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Irregular Migration and Expulsion: India's Policy Response to the Bangladesh Influx

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Abstract

Irregular migration from Bangladesh to India has been a persistent issue, shaped by historical, political, and economic factors. India has responded through various legal frameworks, including the Foreigners Act (1946), Immigrants (Expulsion from Assam) Act, (1950), the Citizenship Act (1955), the Illegal Migrants (Determination by Tribunal) Act (1983), and the Citizenship (Amendment) Act (2019), alongside bilateral agreements with Bangladesh. However, enforcement challenges, porous borders, and political complexities have hindered effective migration management. This paper critically examines India's legal and policy framework on irregular migration, assessing its effectiveness and limitations. A comparative analysis with other countries highlights gaps in India's approach, particularly in enforcement mechanisms, border security, and diplomatic strategies. The paper argues that balancing national security concerns with humanitarian considerations is crucial for a sustainable and rights-based migration policy. Strengthening bilateral cooperation, legal clarity, and institutional mechanisms could provide a more effective response to irregular migration.

Key Words: Irregular migration, Expulsion policy, India-Bangladesh migration, Migration governance, Border management.

Introduction

Irregular migration is a persistent challenge in South Asia where cross-border movement has continued despite legal and administrative restrictions. The *International Organization for Migration (IOM)* defines irregular migration as the movement of individuals that occurs outside the regulatory norms of the origin, transit, or destination countries (IOM, 2019). Unlike regular migration, which follows established legal frameworks, irregular migration often involves unauthorized entry, visa overstays, and undocumented residency. The phenomenon is shaped by a range of economic, political, environmental, and historical factors, making it a complex issue that requires multi-dimensional policy responses.

India has experienced large-scale irregular migration from Bangladesh due to historical cross-border linkages, economic disparities, and environmental vulnerabilities. Migration across this border has

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occurred for decades, influenced by events such as Partition, the Bangladesh Liberation War of 1971, and subsequent political and economic shifts in both countries. The impact of this migration has been particularly significant in the eastern and North Eastern States (NES) particularly West Bengal, Assam, and Tripura, which share a long, porous border with Bangladesh. These states have witnessed demographic shifts, ethnic tensions, and political debates surrounding citizenship and expulsion policies. While some migration is seasonal and linked to labour demands, a significant proportion consists of long-term settlers, leading to socio-political and security concerns.

India's response to irregular migration has been characterized by a mix of legal provisions, administrative measures, and bilateral agreements. Laws such as the Foreigners Act of 1946, the Immigrants (Expulsion from Assam) Act of 1950, and amendments to the Citizenship Act have sought to regulate migration and facilitate expulsion. Additionally, agreements such as the Nehru-Liaquat Pact (1950) and the Indira-Mujib Pact (1972) have played a role in shaping migration policies. However, despite these legal and policy measures, enforcement challenges persist, leading to debates on national security, economic impacts, and humanitarian concerns.

This paper examines the issue of irregular migration from Bangladesh to India, analysing the historical context, legal and policy framework, expulsion mechanisms, and enforcement challenges. It also includes a comparative analysis with other countries to assess the effectiveness of India's approach. Given the continued migration patterns and their socio-political implications, the study highlights the need for a balanced policy that addresses security concerns while upholding humanitarian obligations.

Objectives:

The objectives of this study are:

1. To analyse the historical and contemporary trends of irregular migration from Bangladesh to India and their implications on domestic policies and bilateral relations.
2. To evaluate India's legal and institutional framework for addressing irregular migration and expulsion by examining relevant laws, policies, and mechanisms.
3. To assess the challenges and effectiveness of India's expulsion policies in the context of legal, political, and humanitarian considerations.

Methodology:

This study adopts a qualitative approach, relying on secondary sources such as government reports, legal documents, international agreements, and academic literature. It employs a historical-institutional framework to analyse India's legal and policy measures, including the Foreigners Act (1946), Immigrants (Expulsion from Assam) Act (1950), Illegal Migrants (Determination by Tribunals) Act, 1983, Citizenship Act (1955 and amendments), the Assam Accord (1985), and National Register of Citizens (NRC). A content analysis method is used to assess policy effectiveness and challenges in implementing expulsion measures.

Historical Context of Migration from Bangladesh to India

The migration of people between present-day India and Bangladesh has deep historical roots that extend beyond the formation of modern nation-states. The movement of people across this region has been

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shaped by colonial policies, political upheavals, economic factors, environmental changes, and conflict-induced displacement. The 4,096-kilometre-long Indo-Bangladesh border remains highly porous, making irregular migration a persistent issue. The impact of migration has been particularly significant in the states of West Bengal, Assam, and Tripura, which share borders with Bangladesh and have historically witnessed large-scale inflows of migrants.

Colonial-Era Migration and Land Settlement Policies:

During British rule, migration within the Bengal region was common, primarily driven by agrarian expansion, labour demand, and trade. The British administration encouraged migration from eastern Bengal (now Bangladesh) to Assam for economic reasons, particularly to cultivate agricultural lands and supply labour to the tea plantations (Weiner, 1983; Baruah, 1999).

One of the most significant migration-facilitating policies was *Sir Syed Muhammad Saadulla's Land Settlement Policy (1937-1946)* (Weiner, 1983). His administration, under the Muslim League, promoted the settlement of landless Muslim peasants from East Bengal in Assam under the “*Grow More Food*” scheme, with the stated aim of expanding agricultural production (Weiner, 1983). However, this policy also had political motivations, as these settlers were seen as a potential support base for the Muslim League. Large tracts of land in Assam's river-valleys were settled by Bengali Muslim peasants, particularly in Goalpara, Barpeta, Nagaon, and Darrang, leading to long-term demographic and political consequences (Hussain, 1993; Guha, 2013).

Similar migration patterns were observed in Tripura and West Bengal. Tripura, a princely state at the time, saw increased migration from East Bengal due to economic hardships and the availability of land (Samaddar, 1999). In West Bengal, migration was more urban-centric, with Calcutta (now Kolkata) emerging as a major hub for Bengali-speaking migrants (Chakrabarty, 2003). These early migration trends laid the foundation for later political and social tensions in the post-independence period.

Partition and Post-Partition Migration (1947-1971)

The *Partition of Bengal in 1905 and British India in 1947* resulted in the division of Bengal in two parts- East and West. West Bengal became a state of Indian Union and East Bengal named as East Pakistan (now Bangladesh) declared as a part of Pakistan in 1947. Result of that partition immediate violent and displacement was occurred in the border of India and Pakistan. This partition germinates prolonged and complex migration in the border areas of India and Pakistan which is still continue. (Weiner, 1983).

The *Nehru-Liaquat Pact (1950)* was signed between India and Pakistan to protect minority rights and regulate migration. However, persistent communal violence, economic instability, and state policies led to the continued migration of Hindus from East Pakistan to India (Baruah, 1999).

In West Bengal, refugees from East Pakistan settled in urban centres like Kolkata and rural districts such as Nadia, Murshidabad, and North 24 Parganas (Samaddar, 1999). In Assam and Tripura, large-scale migration created tensions over land and political representation. Tripura, which had a predominantly tribal population before Partition, saw a demographic transformation with Bengali migrants becoming the majority (Guha, 2013).

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By the 1960s, political repression and economic difficulties in East Pakistan intensified migration. The *language movement of 1952* and the subsequent marginalization of Bengali-speaking people in East Pakistan contributed to a steady influx of migrants into India (Ghosh, 2016).

Bangladesh Liberation War and Its Aftermath (1971-Present)

The *Bangladesh Liberation War of 1971* led to one of the largest refugee crises in South Asian history, with an estimated 10 million Bangladeshis seeking shelter in India (Weiner, 1983). Most of these refugees settled in West Bengal, Assam, and Tripura, creating significant social and economic challenges (Hussain, 1993).

The *Indira-Mujib Pact (1972)* attempted to resolve citizenship issues by granting amnesty to those who had migrated before March 25, 1971. However, irregular migration continued due to political instability, poverty, and environmental factors like river erosion and climate change (Ghosh, 2016).

The large-scale migration and demographic shifts fuelled political mobilization in Assam, culminating in the *Assam Movement (1979-1985)*, which demanded the detection and deportation of “illegal” migrants (Baruah, 1999). The *Assam Accord (1985)* set March 24, 1971, as the official cutoff date for identifying irregular migrants in Assam. This later led to the implementation of the *National Register of Citizens (NRC)* in Assam, an exercise aimed at distinguishing Indian citizens from irregular migrants (Bhardwaj, 2020).

While Assam’s response to irregular migration has been marked by strong political mobilization, West Bengal and Tripura have taken a different approach. West Bengal, under successive state governments, has often taken a more accommodative stance towards migrants due to political and humanitarian considerations (Samaddar, 1999). In Tripura, migration has led to a shift in the ethnic composition, with the indigenous tribal population now a minority, creating tensions that persist today (Guha, 2013).

Despite various legislative measures and border control efforts, irregular migration from Bangladesh remains a persistent issue. The combination of historical migration patterns, economic linkages, and geopolitical factors continues to shape the dynamics of cross-border movement in the region.

India’s Legal and Policy Framework on Irregular Migration

India’s response to irregular migration is shaped by a combination of legal statutes, constitutional provisions, and bilateral agreements. While there is no single comprehensive law specifically addressing irregular migration, various legislative measures regulate the entry, residence, and expulsion of unauthorized migrants. These legal provisions have evolved in response to historical migration patterns, particularly from Bangladesh, and have influenced India’s broader migration governance strategies.

The *Foreigners Act, 1946*, is the principal legal framework governing the regulation of foreigners in India. It defines a “foreigner” as any person who is not a citizen of India and grants the central government extensive powers to regulate their stay, movement, and deportation (Government of India, 1946). Additionally, the *Immigrants (Expulsion from Assam) Act, 1950*, was enacted to address large-scale migration from East Pakistan (now Bangladesh) into Assam, allowing for the expulsion of unauthorized migrants, except those fleeing religious persecution (Government of India, 1950).

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The *Citizenship Act, 1955*, has played a central role in determining citizenship status in India. The *1986 amendment* imposed stricter criteria for acquiring Indian citizenship by birth, reflecting concerns about demographic shifts in border regions. The *2003 amendment* introduced the definition of an “illegal migrant” and barred such individuals from acquiring citizenship through naturalization or registration (Government of India, 1955). The *Citizenship (Amendment) Act, 2019 (CAA)*, further modified India’s citizenship framework by providing a pathway to citizenship for Hindu, Sikh, Buddhist, Jain, Parsi, and Christian migrants from Bangladesh, Pakistan, and Afghanistan who entered India before December 31, 2014. While the government framed this amendment as a humanitarian measure, its exclusion of certain groups led to significant political and legal debates (Government of India, 2019; Bhardwaj, 2020).

The *Illegal Migrants (Determination by Tribunals) Act, 1983 (IMDT Act)*, was specifically introduced for Assam to identify and expel irregular migrants. It placed the burden of proving illegal entry on the complainant rather than the accused migrant, differing from the Foreigners Act. However, in 2005, the Supreme Court of India struck it down, citing its inefficacy in detecting and deporting unauthorized migrants (Government of India, 1983; Sarma, 2005).

India has also engaged in *bilateral agreements* with Bangladesh to regulate migration. The *Nehru-Liaquat Pact (1950)* was an early diplomatic effort aimed at protecting minority rights and preventing forced displacement between India and Pakistan (before Bangladesh’s independence) (Government of India & Government of Pakistan, 1950). Following the creation of Bangladesh, the *Indira-Mujib Pact (1972)* provided legal recognition to migrants who entered India before March 25, 1971 (Government of India & Government of Bangladesh, 1972). The *India-Bangladesh Land Boundary Agreement (2015)* sought to resolve border disputes and improve migration regulation mechanisms (Government of India & Government of Bangladesh, 2015).

The *Assam Accord (1985)* was a key political agreement addressing irregular migration in Assam. It established March 24, 1971, as the official cutoff date for determining irregular migrants. Those who entered before this date were granted legal status, while those arriving later were subject to detection and deportation (Government of India, 1985). In line with this, the *National Register of Citizens (NRC)* in Assam was updated to identify Indian citizens and exclude irregular migrants. However, the *2019 NRC update* resulted in the exclusion of approximately 1.9 million people, raising concerns about legal uncertainties and the risk of statelessness (Talukdar, 2020; Samaddar, 2019).

India’s Expulsion Challenges

Despite the existence of legal provisions and policy measures, the enforcement of expulsion policies in India faces multiple challenges. These challenges arise from the porous nature of the Indo-Bangladesh border, legal and bureaucratic constraints, diplomatic considerations, and humanitarian concerns. As a result, large-scale expulsions have remained limited, even though political and legal frameworks mandate the removal of irregular migrants.

One of the primary challenges is border management. The Indo-Bangladesh border, spanning 4,096 kilometres, is difficult to regulate due to its geographical diversity, which includes riverine, hilly, and densely forested areas. While border fencing has been implemented in several stretches, many sections remain unfenced, allowing for continued cross-border movement. The porous border facilitates irregular

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migration through informal channels, making detection and expulsion efforts challenging. Additionally, the socio-economic interconnectedness between border communities complicates enforcement, as migrants often integrate into local economies and social structures, making their identification and removal difficult (Ghosh, 2016).

Another significant challenge is the lack of a formal deportation agreement with Bangladesh. Unlike India's repatriation mechanisms with Pakistan, which have been relatively structured, deportation to Bangladesh remains a complex issue due to the absence of a formal bilateral treaty on expulsion. The Bangladeshi government has often denied the presence of its nationals residing irregularly in India, making large-scale deportation difficult. While local border coordination mechanisms facilitate limited deportations on a case-by-case basis, the lack of a structured framework prevents systematic enforcement of expulsion policies (Chakrabarty, 2003; Weiner, 1983).

Legal and bureaucratic hurdles further obstruct the expulsion process. The burden of proof in citizenship determination cases lies on the accused individuals, many of whom lack proper documentation due to historical and administrative factors. The Foreigners Tribunals (FTs) in Assam, which play a central role in determining citizenship status, have faced criticism for procedural inconsistencies, inadequate legal representation for accused individuals, and allegations of arbitrary rulings. Furthermore, individuals declared as foreigners often remain in detention centres for extended periods, as their deportation is contingent on diplomatic negotiations with Bangladesh. The prolonged detention of such individuals has raised concerns over legal uncertainties and human rights violations (Hussain, 1993; Bhardwaj, 2020).

The humanitarian implications of expulsion policies also pose a significant challenge. Large-scale deportations raise concerns about statelessness, as many individuals excluded from citizenship lists do not possess valid documentation from either India or Bangladesh. For instance, the 2019 update of the NRC in Assam left approximately 1.9 million people without a clear legal status, creating uncertainty over their rights and access to basic services. The exclusion of individuals from citizenship frameworks has led to concerns over their ability to access education, healthcare, and employment, further exacerbating socio-economic vulnerabilities (Samaddar, 1999).

Another critical issue is the political and social dimensions of expulsion policies. The identification and removal of irregular migrants have been contentious issues in electoral politics, particularly in North Eastern States (NES) like Assam and West Bengal. Political parties have often used migration as a tool for mobilization, leading to shifts in policy approaches depending on the government in power. The **Citizenship Amendment Act (CAA)** of 2019, which provided a pathway to citizenship for certain non-Muslim migrants, further complicated the legal landscape by creating a distinction between different categories of migrants. The selective application of expulsion policies based on political considerations has led to inconsistencies in enforcement and legal ambiguities (Bhardwaj, 2020).

Comparative Analysis with Other Countries

Countries facing irregular migration have adopted diverse expulsion policies, ranging from strict border enforcement to bilateral repatriation agreements. While India has legal provisions for expulsion, its implementation remains weak due to political, legal, and diplomatic constraints. A comparison with the

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approaches of the United States, Australia, European Union (EU) countries, and Malaysia highlights key areas where India's expulsion policies lag behind.

The *United States* has institutionalized deportation through agencies like *Immigration and Customs Enforcement (ICE)*, supported by legislative provisions such as the *Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996*. The US-Mexico bilateral framework facilitates structured deportations, ensuring that Mexico accepts deportees. In contrast, India lacks a formal repatriation treaty with Bangladesh, making deportations difficult and subject to diplomatic negotiations. Additionally, the US has extensive border surveillance infrastructure, including walls, motion sensors, and patrol drones, whereas India's border with Bangladesh remains porous, facilitating continued migration despite fencing efforts (Ngai, 2004).

Australia enforces one of the strictest migration policies through *Operation Sovereign Borders*, which prevents irregular arrivals by processing asylum seekers offshore in third countries like Papua New Guinea and Nauru. This system bypasses domestic legal constraints on expulsion. India, in contrast, does not have offshore detention or processing mechanisms, leading to prolonged legal battles and indefinite detentions of declared foreigners (Grewcock, 2013).

The *European Union (EU)* employs structured deportation policies under the *Returns Directive (2008/115/EC)* and bilateral agreements with migrant-sending countries. Spain has an agreement with Morocco, allowing for expedited deportations, and Italy has a controversial agreement with Libya to return migrants intercepted at sea. India, however, lacks similar structured bilateral repatriation agreements, making deportations ad hoc and inconsistent. Additionally, the EU balances enforcement with legal safeguards, while India's Foreigners Tribunals have been criticized for procedural inconsistencies and lack of transparency (Boswell & Geddes, 2011).

Malaysia, facing large-scale migration from Indonesia, Bangladesh, and Myanmar, conducts mass deportations under the Immigration Act of 1959/63. The government engages in *state-sponsored repatriation programs*, ensuring cooperation from sending countries. Unlike Malaysia, India's deportation efforts are constrained by political considerations and legal challenges, resulting in limited enforcement. Additionally, Malaysia's use of law enforcement agencies like *RELA* enables rapid deportation, whereas India lacks dedicated enforcement bodies for handling irregular migration (Kudo, 2018).

Conclusion

India's response to irregular migration from Bangladesh has been shaped by a mix of legal provisions, policy measures, and diplomatic engagements. However, enforcement mechanisms remain inconsistent due to legal complexities, political sensitivities, and the porous nature of the border. While India has taken steps such as border fencing, deportations, and legislative amendments, the absence of a structured repatriation framework, inadequate enforcement mechanisms, and geopolitical considerations continue to pose challenges. Unlike countries with well-defined migration control policies, India's approach remains fragmented, making large-scale expulsion difficult.

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Addressing irregular migration requires a balanced strategy that integrates enforcement with diplomatic and humanitarian considerations. Strengthening bilateral engagement with Bangladesh is crucial, particularly in negotiating structured repatriation agreements that facilitate systematic deportation while ensuring that returnees are accepted by the Bangladeshi authorities. India must also enhance border management by improving surveillance infrastructure through technology-driven solutions such as biometric tracking, motion detection systems, and drone monitoring to curb unauthorized crossings.

At the same time, India must navigate the balance between national security and humanitarian considerations. While irregular migration raises concerns about demographic shifts, economic pressures, and border security, large-scale expulsions carry significant humanitarian and diplomatic consequences. Many undocumented migrants have lived in India for decades, contributing to local economies, and their expulsion raises concerns about statelessness and human rights violations. International legal norms emphasise non-refoulement principles, particularly in cases where deportation could lead to persecution or severe socio-economic hardships. Thus, India must ensure that any expulsion process adheres to international human rights standards while safeguarding its national interests.

A multi-pronged approach involving legal clarity, border security enhancements, diplomatic negotiations, and selective regularisation measures can help India develop a more structured and effective migration management policy. Strengthening legal and institutional frameworks for expulsion, while exploring alternative solutions such as work permit programs or temporary documentation, could provide a more sustainable approach. By adopting a comprehensive policy that balances enforcement with humanitarian obligations, India can create a more effective and pragmatic response to irregular migration from Bangladesh for the greater and better interest of the nation.

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