



WHO IS A REFUGEE?

You are a refugee if :

You have fled across an international border from your country of origin and You have fled on a well founded fear of persecution based on your

- Race
 - Religion
 - Nationality
 - Membership of a particular social group and
 - Political opinion
- and

You are unable/unwilling to return to the country of your origin due to such fear.

CATEGORIES OF REFUGEES IN INDIA

- Persons to whom refugee certificates have been issued by the United Nations High Commissioner for Refugees (UNHCR). These include people from Afghanistan, Burma, Sudan, Somalia, Iran, Iraq, Congo, Ethiopia, Palestine, China, Liberia, Yugoslavia, Bangladesh, Rwanda, Kazakhstan, and Pakistan.
- Persons to whom no certificates have been issued by the UNHCR but are recognized by the Government of India. These include Sri Lankan Tamils, Tibetans, and Bangladeshi, comprising 1971 East Pakistan refugees and Chakmas.
- Persons who have not applied for refugee status or whose application for refugee status is pending.
- Persons whose application for refugee status has been rejected.

The 1951 Convention relating to the Status of Refugees defines a 'refugee' in Article 1 (2) "as a person who owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who not having a nationality and being outside the country of his former habitual

residence as a result of such events, is unable or owing to such fear, is unwilling to return to it".

- 142 countries have signed this convention;
- India has not signed this Convention

GRANT OF REFUGEE STATUS

In India, application for grant of refugee status has to be made to the UNHCR

- Fill in the application
- Give clear and specific details
- State your reasons for fleeing clearly
- Produce relevant documents in your possession
- Ask for an interpreter to assist you
- Speak boldly in the interview
- Do not conceal material facts
- You have a right to appeal once, against rejection of grant of status.

Internally Displaced Persons - are those who have been forced to flee their homes suddenly or unexpectedly in large numbers, as a result of armed conflict, internal strife, systematic violations of human rights or natural man-made disasters, and who are within the territory of their own country. Kashmiri pandits are an example of internally displaced persons in India.

Economic migrants - are those who, for reasons other than those contained in the refugee definition, voluntarily leave their country in order to take up residence elsewhere exclusively for economic considerations.

AS A REFUGEE YOU HAVE A RIGHT TO:

- Not be forcibly returned to your country of origin where you are likely to face persecution, torture or cruel, inhuman or degrading treatment and where your life or liberty would be threatened or violated (non-refoulement)
- Life and equal protection as guaranteed by the Constitution of India



- Not be deported except by due process of law
- Not be expelled
- Physical safety
- Protection against torture and slavery
- Protection against arbitrary arrest
- Equal protection by law
- Fair criminal proceedings
- Free access to courts
- Equality and non-discrimination
- Public education
- Freedom of religion
- Freedom of movement/freedom of peaceful assembly
- Family life and family/freedom of peaceful assembly
- Family life and family reunification

YOUR RIGHTS AS A REFUGEE WOMAN

- Protection against sexual and gender based violence like trafficking exploitation, prostitution, sexual abuse, rape
- To physical safety and non-discrimination
- To education
- To adequate health care
- To equality before law

RIGHTS ON ARREST

- You cannot be arrested after sunset and before sunrise
- Female constable has to be present when you are arrested
- Search and examination has to be by a female only
- You cannot be called to a police station for investigation
- You have to be kept up in a women's only lock up

YOUR RIGHTS AS A REFUGEE CHILD

- To birth registration and to acquire a nationality
- To education
- Against discrimination
- To leave any country with or without parents and to

- enter his/her own country, for the purpose of family reunification
- To participate in judicial and administrative proceedings affecting the child
- To special protection and assistance for children who are seeking refugee status or who are considered refugees
- To protection and care for children who are affected by armed conflict.

Rights on Arrest

- No remand to jail or police lock up for children and they must be sent to juvenile homes
- In case of children under 18 years of age, age to be verified by documents or medical examinations
- No imprisonment/death sentence to be awarded to the child
- Children of destitute prisoners must be taken care of by the state.

DURABLE SOLUTIONS

Voluntary Repatriation

If you are willing to return to your country of origin UNHCR assists you in obtaining travel documents, exit and tax clearance and re-entry formalities

Local Integration

If you are interested in obtaining Indian Citizenship approach Socio-Legal Information Centre (SLIC) for assistance.

ELIGIBILITY

You should have stayed in India for 10 years, or If you are married to an Indian national you should have completed 5 years of stay in India, and should be familiar with one Indian language

If arrested

- The police should inform you about your reasons of arrest
- The police arresting you should wear nametags and uniform



- If your premises are being searched, two independent witnesses should be always present
- You cannot be handcuffed without judge's permission
- The police should inform someone interested in your welfare about your arrest and the place where you are kept
- You are entitled to basic procedural rights and guarantees, including fair hearing
- You are entitled to basic facilities like food and medical care
- You have a right to medical examinations
- You can request for medical examination subsequent to your arrest
- The medical examiner must record all injuries on a written form
- You can request the magistrate to send you to hospital before police custody is granted
- You cannot be tortured or subjected to cruel, inhuman or degrading treatment or forced to make confession before the police or magistrate
- If a confession has been taken after torture, inform the judge immediately and retract it
- You can complain to court about torture
- When being interrogated you can consult your lawyer
- You have a right to demand a competent counsel at state expense from the court if you are poor
- You can apply to the court for release on bail after arrest
- You can be granted bail on personal bond
- You are entitled to premature release if you are terminally ill

Production in court

- You have to be produced before a magistrate within 24 hours of arrest and if not you can complain to the magistrate
- You cannot be remanded to custody in your absence
- You have a right to get copies of all documents of accusations filed
- You can demand a chair from the court to sit during trial

Custody

- You have a right to meet with family and friends, write and receive letters, receive books and newspapers
- Persons below 18 should be sent to observation home
- You have to get reasonable wages for your labour while in prison
- Transfer to prisons in far away places is not to be done

OBLIGATIONS

Your obligations as Refugees

- You have a duty to respect the laws and regulations of the country in which you have sought asylum
- You will be subject to prosecution in case you break any law, like any other person
- You are required to register at the Foreigners Regional Registration Office (FRRO) under Ministry of Home Affairs (MHA) and apply for a Residential Permit to stay in India

Steps for applying for Indian Citizenship

- Form has to be filled in a prescribed format
- An affidavit has to be made by the applicant
- Two Indians by birth who are known to the applicant have to give affidavits
- Advertisements have to be published in a newspaper
- These have to be submitted to the local Sub Divisional Magistrate's (SDN) office
- SDM forwards the same to the Foreigners Regional Registration Office (FRRO)
- FRRO sends the same for police verification
- Police sends it back to FRRO
- FRRO forwards it back to the SDM
- SDM sends the same to the Delhi Administration
- Delhi Administration forwards it to the Home Ministry
- Home Ministry takes the final decision
- In case the citizenship is granted the applicant has to pay the requisite fee, take an oath of allegiance and renounce his/her old citizenship.



YOUR RIGHTS AS A REFUGEE



SAMPLE BAIL APPLICATION

In the court of the (Magistrate number, if metropolitan or judicial, first class or second class)
MAGISTRATE, AT (Place where court is situated)
Case No :

(Your name and address)..... Applicant

Vs.

State of (State where you are being prosecuted)

(Police Station prosecuting you) Police Station..... Respondent

I (your name) accused in this matter state:

1. I am a refugee of Nationality and have sought asylum in India since
2. I had to flee my country as I was persecuted due
3. I can't go back to my country as I have a threat of being tortured or killed.
4. I was arrested by the police on (date of arrest) because of
5. I am a law-abiding person.
6. I have resided at (address) for (number of years at residence) years. The house is owned by (name of owner).
7. I work at (name and address of your employer). I have worked there for (number of years) years.
8. I have never been arrested before (write this only if true)
9. I would be allowed to consult or hire a lawyer
10. The facts alleged against me are as follows; (give the brief details of the case against you). I pray to this Hon'ble court that I be granted bail on the following amongst other grounds, which are listed without prejudice to each other
11. I undertake, not to abscond, or threaten any witness, or tamper with any evidence, and I will appear in court or at the Police Station if and when required. I will not indulge in any act that would defeat the ends of justice.
12. The chargesheet is filed and the investigation has been completed. I am not needed for investigation. Therefore further remand is not required) write this only if the chargesheet has been filed)
13. I am young (state your age) and therefore I should be protected from the adverse influences that I would be exposed to in jail. (use this only if you are under 21 years of age)
14. (Give details if you have been beaten). I therefore, ask that I be kept in judicial custody. I also wish to be taken to the hospital immediately.
15. My co-accused has been granted bail of Rs. _____/ on personal bond. I therefore, pray that I may be granted bail on the ground of parity (writ only if true)
16. I therefore pray that I be released on bail.

At (Place) this _____ day of _____ 200__ (Sign here)

Applicant

YOU CAN WRITE A BAIL APPLICATION ON A PIECE OF PAPER AND GIVE IT TO THE JUDGE ON THE VERY FIRST DAY THAT YOU ARE PRODUCED IN COURT IF YOU DO NOT HAVE A LAWYER