

Indo-Bangla LBA: Transferring the Enclave Population

With the longstanding Land Boundary Agreement (LBA) between India and Bangladesh on the verge of being clinched, the exchange or transfer of population as residing in the enclaves (or '*chhintmahals*' as called in the local parlance) to be exchanged between the two countries is yet another problem they need to resolve. The question of giving options to the inhabitants residing in these enclaves needs to be addressed sooner than later to have a holistic resolution of this long-pending issue between these two South Asian neighbours. Incidentally, both India and Bangladesh conducted a joint census during 14–17 July, 2011 to determine the total population in these enclaves and found their number to be around 51,549. Of them, 37,334 persons were in Indian enclaves within Bangladesh while 14,215 people were residing in Bangladesh enclaves within India.

Historically speaking, the international boundary between India and Bangladesh was drawn hurriedly when the British left India. As a result thereof, thousands of people were left stranded in a number of unsettled enclaves as citizens of one country but living in territories surrounded by that of the other. The people in 111 Indian enclaves (17,160.63 acres) in Bangladesh and 51 Bangladeshi ones (7,110.02 acres) in India have been living in these pockets without any rights as lawful citizens of either country.

The proposed agreement builds on 'behind-the-scene' toil of the 31-member Parliamentary Standing Committee on External Affairs (SCEA) chaired by MP Shashi Tharoor which recommended the deal in 'overall national interest'. The Committee has rightly urged the government to emergently present the Bill in Parliament to permanently settle the tickling Indo-Bangla boundary dispute. As a result thereof, New Delhi shall be exchanging the enclaves as well as other small plots of land that are in 'adverse possession' of either country. There would not only be an exchange of enclaves between the two countries, but there shall also be a settlement of the territories held in adverse possession by both the countries. While India legally receives 2,777 acres of land in 'adverse possession', i.e., territory already under de

facto Indian control but legally owned by Bangladesh, Bangladesh will, in turn, receive 2,267 acres of territory in its adverse possession but lawfully belonging to India.

It is learnt that the SCEA had proposed in its report to the House of People (read Lok Sabha) that the inhabitants, living in Bangladeshi enclaves in India, should be granted Indian citizenship under Section 7 of the Indian Citizenship Act, 1955 (as applicable to population residing in territories incorporated into India) as these enclaves were to be transferred to India as part of the Indo-Bangladesh land swap deal. After all, it was only logical that the Indian citizens living in Indian enclaves inside Bangladesh were given a choice to retain their Indian citizenship after these territories are legally handed over to Bangladesh.

Similarly, it was also advisable that the Bangladeshi citizens living in enclaves to be handed over by Bangladesh to India were also given an option to opt for Indian citizenship. If the same did not happen, the life of these people would continue to be as troubled as it was earlier. It would also constitute a gross anomaly as being Bangladeshi citizens, they could continue to live in territories owned by India unless they were resettled in legally-owned Bangladeshi territories to be identified for the purpose or they were given a choice to switch their citizenship without there being any need to change their place of residence, i.e., Bangladeshi enclaves encircled by Indian territories.

As the territorial and population exchanges were to have serious implications for the country's security and integrity, one felt that government should exercise all options available to put in place a suitable mechanism and modality to check for the bonafides and credentials of the Bangladeshi nationals who would be conferred Indian citizenship after legal incorporation of the enclaves where they had so far been residing as citizens of Bangladesh because these territories legally belonged to the latter.

The SCEA, therefore, rightly observed that the cognate security aspects should be thoroughly examined before the proposed population exchange was effected. It also recommended suitable augmentation and upgradation of the law and order machinery in the affected areas in consultation with India's eastern provincial government of West Bengal.

It may be noted that because of the fact that these Bangladeshi enclaves were deep within Indian Territory without any fencing or means to physically demarcate them, the Bangladeshi citizens in these enclaves had been practically free to mix with the rest of the Indian populace. In fact, there was practically no choice available to these people as they were physically encircled on all sides by Indian territories; so that they had to mix and mingle with the people living in Indian lands geographically contiguous to theirs. Such a scenario made it very difficult for the Indian law enforcement authorities to effectively carry out their duties in these enclaves as technically they were not Indian territories notwithstanding the fact that many of these enclaves had become the hot-beds of criminal activities. It is this anomalous situation that the LBA and its attendant Protocol sought to address after they were ratified and implemented by the two countries.

In a reply to the SCEA regarding safety of the Indian nationals staying back in the Indian enclaves to be transferred to Bangladesh, the Ministry of External Affairs was reported to have affirmed an understanding with Bangladesh on this score. It said, "...Indeed such an

understanding is the basis of the 2011 Protocol and the fundamental premise on which exchange of enclaves would take place. As per the LBA, citizens of Indian enclaves in Bangladesh are given the right of staying where they are as nationals of the State to which the areas are transferred. If they choose to exercise this right, they would voluntarily acquire Bangladeshi citizenship and all rights of Bangladeshi citizens would accrue to them". Same right was to be reciprocally granted to the inhabitants of Bangladeshi enclaves in India to stay back and acquire the Indian citizenship as also suggested above.

The Indo-Bangladesh LBA was a low-hanging fruit waiting to be plucked at the asking of the two countries. The resolution of this issue hanging fire for a long time has paved the way for further strengthening and consolidation of a very functional bilateral relation between the two countries. As a mature democracy, India must not allow petty politics to interfere with such diplomatic moves which consolidates its position as a regional power in South Asia. All political parties rightly came together to ensure the ratification of the 'swap deal' as it not only settled a contentious border but also ensured peaceful borders with our neighbour which enables India to focus on its strengths to eventually emerge as one of the 'super powers' to reckon with in international politics.

Salient Points

- The exchange or transfer of population as residing in the enclaves to be exchanged between the two countries is yet another problem they need to resolve.
- Historically speaking, the international boundary was drawn hurriedly, as a result thereof; thousands of people were left stranded in a number of unsettled enclaves.
- The SCEA had proposed in its report that the inhabitants, living in Bangladeshi enclaves in India, should be granted Indian citizenship under Section 7 of the Indian Citizenship Act, 1955.
- It was also advised that people of Indian enclave in Bangladesh and vice versa should be given options to choose appropriate citizenship.
- Security aspects should be thoroughly examined before the proposed population exchange was affected
- Bangladeshi enclaves were deep within Indian Territory without any fencing or means to physically demarcate them. Thus it has become difficult to implement Indian law.
- All political parties rightly came together to ensure the ratification of the 'swap deal' as it not only settled a contentious border but also ensured peaceful borders with our neighbour.

Glossary

Cognate: related by birth