

India Myanmar Refugee Issue: The Dilemma of Mizoram

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The unfolding political crisis in Myanmar seems to have put India in a quagmire of sorts, with disagreements cropping up between the Centre and the Mizoram government over policies to deal with refugees.

In news: Myanmar in turmoil, let in refugees: Mizoram CM writes to PM

Placing it in syllabus: Foreign Affairs

Dimensions:

- Status and Magnitude of the Problem.
- Mizoram' s Stand
- The Centre' s Stand
- Procedure for Granting Refugee Status
- Agreements on Refugees and India' s Position on them
- Institutions working for them

Content:

Status and Magnitude of the Problem:

- India and Myanmar **share 1,643km border** and people on either side have familial ties due to ethnic affiliations.
- Manipur, Arunachal Pradesh and Nagaland are the Indian states that share borders with Myanmar.
- The **influx after the coup has been limited to Mizoram that shares a 510km border with Myanmar.**
- The influx of these people is a sensitive issue in the state as the **population on either side of the border have ethnic affiliations.**
- The number of people fleeing Myanmar facing persecution

after the military coup and seeking refuge in India has doubled over the last week.

- **At least 1,000 people from the adjoining Chin State of Myanmar** are said to have crossed over to Mizoram, fearing a military crackdown.
- Most of the refugees are policemen and their families and even some army personnel who reportedly refused to shoot the protesters opposing the military rule
- Those who managed to escape fear for their lives and don't want to return under current circumstances.
- The influx of Myanmar nationals was reported from Hnahthial, Champhai, Saitual and Serchhip districts. Most of the refugees waded across the Tiau River that runs along much of Mizoram's 510-km border with Myanmar.
- Most are staying in community halls near the borders that are meant to facilitate accommodation under the **Free Movement Regime (FMR) arrangement** while some others have taken shelter with relatives away from the border areas.
- The two countries have an arrangement called the Free Movement Regime that allows people to travel up to 16km on either side of the borders and stay up to 14 days. But this was suspended in March 2020 after the Covid outbreak.
- After Mizoram, Manipur has offered help to Myanmar refugees



Challenges in India-Myanmar Border management:

Porous Border without fence: India-Myanmar border is not like India's border with Pakistan and Bangladesh. The majority of the border areas are not fenced. The Assam Rifles at the India-Myanmar border is facing challenges in maintaining strict vigil.

Cross-Border Ties: There are more than 250 villages with almost 3,00,000 populations living within 10 km of the India-Myanmar border. In 2018, both Indian and Myanmar agreed to streamline the movement of people within 16 km of the border.

Mizoram' s Stand:

- Mizoram Chief Minister Zoramthanga urged Prime Minister Narendra Modi to intervene and allow political asylum to refugees from neighbouring Myanmar
- The state government of **Mizo National Front (MNF)**, which has extended issue-based support to the NDA, is in favour of allowing refugees from Myanmar, even laying down a policy to assist them.
- The **Mizoram government favours providing refuge to the Chins**, who are ethnically related to the majority Mizos in the State

- As a humanitarian gesture, the Mizoram government on February 26 issued a **standard operating procedure (SOP)** to Deputy Commissioners of border districts to facilitate the entry of refugees and migrants.
- The SOP stated that all Myanmar nationals entering Mizoram in connection with the political developments in the country shall be properly identified.
- The government said those facing a threat to their lives should be treated as refugees, given medical care, relief and rehabilitation and security.
- But the SOP was revoked on March 6 after the Centre conveyed its displeasure to the State over the development.
- The Mizoram government **mentions that they share close ethnic ties with the people of Myanmar.**
- Further, they also clarified a few important things to the central government. Such as they **don't want to provide full-time citizenship or employment to the refugees.**
- Instead, they want to **provide refugee status** until Myanmar returns to normalcy.

The Centre's Stand:

- India has sealed all entry points along its unfenced border with Myanmar to check the influx of refugees
- On March 10, the North East Division of the **Ministry of Home Affairs (MHA)** issued a letter to chief secretaries of Mizoram, Nagaland, Arunachal Pradesh, Manipur and Director General of Assam Rifles, directing them not to allow refugees from Myanmar and take appropriate action as per law.
- The Ministry pointed out that **State governments have no powers to grant "refugee status to any foreigner"**.
- The MHA noted that **India is not a signatory to the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol.**

- The Centre has asked all bordering states and the force guarding the border to prevent the influx and deport those who have come in since the coup.

Previous such Refugee problem in Myanmar:

- Myanmar in the past also faced Extremism, counter-insurgency, and sectarian violence. All these act as a push-factor and make Myanmar people flee into India as refugees.
- For example, In 2017, More than 1,200 Buddhists and Christians from Myanmar's Arakan State fled as a refugee to Mizoram.
- Thousands of Chins have been living in Mizoram for more than 40 years now as a refugee.
- Similarly, in Manipur, the villages of the Kuki-Zomi have often had people crossing the Myanmar border and staying in India for some time.

Procedure for Granting Refugee Status:

- India has not defined clearly the category of refugees.
- Their status is predominantly determined by the extent of protection they receive from the Government of India, which in turn has often been influenced by political equations than by humanitarian or legal obligations.
- Certain refugee communities like Sri Lankan Tamils, Chakma, and Tibetan refugees have received sufficient protection by the Indian state.
- On the other hand, refugee communities like Bangladeshi Muslims, Afghans, Burmese, and many others following Islam have witnessed several discriminations by the same state.
- They have not ensured any kind of protection from the government as such.
- Chin refugees in Mizoram have assimilated into local communities and have not been recognised or acknowledged

either by the UNHCR or the Indian state.

UNHCR Procedure:

- When people flee their own country and seek sanctuary in another country, they can apply for asylum – the right to be recognized as a refugee and receive legal protection. An asylum seeker must demonstrate that his or her fear of persecution in the home country is well-founded.
- Asylum-seekers are protected from forced return to their country of origin from the time they express a fear of return until a final decision on refugee status is determined by UNHCR.
- UNHCR in India works with individual asylum-seekers and refugees from India's non-neighbouring countries and Myanmar.
- The persons seeking asylum should approach and register with UNHCR.
- Once the registration process is complete, the persons will receive a case number and an "Under Consideration Certificate" (UCC), acknowledging that they have applied for asylum with UNHCR India and that application is under consideration.
- Later a refugee status determination interview is conducted.
- Following this interview, based on the information provided and information available on the situation in place of origin, UNHCR will make a determination on the refugee status.

Need for the Refugee Law in India

- India is one of the most prominent refugee receiving countries in the world. The Indian state has treated a few refugee communities reasonably well but has not formulated a well-defined refugee law.
- The absence of clearly defined statutory standards

subjects refugees and asylum seekers to inconsistent and arbitrary government policies.

- The **Foreigners Act of 1946 highlights the ad hoc nature of refugee law and practice** in India. The Indian state lacks a national refugee law which can specify the rights of and govern the treatment of refugees. This lack has subjected different refugee communities to varying standards of protection.
- Normatively, India seems to be committed to refugee protection, but practically she treats different communities differently.
- India has not signed either the 1951 United Nations Convention Relating to the Status of Refugees or the 1967 Protocol.
- It has been argued by many that the reason behind India's refusal to sign the convention was that it was very Eurocentric.
- Yet, India has recognised the right of refugees to non-refoulement and has maintained its basic commitment to humanitarian protection of refugees.
- In fact, India has signed numerous human rights instruments and is a party to the Universal Declaration on Human Rights 1948, International Convention on Civil and Political Rights 1966, etc, which demands an obligation to secure to refugees a right to status determination, and India did so.

Agreements on Refugees and India's Position on them

Refugees, Asylees: Comparison

- Both refugees and asylum seekers are forced from their homes.

Refugee

- A **refugee** is any person forced to flee their country due

to war, persecution, or because their home government cannot (or will not) protect them.

- Often, they're unable to—or are too afraid to—return home.
- When a refugee flees, they're registered with an official agency, such as a government or the United Nations.
- This allows them to gain access to state and international aid and assistance.

Asylee or Asylum Seeker

- Asylum seekers are not officially designated refugees, but they have appealed to achieve refugee status.
- They're in the process of leaving their country of origin in order to escape war or persecution due to their nationality, race, religion, or political affiliation.
- An asylum seeker is a person who claims to be a refugee but whose claim has yet to be evaluated.
- They apply for asylum on the grounds they cannot return to their home due to fear of persecution.
- Yet at this stage, they're unable to access the same rights a refugee can.
- A person remains an asylum seeker for as long as their application is pending.

Universal Declaration of Human Rights (Asylum)

- The official adoption of the Universal Declaration of Human Rights (UDHR) in 1948 – characterised as one of the world's greatest living documents, as the 'common language of humanity', 'the conscience of the world'.
- Article 14 of the Universal Declaration of Human Rights states that "Everyone has the right to seek and to enjoy in other countries asylum from persecution."
- This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes

or from acts contrary to the purposes and principles of the United Nations.

Convention on the Status Relating to Refugees:

- The United Nations 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees guides national legislation concerning political asylum.
- Under these agreements, a refugee (or for cases where repressing base means has been applied directly or environmentally to the refugee) is a person who is outside that person's own country's territory (or place of habitual residence if stateless) owing to fear of persecution on protected grounds.
- Protected grounds include race, caste, nationality, religion, political opinions and membership or participation in any particular social group or social activities.
- Rendering true victims of persecution to their persecutor is a violation of a principle called non-refoulement, part of the customary and crucial Law of Nations.
- These are the accepted terms and criteria as principles and a fundamental part in the 1951 United Nations Convention Relating to the Status of Refugees non-refoulement order.
- Since the 1990s, victims of sexual persecution (which may include domestic violence, or systematic oppression of a gender or sexual minority) have come to be accepted in some countries as a legitimate category for asylum claims, when claimants can prove that the state is unable or unwilling to provide protection.
- India has not ratified either of these conventions

Global Compact on Refugees :

- On 17 December 2018, the United Nations General Assembly

affirmed the Global Compact on Refugees, after two years of extensive consultations led by UNHCR with Member States, international organizations, refugees, civil society, the private sector, and experts.

- The Global Compact on Refugees is a framework for more predictable and equitable responsibility-sharing, recognizing that a sustainable solution to refugee situations cannot be achieved without international cooperation.
- It provides a blueprint for governments, international organizations, and other stakeholders to ensure that host communities get the support they need and that refugees can lead productive lives.
- It constitutes a unique opportunity to transform the way the world responds to refugee situations, benefiting both refugees and the communities that host them.

Its four key objectives are to:

- Ease the pressures on host countries;
- Enhance refugee self-reliance;
- Expand access to third-country solutions;
- Support conditions in countries of origin for return in safety and dignity //

Institutions working for Refugees:

Refugees Agency (UNHCR):

- The UN agency that helps refugees is the **United Nations High Commissioner for Refugees** or UNHCR (also known as the **UN Refugee Agency**), which emerged in the wake of World War II to help Europeans displaced by that conflict.
- HQ: Geneva
- UNHCR was established on December 14, 1950 by the UN General Assembly with a three-year mandate to complete its work and then disband.

- The following year, on July 28, the legal foundation of helping refugees and the basic statute guiding UNHCR's work, the United Nations Convention relating to the Status of Refugees, was adopted.
- So instead of ending its work after three years, UNHCR has been working ever since to help refugees.
- Today, a staff of more than 9,700 people in 126 countries provides protection and assistance to nearly 59 million refugees, returnees, internally displaced and stateless people.
- The largest portion of UNHCR staff are based in countries in Asia and Africa, the continents that both host and generate the most refugees and internally displaced people.
- Many are in isolated locations where staff work in difficult – and often dangerous – conditions.
- Among the biggest UNHCR operations are Afghanistan, Colombia, Democratic Republic of the Congo, Mali, Pakistan, Syria, Jordan, Lebanon, Turkey and Iraq.

UNRWA

- The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)
- It was mandated by the UN General Assembly in 1949 to provide services to registered Palestine refugees in the Middle East.
- When the Agency began operations in 1950, it was responding to the needs of about 750,000 Palestine refugees.
- Now numbering 5.7 million, in the Agency's five mandated areas of operation: the Gaza Strip, West Bank, including East Jerusalem, Jordan, Lebanon and Syria.

Mould your thought: The influx of refugees fleeing the military junta in Myanmar is turning into a foreign policy concern for India. Discuss.

Approach to the answer:

- Introduction
- Discuss the Situation in Myanmar and Influx of Refugees into India
- Discuss the Indian Govt's stand and its opposition of Mizoram
- Discuss the reasoning of Mizoram and Indian Government
- Write about how this could be solved
- Conclusion