

IMDT Act and Immigration in North-Eastern India

The Supreme Court's verdict on the Illegal Migrants (Determination by Tribunals) Act, 1983 as unconstitutional has closed one chapter of a long saga, but it will not bring to an end the issue of 'illegal immigrants'. The court judgment has actually polarised Assam as much as the act had done for two decades.

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The Supreme Court judgment (July 12, 2005) on the public interest litigation filed by a student leader-turned-AGP MP, Sarbananda Sonowal, struck down the Illegal Migrants (Determination by Tribunals) Act, 1983 (IMDT Act) as unconstitutional. That closed the chapter of a long saga, but did not bring it to an end. The reaction to the verdict was on predictable lines. There was gloom in the Congress circles and joy in the BJP, which claimed that it always wanted to repeal the act. The All Assam Students' Union (AASU) rejoiced at the verdict, but some of its leaders cautioned against the possible victimisation of the minorities. The Muslims feared reprisals and two of their bodies called for a bandh against it. Thus the verdict polarised Assam as much as the act had done for two decades. It may continue till the assembly elections due next year.

Background of the Act

The IMDT act was enacted in 1983 in response to the Assam movement of 1979-85 that began when the electoral rolls were being revised. Amid allegations that a large number of Bangladeshi Muslim immigrants were being included in the rolls, the Election Commission asked the Assam government to identify constituencies with a big rise in the number of voters, but the state allegedly dragged its feet on the issue. Some state that the electorate had grown by 10.2 per cent between 1970 and 1971, 10.42 per cent between 1971 and 1977 and by a further 10.3 per cent during the following year [Bhattacharya 2001: 90].

The main demand of the Assam movement was detection and expulsion of foreigners in the state. Its focus was on the Bangladeshis though according to some estimates they were only around 40 per cent of the immigrants, the rest being from the Hindi-speaking region or of Nepali origin. It began as a secular movement of all the Assamese, but always ran the risk of turning communal because of the religious slant given to it since most Bangladeshi immigrants were Muslims. The Nellie massacre of more than 300 Bangladeshis in 1983 did give it a communal angle. A VHP leader even said that Bangladeshi infiltration was a Pakistani conspiracy to turn Assam into a Muslim state and that they "are supporting all kinds of terrorist activity" (Staff Reporter, *Assam Tribune*, December 23, 2001). However, now most of the AASU leaders have appealed to the people not to communalise this issue (*The Assam Tribune*, July 15, 2005) and even told the BJP recently that they would not tolerate such a communal slant.

The act applies only to Assam. The rest of India has the Foreigners' Act 1946 which puts the onus on the accused to prove his/her Indian nationality. The IMDT defines foreigners as those who settled down in Assam after March 25, 1971 and puts the onus on the one who denounces a person of proving that he/she is a foreigner. Because of this stipulation many consider the latter ineffective [Bhattacharyya 2001: 154-55]. The experience of the past 22 years has proved them right. Five tribunals set up under this act in the districts bordering Bangladesh from January 1983 registered 423,021 cases, dealt with 65,000 cases and have disposed of

23,420 cases (Editorial, *The Sentinel*, December 16, 2004) and have till January 2005 declared 12,424 persons illegal migrants. Only 1,538 of them have been deported [Staff Reporter, *The Sentinel*, July 13, 2005].

The political parties claim credit for the judgment that some AASU leaders called a "success of the indigenous people of the north-east" (*The Sentinel*, July 13, 2005) but in practice, the change of governments has made no difference to the issue. For example, the Asom Gana Parishad (AGP) that was born out of the Assam movement, has been in power twice during the past 20 years. During its first term, 1987-90, 2,477 illegal migrants were identified and 782 of them were deported. And in the second term, 1996-2000, 902 persons were identified and 179 deported [Staff Reporter, *The Sentinel*, July 13, 2005]. Little wonder then that the chairman of the north-eastern students' organisation "lambasted" the ruling Congress "as well as the opposition AGP and BJP for the failure to protect the rights of the indigenous people" (*The Sentinel*, July 13, 2005).

An immediate effect of the judgment is that it has deprived the state parties of a major issue on which they have fought the elections for two decades. The Congress has been accused of using the Bangladeshi immigrants as a vote bank, while the AGP and BJP have allegedly used it as an emotional issue but have not repealed the act and have not taken its implementation seriously [Dutta-Choudhury 2005]. The small number of immigrants expelled during the AGP regime is one of its examples. The failure of the BJP to get this central act repealed during its years in power at the centre is another case of not going beyond promises.

Immigration and the Communal Issue

Because of the communal bias given to it, many fear discrimination against the Muslims. In fact, chief minister Tarun Gogoi claims that this fear was the main reason for enacting the IMDT. One of the clauses of the Assam Accord 1985 was that the National Register of Citizens (NRC) 1951 would be updated to include all the Assam inhabitants and their

descendants on or before March 25, 1971, but no government has done so until now. Identity cards were promised but have been issued in only one circle in Karimganj district. AASU has been demanding the issue of the ID cards after completing the NRC (Editorial, *The Sentinel*, March 23, 2005). The Muslims fear harassment in the absence of NRC and ID cards and the communal atmosphere some parties create. Those born and brought up in India may not be able to prove their nationality in the absence of birth and death registration. According to some news items many of the alleged Bangladeshis deported from Mumbai during the Shiv Sena regime in Maharashtra were Hindi-speaking Biharis and who spoke no Bengali. They fear that the same will happen in Assam also.

The communal bias is also a reason for confusion on their numbers. Some speak of 12 lakh Bangladeshis in Assam [Bhuyan 2002]. According to the census, the proportion of Muslims in Assam rose from 24.03 per cent in 1971 [Saikia 1976: 97] to 30.02 per cent in 2001. The number of Muslim majority districts in Assam has risen from four in 1991 to six in 2001 [taken from Census CDs, 2001]. The difference between 24.03 per cent and 30.92 per cent gives an additional Muslim population of 18 lakhs in Assam's 2001 total of 266 million. Not all of them are immigrants since the Muslim population growth rate is relatively high because of low female literacy. That gives us around 15 lakh Bangladeshis in Assam where the total number of immigrants is estimated to be 30 to 40 lakh – about 40 per cent of them are Bangladeshis and the rest are from the Hindi speaking region or Nepali. The census figures also counter the stand of those who deny the very existence of Bangladeshis in the region and of those who put their number at more than 40 lakh [Bhattacharyya 2001: 120-121].

The numbers game is an example of changing figures to suit ideology. L K Advani stated in the Lok Sabha in 2003 that India had 1.5 crore Bangladeshi immigrants, 50 lakh of them in Assam and 57 lakh in West Bengal. In December 2004 the UPA minister of state for home affairs Jaiswal repeated this figure in the Lok Sabha, but a few days later Manik Rao, the other minister of state said in the Rajya Sabha that the figure was taken from the previous government and that Assam had only 80,886 Bangladeshis ('Trouble with Numbers', Editorial, *The Sentinel*,

December 18, 2004). This figure was promptly rejected by the opposition. The report in *The Times of India*, July 13, 2005 on the repeal of the IMDT act began with "Uncertainty haunts the 1.5 crore illegal migrants from Bangladesh" thus giving an impression that all of them came under the repealed act which applies only to Assam.

Facts about Immigration

Most ignore the crucial fact of a majority of the immigrants in the region being Hindus from the Gangetic plains. When mentioned it is given a communal colour. For example, during the Assamese-Bihari conflict of November 2003 a VHP leader is reported to have said that it was an ISI conspiracy to drive away Hindus and turn Assam into a Muslim majority state. However, the census shows that the immigrants of Bangladeshi origin as well as those from the Hindi heartland live in all the north-eastern states. For example, in 1981 5.68 per cent of the Arunachal population was of foreign origin (including the Chakma) and 14.13 per cent were immigrants from other Indian states outside the north-east. In Assam their proportion was 6.68 per cent and 3.61 per cent, in Meghalaya 3.3 per cent and 5.93 per cent and in Nagaland 1.6 per cent and 8.92 per cent, respectively. Only in Tripura the immigrants of foreign (mostly Hindu Bangladeshi) were 22.67 per cent of the population and those from the rest of India were 1.66 per cent [D'Souza 1999: 7].

We give the 1981 figures though no census was conducted in Assam because of the emotions generated by the Assam movement. The figures were extrapolated from the 1991 census. The census figures show that immigration continued after 1981. Also the sex ratio of some states confirms it. For example, the studies show that the sex ratio of the indigenous population of Arunachal Pradesh is higher than the national average, but it is much lower when these states are taken as whole. For example, in our 2001 study the sex ratio was 955 among the Angami of Nagaland and 1,095 among the Aka of Arunachal Pradesh [Fernandes and Barbora 2002a: 76-78]. However, in 1991 it was 890 in Nagaland as a whole and 861 in Arunachal Pradesh and rose marginally in 2001 to 909 and 901, respectively [2001 census]. The reason for their low overall sex ratio is single male migration. The slight rise in

2001 is probably because of the lower influx in the 1990s.

Also the above average decennial population growth in these states confirms immigration. For example, the Nagaland population rose by 39.88 per cent in the 1960s, 50.05 per cent in the 1970s, 56.08 per cent in the 1980s [D'Souza 1999: 16] and 40.08 per cent in 1991-2001 [2001 Census CDs], obviously because of immigration, not natural growth. Also data on religion confirm it. For example, the tribal population of Arunachal Pradesh declined from 90 per cent in 1951 to 64 per cent in 2001. They belong mainly to the Dony Polo or tribal religion, but 37.64 per cent of the population was Hindu in 1991. It more or less coincides with the non-tribal proportion which is 36 per cent. As stated above, the 2001 Census shows a substantial rise in the proportion of Muslim majority districts in Assam. Because of Hindu Bangladeshis entering Tripura, its tribal proportion has declined from 58 per cent in 1951 [Sen 1993: 22] to 30 per cent in 2001 [Census 2001 CDs].

Immigration as an Economic Issue

Though it is given a communal bias, immigration as well as the Assam movement are primarily economic issues. In the 1970s persons from outside the region controlling its economy neglected productive investment in Assam. Consequently, unemployment was high. For example, the refinery for oil produced in Assam was shifted to Barauni in Bihar. Though it grows jute, Assam does not have a jute mill. Besides, most industrial jobs went to outsiders. For example, in the 1960s only 27 per cent of the employees in the industries in Assam were locals [Chattopadhyay 1990: 101]. To it should be added the identity search of the Assamese after Nagaland and Meghalaya were formed by separating some of its districts. The Mizo struggle was continuing in the 1970s. These states were formed because the tribes inhabiting the districts felt that the Assamese majority was submerging their identity. The Assamese found themselves on the defensive both against the tribes and the outsiders controlling their economy.

The fear of the immigrants has to be seen within this overall context of economic neglect, threat to their identity and fear of being outnumbered by outsiders. To it should be added the fear of losing land to

the immigrants, not all of them Bangladeshi. Most outsiders killed in the Karbi Anglong district of Assam are Biharis. A recent study showed that many Biharis have 'pattas' at Lanka in Nagaon district, but their land is in the Karbi Anglong district which comes under the Sixth Schedule of the Constitution that bans tribal land alienation to non-tribals [Fernandes and Barbora 2002b: 64-65].

This fear continues even today as one can see from a bill in the state assembly banning land ownership in Assam by persons from outside the state introduced on March 15 by the independent MLAs. It was rejected (*The Assam Tribune*, March 9, 2005). There is also the fear of losing jobs. There are also indications that before the Assam movement most Bangladeshis were brought into the state by big landlords who wanted cheap labour. Some of them were given land as tenants but lost it because of the Land Reforms Act [Kar 1980].

A reason why the north-east continued to welcome immigrants is its more than a millennium-long history of immigration of different nomadic tribes from south-east, south and inner Asia. Each tribe that entered the region created its own history and myths of origin, developed an identity and settled down in the region as its inhabitants, not as colonisers ruling the region on behalf of another country as the British rulers did. For example, the Meitei of Manipur claim their origin from the Vedic times, so do some groups of Assam [Barua 1985: 8-10]. The Ahom who ruled most parts of Assam before the British army defeated them came from the Shan region and assimilated the local culture. Besides, in pre-colonial times, migration rarely resulted in conflicts for resources because land was abundant [Bose 1989: 38-39].

The pattern of migration changed with the British colonialists acquiring de jure control over the north-east with the Anglo-Burmese Yandabu Treaty of 1826. Colonialism changed the history of the region and also established some commonality in its economy by changing it to suit the needs of the British industrial revolution. In the north-east an emphasis was placed on extractive enterprises like tea and oil for which much land was acquired, resulting in the displacement and emigration of large numbers. That is the basis of the beginning of the fear of the immigrants and of the ethnic conflicts that dominate the north-east even today [Acharya 1990: 75-78].

Immigration came to be linked to the tea industry which was built on indentured labour from Jharkhand, Chattisgarh and other regions where the Permanent Settlement 1793 and the zamindari system had displaced people on a large scale [Guha 1977: 17-18]. Unlike the nomadic tribes that settled down in the north-east as its inhabitants, the tea garden management kept their workers isolated from the local people within a regimented work structure. As a result, they were unable to integrate themselves with their surroundings and the local communities continue to treat them as outsiders [Fernandes, Barbora and Bharali 2003: 5-6].

In the 1920s began the immigration into western Assam from East Bengal (present-day Bangladesh) as a deliberate British policy to settle people in what they called wastelands that the Boro tribe considered its livelihood [Bose 1989: 62-64]. Similarly, when there was an excess labour, some tea garden managers encouraged them to cut the forests in the neighbourhood, create 'bastis' and settle down in what they called unoccupied land that the communities like the Boro considered their livelihood [Kar 1999: 27-28]. The type of migrants changed again with Partition which forced a large number of Hindus to flee erstwhile East Pakistan and come to the north-east and many Muslims from the region to go to East Pakistan [Nag 2002: 32-25].

Changes after 1947

The post-1947 influx from the Hindi-speaking region and Bangladesh introduced three changes in the type of immigrants. Firstly, prior to 1947 most of them were Muslims. Today most of those coming to Tripura from Bangladesh and other states from the Hindi heartland are Hindus. Secondly, until 1947 only Assam and Tripura attracted immigrants from outside the north-east. Today most states in the region experience such inflows. Thirdly, unlike in the colonial age when the state encouraged migration as cultivators of wasteland or as indentured labour, the Partition refugees were forced migrants and the post-1947 immigrants come without overt state support.

Common with the 19th and 20th centuries are the push factors of poverty, landlessness, the feudal system and lack of land reforms in their area of origin [Majumdar 2002: 107-108]. The pull factor is the fertile land in the north-east and the legal system that allows them to

encroach on the land. Much of the land in the tribal areas of the region is community owned according to tribal customary law, but Indian land laws recognise only individual ownership. This disjunction between the systems makes it easy for the immigrants to encroach on and cultivate common land. Besides, most immigrants were agricultural labourers in their area of origin, as such familiar with cultivation techniques. They prosper by using these techniques on the land they occupy.

Whatever the type of immigrants, for over a century they have encroached on the land of the local communities. These communities resist the alienation of their livelihood, but the country treats their resistance as insurgency and a law and order issue. The consequent land shortage has resulted in ethnic conflicts between various tribes of the north-east and has added to the threat of land and job loss. Be it the Naga-Kuki conflict in Manipur [Fernandes and Bharali 2002: 52-55], the Bodo-Santhal [Roy 1995] and Dimasahmar tension in Assam (*The Telegraph*, April 23, 2003) or the Tripura tribal demand for a homeland [Bhaumik 2003], all have their origin in competition for land and result in massacres. Other conflicts like the one between the Assamese and Bihari have been for jobs [Fernandes 2003].

Another pull factor is the local need for cheap labour and services that the immigrants provide as barbers, shoe-makers and as unskilled manual workers. Construction and other contractors seem to have developed a vested interest in their cheap labour. For example, according to a news item, the main bidders for the Bogibeel bridge contract in upper Assam were two organisations formed by former AASU leaders who were in the forefront of the agitation against the immigrants. However, neither organisation was ready to give an undertaking that it would employ only Assamese workers, because the immigrants were ready to work for very low wages (*The Assam Tribune* October 22, 2002). According to another report (*The Sentinel*, January 23, 2005) brick kiln owners at Mariani in Assam do not cooperate with the officials who are trying to identify Bangladeshi labourers working under them.

Landowners also search for Bangladeshi labour as cultivators. For example, a result of the Assam movement is the thrust given to education and jobs in the administration. Those who are employed in the administration continue to own land,

but do not want to cultivate it. So they employ immigrants, particularly of Bangladeshi origin, to cultivate it or give it out to them on a share cropper basis for one year at a time, not beyond it, for fear of losing it under the Land Reforms Act [Fernandes and Barbora 2002b: 52-54]. We have seen the Angami of Nagaland 'adopting' Nepali workers to cultivate land of those who have jobs in the town. We were told that in the Phek district of Nagaland the educated people who do not want to work on their land 'adopt' Bangladeshis to cultivate it. Thus, the local people are ambiguous towards the immigrants. On the one hand, they oppose them as encroachers on their land and jobs and, on the other, their low wages have become a vested interest with the contractors and agriculturists.

Conclusion

Will the repeal of the IMDT act solve this problem? That ambiguity will probably continue because very few local people want to do the tasks that the immigrants perform. As a result, the demands for sending the immigrants away will continue, but very little will be done. Political parties will find new ways of using them as vote banks or of rousing communal feelings around them. The fear of losing jobs will continue to be used to get the cooperation of the student body. However, a solution can be found only when student bodies come together to demand another type of development that creates jobs and motivates them to go back to their land in order to cultivate it in another form. The local communities have to stand up to the vested interest of builders and contractors in cheap labour. If enough jobs are created and the youth is trained to take up new jobs, they may not even need to fight against the immigrants because there may be enough for all to share. That requires a move away from a communal to an economic and cultural approach to immigration. ■■■

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