India's Policy on Refugees

Why in News?

India has allowed former Bangladesh Prime Minister Sheikh Hasina to stay in India since her forced departure from Bangladesh, despite India having no official refugee policy.

Who are refugees?

- **Refugees** – They are people *forced to flee their own country* and seek *safety in another country* and are unable to return to their own country because of feared persecution.
- **Key international convention** - ***1951 Refugee Convention*** and its ***1967 Protocol*** to protect refugees.
- They provide the universal definition of who is a refugee and outline the minimum standards for their treatment.
- **Principle of Non-Refoulement** – It states that refugees have a *right not to be sent back to their country of origin* if their life or freedom would be at risk.
- Countries that have signed the Convention are obliged to treat refugees according to the standards outlined.
- **Role of UNHCR** - United Nations High Commissioner for Refugees is the official UN Refugee Agency.
- It promotes States' accession to the Convention and helps governments translate it into national laws.

> *A refugee is a legal term that carries with it certain protections that refugees are entitled to. The term 'migrant' does not have an international legal definition.*

How India deals with refugees?

- **Constitutional provisions –** Refugees are protected under
  - ***Article 21*** (right to life)
  - ***Article 14*** (protection against arbitrary actions)
- **Judiciary** – The Supreme Court has ruled that non-return of refugees is part of the right to life.
- **Foreigners Act & Indian Passport Act –** Refugees entering *without a visa are treated as illegal immigrants* under these laws.
- **Citizenship Amendment Act (CAA) -** It provides a pathway to *citizenship for non-Muslim illegal immigrants* from neighboring countries, which has faced criticism for being discriminatory.
- **Lack of national policy-** India does not have a formal national policy or law specifically dealing with refugees.

- **Non-signatory to UN convention** – India is ***not a signatory*** to the 1951 UN Convention or the 1967 Protocol.
- **UNHCR in New Delhi** – It handles refugee status determination (RSD) for asylum-seekers from non-neighboring countries and Myanmar.

Instance of Refugee situation in India
• **Partition of India (1947)** – It lead to massive movement of people from Pakistan to India seeking refugee status. • **Tibetan refugees (1959 onwards)** - Following the failed uprising against Chinese rule in Tibet, the *14th Dalai Lama, along with thousands of Tibetans, fled to India*. • **Chakma and Hajong refugees (1964-1969)** - The Chakma and Hajong communities from the *Chittagong Hill Tracts of East Pakistan* migrated to India due to religious persecution and displacement caused by the construction of the Kaptai Dam. • **Bangladeshi refugees (1971)** - During the Bangladesh Liberation War, millions fled East Pakistan (now Bangladesh) due to military atrocities and genocide. • **Afghan refugees (1980s onwards)** - Due to prolonged conflict in Afghanistan, including the Soviet invasion, Taliban rule, and subsequent unrest, many Afghans sought refuge in India. • **Sri Lankan Tamil refugees (1983 onwards)** - The civil war in Sri Lanka led to anti-Tamil pogroms and widespread violence which led to thousands of Sri Lankan Tamils sought refuge in India, primarily in the state of Tamil Nadu. • **Rohingya refugees (2012 onwards)** - Facing persecution in Myanmar's Rakhine State, many Rohingya Muslims fled to neighboring countries, including India.

What are the problems faced by refugees in India?

> *India is very reluctant to sign 1951 Refugee Convention as refugees are defined as people who have been deprived of their civil and political Rights but not their economic rights.*

- **Temporary measures** – Policy that India has adopted for protecting refugees is an adhoc administrative policy on refugees.
- **Discriminatory laws** - Citizenship Amendment Act 2019(CAA), provides citizenship *only to Hindu, Christian, Jain, Parsi, sikh and Buddhist immigrants* persecuted in Bangladesh, Pakistan and Afghanistan.
- **Inconsistent laws** – Since refugee law does not exist in India there is no uniformity in the treatment of refugees in the country.
    - After the end of the Sri Lanka civil war in 2009, India has encouraged return through the method of voluntary repatriation.
    - *Terming Rohingya in India as "illegal"* (in contrast to calling them refugees in Bangladesh) and pledging to send them back to Myanmar.
- **Social exclusions** – There is physical and emotional exploitation by the local residents since they are not citizens of India.
- **Deprivation of basis rights** – Basic necessities of life such as food, shelter and employment are not provided to them and privileges are also not conferred.

What are the steps needed to have a fair refugee policy in India?

- **Ratifying international conventions -** India should consider ratifying the 1951 Refugee Convention and its 1967 Protocol, which set out the rights of refugees and the obligations of states to protect them.
- **Formulating national refugee law -** India should enact a comprehensive national refugee law to provide a legal framework for the protection and management of refugees, distinguishing them from other migrants and ensuring their rights.
- **Ensuring access to basic human rights –** It includes healthcare, education, and legal protection.
- Providing refugees with the right to work and earn a livelihood, which helps in their integration and reduces dependency on state resources.
- **Seeking international assistance –** It includes seeking financial aid, technical support, and resettlement opportunities for better management of refugees.
- **Involving civil society -** Engage civil society organizations, NGOs, and refugee communities in the policy-making process to ensure that refugee voices are heard, and their needs are addressed.

To know more about World Refugee Day, click here

References

1. The Indian Express | India's Policy on Refugees
2. Indian National Bar Association | India’s Refugee Policy

SHANKAR IAS PARLIAMENT
Information is Empowering