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Illegal Immigration in Assam: Challenges and the Way Forward



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India's Stance on Immigration

Based on census data, Sanjeev Tripathi, the former head of India's Research and Analysis Wing, stated that there are more than 15 million Bangladeshi nationals residing illegally in India (Tripathi, 2016). Kiren Rijiju, India's Minister of State for Home Affairs, estimates this number to be more than 20 million. Either way, it is the largest international migration corridor in the world.

India is not a signatory to the United Nations 1951 Convention Relating to the Status of Refugees, commonly called the 1951 Refugee Convention and its 1967 Protocol (Tripathi, 2016). India is yet to develop its own refugee laws. As of now, the refugees are considered under the ambit of the term 'alien' in the Indian Constitution¹. The term alien appears in the Indian Constitution in Section (2)(B) of the Indian Citizenship Act, 1955. The Foreigners Act, 1946 governs all laws related to the entry and exit of 'aliens' or foreigners from India. Indian law even fails to recognise refugees as a distinct category of individuals and treats them at par with all other foreigners (Bhattacharjee,

Key Points

1. Immigration into Assam (mostly illegal) may be traced back into three distinct waves of migration starting from the British Raj to present day.
2. Two major reasons for migration are the 'pull' which is exerted on the people from a 'foreign' land in the form of better economic opportunities, political and religious freedom or varied employability options. The 'push' factor exerted on people to leave their indigenous land which has poor standards of living, substandard economic opportunities or religious and political constraints.
3. Kiren Rijiju, India's Minister of State for Home Affairs, estimates more than 20 million illegal immigrants from Bangladesh, making the Bangladesh-India corridor the largest international migration corridor in the world.
4. In 1985, the Assam Accord was signed among the All Assam Students Union, Asom Jatiyatabadi Yuva Satra Parishad, and the central and state governments to update the National Register of Citizens (NRC). The consensus reached in the Assam Accords of 1985 set the cut-off date for granting citizenship to individuals settled in Assam before March 24, 1971.
5. Only after completing the entire process of updating the NRC, the state government of Assam can approach New Delhi to take up the issue at hand with Dhaka.
6. The Indian Government has to formulate alternative solutions to the problem at hand considering that Bangladesh does not acknowledge any illegal immigration and tackle this issue effectively and immediately.

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2008). However, these laws have not been enforced multiple times since 1947 and have led to adverse effects in the Indian subcontinent, particularly North-East India.

India, since earlier times, has had a humanitarian disposition towards refugees and asylum seekers. After independence, the demarcation of boundaries caused a lot of complications in the Indian subcontinent. This was due to the shared histories and cultures of the regions through which borders were marked.

Waves of Migration in Assam

The phenomenon of migration across these borders has been an age-long phenomenon even before international borders were demarcated. Immigration into Assam may be traced back into three distinct waves of migration. With the British East India Company penetrating into the north-eastern interiors for capitalisation and exploitative practices, we observe the first wave of migration from mainland India and other neighbouring regions to the north-east, particularly Assam. This first wave of migration can be traced with the establishment of 'tea' in the hills of Assam in the late 1800s. Cheap labour was brought in from the neighbouring regions of Bengal, Bihar and Nepal. The British Raj was not concerned with the well-being of Indians, let alone the indigenous inhabitants of those areas². The fertile land and tea attracted more and more labourers which were supplied from across the borders. To curb this phenomenon of migration, the Inner Line System was introduced in Kamrup and Nagaon districts of Assam in 1920³. Although enforced by the British Raj, the large population of immigrants did not conform to it and this system proved to be highly inefficient and unsuccessful.

Widespread distrust and discontent among the indigenous population were created during the time of partition which can be marked with the second wave of influx during the partition and subsequent

formation of East Pakistan. The bordering states of West Bengal, Assam, Meghalaya and Tripura witnessed huge inflow of East Pakistani nationals, the majority being Hindus. This followed the Immigration (Expulsion from Assam) Act 1950 and the Nehru-Liaquat Ali Khan agreement. The Immigration Act of 1950 directed (not ensured) the expulsion of immigrants from Assam and other states after protests from the local population. However, with the Nehru-Liaquat pact of 1950, all illegal immigrants were not to be harassed and allowed to be settled in different parts of India from East Pakistan (Subramaniam, 2016). This was probably based on Nehru's secularism and the two-nation theory according to which India would be home to Hindus of the Indian subcontinent which Nehru wanted to maintain (Bhargava, 2017).

The third and final wave can be traced from 1968 to 1972 during the formation of Bangladesh. According to the census of 1971, the rate of increase of population of Assam was 34.95 percent (in 1951, it was 19.93%). Millions of refugees who came to Assam during the Liberation War were not repatriated by the Indian Government after the creation of Bangladesh. Again, a majority of the illegal immigrants were Bangladeshi Hindus. The population of Assam went skyrocketing at the rate of 52.44 percent between 1971 and 1991 (Saikia, 2012).

Indo-Bangladesh Migration

Bangladesh is surrounded by India on three sides, sharing 4096 km of border. There are two major reasons of this migration. The first being the 'pull' which is exerted on the people from a 'foreign' land in the form of better economic opportunities, political and religious freedom or varied employability options. This was observed during the British Raj when the fertile land and the economic opportunities 'pulled' migrants into the region. The second factor is the 'push' factor exerted on people to leave their indigenous land which has poor standards of living, substandard

economic opportunities or religious and political constraints (Singh, 2009). This 'push' has been more predominantly observed in the latter half of the 20th century in the case of Bangladesh. This was largely due to ill-favoured political, religious and socio-economic conditions. Bangladesh is world's eighth most populated country with more than 20 percent of the population living under the poverty line⁴. The tough socio-economic conditions of the country have resulted in large-scale illegal immigration across the porous Indo-Bangladesh border. McKinsey Global Institute has identified four different types of international migration. The largest international migration is from developing countries to developed countries. Migration between developing countries is also a major phenomenon and the second largest. Between the years 2000 and 2015, it was estimated that 80 million migrated from a poorer developing nation to a somewhat 'less poor' developing nation (The Beautiful South, 2016). This global phenomenon is common in the African Nations and the South Asian countries, where poor developing nations are in close proximity with 'less poor' developing nations. "The poorer the people, the shorter the distance they want to travel," says Dilip Ratha of the World Bank. The linguistic and cultural differences in these regions are minute. Shared histories of regions through which borders are drawn facilitate illegal immigration easily. Examples may include Burkina Faso and Ivory Coast, and India and Bangladesh⁵.

The reasons for this migration may have varied over the years. Earlier, it may have been simply because of the availability of more fertile land when there was no restriction in settling in new areas. Later, we can relate this migration with political and religious interests, economic opportunities and religious and social freedom.

Consequences of Migration in Assam

The aftermath of immigration caused adverse demographic transitions in the state of Assam. In the

late 1960s, this issue was identified by the indigenous inhabitants of these lands. In the following years, the demographic invasion began with added vigour. The population of Assam went skyrocketing at the rate of 52.44% between 1971 and 1991 (Saikia, 2012). The identity of indigenous inhabitants which was predominantly based on ethnicity and language was now being attacked. Owing to the large influx of 'foreigners' in the state with the support of the state (The Britishers during the colonial period and political parties/ vested political groups during post-colonial period⁶), a shared feeling of exclusion was inculcated in the indigenous people of the region (Das, 2015). A feeling of distrust and resentment by the indigenous people towards the state was therefore inevitable.

In 1985, the Assam Accord was signed among the All Assam Students Union (AASU), Asom Jatiyatabadi Yuva Satra Parishad, and the central and state governments to update the National Register of Citizens (NRC) to identify and deport 'all foreigners' from the state of Assam (Saikia, 2017). This accord was a result of six years of agitation and turmoil in the state started in 1979, claiming as many as 855 lives, and giving rise to anti-immigrant riots such as the Nellie massacre and other violent ethnic and language-based conflicts between the indigenous inhabitants and the so-called foreigners (Chakravorty, 2017). The consensus reached in the Assam Accords of 1985 set the cut-off date for granting citizenship to individuals settled in Assam before the March 24, 1971. This meant that every individual settled in Assam prior to March 25, 1971 would be granted the citizenship of India. However, this was not upheld by the central government and the problem of illegal immigration kept on persisting. In 2007, about 25,712 out of 5 lakh Bangladeshis who came to India did not return after the expiry of their visas while in 2006, more than 24,000 went missing from 4.84 lakh Bangladeshis who had entered India with valid travel documents (Singh, 2009).

National Register of Citizens

The revision of the 1951 NRC was recommended by the Supreme Court of India when a petition was filed in 2013 (National Register of Citizens to be updated in Assam, 2013). The first draft of the revised NRC based on the Assam Accord, 1985 was published at midnight on December 31, 2017, containing 1.90 crore names. Various complications have arisen since the revision of the NRC has been taken up. Individuals born after 1971 (post the formation of Bangladesh) are supposed to prove their Indian citizenship based on a legacy person, who needs to have an official government document prior to 1971 and then establish a direct relationship with that person. Old destroyed government records, spelling mistakes in records, common names of ancestors and lack of any documents in interior villages are few of the obstacles faced by the NRC. Most of the illegal Bangladeshi immigrants have ration cards and their names enlisted in the voter's list. On the other hand, there are numerous indigenous and tribal people who have no such documentation.

With the influx of immigrants in specific villages (with a Muslim majority) on the Indian side of the border, it is not long before these illegal immigrants are granted a piece of land in that village by the village headman. The influx takes place majorly during the winter season when the water level of the Brahmaputra recedes. The land allotted to them is along the banks of the river and is highly fertile. As and when the water level of the Brahmaputra increases during the summer and subsequent monsoon season, the illegal immigrants are then shifted to the refugee camps and flood relief camps under the pretexts that their homes and lands have been consumed by the Brahmaputra. They are then provided with ration cards and then voter cards, hence, facilitated with official Indian documentation. This process has been supported by the local majority, and to an extent, even political parties.

Therefore, the NRC is at no fault in scrutinizing Muslim applicants more rigorously than Hindu applicants. More recently, this issue has been given a more communal shape with our Prime Minister, Narendra Modi parading with the slogan, 'jati, mati and bheti' (Barooah, 2017). The government claimed that there is a rise in Muslim population and have outnumbered Hindus of the state of Assam and subsequently highlighted a census report showing the growing Muslim population in nine districts – Dhubri, Goalpara, Nagaon, Barpeta, Morigaon, Karimganj, Hailakandi, Bongaigaon and Darang. The religious demography of Assam has an undergone intense transition in the last 60 years. The Muslim population in 1951 of Assam was 26 percent and according to the census of 2011, it was 38 percent (Shanmukh, 2016). The Bharatiya Janata Party (BJP)'s manifesto includes provisions to provide Bangladeshi Hindus with refugee status followed by Indian citizenship. Recently, the Home Ministry backed the BJP's manifesto and stated that they are yet to submit a policy document granting citizenship to Bangladeshi Hindus (Sriram, 2016). This decision of the government is probably based on the two-nation theory according to which a safe habitat should be given to Hindus. However, nationalism in Bangladesh is based on language (Kabir, 2007); it will be illogical for the Indian Government to grant citizenship based on religion. This statement made by the BJP threatened communal peace on both sides of the border. A few minor outbursts against Bangladeshi Hindus occurred after this statement was made on the Bangladeshi side of the border (Sadeque, 2014). Communal tension has been on a rise on the Indian side of the border too. The AASU has publically declared that they are not in support of the Citizenship (Amendment) Bill, 2016 (included in BJP's manifesto), as it is in clear violation of the Assam Accord, 1985 (Khashyap, 2017). The AASU strictly wants to follow the Assam Accord of 1985. The issue at hand needs to be viewed as an encroachment of ethnic and linguistic identities of the indigenous individuals and not be dealt with in a religious perspective.

The second draft of the NRC is to be released in March or April this year which would have the complete list of citizens. The entire process would be completed by the end of 2018, with the dates decided in accordance with Supreme Court of India. Only after completing the entire process of updating the NRC, the state government can approach New Delhi to take up the issue with Dhaka. Himanta Biswa Sarma, at the India-Bangladesh Friendship Dialogue, said, “The Assam government would move the central government to take up the issue of illegal immigrants with Bangladesh after the NRC is updated” (Pisharoty, 2017).

The Way Forward

New Delhi has to step into a bilateral agreement with Dhaka regarding this issue, although ties with Bangladesh have been fairly strong post-2014 with Narendra Modi’s repeated meetings with Sheikh Hasina. The two countries signed 22 agreements in April 2017 on the area of defence, nuclear energy and cyber security with India offering \$4.5 billion to Bangladesh and another \$500 million line of credit specifically for defence purchases. However, there have been a few issues on which both the countries have differing opinions. An agreement regarding the Teesta river water sharing issue is yet to be formulated but the need of the hour is a bilateral agreement on illegal immigration of citizens of both countries into the other. Under this treaty, both the countries have to formulate a procedure of taking back its citizens. However, the issue at hand is far more complex than this. It is estimated that more than 15 million Bangladeshi nationals are illegally residing in India whereas the Bangladeshi Government estimates almost one million illegal Indian immigrants (Sadeque, 2014). The Bangladeshi Government has officially stated that no Bangladeshi national is living on the Indian side of the border illegally (Sadeque, 2014). Formulating a bilateral agreement on these backgrounds would require a lot of work from the Indian Government.

At the very outset, let us talk about repatriation. Repatriation of 15 million individuals is a gargantuan task which has never taken place on the face of the Earth and probably never will. The Indian Government, therefore, has to formulate alternative solutions to the problem at hand, considering that Bangladesh does not acknowledge any illegal immigration. The government may, in this case, classify illegal immigrants into categories. They first need to be sorted into refugee and illegal immigrant categories. The individuals classified under refugees will then come under the refugee laws (which Indian Legislation needs to formulate). The government may further subcategorize the illegal immigrants and may consider to repatriate individuals in phases over a certain duration based on the category of the illegal immigrant. The question arises who would pay for all this? If the Indian Government decides to pay for it, how would the general Indian population react to this expenditure of their tax money? The Indian population, therefore, faces a dilemma. Whether the government should take the initiative to make a one-time expenditure to repatriate all illegal immigrants or keep spending money perpetually on illegal immigrants by providing various subsidies and on social development programmes?

The Indian Government needs to address this issue at the earliest. Most studies indicate that illegal immigrants are a drain on the country’s resources, healthcare and social services. Classification of these individuals and subsequent recognition into the system may be the most suitable step the Indian state can take. But why should the Indian state take care of 15 million individuals who do not even belong to the country? The government has already spent a considerable amount of resources on ‘finding’ a solution which has found no success in the past half century. Imbibing these individuals into the system would at least put a hold on squandering resources on their repatriation and on the other hand would benefit on the taxes received by the reinstated individuals.

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An intervention of non-governmental organisations is required on both sides of the border to smoothen the rehabilitation programme. Awareness programmes initiated by NGOs on the Bangladeshi side to make individuals aware of the hardships faced by an illegal immigrant need to be started. Rehabilitation of entire villages would require money and time.

India's most suitable step is to go into bilateral talks with Bangladesh and address the issue together. New Delhi needs to convince Dhaka to share the expenditure of the entire operation. India may further take a humanitarian stand on this issue and even offer monetary assistance to Bangladesh for social development. Dhaka needs to provide proper documentation to its citizens and a passage back to the country.

Conclusion

India should also tackle this issue at its very source. India and Bangladesh share 4,095 km of the border of which 1,016 km are riverine and 63 km maritime (Tripathi, 2016). The border is as porous as it can be running over tea gardens, agricultural fields and buildings. Only about 1000 km of it is fenced which was done in 2000–2001 under the Vajpayee government. In 2016, under National Democratic Alliance (NDA) II, the fenced border was erected in

the state of Assam and West Bengal; however, more than half of the 4000 km border remains prone to trespassing. India needs to construct an effective, concrete, barbed wire fencing at the earliest. In addition to the physical barrier, the deployment of paramilitary forces in the borders has to be increased considering that there are practically no Bangladeshi border security forces. Crossing the border is as normal as walking through a park in some areas of West Bengal and Meghalaya. Cattle smuggling is a common practice in most of the villages in Assam and West Bengal. With the presence of a physical barrier and paramilitary forces, crossing the border would be close to impossible.

Tackling the illegal immigration issue should be India's top priority in a very diplomatic and non-communal way. The NDA government is expected to solve this problem at the earliest as it was one of its main issues it promised to resolve in its 2014 campaign. The NDA needs to revise its policy regarding Hindu Bangladeshis. Not only is its policy in clear contradiction with the Assam Accord, 1985 but may also give rise to religious tensions on either side of the border which we need to avoid during this process of rehabilitation. With the updating of the NRC, the state government and the central government can hold talks with Dhaka and resolve this issue immediately and successfully by following proper steps.

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FURTHER READINGS

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Notes

1. The Asylum Bill, 2015 has not been passed yet but it categorises refugees and asylum seekers separately and is a proper domestic asylum law which India till date does not have.
2. The first tea colonies of Assam in Tezpur and Jorhat were created during this period. Separate villages of the tea tribes of Assam and immigrants were formed in these towns.
3. Under this Line System, Muslim immigrants from East Bengal, now Bangladesh, more particularly from Mymensingh District, were required to settle in certain areas of the Brahmaputra Valley of Assam and not encroach into areas inhabited by the indigenous population.
4. UN Data. <http://data.un.org/CountryProfile.aspx?crName=bangladesh#Social>.
5. The World Bank estimates that 1.5 million migrants from Burkina Faso alone live in Ivory Coast.
6. Competitive politics of vote bank and the patronage extended to illegal immigrants by political parties/vested political groups in India.

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