

## Open Letter to the Hon'ble Chief Justice of India

5th December 2025

Dear Hon'ble Chief Justice,

We, the undersigned former Judges, current advocates and the Campaign for Judicial Accountability and Reforms (CJAR), are writing with due respect to the Hon'ble Court, to convey our deep concern at certain unconscionable remarks made about Rohingya refugees on the 2nd of December 2025, by the bench of the Hon'ble Supreme Court that was hearing a plea alleging custodial disappearance of Rohingya refugees in India. The petition has been filed by Dr. Rita Manchanda who is a renowned writer, scholar and human rights activist specialising in conflict resolution and peacebuilding in South Asia with particular attention to vulnerable and marginalised groups, including forcibly displaced persons. For reasons given below, the remarks from the bench are contrary to core constitutional values. They have had the effect of dehumanizing Rohingya refugees whose equal humanity and equal human rights are protected by the Constitution, our laws and by international law.

As citizens committed to equity, human dignity and the moral foundations of justice, we are deeply troubled by the remarks made in the recent hearing, particularly the [reported](#) statements questioning the legal status of the Rohingya as refugees, equating them with intruders illegally entering India, the references to persons who dig tunnels to enter illegally, the questioning whether such entrants are entitled to food, shelter and education, the invocation of domestic poverty as a reason to deny basic constitutionally guaranteed entitlements to refugees and the suggestion that they be spared third degree measures, in their treatment in India!

We would like to bring to your notice that the United Nations has described the Rohingya as “the most persecuted minority in the [world](#)”. They are an ethnic minority in Buddhist majority Myanmar who have endured decades of violence and discrimination. Denied citizenship, the Rohingya are stateless. They have fled to neighbouring countries in waves over the past many years, escaping what has been described by the International Court of Justice as ethnic cleansing and genocide at the hands of the armed forces. They are fleeing to India, like centuries of refugees before them, seeking basic safety.

As the head of the judiciary, the Chief Justice is not just a legal functionary — but is also the custodian and final arbiter of the rights of the poor, the dispossessed, and the marginalised. Your words carry weight not simply in the courtroom but in the conscience of the nation and have a cascading effect on the High Courts, the lower judiciary and other government authorities. A remark that equates vulnerable persons (who in the case of the Rohingya include thousands of women and children) seeking shelter with “intruders” who “dig tunnels”, further dehumanises those fleeing genocidal persecution and weakens the moral authority of the judiciary. Further, invoking the plight of the poor in India to justify denying protections to refugees sets a dangerous precedent, being contrary to the principles of

constitutional justice. The Rohingya, as indeed any person residing in India, is entitled to the protections of Article 21 and not just protections from “third degree measures”. This fundamental right is available to an individual who is a citizen or any other person residing in India. In *NHRC v State of Arunachal Pradesh*, 1996 SCC (1) 742, this Hon’ble Court has held that, “the State is bound to protect the life and liberty of every human being, be he a citizen or otherwise”.

In this context, it is pertinent to point out briefly:

1. The Rohingya have a qualitatively different status of being refugees, as compared to illegal immigrants. Refugee status determination is declaratory in nature: a person does not become a refugee because of recognition, but is recognised because he or she is a refugee. It follows from this and from the obligation of non refoulment (which is a non derogable norm of customary international law) that a refugee has a right to be formally and individually determined as a refugee in order to formalise her status. Any refoulment, imprisonment or detention without having individually and formally determined their claim as a refugee, is therefore illegal. It is gutting the right to non-refoulment which the Courts have held to be a part of Article 21.
2. India has a Standard Operating Procedure for Foreign Nationals Claiming to be Refugees (2011 and updated in 2019). It defines refugee as a person who has “... grounds of a well founded fear of persecution on account of race, religion, sex, nationality, ethnic identity, membership of a particular social group or political opinion...”. This shows that there is no conflict between customary international law and established municipal practice.
3. India has always recognised refugees as having a qualitatively different status from migrants. India has a strong track record of hosting refugees of different profiles and has the experience in extending humanitarian protection while balancing national security interests and the concerns of its citizens. The government has issued special documentation to Tibetans and Sri Lankans, recognizing their status as refugees, and allowing them to access basic socio-economic rights. In the period just prior to the formation of Bangladesh in 1970-71, India allowed millions of refugees fleeing persecution from the authorities in erstwhile East Pakistan and the then Government people of India willingly contributed to ensure not only their safety but also for their health and other needs, till such time as they were resident within our borders. The Citizenship Amendment Act, in fact grants exemption from the provisions of the Foreigners Act to religious minorities (other than Muslims), fleeing persecution, from Bangladesh, Pakistan or Afghanistan. Numerous writ petitions questioning the discriminatory nature of the legislation are pending before the Court.

Judicial authority is built on the principles of constitutional morality, compassion and protection of human dignity. When those who flee violence and persecution are dismissed with rhetoric that is hostile to their very dignity, it threatens the foundational values of our Constitution and undermines public faith in the courts as a refuge for the vulnerable. Such remarks provide a reasonable basis for apprehension of prejudice on the part of the bench

against the rights of the Rohingya refugees and for concern that they will adversely affect public trust and confidence in the judiciary when it comes to protecting the rights of the most vulnerable amongst us. We therefore call upon you to reaffirm, in public statements, remarks in court and judicial verdicts, a commitment to constitutional morality based on human dignity and justice for all, regardless of origin. The majesty of the Supreme Court and your office is measured not merely by the number of verdicts or administrative measures but more by the humanity with which those verdicts are delivered and considered.

Regards,

1. Justice AP Shah, former Chief Justice, Delhi High Court
2. Justice K. Chandru, Former Judge, Madras High Court
3. Justice Anjana Prakash, Former judge, Patna High Court
4. Prof. Mohan Gopal, Former Director, National Judicial Academy
5. Dr. Rajeev Dhavan, Senior Advocate, Supreme Court
6. Mr. Chander Uday Singh, Senior Advocate, Supreme Court
7. Mr. Colin Gonzalves, Senior Advocate, Supreme Court
8. Ms. Kamini Jaiswal, Advocate, Supreme Court
9. Mr. Mihir Desai, Senior Advocate, Bombay High Court
10. Mr. Gopal Shankar Narayan, Senior Advocate, Supreme Court
11. Mr. Gautam Bhatia, Advocate, High Court & Supreme Court
12. Ms. Shahrukh Alam, Advocate, High Court & Supreme Court

Working Group, CJAR

- Prashant Bhushan - Advocate, Supreme Court
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- Alok Prasanna Kumar - Advocate and Co-Founder, Vidhi Centre for Legal Policy
- Venkatesh Sundaram - Lok Raj Sangathan
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- Anjali Bhardwaj - Transparency Activist, Founder Satark Nagrik Sangathan and co-convenor, National Campaign for People's Right to Information (NCPRI)
- Amrita Johri - Transparency Activist and working committee member, NCPRI
- Annie Raja - National Federation of Indian Women
- Beena Pallical- Beena- National Campaign on Dalit Human Rights
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- Siddhartha Sharma - Advocate
- Devvrat - Advocate, High Court and Supreme Court
- Vijayan MJ - Policy Analyst, Independent Researcher and Writer
- Vipul Mudgal - Director, Common Cause
- Koninika Ray - National Federation of India Women
- Meera Sanghamitra - Member, National Working Group (NWG), National Alliance of People's Movements (NAPM)

- Apar Gupta - Advocate & Co-Founder & Founder Director, Internet Freedom Foundation
- Anurag Tiwary - Advocate, High Court and Supreme Court