



India and Refugee Policy

For Prelims: Refugee in India, 1951 Refugee Conference, Foreigners Act of 1946, Citizenship Amendment Act, 2019 (CAA), Rohingya Refugee, United Nations High Commissioner for Refugees

For Mains: Status of Refugees in India, Current Legislative Framework in India to Handle Refugees, Challenges Faced by Refugees in India

Why in News?

Recently, many **Kuki-Chin refugees** from Chittagong Hill Tract Area in Bangladesh entered Mizoram (India) fearing an attack from Bangladesh security forces against them.

- Mizoram Government expressed sympathy for the refugees, who belong to the Chin-Kuki-Mizo communities, and resolved to give **temporary shelter, food and other relief as per convenience of the state government.**

What Causes these Refugee Influx?

- The CHT (Chittagong Hill Tracts) is an impoverished hilly, forested area that sprawls over more than 13,000 sq km of the Khagrachari, Rangamati, and Bandarban districts of **southeastern Bangladesh**, bordering **Mizoram to the east, Tripura to the north, and Myanmar to the south** and southeast.
- A significant portion of the population is tribal, and **culturally and ethnically different from the majority Muslim Bangladeshis** who live in the country's deltaic mainland.
- The tribal population of the CHT has ethnic links with **tribal populations in the adjacent areas of India, mainly in Mizoram.**
 - Mizoram shares a **318-km-long border with Bangladesh**
- Mizoram is already playing host to about 30,000 refugees who have been fleeing fighting in Myanmar's Chin state since around July-August 2021.

How are Refugees Protected in India?

- India ensures that refugees can access protection services that are on a par with their **fellow Indian hosts.**
- For those refugees registered directly by the Government such as those from Sri Lanka, they are entitled to Aadhaar cards and PAN cards to enable their economic and financial inclusion.
 - They can have access to national welfare schemes and contribute effectively to the Indian economy.
- However, for those registered with **UNHCR, such as refugees from Afghanistan, Myanmar and other countries**, while they have access to protection and limited assistance services, they do not possess government-issued documentation.
 - Thus, they are unable to open bank accounts and don't get benefit from all government welfare schemes, and are thus inadvertently left behind.

What is India's Refugee Policy?

- India **lacks specific legislation to address the problem of refugees**, in spite of their increasing inflow.
- India is not a party to [the 1951 Refugee Convention and its 1967 Protocol](#), the key legal documents pertaining to refugee protection.
 - **However, India has had a stellar record** on the issue of refugee protection. India has a moral tradition for assimilating foreign people and culture.
- Moreover, the **Foreigners Act, 1946, fails to address the peculiar problems** faced by refugees as a class.
 - It also gives unbridled power to the Central government to deport any foreign citizen.
- Further, the constitution of India also respects the life, liberty, and dignity of human beings.
 - The Supreme Court in the National Human Rights Commission vs. State of Arunachal Pradesh (1996) held that “while all rights are available to citizens, persons including foreign citizens are entitled to the right to equality and the right to life, among others.”
- Further, **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.

What is the Status of Refugees in India?

- Since its independence, **India has accepted various groups of refugees from neighbouring countries, including:**
 - [Partition refugees from Pakistan](#) in 1947.
 - [Tibetan refugees](#) that arrived in 1959.
 - [Chakma and Hajong](#) from present day Bangladesh in early 1960s.
 - Other Bangladeshi refugees in 1965 and 1971.
 - [Sri Lankan Tamil refugees](#) from the 1980s.
 - Most recently [Rohingya refugees](#) from Myanmar, 2022.

Why Hasn't India Framed a Law on Refugees Yet?

- **Refugees vs Immigrants:** In the recent past, many people from neighboring countries tend to illegally immigrate to India, not because of state persecution but in search of better economic opportunities in India.
 - While the reality is that much of the debate in the country is about **illegal immigrants, not refugees**, the two categories tend to get bunched together.
- **Open Scope of Maneuver:** Absence of legislation has allowed India to keep its options open on the question of refugees. The government can declare any set of refugees as illegal immigrants.
 - This was the case that has **happened with Rohingya** (they are stateless, Indo-Aryan ethnic group who reside in Rakhine State, Myanmar), despite the UNHCR verification, the government decided to deal with them as trespassers under the Foreigners Act or the Indian Passport Act.

What is the Current Legislative Framework to Handle Refugees?

- **Foreigners Act of 1946:** Under Section 3, the Central government is empowered to detect, detain and deport illegal foreign nationals.
- **Passport (Entry into India) Act, 1920 :** Under Section 5, authorities can remove an illegal foreigner by force under Article 258(1) of the Constitution of India.
- **Registration of Foreigners Act of 1939:** Under this, there is a mandatory requirement under which all foreign nationals (excluding overseas citizens of India) visiting India on a long-term visa (more than 180 days) is required to register themselves with a Registration Officer within 14 days of arriving in India.
- **Citizenship Act, 1955:** It provided provisions for renunciation, termination, and deprivation of citizenship.
- Further, **Citizenship Amendment Act, 2019 (CAA)** seeks to provide citizenship only to Hindu, Christian, Jain, Parsi, Sikh, and Buddhist immigrants persecuted in Bangladesh, Pakistan, and

Afghanistan.

What is the Difference Between Refugees and Migrants?

- Refugees are people outside their countries of origin who are in need of international protection because of a serious threat to their life, physical integrity or freedom in their country of origin as a result of persecution, armed conflict, violence or serious public disorder.
 - **Migrants** leave their country because they want to work, study or join a family.
- There are well-defined and specific grounds, which have to be satisfied before a person can qualify to be a 'refugee'
 - There is no internationally accepted legal definition of a migrant.

Way Forward

- Model laws on asylum and refugees that were drafted by the **National Human Rights Commission (NHRC)** decades ago but not implemented by the government **could be revised by an expert committee.**
 - If such laws are enacted, it would give legal sanctity and uniformity, ensuring the protection of human rights.
- If India had domestic legislation regarding refugees, **it could have deterred any oppressive government in the neighborhood to persecute their population** and make them flee to India.
- Protection of women and child refugees from violence and harassment by authorities or local residents in consonance **with Fundamental Duty enshrined in our Constitution.**
- Article 51A (e) enjoins upon every citizen to renounce practices derogatory to the dignity of women.

UPSC Civil Services Examination Previous Year Question (PYQ)

Prelims

Q. Consider the following pairs: (2016)

Community sometimes In the affairs of mentioned in the news

1. Kurd — Bangladesh
2. Madhesi — Nepal
3. Rohingya — Myanmar

Which of the pairs given above is/are correctly matched?

- (a) 1 and 2
- (b) 2 only
- (c) 2 and 3
- (d) 3 only

Ans- (c)

Mains

Q. How does illegal transborder migration pose a threat to India's security? Discuss the strategies to curb this, bringing out the factors which give impetus to such migration. (2014)

Source: TH

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