

Financial inclusion for refugees in India – a study on the practical access to banks and financial systems

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Abstract

India hosts over 200,000 refugees within its territory. In spite of this, it has not signed the 1951 Refugee Convention ('Refugee Convention'), nor does it have a law specifically addressing their stay or their rights. India's current domestic asylum framework is characterised by its lack of formal structure and is largely driven by geo-strategic interests in the region. The absence of a uniform and institutionalised legal framework and consequent lack of legal documentation, along with a general lack of awareness about refugees, has led to them being deprived of access to any financial institution or service in India.² Consequently, with no access to banks, refugees have had to primarily depend on the exploitative parallel economy for sustenance, with earnings and savings exclusively in cash.³ Over the years, this has resulted in refugees being largely excluded from the mainstream economy and livelihood opportunities within it.

The need for financial services was most acutely realised in the aftermath of the government's demonetisation policy (introduced in November 2016)⁴, which sought to remove existing 500- and 1,000-rupee notes from circulation, rendering them illegal. As per the government, besides targeting black-money, this was also a step towards achieving complete financial inclusion by transforming India into a cashless economy and ensuring a bank account for each individual. However, for refugees, with their cash savings rendered worthless, no access to banking services and difficulty in acquiring the new currency, the impact of the policy was devastating.⁵ Post demonetisation, the government's designation of 'Aadhaar', a 12-digit unique biometric ID issued to persons legally residing in India, as a core tool of its drive for socio-economic and financial inclusion, also had a deep impact on refugees as their eligibility to acquire this document was not clear. Owing to these policies, over the last two years, refugees in India have been completely relegated to the margins with no means to access the formal economy.

Against the aforementioned background, M.A.P, India's first and only refugee law centre, recognised an urgent need to initiate efforts to advocate for the financial inclusion of refugees. To this end, it conceived of a pioneering project

1 The author wishes to thank the Commonwealth Foundation (UK) for supporting this study. The author would like to acknowledge her colleagues at M.A.P, particularly Mr Aman, Financial Inclusion Consultant, who was integrally involved in this study and assisted in carrying out the research and engagements with various stakeholders. He also implemented the pilot studies discussed in this paper. The author would also like to thank Ms Hamsa Vijayaraghavan, Ms Pallavi Saxena, Ms Ishita Kumar, Ms Rhuta Deobagkar, Mr Prabhat Raghavan and Ms Sunethra Sathyanarayanan, who have assisted in both carrying out the study and providing inputs on this paper. Further, the author wishes to express her gratitude to all the refugee participants and officials at the following institutions who have guided this study: (a) United Nations High Commissioner for Refugees ('UNHCR') and its Implementing Partners ('IPs'), particularly the Socio-Legal Information Centre, Don Bosco, ACCESS (former livelihoods partner) and Fair Trade Forum India; (b) the office of Dr Shashi Tharoor, Member of Parliament; (c) officials at Unique Identification Authority of India ('UIDAI') and its enrolment centres; (d) officials of the Reserve Bank of India ('RBI'); (e) officials at the Ministry of Finance and other government departments; (f) members of Bangladesh Financial Intelligence Unit ('BFIU'); (g) Vidhi Centre for Legal Policy; (h) National Institute for Public Finance and Policy; (i) IDInsight; and (j) Sa-Dhan. None of them are responsible for any errors or interpretations in this report. The usual disclaimer applies.

2 Roshni Shanker and Ishita Kumar, On the Margins: How Demonetization has affected Refugees in India, *The Hindu*, November 7, 2017, available at: <http://www.thehindu.com/opinion/op-ed/on-the-margins/article19993587.ece> accessed: August 28, 2019).

3 Ibid.

4 Withdrawal of Legal Tender Status for ₹ 500 and ₹ 1000 Notes: RBI Notice, November 8, 2016, available at: https://rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=38520 (accessed: August 28, 2019).

5 See Padmapriya Govindarajan, The Trouble With India's Demonetization Gamble, *The Diplomat*, November 18, 2016, available at: <http://thediplomat.com/2016/11/the-trouble-with-indias-demonetization-gamble/> (accessed: August 28, 2019); Adnan Bhat, Demonetization Has Made Being a Refugee Harder, *The Wire*, November 24, 2016, available at: <https://thewire.in/82327/demonetisation-refugees-delhi/> (accessed: August 28, 2019).

in 2017 (the 'Project') to analyse the financial landscape in India from a refugee lens and engage with the refugee community and their interlocutors to: (a) identify barriers to inclusion; (b) constructively engage with concerned government authorities and financial institutions to highlight the legal vacuum and systemic gaps that act as roadblocks to refugees' access to financial services; and (c) identify and test avenues for increasing such access. This paper seeks to document the key findings of the Project and is intended to inform future interventions for financial inclusion of refugees in India.

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Overview of the Project

Objectives

The Project, supported by the Commonwealth Foundation, was started in December 2017 and completed in November 2019. The aims of the Project were as follows:

- undertake a comprehensive study of the evolving financial policies in India and identify legal avenues that refugees could use to access financial systems and services;
- conduct pilot studies to test the practical accessibility of the identified avenues for financial inclusion and share the findings of the studies with the refugee community and relevant stakeholders so as to inform future programmatic interventions;
- engage with the government and other relevant authorities to create awareness about the specific needs of this population, advocate for their financial inclusion and seek clarification on the implementation of current financial policies; and
- design and implement a targeted financial literacy programme so as to equip refugees in India with tools to initiate their inclusion in the mainstream economy.

Methodology

For the purpose of this study, M.A.P adopted a mixed research methodology which comprised of:

- *meetings and key-informant interviews* with refugee aid organisations to understand the existing level of access available to refugees and identify the main challenges to inclusion;
- *focus group discussions* ('FGDs') with a cross section of refugees to understand the demands of the community and factors that inhibit their participation in the mainstream economy;
- *desk review* of legal and other policy documents, to understand the relevant laws and policies of the government and the Reserve Bank of India ('RBI');
- *pilot studies* involving fieldwork with a carefully selected group of refugees, in order to understand the practical difficulties refugees face in accessing identity documents like Aadhaar, and financial products and services;
- *engagement with key stakeholders*, viz. bank officials, relevant government authorities, policy think tanks and relevant Civil Society Organisations ('CSOs') to raise awareness, seek clarity and explore potential alternatives with the aim of overcoming barriers to access to financial products and services.

Scope and limitations

The following limitations about the scope of the Project may also be noted:

- While access to financial services includes a wide ambit of services including credit and insurance instruments, given that refugees in India do not even have access to bank accounts, the Project focuses only on access to basic banking services that would allow refugees to transact, save, remit/receive funds, etc.
- The sample for field research was drawn exclusively from refugees who are under UNHCR India's protection and possess the documentation issued by the agency. This group typically lacks government-issued documentation and, therefore, faces greater barriers in accessing essential services.
- As the majority of the UNHCR-mandated refugees reside in New Delhi, the geographical extent of the engagement with refugees as well as with financial service providers, government authorities and other stakeholders was limited to New Delhi.
- Given that this is a preliminary study with a short timeline, restricted sample sizes were used for pilot studies.

Structure

This paper is structured as follows.

Section 1 provides the contextual background relevant to the study by giving an overview of India's asylum framework and the documentation issued to refugees.

Section 2 outlines the legal and policy issues around access to bank accounts and the impact of Aadhaar in accessing financial services in India.

Section 3 focuses on the barriers and challenges faced by refugees in India due to their exclusion from financial systems.

Section 4 sets out the possible avenues for financial inclusion of refugees based on the desk research undertaken as part of the Project.

Section 5 discusses the observations and findings of the pilot studies undertaken under the Project to test the practical viability of the avenues identified for refugees' financial inclusion.

Section 6 highlights some relevant global best practices.

Section 7 sets out the conclusions derived from the Project and makes recommendations to address the identified gaps.

1. India's refugee protection framework

1.1 Refugees in India

The Indian subcontinent, which is a confluence of different cultures, religions and ethnicities, has historically provided shelter to various persecuted communities such as the Jews, Parsis, etc.

Today, India is at the heart of refugee movements in the South Asian region, and hosts over 240,000 refugees and asylum seekers – one of the largest urban refugee populations in the world. The majority of refugees, around 200,000, are from Tibet and Sri Lanka. These refugees and asylum seekers from neighbouring countries (except Myanmar) are directly supported and issued documentation by the government.¹ The remainder are mainly from Myanmar and non-neighbouring countries such as Afghanistan, Somalia, DRC, Iraq, etc. that are currently experiencing conflict.² This group is supported and issued documentation by the UNHCR in New Delhi.

It must be noted that the two groups (i.e. the government-mandated refugees and the UNHCR-mandated refugees) have different documentation and corresponding rights.

1.2 India's commitment to refugee protection

As mentioned, India is not a signatory to the Refugee Convention and does not have a specialised domestic asylum law. Thus, refugees in India do not have a clear legal identity and are instead given *de facto* status by either the government or UNHCR. Within this context, refugees' existence in India is governed by a loose gathering of *ad hoc* executive policies,³ complementary legislation⁴ and judicial pronouncements,⁵ which are often influenced by the political considerations of the government in power. In the absence of a law, refugees in India technically fall under the ambit of the Foreigners Act, 1946, which governs the entry/stay of all foreigners within the Indian territory and does not make a distinction for refugees as a separate class. Thus, this law does not reflect India's long-standing asylum management practices that have accorded special humanitarian treatment to refugees as distinguished from other foreigners.

In fact, despite not being a signatory to the Refugee Convention, India has been a member of the Executive Committee of UNHCR since 1995 and has repeatedly reiterated its commitment to protecting refugees at international fora. In October 2018, for instance, the government, while renewing its commitment to protect refugees and to cooperate with UNHCR in discharging its mandate, stated: 'A number of States, not parties to the international refugee instruments, have shown a generous approach to hosting refugees. India is one of them with a continuing long tradition of playing host to a large number of refugees despite developmental and security related challenges. We continue to host them, entirely, using our own resources.'⁶

One of the most significant affirmations of this commitment was demonstrated by India when it became a signatory to the New York Declaration for Refugees and Migrants ('the Declaration'), which was adopted by 193 countries in September 2016.⁷ In doing so, India has expressed its solidarity with those forced to flee and agreed that protecting refugees and supporting the countries that shelter them are shared international responsibilities that must be borne more equitably.⁸ The Declaration set the stage for a new framework for refugee protection – the Global Compact on Refugees ('GCR'),⁹ a coordinated effort to strengthen international response to protracted refugee situations

1 UNHCR in India, available at: https://unhcr.org.in/index.php?option=com_content&view=article&id=18&Itemid=103 (accessed: November 28, 2019).

2 *What we Do in India*, available at: https://www.unhcr.org.in/index.php?option=com_content&view=article&id=8&Itemid=130 (accessed: November 28, 2019).

3 For instance, with respect to Tibetan and Sri Lankan refugees, both the Central and State governments of India have issued a number of directives that specify the nature of the documentation issued to this group and their specific rights. See, Tibetan Rehabilitation Policy, 2014, available at: <https://www.exiletibetans.com/countries/asia/india/tibetan-rehabilitation-policy-2014/> (accessed: November 28, 2019); and Department of Rehabilitation, Tamil Nadu Government, available at: http://www.tn.gov.in/rti/proactive/public/handbook_rehabilitation.pdf (accessed: August 28, 2019). However, there are no specific policies for refugees of other nationalities and they do not enjoy the same set of rights.

4 There is a body of complementary laws and policies which have been extended to refugees in India. For instance, the Right to Free and Compulsory Education Act, 2009 applies to all children residing in India, including those of refugees, which gives them access to government schools.

5 The judiciary has delivered judgments that have proven to be crucial to the protection offered to refugees in India. For instance, the Supreme Court has held that certain fundamental rights (Article 14 (Right to Equality) and Article 21 (Right to Life and Liberty)) of the Constitution of India should be extended to all foreigners, including refugees. See, *National Human Rights Commission v. State of Arunachal Pradesh*, (1996) 1 SCC 742.

6 *Statement by India at the General Debate at the 69th Meeting of the Standing Committee of the Executive Committee of the High Commissioner's Programme*, October 1–5, 2018, Geneva, available at: <https://www.pmindiaun.gov.in/pages.php?id=1832> (accessed: August 28, 2019).

7 New York Declaration for Refugees and Migrants, September 19, 2016, available at: <https://www.unhcr.org/new-york-declaration-for-refugees-and-migrants.html> (accessed: August 28, 2019).

8 Pallavi Saxena and Nayantara Raja, *The Imperative to Offer Refuge*, *The Hindu*, June 20, 2018, available at: <https://www.thehindu.com/opinion/op-ed/the-imperative-to-offer-refuge/article24203930.ece> (accessed: August 28, 2018).

9 *Report of the United Nations High Commissioner for Refugees*, General Assembly, Official Records, 73rd Session, 2018, available at: <https://>

and comprehensively address all stages of refugee protection, from reception to long-term solutions including self-reliance and financial inclusion. After having actively participated in the discussions, India has recently signed the GCR.¹⁰ In addition to this, India has previously signed a number of international human rights conventions and declarations that have a bearing on its obligations towards refugees.¹¹

1.3 India's asylum-granting process

1.3.1 Government's asylum-granting process

As mentioned earlier in this section, the majority of asylum seekers and refugees in India are from Tibet and Sri Lanka. These refugees, as well as those from neighbouring countries (except Myanmar), are directly issued documentation by the government,¹² typically in the form of an ID card, Residence Permit ('RP') or Registration Certificate, depending on their nationality. However, the process adopted by the government to grant this is managed largely through internal directives and departmental notifications and is not available in the public domain.

As a consequence of the difference in management of these two groups (i.e. government-mandated refugees and UNHCR-mandated refugees), refugees in India do not have a uniform set of rights or documentation.

1.3.2 UNHCR's asylum-granting process

As mentioned above, the government has mandated the UNHCR office in New Delhi to assess claims for asylum from Myanmar and non-neighbouring countries such as Afghanistan, Somalia, DRC, Iraq, etc.¹³ The agency maintains a record of the biometrics of each person who applies for asylum. To be recognised as a refugee by UNHCR, claimants are required to undergo a quasi-judicial refugee status determination process.¹⁴ This entails a rigorous interview and assessment of each individual case by UN officials to determine whether the asylum seeker meets the criteria set out in the Refugee Convention and should therefore be accorded refugee status. If an asylum seeker is recognised as a refugee, they have UNHCR's protection and can access the services provided by the agency and its IPs. Once a case is rejected by UNHCR, the person is no longer protected under the agency's mandate.

The following are the documents issued by the agency to asylum seekers and recognised refugees.

Under Consideration Certificate ('UCC')

When an applicant approaches UNHCR for asylum, they are initially registered as an asylum seeker and are issued a UCC which contains the file number assigned to the case and photographs of the applicant and their family members (if any). The UCC acts as proof of the applicant's status as an asylum seeker before UNHCR and, therefore, protects the person from deportation/detention during the pendency of their case.

Refugee Card

If UNHCR, after assessing the asylum seeker's case, recognises them as a refugee, it issues a card which is in the form of a smart card with two micro texts and a chip. These cards are valid for a minimum period of two years and subject to renewal on the basis of review. While the card allows refugees basic access to health and education services and protects them from arrest and deportation, it has very limited recognition due to the lack of awareness about UNHCR and refugees among authorities and the local population.¹⁵

Long-Term Visa ('LTV')

Since 2012, the government has also allowed refugees holding Refugee Cards to apply for an LTV.¹⁶ In addition to having the value of being a government-issued documentation, it also gives refugees the right to enrol for higher education and to seek employment in the private sector.¹⁷ LTVs are issued by the Foreigner Regional Registration Offices ('FRRO') of the Ministry of Home Affairs ('MHA') after individual assessment of each application, and have so far been issued to a very small number of refugees. The validity of the LTV varies from three to 12 months, depending on the profile and nationality of the applicant; there is in fact no clarity on why some are issued visas for a shorter duration than others.¹⁸ These visas are renewable; however, they cannot be renewed beyond a period of five years. As per UNHCR's estimate, only 500–600 refugees (mostly Afghans and Chin refugees from Myanmar) hold a valid LTV.

www.unhcr.org/gcr/GCR_English.pdf (accessed: August 28, 2019).

¹⁰ *Ibid*, see paras 70, 71, 97, 98 and 99.

¹¹ These include: Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; International Convention on the Elimination of All Forms of Racial Discrimination; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Elimination of all Forms of Discrimination against Women.

¹² *Who we Help*, available at: https://www.unhcr.org.in/index.php?option=com_content&view=article&id=10&Itemid=134 (accessed: August 28, 2019).

¹³ *Ibid*.

¹⁴ *Supra* note 7.

¹⁵ Source: Information provided during FGDs with community leaders of Afghan, Burmese and Congolese refugee communities.

¹⁶ Long Term Visas, para 5, available at: https://mha.gov.in/PDF_Other/AnnexVI_01022018.pdf (accessed: August 28, 2019).

¹⁷ *Ibid*.

¹⁸ *Supra* note 20.

LTVs are issued purely at the discretion of the FRRO and no reasons are given for rejection of an application. In fact, an increase in the incidence of non-issuance of LTVs has been observed.¹⁹

Further, some refugees have been granted an RP or Stay Visa when they have applied for an LTV. While these documents also allow the holder to stay legally in India for a fixed period of time, they do not allow them to seek employment or pursue higher education in India. However, all these documents, being government-issued, are more widely recognised than the Refugee Card and have, in the past, reportedly allowed the holder easier access to services such as obtaining a SIM card, renting accommodation, seeking medical care at a government hospital, etc.²⁰

Other documents

Some refugees may have other documentation as well. For instance, given that a sizeable number of refugees enter India through legal routes, they also have their national passports. However, the Indian visa issued to them in most cases would have expired. A handful of refugees may also possess rent agreements, birth/death certificates and utility bills.

19 *Supra* note 20.

20 *Supra* note 20.

2. Banking policies and regulations

As discussed in Section 1, India does not have laws for the reception and management of refugees. In fact, the term 'refugees' finds no mention under domestic law. Therefore, Indian banking regulations do not contain a framework for dealing with refugees. Given that these regulations do not make a distinction based on issues like nationality, gender, etc. as such, the same rules that apply to every citizen should also apply to refugees. This section sets out the applicable banking and related laws that have an impact on refugees' access to financial services in India.

2.1 *Know your customer ('KYC') policy*

In order to open bank accounts in India, the bank will require its customers to fulfil the standard KYC requirements.²¹ The KYC procedures are regulated by India's central bank, the RBI, through the Know Your Customer (KYC) Direction, 2016 ('Master Direction')²² together with the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 ('PML Rules').²³

In order to open bank accounts, all banks, even alternative payment banks (like mobile banking apps), must comply with the KYC norms under the Master Direction.²⁴ In order to complete this due diligence, banks have to seek some mandatory information and documents to establish the address and identity of customers.²⁵ Such documents include:

(a) Permanent Account Number ('PAN') card, an identity card used for the purpose of payment of income tax in India or 'Form no. 60' under the Income Tax Rules if one does not have a PAN card and is not liable to pay taxes in India.

(b) One of the following Officially Valid Documents ('OVDs'): (i) passport; (ii) driving licence; (iii) Aadhaar card; (iv) voter ID card; (v) employment card issued by the government; or (vi) a letter issued by the National Population Register. In some instances, customers may also be allowed to submit alternative documents (such as utility bills etc.) provided they can subsequently present an OVD within three months. Foreign nationals can also use documents issued by the foreign governments or their embassies as proof of address.

Most of the aforementioned documents are not available to non-citizens (voter ID card, PAN card, employment card, etc.). Also, given the circumstances under which refugees flee from their home countries, they typically do not have access to the documentation which other foreigners residing in India may have (such as visas, valid passports, letters from home country embassies/missions, etc.). It is, therefore, the lack of documentation combined with their tenuous legal status that poses the biggest hurdle to them accessing banking services in India.

2.2 *The Aadhaar policy*

As discussed in Section 1 above, in the months following the demonetisation policy, the government designated Aadhaar as a mandatory tool for social and financial inclusion.²⁶ In furtherance of this objective, the RBI amended the Master Direction, on April 20, 2018, to make Aadhaar a mandatory document for accessing any financial service, for those who are eligible for enrolment.²⁷ This included not just traditional financial services like opening/maintaining physical bank accounts but also any digital, mobile or other non-traditional banking services.²⁸

Given that the change in policy took place soon after the Project was commenced, the Project focused heavily on the ability of refugees to acquire Aadhaar, as without it they were at risk of being completely excluded from all mainstream systems.

As per The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (the 'Aadhaar Act'), anyone residing in India for 182 days or more in the 12 months immediately preceding the date of application for enrolment is principally eligible for Aadhaar (a requirement which most refugees in India would meet).²⁹ However, given the strong misperception of refugees being illegal migrants, fear of authorities within the community and the lack of government-issued documentation, most refugees did not attempt to enrol for Aadhaar. This led to them not only being unable to access financial services, but also losing access to existing services (education, health, etc.).

21 KYC is the process by which a bank/financial institution identifies and verifies the identity of its clients. Such guidelines were introduced in many jurisdictions to prevent banks/financial institutions from being used for money laundering or terrorist financing activities.

22 Master Direction – Know Your Customer (KYC) Direction, 2016, amended as on August 9, 2019, available at: https://rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=11566 (accessed: August 28, 2019).

23 Prevention of Money-laundering (Maintenance of Records) Rules, 2005, available at: <https://dor.gov.in/acts-list?page=3> (accessed: February 12, 2019).

24 Guideline No. 8, Annex, Operating Guidelines for Payment Banks, October 6, 2016, available at: <https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT8012D3D3858D194184981CAF033321AA26.PDF> (accessed: November 28, 2019).

25 Supra note 27, see Section 2(ix) and Section 16.

26 Aman and Roshni Shanker, *Identity in Exile*, Indian Express, May 18, 2018, available at: <https://indianexpress.com/article/opinion/columns/supreme-court-rohingya-refugees-aadhaar-card-act-uidai5180821/> (accessed: November 29, 2019).

27 Master Direction – Know Your Customer (KYC) Direction, 2016 (as updated on July 12, 2018), available at: <https://rbidocs.rbi.org.in/rdocs/notification/PDFs/18MDKYCD8E68EB13629A4A82BE8E06E606C57E57.PDF> (accessed: November 28, 2019).

28 Supra note 29.

29 Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, Section 3, available at: <https://uidai.gov.in/about-uidai/legal-framework.html> (accessed: November 29, 2019).

However, the government's move to make Aadhaar mandatory for accessing rights and public services was challenged before the Supreme Court on the grounds that it lacked legislative backing and violated the right to privacy guaranteed under the Indian Constitution. In September 2018, in a landmark judgment, the Court *inter alia* ruled that Aadhaar cannot be linked to essential services.³⁰ Subsequently, the Parliament passed the Aadhaar and Other Laws (Amendment) Act, 2019 to amend both the Aadhaar Act and the PML Rules to reflect the Court's decision.³¹ Aadhaar can now be used for KYC purposes by banks only if the customer voluntarily submits it.³²

Further, in August 2019, the RBI also updated the Master Direction to make Aadhaar one of the many documents that customers could use to fulfil the KYC requirements.³³ This updated version has been discussed in the previous section. However, while Aadhaar is no longer an essential document to access financial services, the pilot studies and engagements conducted under this Project indicated that local banks and institutions continue to ask refugees to produce it in order to open bank accounts. Therefore, while the policy in this regard has been updated in compliance with the Supreme Court's order, in practice, Aadhaar continues to be an important (if not essential) document for financial inclusion. Further, given that refugees are usually unable to produce any of the other documents required for KYC purposes, enrolling for Aadhaar will facilitate their access to banking services in India. In light of this, despite the change in policy towards the end of the Project, the research and findings presented in this paper continue to be relevant.

30 *Justice K.S. Puttaswamy (Retd) v. Union Of India* Writ Petition 494 of 2012, available at: https://www.supremecourtindia.nic.in/supremecourt/2012/35071/35071_2012_Judgement_26-Sep-2018.pdf (accessed: February 12, 2019). everthelessness of Aadhaar andntioned in the KYC guidelinesmentslegal residents in India.

31 The Aadhaar and Other Laws (Amendment) Bill, 2019, Section 27, available at: <https://www.prsindia.org/billtrack/aadhaar-and-other-laws-amendment-bill-2019> (accessed: August 28, 2019).

32 *Parliament Passes Aadhaar Amendment Bill*, The Economic Times, July 8, 2019, available at: <https://economictimes.indiatimes.com/news/politics-and-nation/parliament-passes-aadhaar-amendment-bill/articleshow/70130501.cms> (accessed: November 28, 2019).

33 Supra note 27.

3. Refugees and financial inclusion barriers

As highlighted above, the lack of access to financial services combined with the inability to access Aadhaar has led to the steady marginalisation of the refugee community from the mainstream in the last three years. This section discusses the practical challenges faced by refugees owing to their exclusion from formal financial systems in the aftermath of demonetisation.

3.1 FGDs and engagements with interlocutors

In the first phase of the Project, M.A.P organised a series of FGDs between January 2018 and March 2018 to understand the financial requirements and the needs of the refugee population at the initial stages of the Project. The participants for the FGDs were identified from all key refugee groups in India, namely, Afghans, Burmese, Congolese and Rohingyas. Further, consideration was also given to gender, specific vulnerabilities, education levels, age, employment status, etc. of the participants. The identification of participants also considered the need for a sample of persons that had varied levels of access to financial institutions and had gained some access to formal banking via different means. This was done to ensure that the findings would capture diverse concerns across the board. It must be noted that all the discussions are also reflective of M.A.P's continued interaction with other refugees in the course of this Project and other programmes run by the organisation.

The FGDs sought to map the overall experience of refugees in accessing services, especially financial, and to determine the issues and challenges they encounter in doing so. In particular, participants were asked questions on their methods of and preferences for cash management and usage of formal saving options. Further, the discussions also focused on their current access, if any, to bank accounts, digital payment avenues and other financial services. Keeping in mind the contextual background, participants were also asked about the effect that the 2016 demonetisation policy had on their day-to-day lives and the impact of Aadhaar becoming a mandatory document for accessing essential services.

During the Project period, M.A.P also conducted a series of meetings with officials from UNHCR India's protection and durable solutions team and its IPs to map their previous and ongoing efforts towards facilitating the socio-economic integration of refugees, with a particular focus on those aimed at their financial inclusion.

These engagements helped M.A.P to gain a clear understanding of: (a) the challenges faced by refugees due to exclusion from the formal economy; and (b) the current barriers to financial inclusion. The key takeaways from the discussions are summarised below.

3.1.1 Challenges due to exclusion from the formal economy

With the government increasingly using banks as institutional drivers for a cashless economy, the need for bank accounts has become more pronounced. In fact, one of the objectives of the demonetisation policy was to transform India into a digital economy, which would require every individual to be recognised formally in the mainstream economy. In such a climate, refugees agreed that a bank account had become a basic necessity for them in India. Some of the challenges of exclusion highlighted by the community and their interlocutors are as follows.

Loss of access to essential services: Having a bank account became crucial to accessing essential services as most service providers refused to accept cash payments. As a consequence, refugees were finding it difficult to use services which they previously had some access to. For example, refugee children enrolled in government schools were being asked to open bank accounts and produce documentation so as to be able to take their exams.

Lack of employment opportunities: Employers were increasingly unwilling to give refugees work if they did not have a bank account and an Aadhaar card. As a result, even refugees with professional qualifications were confined to the informal sector as daily wage labourers, and had become extremely vulnerable to exploitation.

Increased dependence on touts: The imposition of the Aadhaar requirement made it difficult for refugees to access institutions that had earlier allowed them to receive money from their relatives abroad, an important source of financial assistance for them to sustain themselves in India in the absence of accessible avenues for employment. This had increased their reliance on exploitative touts and local agents who were charging hefty commissions for routing their funds from outside India.

Impact on women and children: The effect of demonetisation was particularly severe on vulnerable groups like women and children who, due to the lack of any means to access money and essential services, became completely dependent on the male members of their community. Many of them reported being exploited and abused by touts/agents and even their own family members because of their economic vulnerability.

3.1.2 Barriers to inclusion

Some of the barriers to financial inclusion identified through the discussions are as follows.

Lack of documentation and legal status: The absence of a uniform and institutionalised legal framework and lack of state-issued documentation, along with a general lack of awareness about refugees, pose the biggest challenges to refugees' ability to initiate their inclusion into the formal economy.

Ad hoc policies: There was no standardised practice in respect of refugees' access to financial services. While UNHCR had in the past tried to get refugees access to banks and had made some inroads in terms of opening accounts in local

banks, these were mainly based on personal relationships with the concerned branch/regional managers and did not reflect a consistent or sustainable approach adopted by banks for serving this population. Therefore, a more formal and definitive solution was required.

Requirement for Aadhaar: Refugee participants highlighted that there was no clear or reliable information within the community as to whether they were *eligible* to enrol for Aadhaar. In fact, many also spoke of a deep-rooted fear of authorities which made them apprehensive of approaching Aadhaar officials to understand their eligibility. Given that only legal residents are eligible to apply for Aadhaar, some participants stated that they feared that they would get detained if they obtained the card as the authorities were likely to presume that it was procured illegally.

Racial discrimination: The FGDs revealed that some refugee communities, like those from the African continent or from Myanmar, experienced racial discrimination at an institutional level when they attempted to access banks and financial services. Consequently, many were turned away by local banks and financial institutions even when they had valid documentation to open bank accounts.

4. Potential avenues for financial inclusion

Based on the information collected during these engagements, M.A.P undertook a comprehensive review of the applicable financial laws and policies with the objective of identifying possible legal avenues that could be explored to allow refugees to access financial services in India. This section discusses the key findings of the research.

4.1 *Small bank accounts*

A possible flexibility in the PML Rules that refugees could use, in the short term, is the 'small bank account'.³⁴ These accounts were introduced by the RBI with the aim of helping students, migrant workers and people who have problems furnishing proof of address and identity to access banking services.³⁵ Such an account can also be maintained in payment banks.³⁶

A small bank account can be opened by a bank in case the individual customer does not have an Aadhaar number/enrolment number and a PAN card. Further, none of the OVDs prescribed under the Master Direction are required, and the account can be opened simply by submitting the relevant bank form along with a self-attested photograph. However, these accounts have the following limitations: (a) the aggregate of all credits in a financial year cannot exceed rupees one lakh; (b) foreign remittances are not allowed to be credited into the account; and (c) they remain operational for a period of 12 months and if the customer wants an extension, they will have to furnish the prescribed documents as per the Master Direction.

While small bank accounts come with a number of operational restrictions, they could nevertheless be the first step for refugees to access formal financial systems and would go a long way in helping them carry out essential day-to-day transactions. In fact, when M.A.P met with officials from the Financial Inclusion and Development Department ('FIDD') of RBI, the officials stated that small bank accounts could be made available to refugees and that it would allow them some flexibility in fulfilling the KYC requirements.³⁷ Subsequently, the RBI bank officials, in response to an email sent by M.A.P seeking clarity on the avenues available to refugees for opening bank accounts, confirmed in writing that refugees are eligible to open small accounts with their existing documents.³⁸ Therefore, this was identified as a potential avenue and was tested through the pilot study. The findings of the pilot study are discussed in Section 5 below.

4.2 *Local banks and financial institutions*

As discussed in Section 3, our interaction with UNHCR revealed that refugees had some success in opening bank accounts before demonetisation was introduced. The fact that some refugees who participated in the FGDs had operational bank accounts supports this. In fact, in past research by M.A.P, it was observed that banks in the refugee-populated areas were keen to open accounts for refugees and were willing to engage with UNHCR to come up with a workable solution.³⁹

Further, it was observed that local bank offices had in the past often relaxed the KYC requirements for this population and had opened a limited number of bank accounts by allowing refugees to produce alternative documents such as the UNHCR Refugee Card, passports/visas, utility bills, rent agreements, etc. for proof of identity and residence. Therefore, M.A.P identified local banks as a potential avenue for initiating the financial inclusion of refugees and implemented a pilot study to constructively engage with them to create awareness about the refugee population and advocate for the relaxation of the KYC norms. The findings of the pilot study are discussed in Section 5 below.

4.3 *Eligibility for Aadhaar*

As discussed in Section 1, the Aadhaar Act allows any individual who has legally 'resided' in India for the prescribed period of time to apply for Aadhaar.⁴⁰ Neither the Aadhaar Act nor the Aadhaar (Enrolment and Update) Regulations, 2016 ('Enrolment Regulations')⁴¹ require proof of citizenship for enrolment. The only requirement is that the individual fulfils the residence requirement and submits proofs of identity, date of birth and address.⁴²

Therefore, it is clear that the Aadhaar Act and the Enrolment Regulations do not exclude any category of legal residents

34 Prevention of Money-laundering (Maintenance of Records) Third Amendment Rules, Rule 2, 2010, GSR 980(E) available at: <https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=6240&Mode=0#A> (accessed: November 28, 2019); RBI Circular RBI/2010-11/389, January 27, 2011, available at: <https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=6240&Mode=0> (accessed: February 14, 2019).

35 *RBI's Recent Simplified KYC Measures For Public Awareness*, RBI Press Release, August 26, 2014, available at: https://www.rbi.org.in/scripts/BS_PressReleaseDisplay.aspx?prid=31935 (accessed: November 28, 2019).

36 Guidelines for Licensing of Payments Banks, November 27, 2014, available at: https://rbi.org.in/scripts/bs_viewcontent.aspx?Id=2900#A1 (accessed: February 12, 2019).

37 Source: Meeting with Mr Vivek Srivastava and Ms Seema Jain, FIDD, RBI, New Delhi, December 17, 2018.

38 Email from Mr Gautam Surabhi, Anti-Money Laundering Division, RBI, November 26, 2019.

39 *Refugee Protection in India: Access to Economic and Social Rights*, The Ara Trust, pp.18–19 (September, 2015).

40 *Supra* note 34.

41 *Aadhaar (Enrolment and Update) Regulations, 2016*, available at: https://uidai.gov.in/images/regulation_1_to_5_15092016.pdf (accessed: November 28, 2019).

42 *Ibid*, Regulation 10(2) read with Schedule II.

in India, including refugees.⁴³ In fact, the UIDAI, the authority designated to issue Aadhaar, has also emphasised that Aadhaar was designed to be inclusive and was therefore not linked to citizenship.⁴⁴ This is amply clear from the Enrolment Regulations, which allow Aadhaar centres to rely on an 'indicative list' of supporting documents for verification of identity, address and date of birth,⁴⁵ thereby permitting the flexibility to produce documents not specifically mentioned in the Enrolment Regulations. Additionally, if a resident is unable to provide *any* documentary proof of identity or address, they can be enrolled through:

a letter of introduction from any among a list of introducers designated by a Registrar⁴⁶ or the regional office of the UIDAI ('Introducer Method');⁴⁷ or

on the basis of the head of family⁴⁸ (father, mother, spouse, etc.) who already holds an Aadhaar card and with whom the applicant can establish a relationship ('HoF Method').⁴⁹

Consequently, refugees who: (i) are registered with the government and/or UNHCR (and are thus legal residents); (ii) meet the residence requirement; and (iii) can submit the prescribed documentation, are eligible for enrolment under the Aadhaar Act. In fact, it has been reported that Sri Lankan and Tibetan refugees have been issued Aadhaar cards based on their government-issued documentation.⁵⁰ When M.A.P met with the officials concerned at the UIDAI to seek clarity on refugees' eligibility to apply for Aadhaar, they stated that while they do not have a clear policy on the matter, any legal resident who has a valid proof of ID and residence should be eligible.⁵¹ They also mentioned that an LTV could potentially be used for Aadhaar enrolment as it was a government-issued document. Therefore, drawing on these interactions, M.A.P conducted a pilot study with refugees who had a varied range of documentation to understand their practical access to Aadhaar. The pilot study is discussed in Section 5 below.

43 It is noteworthy that Ajay Bhushan Pandey, ex-CEO of the UIDAI, had acknowledged in the Supreme Court in the *Puttaswamy* case that a foreign national fulfilling the residence criteria is eligible for Aadhaar, provided that the individual submits the acceptable identity and address document as per the UIDAI 'valid list of documents'. See, *K.S. Puttaswamy and Anr v. Union of India, Write Petition No. 494 of 2012*, available at: <https://drive.google.com/file/d/1XdIRkzGqnUCynJ0d7N4xZYDzYmylUe6K/view> (accessed: November 28, 2019).

44 *Ibid.*

45 *Supra* note 46.

46 Section 2(s) of the Aadhaar Act, and Regulation 2(o) and 7(1) of the Enrolment Regulations. A Registrar is an entity authorised and recognised by the UIDAI for the purpose of enrolling individuals. Registrars are primarily officials from state governments, central ministries, banks and public sector organisations that have signed an MOU with UIDAI for enrolment of residents.

47 *Supra* note 46, Regulation 10(4)(a) read with Regulation 2(m).

48 *Supra* note 46, Regulation 2(k).

49 In such cases, (a) the HoF of a resident must possess the required supporting documents that were used for their enrolment; (b) the resident must be able to furnish proof of relationship; and (c) the proof of relationship and the supporting documents of the HoF must record the same address for the family member and the head of family.

50 T. Ramakrishnan, *Time to go home, maybe, but is home Lanka or T.N.? The Hindu*, July 1, 2017, available at: <http://www.thehindu.com/news/cities/chennai/time-to-go-home-maybe-but-is-home-lanka-or-tn/article19195970.ece> (accessed: November 28, 2019).

51 Source: Meeting with UIDAI officials, Mr Narendra Bhooshan and Mr Ashok Kumar, Enrolment & Updation Division, UIDAI, May 11, 2018.

5. Pilot studies

Based on the research discussed in Section 4, M.A.P designed and implemented the following two pilot studies to test:

- (a) whether banks were allowing refugees to open small bank accounts and were willing to relax the KYC requirements for this population; and
- (b) whether refugees who fulfil the eligibility criteria under the Aadhaar Act were able to procure the document.

This section discusses the methodology, results, identified barriers and key takeaways of the aforementioned pilot studies.

5.1 Access to local banks and financial institutions – a pilot study

The study was conducted between February 2019 and May 2019 and involved refugee participants with varied profiles and nationalities (Afghan, Congolese, Sudanese and Burmese). The participants were chosen with the help of UNHCR, its IPs, and through M.A.P's own networks.

The participants were selected keeping in mind the varied types of documentation that they held, as the idea was to understand the relative utility of each document. Almost all of them had their passports, UNHCR cards, rent agreements or a combination of these. Some of them also had LTVs and the PAN card. Further, some of them had the Aadhaar card, as a result of their participation in M.A.P's Aadhaar pilot (discussed below). Thus, the sample group was fairly representative of the kind of documents refugees possess in India. Under this study, 46 attempts were made to open bank accounts across 22 banks⁵² in New Delhi. Project staff were mindful to visit banks in neighbourhoods familiar with refugee populations and those which were not, in order to capture comprehensive data. The findings of the study are as follows.

5.1.1 Results

Out of the 16 participants, six were able to open bank accounts in three banks.

The following documents were accepted by banks with different degrees of success: rent agreements, UNHCR Refugee Card, LTVs, PAN card, police verification documents, foreign passports, and letters from the embassy confirming the applicant's place of residence in New Delhi.

Banks located in refugee settlement areas were more likely to engage with and provide services to the community.

Refugee women were more successful in opening bank accounts than refugee men.

Impact story

Sultana, a fashion designer from Afghanistan, who was forced to flee to India in the wake of the Taliban banning all forms of art in her country, was granted asylum in 2010. Alone in India, she was struggling to earn a living because of the lack of any clear avenues. In 2016, she became the lead artisan of M.A.P's livelihood initiative, Atiq, which provides a transformative space for Afghan refugee women to use their skills in traditional embroidery to secure a sustainable livelihood. However, the group was struggling to commercialise its artwork as none of the artisans had bank accounts or government-issued documentation. As a participant in the pilot studies, Sultana was able to get Aadhaar and subsequently a bank account, to be used exclusively for Atiq. This allowed the group to set up their first exhibition in a popular Delhi handicrafts centre and reach out to over 10,000 potential customers. Having received a tremendous response to their products in the Indian market, the artisans are currently in the process of renting a permanent work space and including more artisans in Atiq to expand the business.*

**Name changed to protect identity.*

5.1.2 Barriers

Lack of standardised practice: The study highlighted that there is no standardised policy among banks when it comes to providing services to refugees and, even within the same bank, different branch offices had different practices. As a result of this limitation, it was not possible to draw uniform results. Although Aadhaar and the LTVs were widely asked for, even these documents, despite being government-issued, did not work similarly across different banks.

Lack of familiarity/empathy with refugees: There was very little awareness about refugees among banks and financial institutions in New Delhi. In fact, some participants reported that informing the bank officials about their refugee status was counterproductive. For example, two of the participants who had valid documentation were initially told that they were not eligible to open accounts as they were refugees. However, these participants were able to open accounts at the same banks once they clarified their legal status and produced the Refugee Card.

52 The study was conducted across branches of the following banks in New Delhi: Punjab National Bank, Axis Bank, Oriental Bank of Commerce, Syndicate Bank, HDFC Bank, Indian Bank, ICICI Bank, Yes Bank, Central Bank of India, ICICI Bank, State Bank of India, Kotak Mahindra, Bandhan Bank, JK Bank, Karnataka Bank and Allahabad Bank.

Small bank accounts: There was very little knowledge about small bank accounts among the officials and those of them who were aware believed that this flexibility was only available to Indian citizens.

Restrictive conditions on accounts: Even where the participants were able to open accounts, banks imposed restrictions on remittances, credit and internet banking. Interestingly, these restrictions are not enumerated in the Master Direction or any policy document.

High initial deposits: Even if bank accounts can be opened, initial deposits are very high at many of the private banks. Participants who could fulfil the KYC requirements stated that they would not be able to maintain these accounts as most of them do not have a regular source of income.

5.1.3 Way forward

Constructive engagement with authorities: There is a need for sustained engagement with the RBI and the Finance Ministry in India to devise a uniform policy to facilitate refugees' access to banking services. Banks, particularly those located in refugee-populated areas, should be directed to include the UNHCR card and/or government-issued visas as valid documents in fulfilment of the KYC requirements. To this end, M.A.P has successfully worked with a number of think tanks to highlight the urgent need for refugees to be included within the current financial inclusion drive to the RBI.⁵³

Constructive engagement with local banks: Further, refugees and their interlocutors need to advocate for local banks to extend the flexibilities that are available under the PML Rules and the Master Direction. For example, given that the RBI has confirmed that small accounts can be opened for refugees, local banks should be made aware of this and asked to facilitate it.

Awareness generation: Refugees and their interlocutors need to make a concerted effort to create more awareness about the community, their unique status in India, the documents available to them, etc. and work with local banks to find potential avenues that refugees could use to initiate their inclusion into financial systems. The lack of access to these services will only increase refugees' reliance on the parallel economy.

5.2 Access to Aadhaar: A pilot study

The study was conducted between February 2018 and October 2018, and involved refugee participants with varied profiles and nationalities (Afghan, Congolese, Iranian and Burmese). The participants were chosen with the help of UNHCR, its IPs, and through M.A.P's own networks. The selection of participants was made with due consideration given to diversity in terms of age, gender, nationality, vulnerability and the documentation available to them. To this end, the participant pool comprised 16 refugees: two men and 14 women; out of these, three of the participants were also part of the bank pilot study. Further, the participants presented a varied set of documentation. While some possessed LTVs or bank passbooks, others had only their foreign passports and the UNHCR Refugee Card. The idea was to understand the validity of each of these documents in procuring Aadhaar.

Under this study, 22 attempts were made across 12 Aadhaar enrolment centres in New Delhi.⁵⁴ The findings of the study are as follows.

5.2.1 Results

Out of the 16 participants, six were able to get an Aadhaar card.

The following documents were accepted by the enrolment centres with different degrees of success: rent agreements, LTVs, foreign passports, UNHCR cards and UNHCR letters of support.

Having procured Aadhaar, six participants were able to successfully open bank accounts and those who already had bank accounts reported that they were able to meet the KYC requirements using Aadhaar.

Participants who got Aadhaar under this study were able to use it to set up successful community-led businesses, obtain employment in private institutions and even enrol themselves in universities to continue their education.

Impact story

Taiba, a student from Iran, who was forced to flee to India due to her political opinion, was granted asylum in 2012. Since she was a single woman in India with no opportunities to use her qualifications, she was forced to work as a domestic helper in an Indian household for very little money. As a participant in the pilot studies, Taiba was able to get an Aadhaar card which allowed her to apply for higher education at a prestigious university. She is currently pursuing a course in nursing and also works as an interpreter in local hospitals to earn a living.*

*Name changed to protect identity.

⁵³ Source: Letter from the RBI dated September 6, 2019 stating that M.A.P's concerns had been forwarded to the Ministry of Finance for necessary consideration and action.

⁵⁴ The study was conducted across 12 centres in New Delhi in the following areas: Lajpat Nagar, Jangpura, Defence Colony, Bali Nagar, Saket, Mehrauli, Sangam Vihar and GTB Nagar.

5.2.2 Barriers

Lack of familiarity with refugees: At most enrolment centres, the officials were ill-informed about refugees' eligibility for Aadhaar even if they met the criteria under the Aadhaar Act. While the officials were aware that citizenship is not a prerequisite for Aadhaar they were reluctant to enrol refugees as they were not clear about their legal status. The majority of them were also not familiar with UNHCR and the documentation issued by the agency.

Lack of standardised practice: The pilot highlighted that there is no standardised guidance available to UIDAI officials on undertaking enrolment for foreigners and, in particular, refugees. For instance, at one centre, while two participants were issued Aadhaar on the basis of UNHCR cards, UNHCR letters of support, foreign passports and rent agreements, a third participant was denied despite presenting the same documentation.

Lack of flexibility with enrolment: Aadhaar officials did not allow refugees the benefit of alternative methods of enrolment (like the Introducer Method or the HoF Method, discussed in Section 4)⁵⁵ when they were unable to produce the required documentation.

Lack of flexibility with documentation: Most centres did not permit documentation beyond that contained in the indicative list prescribed by the UIDAI. For example, some centres refused to accept the LTV as proof of residence despite it being a government-issued document, because it does not appear in the aforementioned list.

5.2.3 Way forward

Uniform ID card for refugees: Refugees in India have increasingly expressed the need for a uniform, recognisable identity card which confirms their *de facto* status as legal residents. Issuing Aadhaar to refugees will go a long way in addressing this issue. As indicated in the impact story and the discussions above, in a short period of time, we were able to observe the tangible and transformative impact that access to documentation can have on refugees. Therefore, there is a need to continue engagements with the UIDAI and the concerned ministries to work towards a clear policy on allowing refugees to apply for Aadhaar. This will not only allow refugees to participate in the mainstream economy but will also aid the government in its overall objective of dismantling the parallel economy.

Sensitisation of enrolment officials: Given the level of unfamiliarity with the refugee population, there is a need to sensitise Aadhaar officials about both the circumstances under which refugees flee their home countries and their plight in India due to the lack of government-issued documentation. Further, officials also need to be familiarised with the role of UNHCR in India and refugees' status there so that refugees are not perceived to be illegal immigrants.

Use of existing documents: Since there is a lack of clarity about refugees' eligibility to enrol for Aadhaar, the UIDAI should include the documents issued to refugees in India (i.e. the UNHCR card and the LTV) in the prescribed list of documents. Further, enrolment centres should, in accordance with the Aadhaar Act, allow for more flexibility in terms of enrolment procedures and documentation to ascertain proof of ID and residence. Directions should also be issued to designated Aadhaar centres in localities with significant refugee populations to help them process applications from this group.

⁵⁵ Centres did not have information on who could qualify as an 'introducer' or the 'head of the family' under the Enrolment Regulations. This was also the case when M.A.P staff called the Aadhaar helpline with the same query.

6. Recent global efforts

While undertaking research on India's policies for the inclusion of marginalised groups into its financial systems, M.A.P also looked at the treatment of refugees in other comparable jurisdictions. The idea was to use these as best practices during our various engagements with government officials. Some of the examples identified during the research are discussed below.

6.1 Bangladesh

Bangladesh, which hosts one of the world's fastest growing refugee populations, pioneered a programme in 2018 to allow refugees to open bank accounts to receive financial support from the government and global aid donors.⁵⁶ The programme is being jointly implemented by the Bangladesh Bank, the Central Bank of Bangladesh and the Bangladesh Financial Intelligence Unit ('BFIU').

In order to facilitate financial inclusion for this population, the programme has allowed many flexibilities. For instance, it has approved the relaxation of the KYC norms for such bank accounts, and banks can accept photo identity documents issued to refugees by the government and UNHCR. BFIU has also said that these IDs can be accepted for receiving wire transfers and foreign remittances in favour of refugees living in Bangladesh.⁵⁷ The features of the policy are yet to be known as the policy continues to be tested, negotiated and developed. However, it is being reported that besides providing refugees with accounts that could be used for savings, this programme will also provide refugees with pre-paid debit cards or mobile wallets that can be used for everyday transactions.

6.2 Pakistan

Similarly, the Pakistan government has also recently permitted registered Afghan refugees in Pakistan to open bank accounts and has allowed refugees access to the formal economy.⁵⁸ Pursuant to this, the State Bank of Pakistan instructed banks and financial institutions to open accounts for Afghan refugees using the Proof of Registration cards issued by the National Database and Registration Authority, after biometric verification.⁵⁹ This move is also being welcomed on the grounds that it now allows regulation of business across the country by refugees which was earlier being done without using formal banking channels.⁶⁰

6.3 Jordan

To promote access to financial services for the refugee population in Jordan, in 2016, the Central Bank of Jordan ('CBJ') allowed refugees to use mobile money through the national mobile payment wallet, JoMoPay, without linking it to traditional bank accounts.⁶¹ This move by the CBJ was pursuant to its recognition of the financial needs of Syrian refugees in Jordan, such as having an instrument to receive financial aid and other services from aid organisations, carry out basic online transactions, receive salaries and other payments, etc. The KYC requirements for JoMoPay are designed so that refugees can register by providing their UNHCR ID number or the number of their Ministry of Interior service card.⁶²

6.4 Iraq

Recognising the need for inclusion and the challenges refugees face in satisfying traditional KYC norms, the Central Bank of Iraq has granted an exception that allows refugees to open a mobile money account as long as they hold a UNHCR Refugee Card and are registered on the biometric database.⁶³ The wallet can be used to receive payments,

56 Niaz Mahmud, *Bank accounts and debit cards for Rohingya refugees, on the books*, Dhaka Tribune, July 5, 2018, available at: <https://www.dhakatribune.com/business/banks/2018/07/05/bank-accounts-and-debit-cards-for-rohingya-refugees-on-the-books> (accessed: February 12, 2019).

57 *Ibid.*

58 Imran Khan allows registered Afghan refugees to open bank accounts in Pakistan, The Economic Times, February 25, 2019, available at: <https://economictimes.indiatimes.com/news/international/world-news/imran-khan-allows-registered-afghan-refugees-to-open-bank-accounts-in-pakistan/articleshow/68155233.cms?from=mdr> (accessed: May 9, 2019); Ayaz Gul, *Pakistan Allowing Afghan Refugees to Open Local Bank Accounts*, Voa News, February 25, 2019, available at: <https://www.voanews.com/a/pakistan-allowing-afghan-refugees-to-open-local-bank-accounts/4803051.html> (accessed: May 9, 2019).

59 Acceptance of Proof of Registration Card held by Afghan Refugees as Valid Identity Document for Account Opening, BPRD Circular Letter No. 02 of 2019, February 28, 2019, available at: <http://www.sbp.org.pk/bprd/2019/CL2.htm> (accessed: May 9, 2019).

60 Shahid Iqbal, *SBP allows banks to open accounts of Afghan refugees*, Dawn, March 2, 2019, available at: <https://www.dawn.com/news/1467093> (accessed: May 9, 2019).

61 Allyson Hawkins, Kim Wilson, *Striking the Match: Digital Financial Inclusion for Jordan's Refugees*, available at: <https://sites.tufts.edu/flpfi/files/2017/07/JoMoPay.pdf> (accessed: May 9, 2019); Financial Action Task Force Guidance, Anti-Money Laundering and Terrorist Financing Measures and Financial Inclusion, at p.20, available at: <http://www.fatf-gafi.org/media/fatf/content/images/Updated-2017-FATF-2013-Guidance.pdf> (accessed: May 9, 2019).

62 *Ibid.*

63 GSMA, *Refugees and Identity: Considerations for mobile-enabled registration and aid delivery*, at p.22, available at: <https://www.gsmainelligence.com/research/?file=1cb984aae8f279c617fb30b151bad5a8&download> (accessed: May 9, 2019).

transfer money, pay bills, purchase goods and services and receive aid.⁶⁴

Similarly, countries like Egypt, Zambia and Uganda, that are host to large refugee populations, have allowed them to access mobile wallets by permitting them to use their government attestation card/ID/ UNHCR documents etc. to meet the KYC requirements.⁶⁵

64 *Ibid.*

65 David Cracknell and Venkata N. Atluri, *Progress and Challenges with KYC and Digital ID*, available at: <http://www.helix-institute.com/blog/progress-and-challenges-kyc-and-digital-id-venkata-n-atluri-and-david-cracknell-4> (accessed: May 9, 2019).

7. Conclusion and recommendations

It is evident that in the post-demonetisation era, having a bank account has become essential for anyone residing in India. Refugees in India need bank accounts not only for carrying out basic financial transactions but even to access essential services like health and education. The absence of such instruments, as seen from the findings in this paper, has pushed refugees in India to the fringes of the economy and made them susceptible to exploitation. In contrast, the benefits from the positive and immediate impact a bank account had in the lives of refugees in the pilot studies can be clearly seen.

One of the biggest barriers to financial inclusion is that the laws and structures in India have largely invisibilised refugees and, therefore, gatekeepers are not cognisant of their requirements and realities. In the longer run, refugee protection in India, in the absence of a specialised domestic asylum law, cannot remain *ad hoc* and contingent on the good faith of the government, as has been the case so far. More immediately, however, it is important that basic facilities like access to banks are not denied.

To this end, and to carry the conversation forward, we recommend the following:

the government should confer a formal legal identity on refugees and issue uniform documentation to this community. This will not only allow refugees to access the mainstream economy but will also allow the government to better protect and manage this population. As in the cases of Bangladesh and Pakistan, the government could also explore the possibility of allowing refugees to use other forms of documentation such as their Refugee Cards and visas; and/or given that the government is committed to advancing financial inclusion for marginalised and undocumented groups within the society, it should create a policy to allow refugees access to basic banking services and systems.

More urgently:

in the current system, with regard to Aadhaar, the first step would be to clearly allow, through a directive, refugees who are able to fulfil the residence requirement under the Aadhaar Act to apply for the document with their Refugee Cards and LTVs. There are concerns that the possession of the Aadhaar card would allow non-nationals to access schemes meant exclusively for citizens; however, this can be addressed by issuing a limited version of the Aadhaar card to refugees which will allow them to use the document as proof of residence but will not entitle them to access social welfare schemes run by the government for Indian citizens;

directions should be issued to banks, particularly those operating in refugee settlement areas, to allow existing flexibilities, such as the small bank accounts that the RBI has confirmed that refugees can hold. Moreover, such flexibilities should be available for a longer duration with fewer restrictions on credit, withdrawals, transfers and balance; and

UNHCR and civil society organisations working in this space should direct more energy towards research and advocacy on the issue of inclusion. Similarly, these organisations also need to spread more awareness about this population and their concerns among the public, banks, government functionaries and other stakeholders.