



Illegal Migration into Bharat from Bangladesh: A Critical Review with Bharatiya Perspective

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ABSTRACT

Illegal migration into Bharat from Bangladesh has been posing a serious security threat to the nation. Assam is the worst affected state in the country. West Bengal is also facing same problem. It adversely affects the social, economic and political environment of Assam, creating law and order problems where immigrants are present in large number. The flux of illegal migrants or immigrants started during the rule of British and continued till today due to the pull and push factors. The deportation of illegal migrants became difficult due to the lack of strong law and political will, as illegal migrants are used as a vote bank by different political parties. This paper indicates that if the necessary steps are not taken immediately, Assam, the elder sister of North-East India would lose its identity from the map of India very soon. The illegal migration is one of the major reasons for social and ethnic violence in Assam. Therefore, it is high time that Bharat takes stringent measures against the illegal migrants who have become a real threat to the security of the country.

INTRODUCTION:

Illegal migration or immigration is a problem even for any developed or resourceful countries. In Bharat (or India) the picture of illegal migration is very grim. Our population growth is already high,



17.19% in a decade according to last Census of 2011.¹ With more than 130 crores of population our resources are over stretched, infrastructures are bursting to the seams. While there is urgent need of curbing our growth rate of population through the policy of birth control, the influx of illegal migrants or immigrants from bordering countries is aggravating problem.

Bharat or India has been confronting amass influx from Bangladesh since a very long time. The mass illegal migration or immigration from Bangladesh to Bharat or India has been possible mainly due to the porous Bharat-Bangladesh border of 4096 kilometres, the fencing of which has not been completed so far. Assam and West Bengal is the worst affected by the influx illegal migrants or immigrants from Bangladesh. This mass influx has changed not only the demographic pattern of those two states, but also the social, economic and political conditions of these entire states. An internal report suggest that 1.5-1.8 crore (15-18 million) illegal migrants or immigrants come in West Bengal (WB) annually.

RESEARCH OBJECTIVES:

The objective of this paper is to give an overall view of the problem and to highlight the following issues –

To evaluate the reasons behind illegal migration or immigration into Bharat from Bangladesh.

To analyze the Social, Economical and Political consequences of illegal migration or immigration.

To evaluate the seriousness of the illegal migration or immigration.

To analyze the security threats on our nation for the illegal migration or immigration from Bangladesh to Bharat.

METHODOLOGY:

This dissertation paper explains with qualitative natures. It is based on the secondary source of data derived from books, research journals, articles, websites and government sources. Observation method is also used for analyzing the data.

STATEMENT OF THE PROBLEM:

Unlike a refugee, an illegal migrant or immigrant is a person who crosses an international boundary without any valid document, enters into another country for the purpose of carrying on any



illegal or anti-social activities in that country or for other economic or political or religious purposes. According to Section 2(b) of The Citizenship Act, 1955,² an “illegal migrant” means a foreigner who has entered into Bharat or India –

Without a valid passport or other travel documents and such other document or authority as may be prescribed by or under any law in that behalf.

with a valid passport or other travel documents and such other document or authority as may be prescribed by or under any law in that behalf but remains therein beyond the permitted period of time.

Besides these provisions, there are some other aspects also which need to be discussed at this point to have a better understanding of the definition of illegal migrants in Assam. First, it is to be noted that until 1947, Bangladesh (then East Bengal) was a part of British Bharat and the people could move across various parts of the country without much restrictions. But after partition of Bharat and Pakistan, the Muslim-dominated East Bengal and the Sylhet district of Assam became a part of Pakistan and as a result, a large number of Hindu refugees migrated to India. The Indian Constitution made special provisions for granting citizenship to these refugees from Pakistan for a limited period of time (until January 1, 1966). Although the refugees who entered India during that period were required to go through a process of naturalization, most of them did not follow the legal procedures and thus became a part of the illegal migrants or immigrants. Second, according to the “Indo-Bangladesh Treaty of Friendship”, “Cooperation and Peace”, also known as the “Indira-Mujib Treaty”, signed between then Bharatiya Prime Minister Indira Gandhi and Prime Minister of Bangladesh Sheikh Mujibur Rahman in 1971, India agreed to take the responsibility of all migrants who entered India on or before March 24, 1971. Under this treaty, any migrant, irrespective of their religion, who entered Assam before the cut-off date. i.e., March 24, 1971, would not be an illegal migrant in India. Third, the historic Assam Accord which was signed, after the six years long Assam Agitation (1979 - 1985, one of the biggest student-organised movements in the world), between the All Assam Students Union (AASU), All Assam Gana Sangram Parishad (AAGSP) and the Government of India, stated that anybody who came to Assam from Bangladesh on or after March 25, 1971 is not a citizen of India, but an illegal migrant. This Accord also provided that those who came to Assam between January 1, 1966 and March 24, 1971 could apply for Indian citizenship only after expiry of a period of ten years. Thus, those who crossed the international border and entered Assam before March 25, 1971, became citizens of India through the legal process similar to naturalization.



The migrants from Bangladesh may be broadly categorised into: (i) Hindu refugees and (ii) illegal Muslim immigrants. The Hindu population in Bangladesh has grown by a bare two million in 40 years, from 9.2 million in 1951 to 11.1 million in 1991. There are a large number of people who are missing. A Bangladesh scholar, based on the growth rate of the population of that country, found the missing Hindu population of that country to be approximately five million. And where have these people gone? These traumatised, frightened and brutalised lot have come to India. These Hindus are not migrants, they are true refugees.³ It needs mention that the percentage of Hindus and Buddhists in Bangladesh was 33.93 per cent in 1901. It decreased from 29.61 per cent in 1941 to 11.37 per cent in 1991.⁴ The minority population is less than ten per cent (Hindus at 7.95%, Buddhists at 0.61%, Christians at 0.30% and others at 0.12%)⁵ in that country today.

FACTOR RESPONSIBLE FOR ILLEGAL MIGRATION:

The mass movements of population from Bangladesh to Bharat is mainly because of two factors. The first and the most common factor is the desire to have a good living conditions through better job opportunities. Since Bangladesh has a very high population density (1342 per sq. Km., according to 2024 estimate⁶) due to uncontrolled growth of population, it has given rise to a serious crisis of living space in the neighbouring country. Also, the frequency of natural disasters such floods and cyclones are quite high in that country and as such a large number of people become homeless every year due to such natural calamities and these people then move towards the neighbouring countries like Bharat in search better living conditions.

The second and the most important factor which has contributed to the mass influx of immigrants into Bharat from Bangladesh is religious persecution of the Sanatanis (Hindus) and Buddhists forcing them to leave their homes. Although the majority of the illegal migrants or immigrants entering Bharat (mainly in Assam & West Bengal) in recent years are from the Muslim community, a large number of Sanatani (Hindu) Bangladeshis (legally refugee) have also migrated to mainly Assam and West Bengal and other various parts of Bharat as a result of harassment and discriminatory treatments meted out to minorities living in Bangladesh. Besides, there are some other factors such as help extended to the illegal Bangladeshi migrants by certain political groups in Bharat as part of their vote-bank politics, help extended to such migrants by the anti-social elements, secret planning of future expansion of the territory Bangladesh (Greater Bangladesh), presence of pro-Bangladesh lobby in Bharat and the porous Bharat-Bangladesh border.

**GRAVITY OF THE SITUATION:**

The gravity of the situation arising out of illegal migration from Bangladesh was also highlighted by the former Governor of Assam, Lt. General S.K. Sinha in his report submitted to the President of Bharat in November 1998. In his report he stated “The unabated influx of illegal migrants from Bangladesh into Assam and the consequent perceptible change in the demographic pattern of the State, has been a matter of grave concern. It threatens to reduce the Assamese people to a minority in their own State, as happened in Tripura and Sikkim. Illegal migration into Assam was the core issue behind the Assam student movement. It was also the prime contributory factor behind the outbreak of insurgency in the State. Yet we have not made much tangible progress in dealing with all this important issue. There is a tendency to view illegal migration into Assam as a regional matter, affecting only the people of Assam. Its more dangerous dimension of greatly undermining our national security, is ignored.” He further stated “This silent and invidious demographic invasion of Assam may result in the loss of the geo-strategically vital districts of Lower Assam. The influx of these illegal migrants is turning these districts into a Muslim majority region. It will then only be a matter of time when a demand for their merger with Bangladesh may be made. The rapid growth of international Islamic fundamentalism may provide the driving force for this demand. In this context, it is pertinent that Bangladesh has long discarded secularism and has chosen to become an Islamic State. Loss of Lower Assam will sever the entire land mass of the North East, from the rest of Bharat and the rich natural resources of that region will be lost to the Nation.”⁷

The Supreme Court of Bharat also expressed concern over the problem of illegal migration from Bangladesh. During the last week of February 2001, while hearing a Public Interest Petition, the Court observed that the Bangladeshi migrants “are eating into the economy of the country, and to a large extent, have become a security threat”. The bench also criticized the Union Government for being indifferent to resolve the issue and recommended that the government take exemplary steps to tackle the illegal migration, including deportation. In the petition it was alleged that over one crore (10 million) Bangladeshi migrants had illegally crossed over to India and were causing a severe strain on the resources of West Bengal as well as the North-eastern states. The case sought a direction from the apex Court to the Union Government to identify these Bangladeshis and deport them with the help of agencies such as National Human Rights Commission (NHRC).⁸

However, Bangladesh has always denied the fact that its citizens have illegally migrated to Bharat, but according to the census reports of Bangladesh, nearly 3.5 million people disappeared from East Pakistan (now Bangladesh) between 1951 and 1961 probably as a result of partition. Another 1.5 million may



have entered India between 1961 and 1974 and about 2.5 million refugees who came to India during Bangladesh war of liberation in 1971, probably did not go back and stayed in Bharat. Moreover, the names of two million missing voters had been deleted from the Voters' list of Bangladesh during 1991-95. All these point towards large-scale immigration from that country to Bharat.

CONSEQUENCES OF ILLEGAL MIGRATION:

Consequences of illegal migration or immigration is very impactful on any country all over the world. Broadly, we can categorise the consequences of illegal migration or immigration into Social Consequences, Economical Consequences and Political Consequences.

SOCIAL CONSEQUENCES:

Issue of integration and assimilation

Integration does not strictly entail assimilation⁹; it can be accomplished through additive acculturation a process whereby illegal migrants or immigrants learn what is necessary to adapt to their new environment without forfeiting the practices and values that constituted their own identity prior to illegal migration or immigration. Public order arguments include the arguments relating to its cultural integrity or the way of life.

Migration across state boundaries necessarily involves moving from one political and social culture to another political and social culture, though for more privileged individuals it may involve little or nothing in the way of assimilation.

Multicultural Issues

Emmanuel Kant spoke about perpetual peace as one of the most important objectives to be attained by the states. When different sections of people with different cultural backgrounds join together, a cultural shock may be experienced by the communities which many a time leads to conflicts. In this context the idea of Multiculturalism views that cultures, races and ethnicities, particularly those of minority groups, deserve equal acknowledgement of their differences within a dominant political culture.

Crisis of Identity

A person crossing the international border illegally firstly will suffer from the 'crisis of identity'. Prof. Amartya Sen expressed, that the identity as a basis of violence due to Civilizational clash, Religious



rivalry, West and anti-West, Cultural differences, Opposition to globalisation. He opined, at the background of 'Clash of Civilizations', it is doubtful whether these civilizations actually clashes and the basis for unique categorisation into different civilizations is under question.¹⁰ The influx of illegal migrants or immigrants creates a crisis of identity among the native section of land. Their cultural survival many a time tends to in jeopardy, their political management is weakened and their employment opportunities are undermined by such illegitimate migration or immigration.

Cultural integrity and Assimilation

Integration and Assimilation of the illegally migrated section of people with the community migrated, is a very important issue to address. The manner in which different cultures are integrated into a single society which is assumed by multiculturalism is that various immigrant groups will tend to mix together, abandoning their individual cultures and eventually becoming fully assimilation into the predominant society. The tragedy of multiculturalism revolves round a story of two confusions. The first is the confusion between cultural conservatism and cultural freedom and secondly, ignoring the fact that, while religion may be a political, social, economic – that people also have reason to value.

Cultural Conflicts

The commission on Integration and cohesion anointed by the government of Bharat to study the status of the illegal Bangladeshi immigrants

In Bharat, particularly in the state of Assam, found that even after staying in such a long time in Bharatiya territory, tension sometimes exists with the presence of high levels of immigration mix with alternative kinds of social exclusion like economic condition, poor housing etc. Sometimes, the problem of illegitimate migration led to agitation and unrest and the government even fails of the govt. to retort the same. The outstanding example of this can be the Assamese unrest beneath the leadership of All Assam Gana Sangram Parishad (AAGSP) and every one Assam Student's Union (AASU). Assam witnessed governmental instability, sustained direct action campaigns and worst cases of ethnic violence. Assam Accord was the results of this agitation.¹¹

Environmental Plunder

Offering of citizenship even to the illegal migrants may cause Environmental plunder which has the potential to create a 'disguised violence' to environment of a nation as a whole as it slowly but surely



poisons the lives and livelihood indirectly. Those who are privileged make their fortune by means of hidden process. At this, the owners of such resources must be responsible to cause pollution, congestion, noise and accidents; the poor suffer the most. In a majority of times, it has been noticed that the massive areas of forest land were encroached upon by the immigrants for settlement and cultivation which may ultimately cause to environmental degradation.

Difficulty to spot the Illegitimate Migrants

Most of time, due to the similar language is spoken and similar attire by illegitimate migrants e.g. illegal migrants living in Assam, West Bengal and Tripura (mainly in those states) it becomes difficult to identify and deport the illegal migrants or immigrants in the region.

ECONOMIC CONSEQUENCES:

Disruption in the Economy

Illegal migration or immigration if it happens in amass causes havoc toll to the economy of a country. If an undocumented immigrant has a child born in the state, where they have immigrated (in this case the state is Bharat) , that child is a citizen of that state and therefore, that child has the rights to avail the government services of that country. This must create disruption in the economy of the particular state.

Loss of Tax Revenue

Most undocumented workers receive their payments in cash, and therefore, in most of the times that is out of the purview of tax deductions or their contributions are insignificant. The loss of tax income undermines government programs while the government needs to increase the expenditure on education and health facilities to the illegal migrants or immigrants.

A Strain on Public Utility Services

Many people argue that these illegal migrants or immigrants are costing our government a substantial amount of money by receiving benefits such as education, healthcare, food assistance programs, and other welfare facilities. The illegitimate immigrants usually use public services like healthcare facilities, public colleges, transportation, parks and each alternative service one considers while, they don't pay taxes for the building and maintenance of those utilities.



Problems in the Domestic Labour Market

Illegal migrants or immigrants (Illegitimate) are adding and growing a huge range of individual per annum. It is one of the reasons for the population explosion. Illegal migrants or immigrants are usually desperate for a supply of financial gain and don't mind operating for fewer pay which might wouldn't preferably be taken by native folks. Hence, employers within the destination country don't have to be compelled to rent staff whom they have to pay the quality rates/ minimum wages. Moreover, illegitimate staffs (Illegal migrants or immigrants) will take up near to any reasonably work as long it guarantees a steady income. It doesn't matter however arduous or unsafe, ethical or unethical, and legal or illegal it is. Illegal migrants can't sue and hardly complain regarding work-related problems. Interestingly, the employers are usually happy while and it is frustrating for the citizens who find difficulty in finding moderately paying jobs. It is estimated that undocumented immigrants' lower wages by approximately 10 to 20 percent for low-skill jobs. Illegal migration or immigration has a negative effect on U.S. workers without a college degree. That's especially true in agriculture and construction. According to the Pew Research Center, immigrants held 33% of agricultural jobs and in construction, 24% of the jobs went to illegal migrants or immigrants and almost half of those were documented in 2014. The biggest share was domestic workers. There were 45% immigrants and less than half of them were documented. In those industries, immigration (Illegitimate) lowers wages and drives out native-born workers.¹²

POLITICAL CONSEQUENCES:

Political integration and assimilation

The Governor of Assam, Lt. General S. K. Sinha in his report dated 8th November, 1998 sent to the President of India has clearly said that unabated influx of illegal migrants of Bangladesh into Assam has led to a perceptible change in the demographic pattern of the State and has reduced the Assamese people to a minority in their own State. It is a contributory factor behind the outbreak of insurgency in the State and illegal migration not only affects the people of Assam but has more dangerous dimensions of greatly undermining our national security.¹³ The CAA, 2020 clearly intends to say that the current political system doesn't have the willingness to integrate newcomers particularly belonging to a particular religion in the political culture of the country. There may be different reasons. One of the important reasons is that the nature of treatment of religious minorities in the neighbouring countries. Another reason may be pressure of existing population in the country.



Law and Order Issues

While a significant number of the illegitimate immigrants are solely searching for employment opportunities, a decent range among them are found involved into criminal activities e.g. The Mara Salvatrucha (commonly known as MS-13, is an international criminal gang that originated in Los Angeles, California, in the 1980s), which comprised of Central American immigrants, is a good example of illegal immigrant turned criminals. In Bharat, the huge influx of illegal migrants or immigrants over the decades from Bangladesh has created danger for law-abiding residents. Moreover, it is not easy to track and prosecute illegal criminals (illegal migrants or immigrants). The very first sentence of the Statement of Objects and Reasons of the Illegal Migrants (Determination by Tribunals) Act (IMDT), 1983 says “the influx of foreigners who illegally migrated into India across the borders of the sensitive Eastern and North-Eastern regions of the country and remained in the country poses a threat to the integrity and security of the said region.” The Preamble of the Act says that “the continuance of such foreigners in India is detrimental to the interests of the public of India.” In 2005, The Supreme Court of Bharat made the following ruling on illegal immigration: “The apex court held the Illegal Migrants (Determination by Tribunal) Act (IMDT) as unconstitutional while, with reference to the Sinha Report, maintained that the impact of the “aggression” represented by large-scale illegal migration from Bangladesh had made the life of the people of Assam specially one of seven sister which is 1 Tripura the land of Tiprasa “wholly insecure and the panic generated thereby had created fear psychosis” in other north-eastern States.¹⁴

Illegal voters

Most of the Bangladeshi immigrants have got their names enlisted in the voting list illegally, thereby claiming themselves as citizens of the state. The immigrant’s population act as a vote bank for the political parties in Assam. The recent initiative NRC (National Register of Citizens) is meant for the detection of illegal Bangladeshi migrants. However, success of such initiative will depend on the strong political will.

Issue of terrorism

Pakistan’s ISI has been active in Bangladesh supporting militant movements in Assam (Lt Gen S K Sinha, 1998). It is alleged that among the illegal migrants there are also militants, who enter into Assam to carry out the terrorist activities.



A SECURITY CONCERN FOR BHARAT:

Illegal migration or immigration has come to be regarded as a security threat by most countries facing this problem and particularly in case of Bharat where illegal migration from Bangladesh has become rampant. Threat to security in Bharat arises mainly due to the presence of large numbers of illegal Bangladeshi migrants most of whom are indulged in illegal and antisocial activities and are continuously trying to create havoc in the country.

However, it was not until the Chinese aggression of 1962 that the Congress Governments of Centre and the State came to realise about the possible dangers of the continuous influx of the Muslims to Assam from East Pakistan. During the war, the Bharatiya Army deserted the frontier and retreated without even firing a single round of bullet and the people of Assam received a 'farewell message' from the then Prime Minister Jawaharlal Nehru through All India Radio, in which he stated "Our heart goes to the people of Assam". It was seen that in some places of Assam like Darrang and Nagaon districts where Bangladeshi migrants were in majority, Pakistani and white flags were flown to avert possible Chinese air attacks. This incident was an eye-opener for the Bharatiya leaders which compelled them to think seriously regarding the dangerous situation that prevailed in Assam due to the presence of the illegal migrants. This led to the adoption of a scheme by the Bharatiya Government for detection and deportation of the infiltrators from Assam. Initially the scheme was known as PIP (Pakistani Infiltration Prevention) Scheme, which was later on renamed as PIF (Prevention of Infiltration of Foreigners) Scheme after creation of Bangladesh in 1971. Besides Assam, the scheme was soon extended to the States of Meghalaya, Tripura and West Bengal. A Border Organisation was set up under the scheme, which was deployed for identification and deportation of the illegal migrants from Bangladesh.

Meanwhile, many Muslim militant as well as fundamentalist groups came into existence in Assam who found Assam to be a very fit place for carrying on its preplanned activities. They were and are still operating training camps at places near the Bangladesh border where members of the militant outfits receive training for using various types of weapons. On successful completion of their training, these well-trained members enter India in the form of illegal migrants for creating all sorts of disturbances and violent activities in the country.

Their strategy called the 'Internal Encirclement of India' is to Islamise the border with India to facilitate the influx of terrorists into the interior of the country. There have also been spurts in the number of madrasas and mosques, which have come up in areas bordering Bangladesh, especially West Bengal



and Assam. There have been reports that these madrasas and mosques are being used for instilling fundamentalists ideas among the Muslim youths. The proclaimed aims of the Muslim fundamentalists are to ensure security, safeguard the overall interest of the Muslims and to establish a separate Islamic country.¹⁵

The Islamic fundamentalists groups have always attempted to separate the entire North-East from the rest of Bharat by cutting off “chicken neck” area between North Bengal and Assam (a narrow alley between Sri Rampur in Assam and Jalpaiguri in North Bengal). This was precisely what China had threatened to do during the 1965 Indo-Pak war, but a stern warning of the Soviet Union of the consequences of any such action prevented China from carrying out its threat. As the chicken’s neck area projects towards the east into the Brahmaputra Valley and connects the North-east with the rest of the country, the Islamic fundamentalist organisations have planned to control the area, which would make it easier for them to cut-off the entire North-east from the mainland.¹⁶

In recent years, there has been a tremendous growth of underground Islamic organisations which is causing headache among the Government circles. Such organisations collect huge amounts of money, particularly from the rich Muslim businessmen of the respective areas. Besides, the linkage of the fundamentalist groups with underground elements cannot be ruled out. The funds for procuring arms, providing training, shelter et cetera, to various Islamic Fundamentalists of Bharat might have been canalised from underworld elements like Dubai based Dawood Ibrahim, Afghanistan, based Saudi Millionaire Osama Bin Laden, etc.¹⁷

Some Islamic fundamentalists are also entering Assam via Nepal, most of whom belong to the suicide squad. Political leaders are their main targets. Besides, they have also recruited Assamese Muslim youths from Hojai area of Nagaon district for conducting their operations. These fundamentalists groups promise to give employment and shelter to those youths and is making payment for their work from the funds received from Saudi Arabia. The youths are also promised permanent settlement in Saudi Arabia in future. As a result, slogans such as “ISI Welcome,” “Indian Army Hatao”, “ULFA Jindabad” are gaining momentum in Hojai, Nagaon and Maibang areas.¹⁸

The Islamic terrorist organisations based in Bangladesh, are constantly trying to create disturbances in Bharat in various ways, sometimes through arms and sometimes by distributing anti-Bharat propaganda material in the name of propagating religion among Muslims in the North-East region. For instance, calenders showing photographs of Osama-bin-Laden were circulated in



Karimganj district of Assam in 2001 and police also seized some CDs and cassettes of Laden at Tezpur in November, 2001. Again, in November, 2002, Karimganj police recovered a large number of audio cassettes containing anti-Bharat inflammatory and provocative speeches which were recorded in Bangladesh and were sent for free distribution among the Muslims in North-East.¹⁹

The Indian terrorist groups are also using the camps of the fundamentalist groups in Bangladesh as shelter for their top leaders, as channel for transportation of weapons and for various other illegal activities such as preparation of fake passports, visa, air tickets, etc. The arms and ammunitions are generally brought to Cox Bazar in Bangladesh from where these are transported to various terrorist camps in Bharat and Bhutan.²⁰

The seizure of a huge cache of arms and ammunitions at Chittagong port of Bangladesh on April 2, 2004 was a clearly indication that the anti-Bharatiya insurgent groups had planned to launch a devastating attack on Bharatiya Armed forces as well as to create a law-and-order situation in Bharat.

These Bharatiya terrorist groups are staying in Bangladesh with full knowledge of Bangladesh Government and its various agencies including BDR (Bangladesh Rifles) and DGFI (Directorate General of Forces Intelligence). The interrogation of a number of surrendered or arrested terrorists has provided valuable informations about the activities of Indian terrorist groups in Bangladesh, the location of their camps and the support provided to these groups by the Bangladesh Government agencies.²¹

However, it has been reported that the Bangladesh Government, since last few years, has been taking measures for uprooting the Bharatiya terrorist camps from Bangladesh so as to strengthen the existing friendly relations with Bharat. The Bangladeshi troops had been successful in arresting a number of top leaders of the Bharatiya terrorist organisations staying in Bangladesh who were later on handed over to Bharat. As a result of such measures by the Bangladesh Government, some of the leaders of those organisations have been compelled to flee from Bangladesh and take shelter in some other countries such as China, Myanmar, etc. But inspite of all these attempts on the part of the Bangladesh Government to win over the confidence of Bharat, the Government of the neighbouring country has till date denied the fact of large-scale influx of the Bangladeshi migrants to India.

According to Government sources in Assam, Bangladesh has refused to take back over 29,000 persons declared as illegal migrants by Foreigners' Tribunals since 1985, because Bangladesh does not recognize the verdicts given by India's Foreigners' Tribunals. Bangladesh wants an international



neutral body to verify the citizenship of these persons and only if it finds them to be Bangladesh citizens, the country is ready to take them back.²² But as Bangladesh refused to take back its citizens, Assam government in 2010 set up detention camps in Goalpara, Kokrajhar and Silchar to put persons declared as illegal migrants by Foreigners' Tribunals in detention till they are pushed back.²³

ILLEGAL MIGRATION AND BHARATIYA LAW:

Illegally migrating population from one country to another is a global problem. Not only Bharat but some developed countries like United Kingdom, the United States of America and Canada are facing the heat of migration particularly from Asian countries. In Bharat, the situation is really grim. Ever since the birth of Bangladesh in 1971, there has been continuous influx of Bangladeshis into Bharat from our Eastern Border. The illegal immigrants or immigrants pose serious threat. Assam and West Bengal is worst hit. Quite obviously, there is no scope of illegal migrants or immigrants to get the citizenship in Bharat as far as the Citizenship Act, 1955 is concerned. Apart from 31,313 individuals-25,447 Hindus, 5,807 Sikhs, 55 Christians, two Buddhists and two Parsis-living in Bharat on long-term visas, as far as the various reports are concerned. The illegal migrants or immigrants in Bharat are as under²⁴ –

- More than 80,000 refugees from West Pakistan, largely Hindus, have been living in Kashmir since Independence without citizenship rights.
- Hindu Bangladeshi immigrants in West Bengal-mostly from the Matua community who entered India after 1971. As per the 2011 Census, Matuas comprise 17 per cent of the state's population of 100 million. They have voting rights, but are yet to get citizenship certificates.
- Nearly a 1.4 million Hindus and 500,000 Muslims in Assam as has been excluded from Assam's NRC.

Bharatiya Sangbidhan (Indian Constitution)

In Bharat, the very first entry, namely, Entry 1 of List I of the Seventh Schedule speaks "Defence of India and every part thereof including preparation for defence and all such acts as may be conducive in times of war to its prosecution and after its termination of effective demobilization". In fact, entries 1 to 4 of List I of Seventh Schedule mainly deal with armed forces. Article 355 of the Constitution of India reads as under- "It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the Government of every State is carried on in accordance with the provisions of this Constitution." The word "aggression" is a word of very wide import. Various meanings



to the word have been given in the dictionaries, like, "an assault, an inroad, the practice of setting upon anyone; an offensive action or procedure; the practice of making attacks or encroachments; the action of a nation in violating the rights especially the territorial rights of another nation; overt destruction; covert hostile attitudes."

The Illegal Migrants (Determination by Tribunals) Act, 1983

The term has further been defined under the Illegal Migrants (Determination by Tribunals) Act, 1983, under Section 3(1)(c) as a person in respect of whom each of the following conditions is satisfied, namely: -

(i) he has entered into Bharat on or after the 25th day of March, 1971;

(ii) he is a foreigner;

(iii) he has entered into Bharat without being in possession of a valid passport or other travel document or any other lawful authority in that behalf;

The Preamble of the Act says that "the continuance of such foreigners in India is detrimental to the interests of the public of India" In *Union of India v. Ghaus Mohammed*, the Chief Commissioner of Delhi served an order on Ghaus Mohammad to leave India within three days as he was a Pakistani national. He challenged the order before the High Court which set aside the order by observing that there must be prima facie material on the basis of which the authority can proceed to pass an order under Section 3(2)(c) of the Foreigners Act, 1946. In appeal the Constitution Bench reversed the judgment of the High Court holding that onus of showing that he is not a foreigner was upon the respondent. In *Sarbananda Sonowal v. Union of India (UOI)* the apex court held the Illegal Migrants (Determination by Tribunal) Act (IMDT) as unconstitutional while, with reference to the Sinha Report, maintained that the impact of the "aggression" represented by large-scale illegal migration from Bangladesh had made the life of the people of Assam specially one of seven sister which is Tripura the land of tiprasa "wholly insecure and the panic generated thereby had created fear psychosis" in other north-eastern States. In *Kangshari Haldar v. State of West Bengal*, the IMDT Act, was challenged in which P. B. Gajendragadkar, Judge (Supreme Court) held as under: "In considering the validity of the impugned statute on the ground that it violates Article 14 it would first be necessary to ascertain the policy underlying the statute and the object intended to be achieved by it. In this process the preamble to the Act and its material provisions can and must be considered. Having thus ascertained the policy and the object



of the Act the court should apply the dual test in examining its validity: Is the classification rational and based on intelligible differentia; and, has the basis of differentiation any rational nexus with its avowed policy and object? If both these tests are satisfied, the statute must be held to be valid; and in such a case the consideration as to whether the same result could not have been better achieved by adopting a different classification would be foreign to the scope of the judicial enquiry. If either of the two tests is not satisfied, the statute must be struck down as violative of Article 14.”

ILLEGAL MIGRANTS AND BHARAT:

Over the years, diverse groups of refugees have made different parts of the country their primary settlement zones. From Sanatani (Hindu) and Sikh migrants settling in Delhi, Rajasthan and J&K after Partition, to Bangladeshis forming the largest refugee group from a particular country in West Bengal and Assam perhaps, Buddhist Chakmas and Sanatai (Hindu) Hajongs from Bangladesh concentrating in Arunachal Pradesh, Tamil Nadu hosting Sri Lankan Tamil refugees and Buddhist Tibetan settlements in Dharamshala, Delhi and Odisha, Bharat has welcomed them all. The home ministry has created 'standard operating procedures' for various refugee groups. The rights and facilities afforded to them remain erratic, decided on a case-to-case basis.

Refugees from some groups, like the Tibetans, have been given land, granted Aadhaar and PAN cards, been allowed to open bank accounts and work in the country. Their children can claim citizenship if they were born between 1950 and 1987.

Since 2015, Pakistani and Afghan nationals belonging to the six minority communities, living here on a "long-term visa" can have driving licences, access to education and healthcare facilities and buy “small dwelling units for self-occupation or self-employment”.

Illegal Migration and Issues of Citizenship

Citizenship means being protected by the law rather than participating in its formulation or execution. The "political community is probably the closest we can come to a world of common meanings. To reject political communities' right to distribute the good of membership is to undermine their capacity to preserve their integrity. It is to condemn them to become nothing more than neighbourhoods, random associations lacking any legally enforceable admissions policies. The citizenship is a subject of entry 17 of Union List of Seventh Schedule of the Constitution and the Govt. of Bharat has amended the Citizenship Act, 1955 in a number of occasions to address the issue relaxing the



norms. Acquisition of Bharatiya Citizenship as per the Citizenship Act 1955 is possible under the following ways: (1) Citizenship at the commencement of the constitution of India (2) Citizenship by birth; (3) Citizenship by descent (4) Citizenship by registration (5) Citizenship by naturalization and Incorporation of the territory. The legislation has been amended by the Citizenship (Amendment) Act 1986, the Citizenship (Amendment) Act 1992, the Citizenship (Amendment) Act 2003, the Citizenship (Amendment) Act, 2005, and the Citizenship (Amendment) Act, 2019. At this, it may be stated that the foremost duty of the Government is to defend the borders of the country, prevent any trespass and make the life of the citizens safe and secure.

Citizenship by Assam Accord

In 1951, owing to unabated illegal immigration from Bangladesh (then East Pakistan), the NRC was prepared in Assam as a non-statutory process. Recording the particulars of all persons enumerated during the 1951 Census, the 1951 NRC identified nearly 1.5 million illegal immigrants, one-sixth of Assam's population at the time. However, there is no account of what happened to those illegal immigrants. Citizenship under the Assam Accord²⁵ is as under-

- All persons of Indian origin who came before the 1st January, 1966 to Assam whose names were included in the electoral rolls used for the purposes of the General Election to the House of the People (held in 1967) and
- All persons who have been ordinarily resident in Assam since the dates of their entry into Assam shall be deemed to be citizens of India.
- every person of Indian origin who -
 - came to Assam on or after the 1st day of January, 1966 but before the 25th day of March, 1971 from the specified territory; and
 - has, since the date of his entry into Assam, been ordinarily resident in Assam; and
 - has been detected to be a foreigner;

shall be deemed to be a citizen of Bharat for all purposes as from the date of expiry of a period of ten years from the date on which he has been detected to be a foreigner.

Three decades later, at the end of a six-year-long agitation against illegal immigrants from Bangladesh, the Centre and student leaders signed the Assam Accord in 1985. The accord accepted any illegal migrant entering the state before March 25, 1971, as a legal Indian. This apex court-monitored exercise



in 2019, costing the exchequer to Rs 1,220 crore, excluded 1,906,657 persons on being identified as illegal immigrants in Assam (of these, 80 per cent are estimated to be Hindus). Apart from these exercises, between 1964 and 2008, for instance, 461,000 Tamils from Sri Lanka were given citizenship.²⁶

National Register of Citizens (NRC)

NRC is a roster of all those who settled in Assam up to the midnight of March 24, 1971. In 1978-79, several local leaders spotted a rapid increase in the number of Muslims in electoral rolls. A six yearlong agitation followed against illegal migrants or immigrants from Bangladesh, which culminated with the signing of an agreement called the Assam Accord.

Citizenship Amendment Act, 2019

The Citizenship Amendment Act, 2019 has awarded the persons belonging to minority communities, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, who have been exempted by the Central Government by or under clause (c) of sub-section (2) of section 3 of the Passport (Entry into India) Act, 1920 or from the application of the provisions of the Foreigners Act, 1946 or any order made thereunder, shall not be treated as illegal migrants for the purposes of that Act and shall be eligible to apply for naturalisation under section 6.” Moreover, the migrants from these communities were earlier given protection against legal action in the years 2015 & 2016 and long-term visa provision was made for them. Interestingly, the Government of Bharat unlike any other country in the world has taken a positive stand by recognising a huge number of illegal migrants particularly belonging to the religious minorities who have been subjected to religious persecution in those neighbouring countries in neighbouring countries as citizens of India through the Amendment of 2019.

In response to the, exclusion of illegal migrants of some of the religious communities coming from different neighbouring nations under the Citizenship Amendment Act, 2019, it may be stated that the country of their origin is a country where by the Constitution the Country is Religious Country e.g. Pakistan and Bangladesh are Muslim Country recognised by the Constitution and those religious communities are religious minorities in those countries. They are in those country such religious groups of people are better protected. Hence, it may be submitted that if any Muslim person illegally crossing the border of e.g. Pakistan and claiming that he/ she came to Bharat since he/ she had been subjected to religious persecution over there, it is really an unfortunate state of affair involving law and order issue in



that country and which is linked to the failure of constitutional machinery of that nation and it cannot be a ground for extension of rights of citizenship to such people by a neighbouring country.

Further, the CAA, 2019 doesn't negate the provision of Citizenship by

Naturalisation under Section 6 of the Citizenship Act, 1957. Hence, a person who is residing in Bharat for a long time with sufficient evidence of his staying and interested to apply for citizenship, may apply for the Bharatiya Citizenship. Thus, in none of the way the rights of any person is curtailed under the CAA, 2019 while, it has opened new visas to become Bharatiya Citizen for the people belonging to religious minorities or more specifically, for the people whose religious orientation is different from that of the State Religion in our neighbouring countries.

CONCLUSION:

To sum up, a problem which has its historical roots so deep cannot be solved overnight. The dangerous consequences of large-scale illegal migration from Bangladesh, both for the people of Assam, West Bengal and more for the Nation as a whole, need to be emphatically stressed. No misconceived and mistaken notions of secularism should be allowed to come in the way of doing so. Illegal migration from Bangladesh is no longer a regional problem which can be pushed under the carpet. These migrants are now spread in several states and distant places such as Rajasthan, Delhi, Madhya Pradesh, Maharashtra and so on. This silent and invidious demographic invasion of Assam may result in the loss of the geo strategically vital districts of Lower Assam. The influx of these illegal migrants is turning these districts into a Muslim majority region. It will then only be a matter of time when a demand for their merger with Bangladesh may be made (The concept of Greater Bangladesh). Thus, it is high time to solve the problems of illegal migration to save Assamese people in their own land and to save the nation from the threat of immigrants.

The government is the sole protector of the state's territory and its' citizen. By not giving enough consideration on the national security threats, the government (previous and current) is pushing the indigenous people of Bharat into a great upcoming danger.

In the final concluding comment, I would like to say that the National Register of Citizens (NRC) of 1951 should also be reviewed, computerised and updated and such updating should be done on a regular basis. Moreover, the registration of citizens should be made compulsory by law. But above all, there must be a strong political will of the Union Government, the State Governments and all the political



parties to save the country from the menace of the illegal migrants, otherwise it will completely destroy the political, economic and social stability of not only the North-east, but of the whole country.

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