

Borders Unseen: The Silent Surge of Illegal Immigration in India

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ABSTRACT

Illegal immigration and statelessness have become pressing issues in India, not only due to the illegality of foreigners entering the country but also because of the increasing number of Indians migrating to other countries illegally. This article explores the dual nature of migration in the Indian context, highlighting how economic opportunities, political instability, and legal loopholes contribute to cross-border movements. India faces challenges in managing undocumented immigrants from neighbouring countries like Bangladesh and Myanmar, it also faces challenges of Indians settling illegally in other countries. These migration patterns are significant, influencing national security, labor markets, and diplomatic relations. By analysing the legal frameworks governing migration and citizenship such as the Citizenship Amendment Act (CAA) and the National Register of Citizens (NRC) this article delves into the complexities of migration governance in India. It also examines potential solutions, including policy reforms, border security, and international cooperation, to address the issue effectively while balancing humanitarian concerns and national interests.

INTRODUCTION

Migration has been an integral part of human history, shaping economies, cultures, and societies. In the Indian context, migration manifests in two contrasting yet interconnected ways-Indians moving abroad illegally, and foreigners entering India through unauthorised channels. While skilled professionals, students, and labourers legally migrate to countries like the U.S., Canada, and the Gulf nations for economic growth of social mobility, a parallel trend of illegal migration continues, with many Indians using forged documents, overstaying visas, or resorting to human smuggling networks. On the other hand, India itself has been a hub for illegal immigrants, specifically from neighbouring countries like Bangladesh, Myanmar, and Nepal, driven by economic hardships, political instability, and religious persecution.

This complex migration pattern poses significant challenges for India, affecting national security, economic resources, and social dynamics. The government has responded with policies like the Citizenship Amendment Act (CAA) and the National Register of Citizens (NRC), sparking debates on citizenship, human rights, and national identity. At the same time, stricter immigration laws in Western nations have put Indian migrants under increased scrutiny, leading to deportations and diplomatic tensions. This article examines the dual realities of migration in India, exploring the causes, consequences, and legal frameworks governing both outbound and inbound movements. It seeks to provide a balanced perspective on how India can address illegal immigration while safeguarding its economic and geopolitical interests in an increasingly interconnected world.

REVIEW OF LITERATURE

HISTORICAL CONTEXT

Illegal immigration into India has deep historical roots, which has influence of colonialism in India, regional issues, social and economic disparities, and disputed borders. The problem has been most problematic along India's eastern and northeastern borders, particularly the border sharing with Bangladesh, but also involves migrants from Myanmar, Nepal, Sri Lanka, and Tibet.

Migration Pattern Before 1947

- British Colonial Policies facilitated internal migration within British India. People moved across regions like Bengal, Assam, and Burma (part of British India) for labor, agriculture, and trade that could benefit them in daily living.
- There was no clear boundary that existed between the national borders at the time of British India, that led to large populations settling in regions like Assam and Bengal mainly due to confusion among the population and unregulated migration patterns.
- Many migrant labourers moved to Assam from Bengal and Bihar as they got attracted towards Assam's Tea plantations, which ultimately led to the change in the region's demographic.

Refugee crisis after the Partition (1947–1951)

Partition of India in 1947 led to the displacement, Partition of India and Pakistan came along with displacement of approx 14 million people, leading to huge burden and conflicts between both the countries. The Bengal was divided into east and west. East Bengal (now Bangladesh) became part of Pakistan (East Pakistan), which led to large-scale migration of Hindus from East Pakistan to West Bengal and Assam due to fear of communal violence and other insecurities like food and housing insecurity. Though this migration movement was initially looked upon as refugee movement and not an illegal immigration.

The period of 1951 to 1971: Post-Partition Period and Indo-East Pakistan Issue

More Hindu refugees fled to India over the 1950s and 60s because of communal violence, discrimination, and economic hardships in East Pakistan. The temporary refugee camps were set up to manage this refugee influx but there was no proper comprehensive long-term management policy. Migrants were increasingly seen as burdens on local resources, especially in Assam, Tripura, and West Bengal where the resources are already found in limited quantity.

Bangladesh Liberation War 1971

The 1971 Bangladesh Liberation War marked a turning point. Around 10 million Bangladeshis (both Hindus and Muslims) entered India, fleeing genocide and civil war. India accepted them as war refugees, but many never returned even after Bangladesh became independent. This created a permanent demographic shift, especially in border states like Assam, Meghalaya, West Bengal, and Tripura.

Post-1971 Illegal Immigration (1972–1990s)

After the war, economic migration from Bangladesh continued illegally due to poverty, overpopulation, and political instability. Migrants entered through porous borders in search of jobs in agriculture, construction, and informal labor sectors. The Assam Movement (1979–1985) emerged against illegal immigration. It was a mass uprising demanding the detection and deportation of foreigners. This led to the signing of the Assam Accord in the year 1985, which fixed March 24, 1971, as the cut-off date for recognising someone as a legal resident in Assam, also it became an benchmark of citizenship act of the constitution.

Contemporary Illegal Immigration Trends

Bangladesh's ongoing inflow has proven difficult. Illegal immigration has persisted despite border patrols and fences, with many people settling in places like Delhi, Mumbai, and Kolkata. Another problem is the Rohingya from Myanmar. Since 2012, a large number of Rohingya Muslims have fled to India from persecution in Myanmar, igniting fresh discussions about humanitarianism and the law. Even though Nepalese migration is permitted by the 1950 India-Nepal Treaty of Peace and Friendship, the influx of Tibetan and Nepali migrants has persisted, and clandestine entries are still frequent. Since 1959, Tibetan refugees have come in waves. During the civil conflict in Sri Lanka in the 1980s, Tamil Hindus fled to Tamil Nadu in search of safety.

The Constitutional Provisions upon illegal immigration

- Illegal Migrants (Determination by Tribunals) Act, 1983 – Applied only in Assam, it was meant to detect illegal immigrants but was struck down by the Supreme Court in 2005 for being unconstitutional.
- National Register of Citizens (NRC) – Initiated in Assam to identify illegal immigrants based on 1971 cut-off.
- Citizenship Amendment Act (CAA), 2019 – Provides a path to citizenship for non-Muslim illegal migrants from Bangladesh, Pakistan, and Afghanistan, raising constitutional and communal concerns.

METHODOLOGY

This research includes a mixed-methods approach to explore the impact along with causes and policy responses to illegal immigration and its effect on India. The methodology includes both qualitative and quantitative research techniques to ensure a comprehensive understanding of the illegal immigration in India.

Research Design

The research follows a descriptive and analytical design, focusing on the patterns and implications of illegal immigration in India, with special attention to border sharing states such as Assam, West Bengal, and Tripura.

Data Collection

- **Primary Data:**
 - Interviews: Semi-structured interviews were conducted with policymakers, security officials, local community leaders, and NGO representatives working with immigrant populations.
 - Surveys: A questionnaire was administered to residents in affected border areas to understand local perceptions and impacts of illegal immigration.
- **Secondary Data:**
 - Government Reports including Data from the Ministry of Home Affairs, Census of India, and Parliamentary reports.
 - Academic and Media Source to investigate Peer-reviewed journals, books, and credible news reports were analysed for trends and contextual understanding.
 - Constitutional and legal frameworks such as Analysis of the Foreigners Act, Citizenship Act, and related court judgments, such as the Assam NRC case.

Sampling

Purposive sampling was used to identify stakeholders for interviews. Survey respondents were selected using stratified random sampling to ensure representation across different socioeconomic backgrounds in

key border districts to know the effect on such stakeholders of the illegal immigration in India.

Data Analysis

- Quantitative data from surveys were analysed using descriptive statistics to identify trends in perception and impact.
- Qualitative data from interviews and documents were analysed using thematic analysis to identify recurring themes such as national security, economic impact, and demographic change.

Limitations

This research is subject to limitations such as restricted access to border areas, underreporting of illegal immigration data, and potential bias in self-reported survey data.

RESEARCH OUTCOME

The research reveals that illegal immigration in India, particularly from border sharing countries such as Bangladesh and neighbouring countries like Myanmar, continues to be a complex issue with significant demographic, economic, and political implications leading to burden on resources because the rising population in these areas. Case studies from Assam and West Bengal illustrate how prolonged migration has altered local population structures and intensified ethnic and communal tensions. For instance, In Assam, the National Register of Citizens (NRC) update in 2019, which excluded nearly 1.9 million residents from the final list, sparked widespread controversy and legal challenges, raising concerns about statelessness and procedural fairness.

In Tripura, the study of border villages indicated a gradual cultural shift and political realignments due to the influx of migrants over decades. The research also finds that while some illegal immigrants are integrated into informal labor markets, but their legal invisibility makes them vulnerable to exploitation. Similarly, in West Bengal, districts such as North 24 Parganas show evidence of increasing population density and strain on public infrastructure, with local accounts highlighting the socio-economic impact of undocumented migrants on employment and land resources.

Another example from West Bengal itself includes where The bench was hearing a suo motu case registered by the Calcutta High Court – it was later transferred to the Supreme Court – on the issue of such immigrants in detention homes even after serving their conviction under the Foreigners Act.

On February 3, the court had said that “almost 12 years have passed” since the matter was transferred to the Supreme Court “but till date there is no further progress”.

So it is quiet evident that illegal immigration complexity is still a long race to win in India. These examples underscore the urgent need for a coherent national policy that combines border management, legal reforms, and humanitarian safeguards to address the challenges of illegal immigration holistically.

Comparative Analysis of Legal Provisions on Immigration in India

India’s legal framework on immigration has evolved significantly, reflecting shifts in national priorities, regional pressures, and geopolitical dynamics. Earlier, immigration was primarily governed by colonial-era laws which were set in British India like Foreigners Act of 1946, which grants the government broad powers to detect, detain, and deport illegal immigrants. However, this law lacked clear definitions and procedural safeguards, often leading to arbitrary implementation.

The Citizenship Act of 1955 followed, further regulating nationality while maintaining stringent requirements for naturalisation and citizenship by birth, which is a way to become an Indian citizen. This makes it difficult for undocumented immigrants, including those from long-established communities, to regularise their status, but it also effectively deters illegal immigrants from entering India.

The Citizenship (Amendment) Act, 2019 (CAA), which broke with previous neutral legislative rules, was a significant development. The CAA essentially introduces religion as a criterion by permitting non-Muslim immigrants from Pakistan, Bangladesh, and Afghanistan—that is, Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians—who arrived in India prior to December 31, 2014, to petition for Indian citizenship. This provision contrasts sharply with the earlier framework, which did not differentiate based on religious identity. The CAA, combined with the proposed nationwide NRC, has sparked concerns of discrimination and potential exclusion, particularly among undocumented Muslim populations which resulted into various protests and criticism across the country.

This clause stands in stark contrast to the previous framework, which made no distinctions based on religious identification. Concerns about discrimination and possible exclusion, especially among non registered Muslim populations, have been raised by the CAA and the proposed nationwide NRC, leading to numerous protests and criticisms nationwide.

The new legislative framework intends to distinguish illegal immigrants into "persecuted minorities" and "others," polarising and politicising the conversation on migration in contrast to previous measures that primarily addressed border control and deportation. Furthermore, new amendments introduce blanket regularisation for specific groups, creating issues about constitutional equality and secularism, since earlier legislative processes functioned under the assumption of individual case review and administrative discretion. Consequently, the change in the law has not only clarified who is eligible as an “illegal immigrant” but also altered the scope of state intervention, enforcement priorities, and the lived realities of vulnerable populations residing without documentation.

Public Reactions to Legal Challenges

In India, the Citizenship (Amendment) Act, 2019 (CAA) and its alleged connection to the National Register of Citizens (NRC) have generated intense public and judicial debate. On the grounds that the CAA violates Article 14 of the Indian Constitution, which guarantees equality before the law, numerous applications were filed before the Supreme Court contesting it. The law's exclusion of Muslim immigration, according to critics, is discriminatory and threatens India's secular foundation. Legal experts point out that the Act establishes a religion-based classification without adequate justification, which may not withstand constitutional scrutiny, despite the government's defense of the Act as a humanitarian measure intended to protect persecuted religious minorities from neighboring countries.

The public's reaction has been equally split and passionate. In late 2019 and early 2020, large-scale protests broke out on college campuses and in cities, with protesters opposing the idea of a national NRC and calling for the repeal of the CAA. A dispute between the federal government and the states began when states like Kerala, West Bengal, and Punjab filed resolutions opposing the Act and refused to carry out its provisions. However, proponents of the law see it as a necessary remedy for longstanding demographic and security issues, particularly in states where illegal immigration has a significant impact. Misinformation, intercommunal conflicts, and fears of disenfranchisement, particularly among oppressed groups like Muslims, Adivasis, and Dalits, have also influenced public debate.

The ongoing court cases and widespread protests show that the problem has moved beyond administrative policy and into the center of the democratic and constitutional discussion in India. Although it is unclear how the law will be applied in practice and whether it will be sustained or overturned, the response it has generated reveals a sharply split public view over India's definitions of citizenship, identity, and inclusion.

Conclusion

In India, illegal immigration is a complex issue that affects economic interests, demographic balance, human rights, and national security. This study has shown that the problem is not just one of border management but has profound roots in sociopolitical dynamics, historical migrations, and legal uncertainties. In addition to creating tension and identity-based disputes, case studies from Assam, West Bengal, and Tripura show how protracted and frequently uncontrolled migration waves have influenced local economies and social systems. A significant change in the way the Indian state views citizenship and migration is indicated by the legal evolution from the wide and procedural Foreigners Act of 1946 to the more ideologically motivated Citizenship (Amendment) Act of 2019.

The latest rules seek to selectively regularise some groups based on religious identification, which raises ethical and constitutional issues. In contrast, earlier legislative measures concentrated on security and enforcement without making any distinctions among migrants. Immigration has been a hot topic in India's democratic discourse, as evidenced by the strong public outcry and continuing legal scrutiny directed at the CAA and NRC. Reasonable policy-making has become even more difficult due to the political exploitation of migrant tales and the extreme polarisation of public opinion.

Therefore, any long-term solution needs to strike a compromise between realistic governance and constitutional ideals. India needs an open, equitable, and inclusive immigration policy that respects the rule of law, takes into account local issues, and guarantees that everyone is treated with compassion, regardless of their background or religion. A clear, non-discriminatory legal road to citizenship, effective border management, and bilateral collaboration with neighbouring nations are all necessary for a sustainable resolution of the situation. How India handles this extremely delicate and contentious subject could have a significant impact on the country's social cohesion and democratic values in the future.

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