth solution that can go beyond the generalized policies. The Void in new education policy on this critical issue is an opportunity lost but the same can be transformed into a rallying point for advocacy and reform by ensuring that the children of refugees are included in India's education framework. This will not only align with the India's obligation under the CRC but also reinforces the core values which are enshrined in the preamble of the Constitution of India

The inclusion of the children of refugee in the education system is not about the numbers or compliance with the international treaty rather it is about recognizing their potential as contributors to the society at large. Education will empower the children of refugee to rise above the limitations imposed by their circumstances offering them skills, someday even shape the future of their homeland if they return. Hence the new education policy ambitiously seeks to achieve universal enrolment and improve the quality of Education it must not overlook the opportunity to extend these benefits to those who are living on the margins

To this end we need categorical interventions such as recognition of refugee children as a vulnerable group, localized learning models, financial assistance and teacher sensitization program which are indispensable. These measures if implemented effectively can create a supportive ecosystem where children of refugees will not only survive but will thrive. As the father of the nation once said the "best way to find yourself is to lose yourself in the service of the others" by integrating the children's of refugee into the New Education Policy 2020 India can live up to the ideals it holds dear. The road ahead is challenging but it is not insurmountable.