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Myanmar Refugees Can Approach UNHCR: Manipur HC

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Why in News

The **High Court of Manipur** has ordered safe passage to seven **Myanmar nationals**, stranded at a border town in Manipur, to travel to the **United Nations High Commissioner for Refugees (UNHCR)** in New Delhi.

- The seven nationals entered India secretly after the **military coup** in Myanmar.
- The coup returned Myanmar to full **military rule** after a short span of **quasi-democracy** that began in 2011, when the military, which had been in power since 1962, implemented parliamentary elections and other reforms.

Key Points

- **Observation made by Manipur HC:**
 - Although **India has no clear refugee protection policy or framework**, it **does grant asylum to a large number of refugees** from the neighbouring country. India usually **respects UNHCR's recognition of the status of such asylum seekers**, mainly from **Afghanistan and Myanmar**.
 - Though **India is not a party to the UN Refugee Conventions**, it is a party to the **Universal Declaration of Human Rights of 1948** and the **International Covenant on Civil and Political Rights of 1966**.
 - **Article 21 of the Constitution** encompasses the **right of non-refoulement**. **Non-refoulement** is the principle under **international law** which states that a person fleeing persecution from his own country should not be forced to return to his own country.

- **India-Myanmar Border:**



- **Bordering States:** India and Myanmar share a **1,643 km border** and people on either side have familial ties.
 - **Arunachal Pradesh** shares 520 kms.
 - **Nagaland** shares 215 kms.
 - **Manipur** shares 398-km.
 - **Mizoram** shares 510-km.
 - The border along the four states is **unfenced and porous**.
- **Free Movement Regime (FMR):**
 - A Free Movement Regime (FMR) **exists between India and Myanmar**.
 - Under FMR, every member of the hill tribes, who is either a citizen of India or a citizen of Myanmar and who is resident of any area **within 16 km** on either side of the Indo-Myanmar Border (IMB) can cross the border with a border pass (with one-year validity) issued by the competent authority and can stay up to two weeks per visit.
- **Recent Influx of People from Myanmar:**
 - India already has a lot of **Rohingya** migrated from **Myanmar**.
 - Rohingyas are **ethnic Muslims** of **Myanmar** living in Rakhine province in the Arakan region.
 - About 1,68,000 Rohingyas had fled Myanmar since 2012, when clashes with Buddhists erupted in the trouble-torn Arakan region.
 - Since the **Myanmar Army seized power** on 1st February 2021, there has been **an influx of people into India's north eastern states**. Many of them are democracy activists **belonging to the Chin ethnic group**, or policemen who said they disobeyed orders to shoot at protesters.

- **India's Stand on Refugees:**

- India has **welcomed refugees in the past**, and on date, nearly 3,00,000 people here are categorised as refugees. But **India is not a signatory to the 1951 Refugee Convention or its 1967 Protocol. Nor does India have a refugee policy or a refugee law of its own.**
- This has **allowed India to keep its options open on the question of refugees.** The government can declare any set of refugees as illegal immigrants — as has happened with Rohingya despite the UNHCR verification — and decide to deal with them as trespassers under the **Foreigners Act or the Indian Passport Act.**
- The closest India has come to a refugee policy in recent years is the **Citizenship Amendment Act, 2019**, which discriminates between refugees on the basis of religion in offering them Indian citizenship.

United Nations Refugee Convention 1951

- It is a United Nations multilateral treaty that **defines who is a refugee**, and sets out the rights of individuals who are granted asylum and the responsibilities of nations that grant asylum.
- It also **set out which people do not qualify as refugees**, such as war criminals.
- It **grants certain rights** to people fleeing persecution because of race, religion, nationality, affiliation to a particular social group, or political opinion.
- It **builds on Article 14 of the Universal Declaration of Human Rights 1948**, which recognizes the right of persons to seek asylum from persecution in other countries.
- The **1967 Protocol** included refugees from all countries as opposed to the 1951 Convention that only included refugees from Europe.
- **India is not a party** to this convention.

United Nations High Commissioner for Refugees

- United Nations High Commissioner for Refugees (UNHCR) is a **UN Refugee Agency** and a global organization dedicated to saving lives, protecting the rights and building a better future for refugees, forcibly displaced communities and stateless people.
- It was **created in 1950** to help millions of Europeans who had fled or lost their homes.
- It is **headquartered at Geneva, Switzerland.**

Source:TH