

NATIONAL REGISTER OF CITIZEN OF INDIA (NRC)

Written by *Rajan Anand** & *Ananya Dubey***

**2nd Year BA LLB Student, Ramaiah Institute of legal Studies, Bangalore*

*** 2nd Year BA LLB Student, Ramaiah Institute of legal Studies, Bangalore*

ABSTRACT

Illegal migration from Bangladesh has been a noteworthy political issue. The relation of India and Bangladesh are set apart by a sort of disturbance because of unlawful transnational exercise and ethnic violence. Most of the clashes spin around land and language. The illegal migration is troubling Assam for past decades. This paper manages the conflict in Assam and the NRC list and the obligation of the state towards the protection of human rights and National security. In spite of the fact that the issue of illegal migrants is not only from Bangladesh yet this paper only analyzes about the illegal Bangladeshi immigrants because of the current NRC process. Out of 3.29 crores people who had applied their names to be included, only 2.89 crores have made it to the revised citizen's list. The rest confront the possibility of being pronounced illicit and conveyed except if they can fulfill the questions of the specialists. The Assamese political and social discourses fear that this uncontrolled migration from across the border will spoil their way of living and change the demography of the state in future. This paper infers that this major issue ought to be considered a national issue since nowadays this issue isn't just considered as the issue of Assam yet additionally the subject of social and political security of whole North –East also as the entire nation.

INTRODUCTION

Movement is as old as human progress. The migration has constantly played a fundamental job in transforming the society. During old times the movement across the border was taking place in small groups. Migration can be categorized into two types a) Interior Migration: development of individuals starting with one zone of a nation then onto the next for the reason or on the other hand with the point of building up another home; b) Global migration (development, either for all time or on the other hand briefly, of the individuals from their nation of beginning or of ongoing living arrangement to another nation. The National Register of Citizens of India is a chronicle or register of the genuine citizens of India dwelling in Assam. The account was first prepared after 1951. The across the board population of Assam at that time was 8,028,856. NRC is the first verification campaign happening in India which aims to determine the genuine citizens of India in Assam. There are 33 Districts in Assam 9 out of which are going through the biggest issue of illegal immigrant since 2-3 decades. The demography of the districts has changed entirely from past 2-3 decades and religion Islam has escalated rapidly. The Hindu sects have become very little in some parts of Assam. In the recent times, NRC is now being updated in Assam. The names of all citizens residing in Assam before 25 March 1971 are included in NRC. The Supreme Court has ordered to update the NRC list and since past 3 years it is being updated and 52,000(approx.) government officials are working on it.

WHO IS AN ILLEGAL MIGRANT?

A person who crosses an international boundary without any genuine document gets into another country with the intention of carrying out any illegal activities on that country or for any political and economic purpose.

Section 2(b) of the citizenship act 1955 states that 'an "illegal migrant" means a foreigner who has entered into India-

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

2) 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.

Firstly, in defining illegal migrants in Assam firstly it is to be considered that after the partition of India and Pakistan the East Bengal which was a Muslim dominated and Sylhet district of Assam became a part of Pakistan which resulted in the migration of a large number of Hindu refugees to India. Special provisions were made by the Indian Constitution for granting citizenship to these refugees from Pakistan for a limited period of time (until January 1, 1966). Though the refugees who entered India were required to go through the process of naturalization, the majority of them did not follow the legal procedures and thereupon became a part of illegal immigrants.

Secondly, The Indo-Bangladesh Treaty of Friendship, cooperation and peace or the Mujib Treaty which was signed between the Prime Minister Indira Gandhi and Prime Minister Sheikh Mujibur Rehman in 1971 speaks about India agreeing to take the responsibility of all migrants irrespective of their religion who entered Assam before the last date i.e. 24 March 1971 would not be an illegal migrant in India under this treaty

Thirdly, according to the historic Assam Accord which was signed between the All Assam Students Union (AASU), All India Assam Gana Sangram Parishad (AAGSP) and the government of India anybody who entered Assam from Bangladesh on or after March 25, 1971, is an illegal migrant and not a citizen of India. Also according to this accord those who came to Assam between January 1, 1966, and March 24, 1971 could apply for Indian citizenship only after expiry of 10 years. Hence those who crossed an international border and entered Assam before March 24, 1971 became India's legal citizens through the similar legal process as of naturalization.

CAUSES RESPONSIBLE FOR THE ILLEGAL MIGRATION

An eminent scholar of Bangladesh, Dr. Imtiaz Ahmed states "the number of people crossing over to India increases during the period of environmental disasters". According to his

estimates, the number of illegal migrants to India during 1971-1981 is approximately 1.73 crores and not less than 6000,000 crossed over to Assam alone during 1981-1991.

Most important variables in migration are “push and pull”. When more or fewer people are compelled to leave a place those are push factors For example -poor economic conditions, lack of opportunities which push people out of a reason in search of better livelihood opportunities.

Better employment opportunities, higher wages and facilities of modern life that promotes migration refer to pull factors.

Apart from these, there are multiple factors that have paved way for migration to Assam from Bangladesh are:-

- 1) Open Border: - the Open border between India and East Pakistan is of 4096.7 km out of which 262 km is shared with Assam. This border shared with Assam includes plains, reserved forests, agricultural lands, rivers, mountains, National Park etc. Lack of permanent boundary pillars is also a major cause for the illegal migration.
- 2) Persecution of Minority Communities:-Persecution of minority communities is a result of the construction of national identities in Bangladesh. Ethnic minorities (Hindu Bengali) found themselves to be minorities in both religious and ethnic sense after Islam was declared as the state religion.
- 3) Vote Bank: - Illegal migration from Bangladesh is encouraged by some Indian Political parties to make their political base stronger and to seize favorable votes during elections.

HISTORICAL BACKGROUND

There was a state of unsettledness in East Pakistan. The people who were protesting to get divided and get a separate Bangla nation were being controlled by Pakistani Forces. Pakistani Army was trying to take down the people leading to a huge disturbance in East Pakistan. People started migrating to India illegally. Bangladesh was formed on 26th March 1971 and at that time a large population started entering in Indian Territory and started residing in India from then. According to a book authored by Salaam Azad, states of Tripura, Assam, Meghalaya,

West Bengal, and Bihar witnessed a large number of immigrants. According to the book “Bangladesh ke swatantrata Sangram mein Bharat ka yogdaan” by Salaam Azad 9,899,305 illegal immigrants entered Indian states and started living there. The statistics given in the book regarding the illegal immigrant’s state-wise distribution are

WEST BENGAL	7,493,474
TRIPURA	1,416,491
MEGHALAYA	667,986
ASSAM	312,713
BIHAR	8,641
TOTAL	9,899,305

The illegal immigrants started living in different states of India after the formation of Bangladesh. The encroachment of land by the immigrants became the major issue in these regions. In 1985 All Assam Student Union (AASU), Assam Gana Parishad started protesting against the illegal immigrants. They were saying that these immigrants are occupying the land of people of Assam and illegally living in India and destroying the peace of the state. Due to the protest, the central government came under pressure and signed the ASSAM ACCORD with the state government in 1985.

The Assam Accord was signed between Centre and the state government in 1985. Some of the key demands were:-

- All those foreigners who had entered Assam between 1951 -1961 were to be given full citizenship including Right to vote.
- Those who had entered after 1971 were to be deported; the entrants between 1961 and 1971 were to be denied voting right for 10 years but would enjoy all other rights of citizenship.

The guidelines of the Accord were not properly implemented and therefore it failed to control the nature of illegal immigration into Assam. The majority of the illegal immigration is taking place through the Dhubri district in lower part of the Assam sharing boundary with West Bengal, the districts of Cachar and Karimganj in Assam bordering Bangladesh and Bangladesh-

Meghalaya border of 443 km. Assam shares highly penetrable border of 262 km with Bangladesh with parts of it not examined due to the difficult nature of the location.

THE POLITICAL TAKE

In 2012 ethnic clashes broke out between Bodos and Bengali Muslims in Bodoland territorial area districts. In these clashes, more than 70 people died. A bunch of pleas reached the Supreme Court regarding the issues. Assam Sanmilita Mahasang filed PIL in 2012. In PIL the issue raised was to identify the illegal immigrants who came in from 1 January 1966 to 24 March 1971 and to remove their names from the voter's list. As the response to this PIL, on December 17, 2014, the Supreme Court asked to update the NRC list. The procedure to update the NRC list started in February 2015. 3.29 crores people applied for their names to be included in the list out of which 2.89 crores have made it to the revised citizen's list. It is not clear whether these 40 lakhs will be eligible to vote in next year's National election. The decision rests with the Election Commission. The rest confront the possibility of being pronounced illicit and conveyed except if they can fulfill the questions of the specialists. The issue of illegal Bangladeshi migrants has an impact on political aspects there in Assam there is a common understanding that most of the political parties are dependent on the votes of the illegal migrants for their hold on power. This is a political paradox at its worst as it generates motivation or perhaps strong incentives to neglect an issue that is affecting the society which represented in power structures by none other than these very political parties. Hence, there is a feeling of increasing doubtfulness and helplessness amongst the local people on the capacity of local political party discourses on handling Bangladeshi illegal migrants. For tackling the issue of illegal migrants into Assam, the illegal migration (Determination by Tribunals) Act 1983 was set up by the Centre under an Act of parliament. The Act was applicable to only Assam. IMDT Act stated that anybody settled in Assam before, 25 March 1971 was a legal citizen. The IMDT Act put the burden on the complainant to prove the citizenship status of the accused unlike the Foreigner's Act 1946. This was a killer clause because the entire burden to prove that someone was illegal was on the complainant and accused has to do nothing to prove his/her citizenship. Therefore, the Act failed to identify and deport illegal immigrants effectively.

The opposition parties in order to criticize the central government called the NRC a communal exercise. The whole process was politicized by the leaders for their hidden propaganda. The West Bengal CM came forward and called NRC a process to target a Particular religion and labeled the government anti-Muslim. The Home Minister had given the clarification after the revised NRC list was updated. The home minister said that all the NRC exercise is being done under the supervision of the Supreme Court

THE CITIZENSHIP AMENDMENT BILL, 2016

The government is planning to change the definition of illegal migrants with the citizenship amendment bill 2016. The Bill introduced in Lok Sabha on 15 July 2016, seeks to amend the Citizenship Act, 1955 to provide citizenship to illegal migrants from Afghanistan, Bangladesh, and Pakistan who are of Hindu, Sikh, Buddhist, Jain, Parsi or Christian origin. Nonetheless, the Act does not contain a provision for Muslim community like Shias and Ahmediyas who also face persecution in Pakistan.

The Bill also seeks to reduce the requirement of 11 years of continuous stay in the country to 6 years to obtain citizenship by naturalization

Commitments under universal human rights laws

The NRC procedure additionally raises genuine worries with respect to India's commitments under global human rights laws. While India has not approved the two key instruments on statelessness – the 1954 UN Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness – it has certain commitments under other human rights instruments. For example, the Universal Declaration of Human Rights (UDHR) makes an obligation on states to keep away from activities that result in statelessness and requires that a request denying a man of his/her citizenship must follow a method lined up with fair treatment. This guideline is in actuality reflected in India's own Citizenship Act of 1955, which entitles a person for a due request before such hardship.

In Assam's specific situation, the highest Court in the 2005 *Sonowal* case held that the weight of evidence must be on the supposed undocumented migrant to prove citizenship rather than it

being on the researching organization, in view of the thinking that the essential reports would be inside the ownership of such individual. However, given the sheer size of the present NRC work out, such a switched weight of evidence is probably going to prompt a huge number of individuals being left in a legitimate limbo, facing problem to build up their pre-1971 roots, With the Supreme Court now due to conclude the Standard Working Technique (SOP) that will oversee the transfer of cases and protests, it is critical to address predisposition in the request methodology and different issues concerning the synthesis of the Outsiders Councils.

RIGHTS OF CHILDREN

Further, under the Tradition on the Privileges of the Tyke, India is committed to keeping statelessness from being acquired and a kid is qualified for a nationality independent of the nationality or some other status of his/her folks. Besides, as involved with the Global Tradition on End of all Types of Racial Segregation, India must ensure the privilege to nationality to its kin in a non-prejudicial way; rather, the NRC has adequately turned into a political device in the hands of troublesome powers.

It is in this way officeholder on India to keep the production of stateless populaces and to keep the infringement of the human privileges of the individuals who are most defenseless in the current political atmosphere. Subsequently, a solid arrangement, for example, a confirmation concurrence with the concerned nation, is basic and can't be substituted with mass confinements of those being referred to. It is critical to guarantee that this populace gets the protected ensures accessible to all people inside the region of India, not slightest Article 21 that keeps the hardship of the privilege to life and freedom aside from as per fair treatment. Without such a structure, the NRC exercise will leave some purported 'nonnatives' in Assam to mope in confinement focuses, isolated from their particularly Indian families outside.

CONCLUSION

From the above talks, it is seen the issue of unlawful migration from Bangladesh ought to be regarded as a national issue as opposed to seeing it as a territorial issue. In spite of the fact that

the Indian Government has neglected to prevent the inundation from Bangladesh because of the absence of political will on their part to settle this highly tricky issue and the craving to utilize these illegal migrants as vote banks for their very own personal stake. The government should take provoke measures to heighten the procedure of distinguishing proof and extradition of the illegal migrants. The fencing along the whole India-Bangladesh fringe ought to be finished as right on time as would be prudent and a high-security alarm ought to be kept up along the whole outskirts. Individuals must be made mindful of the ill effects of the unlawful relocation to land at a national accord. Be that as it may, most importantly, there must be a solid political will of the Association Government, the State Governments and all the political gatherings to spare the nation from the danger of the unlawful vagrants, else it will totally demolish the political, monetary and social strength of the North-east, as well as of the entirety. Prime Minister Narendra Modi's interest for building up the eastern piece of India and his legislature should lead the pack in settling all current and debate. While 2014 election campaign was going on, Narendra Modi blamed opposition in Assam for permitting unlawful Bangladeshi migrants to reside in Assam accusing them of exhausting the assets that were for local people. Despite the fact that On December 17, 2014 n Supreme Court of India passed a 70-page judgment referring clause 6A of the Citizenship Demonstration to the Constitution Seat other than giving a huge number of hearings to the inside and in addition the state for prompt execution of specific parts of Assam Accord concerning a bundle of writ petitions documented under Article 32 of the constitution, by the Assam Sanmilita Mahasangha, All Assam Ahom Affiliation also, others, identifying with the issue of unlawful Bangladeshi transients in Assam. The SC additionally has set the due date for conclusion of last refreshed „National Register of Citizenship (NRC) by January 2016. Yet, on the off chance that we see the current refreshing news of the records or the Heritage data, we will see there are different issues like fake archives accommodation. The new BJP government in Assam raises the issue of illegal immigrants with their partner, yet any attempt to really dislodge them would be both unfeasible and burdened with security challenges inside, what's more, would hurt ties with Bangladesh. Relocation and national security have moved toward becoming blended in this time of globalization. Thus, the state must consider them in an incorporated way so as to comprehend the outcome of human streams, to expand their advantages, and in addition to react to their difficulties. Along these lines, there is a need to change observations about illegal

Bangladeshi migrants. They can be formative partners in India's developing economy. Talented and untalented cheap labor could limit advancement costs and quicken monetary development. Work culture is likewise one of the best strategies to stop the additional inflow of foreigners and also to stop land estrangement from the indigenous individuals to the workers (migrants) which are threatening to remove the indigenous individuals from their own country and to belittle them politico-socially.

CASE NOTE

Assam Sanmilita Mahasangha & Others verses Union of India, 2012

REFERENCES

- Statistics India
- Salam Azad Bangladesh ke swatantrata sangram mein Bharat ka yogdaan Publisher National Book Trust ISBN9788123754345 - Year: 2014
- Guha Amalendu, (1980). Little Nationalism Turned Chauvinist Assam's Anti-Foreigner Upsurge 1979-1980. Economic Political Weekly. . 15(10). 41-43.
- Baruah Sanjib, (1980) Assam Cudgel of Chauvinism or Tangled Nationality Question Economic Political Weekly. 15(03). 44-46.
- Weiner, Myron, 1992-93, "Security, Stability, and International Migration", International Security, Vol.17 (3).
- Hussain, M., 1993, the Assam Movement: Class, Ideology and Identity, New Delhi, Manak and HarAnand.
- The Wire
- Indian Kanoon