

Reviewing the Enclave Exchange

You can change history, but you can't change geography', India's former Prime Minister Atal Bihari Bajpai had famously said. But this basic common sense has often eluded the movers and shakers of International politics thereby resulting in constant sanguinary internecine struggle for power. The insane and inane one-upmanship among the nations have engendered such power games which have eventuated in 'mutually assured destruction (MAD)', a phrase often used in the context of the Cold War.

Hence, it is always advisable to have a peaceful border otherwise developmental interests of a nation generally get compromised. Anthropogenic as they are, borders between states are often arbitrarily drawn. And the borders that divided India and Pakistan on the map were no different as they did not represent a cartographer's precision. The international boundary between the two new states was drawn hastily when the British left India. As a result, thousands of people were left high and dry; stranded in enclaves as citizens of one country but living in territories encircled by that of the other. Local folklore has it that these enclaves on either side of the border are actually remnants of high-stake barter in chess games between the erstwhile Maharajas of Cooch Behar and Rangpur in pre-colonial, undivided Bengal.

Boundaries between nation states are also reflections of the interplay of the forces of history, politics and wars but oftentimes they could be simply a manifestation of a shoddy and hasty job as transpired in the wake of recommendations of the Boundary Commission led by Sir Cyril Radcliffe. The malformed borders between India and Pakistan became a curse for the people living in the enclaves between India and Pakistan or Bangladesh since 1971. Even though the enclave residents did not leave their homes and hearths, they, however, lost their countries. They lived in territories legally belonging to India, but never qualified as Indian citizens. The same happened to the people who lived on Pakistani and subsequently, Bangladeshi territory but would have none of the citizenship rights.

They were not stateless people in terms of international law of territorial sovereignty, but that was merely a cold comfort for them. They had no access to the laws or services of the land to which they technically belonged. The piquant situation created an ontological crisis

for these people sans the benefits of citizenship and sans the protection of the state. With the Land Boundary Agreement (LBA) of 1974 between India and Bangladesh finally coming into force on the 1st of August, 2015, the historical hardship for the people living in 51 Bangladeshi and 111 Indian enclaves eventually came to an end.

As a result thereof, there was not only an exchange of enclaves between the two countries, there was also a settlement of the territories held in adverse possession by both the countries. While India legally received 2,777 acres of land in 'adverse possession', i.e., territory already under *de facto* Indian control but legally owned by Bangladesh, Bangladesh, in turn, received 2,267 acres of territory in its adverse possession but lawfully belonging to India.

The enclaves were exchanged on the midnight of the 31st of July, 2015. The Indian flags were hoisted at midnight to mark the historic moment. A total of 111 Indian enclaves with an area of 17158 acres inside Bangladesh became Bangladeshi mainland and 51 Bangladeshi enclaves with an area of 7110 acres within Indian Cooch Behar district of West Bengal became official Indian Territory. In practical terms, it simply meant that the boundaries around these little pockets of foreign land disappeared as they merged with the host countries.

Against expectations of around 13,000 people in 111 Indian enclaves moving into India, only 979 or 02.65 per cent of the 37,000 dwellers in these enclaves inside Bangladesh plumped for the Indian citizenship during the joint survey conducted by the two countries. This was surprising given the attraction for Indian citizenship among Bangladeshi citizens. Many of these residents in Indian enclaves in Bangladesh who wanted to become Indian citizens were disappointed as they were allegedly threatened and intimidated against opting for the Indian citizenship by the Jamaat-e-Islami in Bangladesh. In stark contrast, all the 14,854 people staying on Indian soil in Bangladeshi enclaves have sought Indian citizenship.

Having waited over six decades for the establishment of their citizenship rights, these enclave residents still have to grapple with many of the existential problems before finally settling down in India. The foremost among them is to find a reasonable price for their farm and homestead lands. Most of these problems arising out of enclave exchange between the two countries were discussed in detail during an interaction between the delegations of Bangladesh and India. The Government of India is said to have earmarked Rs 3000 crores for the liabilities and responsibilities arising out of the exchange of enclaves. The fund is to be used not only for the rehabilitation of the people moving into India, but also for carrying out various development works in these enclaves.

These developmental works and activities will be almost like laying out a virgin country, for no government agency has ever existed in any of these enclaves. Schools, colleges, hospitals, police stations, roads—everything will have to be created for the welfare of the people in them. As per the Notification issued by the Govt. of West Bengal, a land survey has been conducted in the erstwhile enclave areas to officially demarcate and delineate their geographical status vis-à-vis bordering Indian areas. In case of small patches of land accrued, these were integrated into the existing mouzas, the smallest cartographical entity on India's map. In case of big stretches, e.g. a big enclave, a new mouza was created. This was followed by their incorporation into the extant panchayat system. The new areas were

also allocated police stations and post offices. In some cases, new police stations or post offices were formed.

Another tricky area related to the redistribution of land among the individual owners as per their entitlement as figured out during the joint survey done for the purpose. As they left for their new country, they also sought corresponding return of their lands as owned in the erstwhile enclaves but had no supporting papers. Most of these residents had lived in enclaves with forged and false identity documents. The basic principle of land allocation namely 'possession backed by documents' or 'documents backed by possession' proved tricky, especially if one person's claim is contested by another. Hence, a big challenge pertained to identity verification of the incoming Indian citizens. The residents in many cases did not have any legal papers in support of their claims or to prove their identity. The processing of identities was, therefore, an onerous task which required careful handling because the same had serious implications for the national security. The government kept some land aside for the sundry developmental activities including infrastructures, school buildings, *anganwadis*, health centres, roads, space for electricity lines and water supply. The same would also require the consent of the residents in these areas. The entire rehabilitation work is going to be a long-drawn complicated and humongous task, requiring intricate planning and execution. The Indian government also factored the concerns of the incoming young citizens whose educational interests warranted safeguarding. The local administration was directed to ensure continuation of their education in India as per their eligibility and requirements.

The Indian law enforcing agencies including the Border Security Force (BSF) heaved a sigh of relief as the enclaves were finally exchanged between the two countries. According to sources, the Bangladeshi enclaves on the Indian side had become safe havens for the Indian criminals who would often take shelter therein after committing a crime in the Indian Territory. Technically being a foreign territory, the BSF and other Indian officials found it difficult to enter and take any action against these anti-social elements. The Indian law enforcing agencies including the BSF and local police authorities are now relieved as they can crack down on the criminals in the enclaves now that these areas have legally come under total Indian control.

Besides, there are many other issues which need serious attention of the two countries. The newly introduced quarterly meetings would now be convened on a regular basis at the levels of District Magistrate and Collector of the two countries bordering these enclaves. The flag meetings on a regular basis as per a mutually agreed calendar of the Border Guard Bangladesh (BGB) and the BSF have also been institutionalized. The success in the enclaves issue has its lessons for leaders of both the countries. They need to realise that India Bangladesh relations should no longer be held hostage to their domestic politics.

Both India and Bangladesh must continue to show more of the pragmatism that made the exchange of enclaves ultimately possible though it took the two countries 41 years to complete the job of enclave exchange has much to do with the changes in Indo-Bangladesh ties over the years. One hopes that the relationship between the two countries shall only grow stronger on the strength of the recent warmth as emerging in the wake of resolution of

the enclave exchange issue. The flagging of a new bus service between the two countries is only one of the many positive breakthroughs waiting to be made as a result of the new-found bonhomie between them.

The long-delayed settlement has been tipped to be an example of good diplomacy by the two countries, thereby also consolidating India's position as a regional power in South Asia. The deal not only settled a contentious border but also opened a window for settlement of other intractable issues with Bangladesh. Peaceful borders with her neighbours would enable India to focus on its strengths to eventually emerge as one of the 'super powers' to reckon with in international politics.

Salient Points

- It is always advisable to have a peaceful border otherwise developmental interests of a nation generally get compromised.
- Enclaves on either side of the border are actually remnants of high-stake barter in chess games between the rulers.
- On the 31st of July, 2015; a total of 111 Indian enclaves inside Bangladesh became Bangladeshi mainland and 51 Bangladeshi enclaves within India became official Indian Territory.
- Enclave residents still face many of the existential problems before finally settling down in India.
- Developmental works in this territory will be almost like laying out a virgin country as no government agency has ever existed here.
- Another issue relate to the redistribution of land among the individual owners as per their entitlement. A big challenge pertains to identity verification of the incoming Indian citizens.
- The Indian government also factored the concerns of the incoming young citizens whose educational interests warranted safeguarding.
- The Indian law enforcing agencies heaved a sigh of relief as the enclaves were finally exchanged.
- The flagging of a new bus service between the two countries is only one of the many positive breakthroughs waiting to be made.
- Peaceful borders with her neighbours would enable India to focus on its strengths.

Glossary

Sanguinary: bloody

Internecine: mutually destructive

Inane: lacking sense

Shoddy: of poor quality or inferior workmanship

Piquant: agreeably stimulating

Ontological: of or relating to ontology, the branch of metaphysics that studies the nature of existence

Heave: to raise or lift with effort or force

Bonhomie: frank and simple good-heartedness