

Statelessness and Electoral Challenges in India-Bangladesh Border Enclavesⁱ

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ABSTRACT

The issue of statelessness in the India-Bangladesh border enclaves has been a persistent problem, with significant implications for electoral participation and democratic inclusion. This paper tries to provide an in-depth analysis of the historical, political, and social dynamics that have led to statelessness in these enclaves, with a focus on the complexities of citizenship and its impact on electoral rights. The paper examines how the lack of formal citizenship status has disenfranchised enclave residents, exploring legal frameworks and diplomatic negotiations that have attempted to resolve the crisis. Through qualitative method, this study investigates the socio-political exclusion experienced by stateless individuals and the challenges they face in accessing basic rights, including voting.

1. Introduction

The association between electoral issues and statelessness arises because contemporary postcolonial electoral processes have foundational requirements, adherence to which is often weakened in postcolonial states. Postcolonial electoral processes must respect the principle of consent from the governed along with universal adult suffrage. Yet states are often concerned with maintaining the existing borders in which they currently lie to maintain the perception of continuity embodied in colonial borders resulting from conquest, administrative dependence, inheritance, or connected processes accompanying them, because non-statutory nationalist communities that developed in opposition to colonial state supremacy or colonial divisions became postcolonial states via

decolonization. Hence, majority, minority, stateless, and refugee groups may lobby to influence the existing conditions that affect their autonomous dilemma in their 'one person, one vote' privilege.

1.1. Background and Context

The past few decades have seen a substantial body of work on the internal dynamics of enclaves. Most of the work is empirical and policy-oriented. The aim of this paper is to understand the conditions necessary for the enclave's smooth operation. This paper offers a different perspective. It uses the unique properties of the existence of enclaves to study how the politics of two nations with divergent electoral incentives in a subset of their population, and the state of the two states themselves, are impacted by the presence of enclaves. In the context of enclaves, the researchers try to show that the two nations exert different policy instruments to counter statelessness in the same physical area. These instruments reflect the contrasting electoral needs of the two countries. The perception of whether the electoral needs of a particular agent are met within their current political boundary seriously constrains the autonomy of the enclave residents. The paper uses a legal framework alongside a theoretical political framework to support these assertions.

.2. Electoral Issues in India-Bangladesh Border Enclaves

Characterized by small territories wholly surrounded by the territory of another state, the India-Bangladesh border enclaves posed humanitarian and political challenge to the inhabitants of enclaves. These regions therefore have had a repeat of issues to do with statelessness and, more specifically, the right to vote in elections. Initially, they did not enjoy status of Indian or Bangladesh citizenship for many years and they were not even able to vote. While the 2015 Land Boundary Agreement (LBA) addressed many of these statelessness problems still electoral issues remain. Most residents of the of the enclaves were given citizenship after 2015, this new status did not automatically mean active voters. There are many persistent electoral issues that the enclave residents are facing as mentioned below-

1. Procedural barriers to Voting Rights: By the time many of them became enclave residents, they faced numerous procedural obstacles to voter registration. Special efforts for enrolment of enclave residents into any existing electoral rolls suffered some bottlenecks and time-consuming exercise due to bureaucracy and geographical isolation of enclaves. Therefore, a great number of

citizens could not access political information, and thus they were not active in the 2019 Indian general election.

2. **Documentation Challenges:** Formal voting registration especially in India and Bangladesh involves significant documentation process. Many of the enclave residents could not produce after they were expelled, they had no valid identity documents. The paperwork issues included the required proof of residence, birth certificates and other citizenship accreditation that made it difficult to include many residents of the community. Although the LBA provided them with citizenship, none of them had required documents to support voting and therefore there was a high level of voting exclusion in the enclave.
3. **Lack of Awareness and Political Alienation:** The enclave residents remained politically isolated from Indian and Bangladeshi political culture up to the 1990s and thus experienced political irrelevance. Many residents of the surveyed communities said that they did not know about their rights to vote and did not know how it was necessary to act. This diminish meant together with reduced access to resource and political arena magnified these citizens' challenges.
4. **Political and Regional Tensions:** Besides, political assimilation has also been affected by the distinctiveness of the enclave residents, who are often excluded from the state and carry no nationality. This slow political relationship is determined by tensions between India and Bangladesh over borders in the region. The local political parties have avoided engaging themselves in the fragment needs of enclave residents even they are different identity, so these citizens also could not fully integrate the electoral mass.

However, through the LBA, the residents were enabled to gain citizenship; nonetheless, statelessness, therefore, the effects of enclave's totaling residents social and, though this new media democratic elements are weakened due to lack of socio-economic conditions. Throughout history, both the countries denied these residents social services, education, and political consciousness, and did not prepare them for the requirements of electoral activities.

The socio-economic loss accruable from the protracted statelessness is also profound. Despite the many improvements brought by modernity, the community identified with enclave has little access to health care, employment, and education and therefore little economic mobility. This socio- economical marginalization provides hindrances of participation because many are more concerned with the basic needs than the electoral processes. This context points to the rationale that needs to be applied within them to make these residents empowered to participate in the political system.

After the signing of the 2015 LBA, both India and Bangladesh took actions to include enclave residents into their respective electoral rolls. In India, special drives were launched to enroll only those voters who could be added to the electoral role of selected regions. Similarly, Bangladesh also started taking similar steps to included enclave residents in the voters list. But these efforts have not been harmoniously implemented, which means that many voters who should be participating in the process still encounter some challenges. For example, the Indian Election Commission put certain measures in place, but the extension to the far and distant corners of these enclaves was a problem. The majority of the citizens were still ignorant of the interventions hence they did not turn out in large numbers to register as voters as expected.

2.1. Challenges and Controversies

The geographical border between India and Bangladesh or the Chitmahals in general have been territorial, social and political issues for many years. These were physical enclaves, territories within each other's territories creating administrative and legal complications to people living in these areas who were generally stateless without even citizenship status from either India or Bangladesh. Such a scenario was addressed in the past in the India and Bangladesh bilateral treaty signed in 2015, the LBA, which enshrined that people had a right to opt for their nationality Hence, theoretically at least, statelessness and citizenship rights were addressed or solved (Chakraborty, 2016). However, setting up electoral processes in these enclaves has brought new set of problems and issues which is still impacting the residents and promoting queries over administrative issues, voting identity, political participation and other consequences for the new incorporated regions

The challenges in addressing the electoral issues as found can be summarized as -1.

Administrative Coordination- The first challenge is a relatively acute problem of cooperation between leaders at the local and national levels to achieve smooth inclusion of enclave residents into the voter lists. This has been compounded by disparities in the legal and documentary standards between regional headquarters and national-intermediary electoral institutions, **2. Socio-Economic Integration-** The successful integration of enclave residents into the electoral system, therefore, calls for socio-economic integration. Communication for such purposes as immigration, health, education, and employment play a crucial role in introducing these citizens into the political and electoral processes, and **3. Promoting Awareness and Advocacy-** Enhancing the awareness level of enclave residents on their voting rights, electoral process, and resource mobilization is the only solution for disenfranchised enclave residents.

This is particularly true since local NGOs and other community stakeholders hold a wealth of information about the problems in the region.

The major obstacle towards the practical realization of electoral rights in the former enclaves is issues of logistics and bureaucracy. The LBA allowed for the occupation of residence and, therefore, citizenship and, in theory, the vote; but analyzing the integration of these people into the voting lists has shown delays, discrepancies, and problems with verification. While something as simple as maintaining proper records seems like it should not be an issue, the lack of available documentation remains a big problem for local administrations to guarantee that former enclave inhabitants are correctly registered to vote. This is compounded by the fact that most residents did not have any identity documents such as birth certificates or other papers that would show their ID or place of residence (Gupta, 2018). As such, there are still those who are unable to vote as a result of administrative blunders, and marginalized feelings amongst former enclave populations are not addressed (Singh, 2017).

Additional issues other than representation, political rights and civil liberties identity and citizenship status controversies emerge strongly. Even though the LBA formally assimilated the enclave residents into the country of their preference legally, issues of identity and allegiance remain part of the equation from the public point of view. Enclave dwellers are easily viewed with suspicion and or stereotyped especially by the settled communities, hence, local political leaders may hesitate fully to voice the concerns of the enclaves. This has also limited political engagement because the residents are discriminated and do not know whether they will be accepted in the polity or just seen as good appendages of society (Das, 2019). Therefore, simultaneously with their formal registration, the population faces certain informal social and political restrictions that hinder their conducive participation in elections. These challenges arouse a question of whether the citizenship given by the LBA guarantees equal political rights to the residents.

The question of who is considered politically included is further complicated by the belief that former enclaves might destabilize traditional patterns of representation. These new voters are seen by political parties either as resources that can be mobilized to the advantages of some particular party, or as agents, which may unsettle the reliable voting bases. Occasionally, political parties may even cause former enclave residents not to participate in political activities because this is likely to change the voting system (Rahman & Sen, 2020). This manipulation, apart from minimizing the democratic powers of the enclave residents, raises concerns about the general credibility and representative character for the political procedures in those border zones. A broader problem is therefore one of identity and nationality

within these once immaculate enclaves in which state identity has remained concealed for several generations. Indeed, it is quite possible that the very implementation of national elections, together with other state practices, produces the spirit of unfamiliarity among the enclave residents, making them hesitate or, at least, reluctant to engage in the system they are yet to get used to. Moreover, there are cases when both Indian and Bangladeshi authorities are accused of trying to exert control over the enclave population through partial political activation/seduction. Strategies of this nature can bring internal social cleavages to the enclaves with effects on voting not easy to comprehend, let alone ethical governance (Hossain, 2021).

3. Statelessness in India-Bangladesh Border Enclaves

Stateless individuals are not recognized as nationals by any state under the operation of its law. Inefficient and corrupt governments across much of the developing world have resulted in large numbers of stateless people due to the interrupted processes of citizenship inheritance upon which the modern state system largely depends. Even with all of the dislocations and armed conflicts of the twentieth century, wherein passport and visa controls became more important both as means of social control and as means of raising revenues, citizen has not been extinguished within the state as the subject of rights. While it is often argued that states have perverse or moral consequences both on the welfare and rights of individuals, as an empirical matter, those without any state frequently fare even worse. Stateless persons are deprived of membership in a policy that would ensure them an adequate bundle of public goods and rights, thereby excluding them from the family of man. For these very good reasons, various actors on the international scene have attempted to move towards the resolution of individual stateless cases.

This is a complicated problem of border enclaves of India and Bangladesh where historical events that led to growth of demography and political status of the certain areas played crucial role. The Pakistani enclaves in India after the partition of British India in 1947 that created not only new national borders but also numerous enclaves themselves that formed territories of one country physically surrounded by territories of another. While this division served to reinforce ethnic and cultural distinctions, it created a large population in limbo, persons who are technically nationals of two countries but are, in fact, citizens of none. In addition, the problems associated with the international refugee movement became even more serious with the Bangladesh Liberation War of 1971 since people were forced to flee across borders and are not easily recognized by the international legal framework.

This past therefore highlights the perpetual consequences of European colonization, and the reallocation of territories, as the basis for the prolonged statelessness of inhabitants of these territories.

An appreciation of the long-term implications of this historical background is relevant in an analysis of the present state of these communities. In time, diverse legal and political processes, including the Citizenship Amendment Act, innumerable elections, political parties and government agencies have not always managed to recognize and accommodate the exceptional status of the technical inhabitants of enclaves who are predominantly without any official identification papers or reference from Bangladesh or India. Therefore, generations of people who live in these enclaves remain in a frail and unstable position and are still struggling. Lack of well-defined citizenship rights complicates the attainment of basic rights to services thus increasing poverty and exclusion. Hence, the contingencies that produced statelessness continue to shape current policies, and this disconnect between national boundaries and individual experiences is construed.

Analyzing the case of the India-Bangladesh border enclaves, it is possible to come to the conclusion that statelessness is not only the form of the administrative division but it has the significant impacts on the lives of people. The issues of history and nationality and identity raise sub-issues, common to human rights and socio-economic development. While political negotiations and legal changes may be key issues, they can only succeed where they deal with local areas within the politics of identity, and seek to right past wrongs. The experiences of Betwixt and Between people in these enclaves are a warning of what a world of tourism, migration and more generally mobility of people will look like for stateless individuals if states fail to embrace the politics of recognition and subjects of rights in these spaces. Stateless persons' situation can be solved legally and by the creation of laws but cannot be solved without social justice with understanding historical background.

3.1. Legal Framework Governing Statelessness in India and Bangladesh

To analyzing the legal framework of statelessness in India and Bangladesh one cannot miss numerous legal voids and contradictions that strengthen the problematic position of many people in the border enclaves. Both countries have a historical law for stateless persons, Indian National Register of Citizens and the citizen acts of different states, but the framework implemented in those laws does not capture the essence of the actualities of the stateless persons. For example, India has citizenship through provisions of birth and descent; however, it fails to sufficiently capture some persons in liminal positions, especially in areas with an open border. The situation is the same in Bangladesh since, to date,

there is no broad legal regime governing statelessness that protects people from discrimination and empower them against abuse. In particular, to stress the necessity of the change in the language and legal concepts regarding forced migration, and that it should include all forms of migration because this approach should protect the rights of migrants (Banerjee P et al., 2023). This issue reveals the need for both countries to align the laws of the country with those of the international norm in order to fight statelessness. Similarly, improving the knowledge about and implementation of these rights, as suggested by Choubey MK et al., 2023, can check exclusionary population outcomes as those already offered an enfranchised status with civil, political, and economic liberty but who still remain socially and legally edged out in these enclaves.

3.2.Socio-economic Impacts of Statelessness on Affected Residents

The nexus of statelessness and socio-economic status to be a daunting task of Governments so that the affected people in particular, in the border remained India- Bangladesh enclave area. Such persons are denied some of the simple rights and privileges needed in a country hence they remain vulnerable. Expounded on in a more recent handbook on refugee and forced migration studies, the critical dynamics of displacement such as dislocation and forced migration specifically define the status of refugees and affect their economic contribution and social assimilation (Banerjee P et al., 2023). In these enclaves, that the non-citizens cannot legally work, receive education, or healthcare services, they stay in poverty and joblessness circles. These socio-economic effects have a multidimensional character as statelessness makes people lose their sense of self and social belonging (Choubey MK, 2023). These two are linked in that addressing them requires broad political frameworks that are inclusion and human rights based bottom approach to responding to the devastating effects of statelessness on the affected population.

3.3.Policy Responses and International Obligations Regarding Statelessness

When the problem of statelessness is considered particularly in the context of refugees in conflict with the governments on the border of India and Bangladesh, the interplay between domestic law and international law should also be examined. Modern approaches to statelessness are still largely influenced by the regional politics of the region, in which commitments under the international human rights conventions are selectively ignored. Hence, the requirements for raising the awareness and consciousness about the status of statelessness persons is one of the most important conditions in the development of detailed political solutions (Alam S et al., 2021). Moreover, despite the fact that

statelessness has now entered the discourse in academic and research areas, the practical actions to provide protection to stateless people remain limited. As many literature show, human rights abuse connected with statelessness is still one of the severe problems in the world, especially in South Asia where the regional legislation and institutions are frequently insufficient or missing (Banerjee P et al., 2023). Therefore, it seems necessary to advance an inter-state collaboration and actual devotion with respect to human rights conventions to improve the situation of stateless people in these enclaves.

4. Conclusion

The conditions queer in the border enclaves ailing voters in between India and Bangladesh are more profound issues of humanitarian and political concern, rather than a mere citizenship issue. It is with regard to the 2015 LBA that the refugees regained formal legal citizenship status in India, but the residents of enclaves remain structurally deprived of performing the basic rights granted to them, especially the right to vote. These issues point to dominant structural and bureaucratic failures within the electoral systems of India and Bangladesh. The absence of documented proof, facilities' constraints, and COVID-19 restrictions contribute to the marginalization and exclusion of the former enclave dwellers regarding their subsequent assurances for the effective rights and political inclusion required for appreciable democratization.

Thus, although state and LBA, once achieved, must be viewed as decisive for stateless people and an important step towards overcoming statelessness, the problem persists, especially in terms of socio-economic rights, and political representation. This reality implies that the latter require collective planning and implementation on the part of local, national and regional actors to enhance their socio-political status. In addition, mobilization of residents through participation and using enlightenment campaigns can help close the political consciousness deficit and increase participation levels. Overcoming these challenges needs an all-embracing solution including the legal changes, administrative improvements, and socio-economic measures for the full inclusion of enclave residents to the political process.

The enclave issue brings together other questions of interest, such as citizenship, national identity, and human rights that have effects beyond the local scope. Refugees live in the spaces of the continuing geopolitical and historical animosity; hence, their position is symbolic of the postcolonial condition. Consequently, experience of ill fate of the residents of enclave area of India Bangladesh again raises an important concern of need of democratic rights, liberties and political justice for all political

subjects irrespective of their geographical location. In the future, further continuation of mutual cooperation as well as adaption of the standards provided by the international human rights law for combating statelessness and to build enforced democratic society in the region is now crucial.

References

- Alam, S. et.al. (2021). Statelessness in South Asia: Present Scenario, Violation of Human Rights, Grounds and Redresses. *Asian Journal of Social Sciences and Legal Studies*. Volume 3(3), 99-106.
- Banerjee P, et.al. (2023). *Handbook of Keywords on Refugee and Forced Migration Studies*. Mahanirban Calcutta Research Group.
- Chakraborty, S. (2016). Land Boundary Agreement: Changing Borders and New Beginnings for India-Bangladesh Relations. *Economic and Political Weekly*, 51(32), 83-90.
- Chakma, K. & Barman, P. (2018). Electoral participation in the border enclaves: A neglected narrative. *South Asia Journal of Political Studies*, 9(1), 58-69.
- Choudhury, R. (2017). Isolation and integration: Infrastructure challenges in India-Bangladesh border areas. *Journal of Borderland Studies*, 32(3), 315-329.
- Das, A. (2018). The role of ethnic and religious identities in the India-Bangladesh enclaves. *International Journal of Asian Studies*, 12(1), 84-101.
- Das, P. (2019). Identity Politics in Border Enclaves: The Case of Chhitmahals. *Journal of Political Studies*, 28(1), 119-136.
- Gupta, R. (2018). The Long Road to Voting Rights: Electoral Challenges in India-Bangladesh Border Enclaves. *Asian Journal of Political Science*, 26(3), 245-262.
- Hossain, M. A. (2021). Electoral Inclusion and Social Marginalization: The Political Economy of India-Bangladesh Border Enclaves. *Borderlands Journal*, 14(2), 157-175.
- Mitra, R. (2020). Citizenship and electoral rights in the India-Bangladesh borderlands. *Politics & Policy*, 48(4), 721-741.
- Rahman, M. & Sen, K. (2020). New Citizens, Old Politics: Political Implications of the India-Bangladesh Land Swap. *Journal of South Asian Studies*, 43(4), 603-618.
- Rahman, S. (2021). Security and statelessness: The politics of suspicion in the Indo-Bangladeshi enclaves. *Security Dialogue*, 52(5), 423-435.



- Sen, D.& Rahman, T. (2019). Borderland elections and nationalistic politics. *South Asia Quarterly*, 17(2), 105-125.
- Singh, A. (2017). Citizenship and Voter Inclusion in Former Border Enclaves. *Contemporary Politics*, 23(2), 214-229.

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