

**INTERROGATING REFUGEE PROTECTION AND
MOVEMENT AGAINST ILLEGAL IMMIGRANTS IN ASSAM**

**A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF DOCTOR OF
PHILOSOPHY**

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**INTERROGATING REFUGEE PROTECTION AND MOVEMENT AGAINST
ILLEGAL IMMIGRANTS IN ASSAM**

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CERTIFICATE

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I **SALEH AHMED**, hereby declare that the subject matter of this thesis is the record of work done by me, that the contents of this thesis did not form basis of the award of any previous degree to me or to do the best of my knowledge to anybody else, and that the thesis has not been submitted by me for any research degree in any other University/Institute.

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LIST OF ABBREVIATIONS

TERM	DESCRIPTION
GoI	Government of India
MHA	Ministry of Home Affairs
MEA	Ministry of External Affairs
GoA	Government of Assam
UNHCR	United Nations High Commissioner for Refugees
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
UN	United Nations
UNPKF	United Nations Peacekeeping
EU	European Union
USA	United States of America
UK	United Kingdom
AU	African Union
ASEAN	Association of Southeast Asian Nations
FT	Foreigners Tribunal
ULFA	United Liberation Front of Assam
AGP	Assam Gana Parishad
AASU	All Assam Student Union
INC	Indian National Congress
BJP	Bharatiya Janata Party
AIUDF	All India United Democratic Front
NEFA	North East Frontier Association
DF	Declared Foreigner
RTI	Right to Information
HCs	High Courts
Govt.	Government
Add.	Additionally
MNF	Mizo National Front
Pak	Pakistan
AP	Assam Police
SC	Supreme Court
HC	High Court
WP	Writ Petition
WP(C)	Writ Petition (Civil)
Rev. Pet.	Review Petition
SP (B)	Superintendent of Police (Border)
BM	Border Management
PMO	Prime Minister's Office

Chapter- I

Introduction

1.1 Introduction

Factors like war, political unrest or instability, selective persecution, ethnic conflict, natural disasters, and economic crises often force people to leave their home countries to seek shelter in foreign lands. The forced displaced individuals are recognized and protected under international law and categorized as refugees. The countries across the globe are responsible for protecting these individuals and their rights and safety. As per the (UNHCR, 2024) data, there are 122.6 million people forcibly displaced in the world, which includes asylum seekers, irregular migrants, returnees and internally displaced persons at present. The total figure contains 37.9 million refugees and 8 million asylum seekers as of mid-2024. The majority of them are under the UNHCR's mandate, and a few million Palestinian refugees are under UNRWA's mandate. The main reason for displacement is found in related research to be war. The war compels people to leave their homes and seek shelter elsewhere. This war-based displacement in the modern age started during World War II, which has caused displacement in the highest number to date. Since then, there have been many wars fought across the globe, which have continued to result in displacement.

Apart from the full-fledged war, internal turmoil and a change in power regime have been identified as key reasons to displacement. This was noticed in both Myanmar and Afghanistan. Millions of people have been displaced from Myanmar and are seeking refuge in Bangladesh as a result of the transition from a democratic to an army-led administration. This is a classic example of institutionalised ethnic persecution. The individuals being persecuted are known as Rohingya, and they are predominantly Muslims from Myanmar's Rakhine province. They were compelled to flee their homes, leaving everything behind. They had departed and searched for shelter, primarily by the maritime way. Many countries have denied entry of them while some countries have welcomed them for humanitarian reasons. However, the majority of the exiled people had arrived in Bangladesh and were still living in

refugee camps, with no hope of resettlement. On the other hand Afghan refugee issue is little complex in nature, as it is mixture of various factors. However, the main reason is internal turmoil and war which resulted in multiple waves of displacement.

Another concern related to refugees is that millions of refugees remain unregistered and do not fall within the UNHCR's mandate, and sometimes they are protected by few nations across the world on humanitarian grounds without being under the mandate of UNHCR. India belongs to one of those nations. In India, there is no provision that allows someone to be labelled as a refugee upon admission. Whoever enters India with the intention of becoming a refugee is considered an alien and if undocumented, Illegal Immigrant. The term alien is defined in the Indian Constitution in Article 22, Paragraph 3 and Entry 17, List I, Schedule 7. In addition, it is stated in Section 83 of the Indian Civil Procedure Code, Section 3(2) (b) of the Indian Citizenship Act, 1955, and various other legislation. The Foreigners Act of 1946 empowers the Central government to regulate aliens' admission into India, presence, and departure. The Act defines a 'foreigner' as someone who is not a citizen of India. Foreigners are monitored through registration, stay, and expulsion as required by the Registration Act of 1939. The government handles the passport issue and imposes its mandate on foreigners who enter India. Furthermore, the government grants passports to its people for travel overseas. The Passport Act of 1920 and the Passport Act of 1967 provide the basis for all of the government's functions.

India has used administrative tools to regulate the status and protection of refugees, yet there is still some ambiguity about the system. In the lack of particular regulation, the danger of biased and discriminatory treatment of migrants cannot be ignored. Without particular legislation, the rules governing the control of foreigners are applied to refugees in India, with no distinction made between foreigners and refugees as separate classes. The Foreigner's Act of 1946 is the first Indian law relevant to foreigners, which gave the power to monitor the entry, presence, and departure of foreigners to the Central Government of India. The Indian government's executive branch determines refugee status, monitors, and protects refugees. If India intends to provide sanctuary to any individual or group of individuals, it issues a

circular or notification exempting them from the Foreigner Acts. At various points in time, the Indian government has opened its borders to various groups of refugees, and it has issued notifications and circulars to that effect. In the following paragraphs, we will look at all of the circulars and government notifications on refugee protection.

In 1972, the Indian government issued an edict concerning foreigners from Uganda. The order was created to protect those of Indian descent living in Uganda who were being persecuted by Idi Amin's dictatorship (Foreigners from Uganda Order, 1972). Ugandan citizens were advised to register with the registration office and specify how long they expected to remain in India. Through this, the Government of India exempted Ugandan people from requirements of other laws that apply to foreigners. In the first quarter, the Government of India issued a notice; the notification delegated some authorities to the state governments/union territories involved to decide visa problems. (Delegation of Powers to State Governments/UT Administrations/FRROs/FROs in Visa Matters, 2010). This notice specifies the requirements, including the terms, conditions, and eligibility of Pakistani and Bangladeshi nationals for the L.T.V. in India to get Indian citizenship. According to this announcement, four groups of people are eligible for the L.T.V., three of which are based on marriage and the fourth on 'cases exhibiting great compassion'. However, the term's meaning is uncertain, as it is not included in the announcement.

There is a provision for foreigners to apply for a long-term visa, which allows them to stay in India for longer than six months; this visa is often known as L.T.V. The Government of India has issued a notification on the situation involving Pakistani and Bangladeshi people who are residing in India on L.T.Vs. This notice permits them to make a living in India by working in the private sector, barring government, semi-government, and cooperative occupations. The Election Commission of India issues a statement about Tibetan refugee children. Election Commission declared that the children of Tibetan refugees born in India between January 26, 1950, and July 1, 1987, can finally register for enlisting in the electoral roll to vote in India. This announcement was based on a judicial decision by the

Delhi High Court in 2010 (Namgyal Dolkar vs. Govt. of India, Ministry of External Affairs, W.P.(C) 12179/2009 (Delhi High Court), 2010).

However, The same kind consideration has not been extended to children from other refugee groups. In other cases, the difference in how refugees are treated has been fairly evident. One example is the administration's efforts to provide residency cards to Tibetan and Sri Lankan refugees, as well as those registered with the UNHCR in New Delhi. The lack of a national refugee legislation has resulted in disparities and biases towards different refugee groups. Refugee concerns are handled at the executive and administrative levels, therefore the refugee monitoring procedure reflects political philosophy and objectives. The current strategy that the government is utilising to handle the refugee issue is neither based on the idea of equality nor any legal foundation.. It is quite evident that domestic political opinion and shifting necessities in foreign policy dominate the process.

The administrative decisions regarding refugee protection have not been in the same direction. The government of India had passed an act which is known as Passport (Entry into India) Amendment Rules, 2015. Through this act, the government has exempted the persons who are the minority in Bangladesh and Pakistan. The minority communities in Bangladesh and Pakistan are namely, Hindus, Sikhs, Buddhists, Jains, Persis and Christians. If a person from these minority communities who are forced to flee the country and seek shelter in India due to religious persecution or fear of religious persecution and entered into India on or before the 31st December 2014 will be exempted from the Foreigners Act 1946 (Passport (Entry into India) Amendment Rules, 2015. Despite the fact that India is not a signatory to any international refugee agreements or conventions, it does not have specific legislation to deal with the refugees. Despite all of that, India has been a regular host of refugees since its foundation. People have come to the country from around the world- from Afghanistan, Bangladesh, and Myanmar to Tibet, Iran and Iraq. It has treated people who are coming to India on humanitarian ground and attempt to accommodate everyone even after having a population of more than a billion of its own.

Today, India is a host of extra-regional and intra-regional refugees in a quest for safety and sanctuary from Afghanistan, Bangladesh, Iran, Iraq, Myanmar, Palestine, Somalia, Sudan, Syria, Sri Lanka, Tibet, etc. (Ahmad, 2017). The migration into India from neighboring states started taking place immediately after the independence of India. Since 1947, periodic and large influxes of the population from East Pakistan (subsequently Bangladesh) kept coming into Assam, West Bengal, and adjoining Bihar. Assam and other northeastern states, being the least populated, became the most promising destinations (Singh, 1984). The frequency and volume had increased in the early 1970s because of the violence in Bangladesh erstwhile East Pakistan. The influx of migrants into India was in considerable numbers in that period. The migrants were primarily settled in the Northeastern states of India and West Bengal. The Indian state of Assam had issues with the changing demographic nature and the potential changes brought by the demographic change. It had experience related to the changes brought by the migration.

The Indian state of Assam is a multicultural and heterogeneous society having indigenous people as inhabitants of the land. The illegal entry into the Indian state of Assam from the neighboring country Bangladesh (erstwhile East Pakistan) has threatened indigenous people's very existence. It poses a threat to language, culture, land, economy as well as the political controls in the society of the natives. To address the issue, one needs to identify who is an illegal immigrant. There is a fragile line between illegal immigrants and refugees. The migrants who came before 24th march midnight have been considered refugees; post this date, entry is regarded as illegal immigrants. Based on the timeline, which was agreed by the Assam movement representatives and government of India, millions of people have been entered India as illegal immigrants, which poses a threat to the natives. The debate of identifying illegal immigrants and deporting them, and parallel protecting refugees get stuck in the identifying process and guidelines or the terms and conditions.

Assam had experienced a significant number of migrations in the colonial period. Those migrations had changed the demographic structure in some regions of Assam. Therefore, Post-Colonial migration from an alien place was not affordable

for the people of Assam. There was a rapid migration of people on the eve of the liberation of India Pakistan in 1947. The migration of people did not stop there; there were waves of migration into Assam. The most grievous migration after the independence settlement was the Bangladesh liberation refugees. The number of people in Bangladesh's liberation entered India to become refugees' ambition was huge. This migration did not stop after the independence of Bangladesh. The flow of migration into India remains constant, it might be different in size, but it continues. It led to a demographic change in Assam and started posing a threat to the indigenous Assamese population. In the early 1980s, the literate middle-class Assamese native who was conscious about the outcome of the migrant issue started a movement against the migrants who are supposedly illegal as per India's constitution. Hence, pressures were building on the Centre to look upon the matter and take suitable measures and settle the issue.

The citizenship, refugees are the subjects vested in the center's hand to make laws upon and administer it. However, the flow of illegal immigrants or refugees into India has gone unchecked or unnoticed by the central government. The issue had started gaining popularity among Assamese native people, and after that, several movements took place; also, violence started taking place, which compelled the central government to give attention to this grievous issue. As the result of the Assam agitation, the central government has signed an accord named the Assam accord. Which took the resolution to solve the illegal immigrant's issue by adopting several policies and measures. The IMDT Act was one such measure that was enforced to identify the illegal immigrant and terminate his/her name from the voter list and deport him/her. Further, this Act applied only to migrants who sneaked into the state and settled thereon after March 25, 1971. Thus, those who came in and settled there before or on March 24, 1971, did not come in the purview of this (Ragi, 2013). It can be observed that the central government is the supreme authority in dealing with the refugees as well as addressing the illegal immigrant's issue in Assam. Hence, it has become very important to have a very close look at the administrative mechanism in dealing with both the issues, the protection of refugees as well as the response to the movement against illegal immigrants and the judicial response. Moreover, it is

essential to look into the administrative challenges that are coming in addressing issue of illegal immigration. In line with these areas the present study has been carried out.

1.2 Review of Literature

For the present study following related literature review has been undertaken.

Gait (1906), in his book –A History of Assam,” provides a comprehensive account of Assam's political, social, and cultural history from ancient times to the colonial era. Written at the start of the twentieth century, it is a vital source for understanding Assamese history. The mythical origins of gait may be found in ancient Indian epics like the Mahabharata, beginning with the fabled tales of the Narakasura dynasty and Pragjyotisha. Gait goes into considerable length about the Varman dynasty (4th–7th century), the earliest Assamese monarchs to be chronicled historically. The dynasty's founder, Pushyavarman, and later kings like Bhaskaravarman are essential figures who expanded Kamarupa's influence in eastern India. Gait provides a comprehensive overview of the Ahom dynasty (13th–19th century), focussing on their entry from Southeast Asia (present-day Thailand) and establishing a powerful kingdom in the Brahmaputra Valley.

Jaswant Singh (1984), writes in his article "Assam's Crisis of Citizenship: An Examination of Political Errors" that the problem Assam had started facing was because of a catalogue of profound human errors compounded by drift, indecision, and political short-sightedness. While analyzing the issue from a historical perspective, he found that the influx of refugees from East Pakistan to India was inevitable as the division of territory and people's movement from one side to another was unplanned and had seen much violence. There was a migration of people from West Bengal to the East on independence because of several violent incidents. After the liberation and proper border demarcation, people had started fleeing back to India. He highlighted that all who came were not Hindus and refugees. Bengali Muslims came for other reasons, such as better crop cultivation and barren land, especially in the Brahmaputra valley.

Bose (1989), in his book –Social History of Assam”, explores the evolution of Assamese social institutions, customs, and cultural practices from prehistoric times to the present. Bose discusses how, although influenced by the larger Indian varna system, Assam's caste system developed uniquely due to the region's isolation and ethnic diversity. The rigid caste system that was more prevalent in other parts of India was less prevalent in Assamese society despite Brahmins being well-known there. Bose provides a detailed account of Assamese tribal communities, including the Bodos, Khasis, and Garos. Moreover, The saint-scholar Sankardev led the Bhakti movement in the 15th century, which is also central to Bose's works. The advent of Vaishnavism by Sankardev, which promoted devotion to Lord Vishnu, profoundly impacted Assamese culture. Bose also looks at the impact of Buddhism on Assam, particularly during the early Common Era. Despite not becoming the majority religion, Buddhism significantly impacted Assamese culture, particularly in terms of religious tolerance and promoting art and architecture.

Bhattacharjee (1993), in his book –Assam in Indian Independence”, investigates Assam's role in the Indian freedom fight, focussing on the key individuals, events, and movements that shaped the state's contribution to India's war for independence. The book focusses on Assam's troubles during the colonial period, including economic exploitation, demographic instability, and regional identity issues. Bhattacharjee begins by examining the early nationalist actions in Assam, which were intricately linked to the larger Indian struggle for independence. He discusses the formation of the Assam Association, one of the earliest political groups to handle regional concerns within a national context. Gopinath Bordoloi, a key figure in Assamese nationalist politics, is central to Bhattacharjee's plot. Bordoloi was vital in safeguarding Assam's identity inside India, especially during key events like Partition and the Sylhet referendum.

Ravi Nair (1997), has written in his article "Refugee Protection in South Asia" that South Asia has been experiencing an intra-regional movement of refugees because of political instability. He has rationally put down why India has been the first and favorite choice for refugee migrants. He has emphasized that India is not

allowing the international organizations and NGOs to come forefront in dealing with the refugees. The argument extended in his article that the policy used in regulating refugees is not favorable to the refugee community in general. There have been colossal back draws started reflecting since the matter came to the political level. In this paper, it can be seen that how the Indian cabinet reacts traditionally, they made reactive decisions with each particular influx of refugees, especially when the matter goes beyond the force responsible for border security.

Baruah (1999), in his book *India Against Itself: Assam and the Politics of Nationality*, provides a detailed analysis of Assamese nationality politics, highlighting how nationality, ethnicity, and identity issues have shaped the complex political structure of the state. The book critically analyses how Assamese identity politics have often caused separatist movements, violence, and social unrest by placing the state at odds with the Indian national narrative. Baruah claims that Assamese political and ethnic conflict started during the British colonial era. During British rule, the construction of tea plantations and the migration of labourers from other parts of India altered the demographic composition of Assam. British policies on land, taxation, and migration further alienated the local Assamese population. One of the primary subjects discussed is the large-scale immigration from Bengal, mainly Muslim peasants, which significantly impacted the ethnic composition of Assam. The book explores the rise of ethnic movements, such as the Assam Movement (1979–1985), which voiced opposition to the alleged influx of "foreigners" (Bangladeshi migrants). Also highlights the conflict between Indian and Assamese nationalism.

Tripathi (2002), With a focus on the Ahom dynasty, which ruled the state from the 13th century until the early 19th century, Chandra Dhar Tripathi's book *Aspects of the Mediaeval History of Assam* explores the political, social, and cultural developments that occurred in Assam during this time. Tripathi highlights the significance of the Ahom dynasty, which brought long-term political stability to Assam. An efficient administrative system divided into provinces (mouzas) was constructed by the Ahom rulers, essential for the concentration of power and the

extension of territory. It emphasises the cultural fusion that took place throughout the Ahom era. Although the Ahoms first followed their indigenous Tai religion, they eventually accepted Hinduism, which became entwined with local traditions. This syncretism aided in forming a distinct Assamese culture, complete with distinctive art forms, literature, and religious traditions.

Samaddar (2003), in his book "Refugees and the State: Practices of Asylum and Care in India, 1947 – 2000" delves into India's experiences with refugee migrations. This literature critically studies the role of domestic politics, security concerns, and geopolitical issues in the refugee protection matter. Samaddar claims that India's approach to refugees has been pragmatic rather than adhering to international norms or a rights-based framework. It also explain the variation in refugee protection as some refugees have been protected, while others have been denied protection such as the Rohingya, whereas Tibetan refugees have received protection and access to education and employment opportunities. The book also looks at the judiciary's role in refugee protection, noting that courts have regularly intervened to safeguard refugees' rights in the absence of a defined legal framework. Although these initiatives have been noteworthy, Samaddar believes they fall short of addressing the broader issues that refugees face, such as discrimination, statelessness, and restricted access to essential services.

Shakespeare (2004), in the book "History of Upper Assam, Upper Burma, and the North-Eastern Frontier," writes a historical account of British India's border territories, focussing on the north-eastern borders of Assam and Burma (now Myanmar). He highlights the strategic importance of Upper Assam and Upper Burma in British colonial strategy, particularly as a buffer zone against external threats from Burma and China. It analyses how the British managed the borderlands, including indirect administration via local leaders and the construction of frontier outposts. The British sought to quiet the region by making alliances with local tribal leaders and enacting legal and administrative reforms. The book is on the British efforts to understand the indigenous people's customs and social systems in Upper Assam and Burma.

The region's economic importance, mainly its role in the tea trade, is also discussed. Shakespeare discusses how the British used Assam's tea plantations and trade routes through Upper Burma to boost their empire's economy. The exploitation of local resources was an essential aspect of colonial economic strategy. –History of Upper Assam, Upper Burma, and the North-Eastern Frontier” provides a colonial view of the region's British administration and military actions. The book is essential for understanding the strategic significance of the northeastern frontier under British rule.

Das (2005), in her book –Refugee Management,” provides an introspective analysis of India’s refugee management practices, identifying strengths, weaknesses, and areas for improvement. Majumder discusses India's long-standing tradition of hosting refugees from diverse backgrounds, emphasizing that India has often upheld humanitarian principles despite not having a formal refugee law. However, she critiques the ad-hoc nature of India’s refugee management, which lacks uniformity and transparency, leading to inconsistencies in treatment and protection. Majumder examines several refugee groups in India, including Tibetan, Sri Lankan, and Rohingya populations, analyzing how India’s policies have varied across these communities based on diplomatic and security considerations. She argues that while flexibility allows India to adjust policies according to changing political circumstances, it often leaves refugees without reliable legal protections and complicates long-term integration prospects.

Fernandes (2005), has given a background in his article "IMDT Act and Immigration in North-Eastern India" that how the IMDT act came into being. He tried to analyze the impact of the act in several aspects. He also concentrated on how communal issues arising out of the act and how some groups of people in the society are feared about the act that it could be used against them. Most importantly, he raised the question regarding the repealing of the act. He asked whether repealing the act will help in solving the illegal immigrant's issue? While looking for the answer he found that the problem around the illegal immigrants will remain and the political parties will continue to take advantage of making their vote banks.

Upadhyay (2005) focused on the socio-economic impact of the infiltration issue not just in Assam but in the whole North-East in her article titled "The –Infiltrator” Issue.". She has highlighted how the infiltration issue has become just a bogey of elections. It just revolves around the election time and after that, it just gets forgotten. She has highlighted how environmental crises lead to the infiltration into India. Therefore, well-coordinated regional policies need to be initiated so that people do not think and get to cross the boundary so easily. Security dimensions are also mentioned in the article—a best partial and at worst counterproductive. A forward-looking security doctrine has been advocated so that it will address both military and non-military security issues.

Nunthara (2005), in the article "Peace and Conflict in the –Frontier” Areas of North-east India" that the laws which were there in the British colonial period to protect the indigenous people and land. Such a law was a line system introduced in 1920 too to protect the indigenous people and their land. The system introduced the categories villages and categorized them into three- open, where migrants were permitted to stay, close- where they are not allowed, and mix- where migrants can be settled in certain areas. However, the law was not enforced and gave birth to the problem in colonial times. The article shows that the northeast was a colonial frontier that attracted the migrants to come and settle down here. Also, many regulated migrations took place with close monitoring of the British government throughout history. However, the Muslim population who settled here in the pre-colonial era

have always unwanted guests to the indigenous people; the attitude further developed with the post-colonial migration.

Mahanta (2005) analyzed the conditions for the birth and rise of rebel groups or militancy in Assam in his article "Politics of Peace-Making." He had explained how people started believing that picking up guns would solve problems, and from there, to opposing ULFA and their violence. The state Assam is having two main outfits- ULFA and NDFB. The author has written that the so-called rebels' groups are hardly concerned about the people's real issues. ULFA, which does not care about the state's socio-economic development; it just talks about the independent Assam. Therefore, to attain the Center's attention, the state does not need any rebel group like ULFA or NDFB. There should be firm political will, which can solve the state's burning issue and insurgency in the state and region.

Ahmed (2005) wrote in his article "Factors leading to the migration from East Bengal to Assam 1872-1971" that the migration from East Bengal to Assam took place after British rule. British sought for this migration to meet the needs of the British Government. The migrants were mainly settled in the Brahmaputra. He tried to explain the reasons behind the mass migration and found that the Zamindari system prevailing in the erstwhile East Bengal, and the taxes were unbearable to the Farmers. Moreover, the migrants who came from there mainly were Bengali Muslims, even though they were a majority in their native place, but they held a tiny portion of the lands; Hindu Zamindars mostly held the land.

Sayta (2006), in his article "Sarbananda Sonowal v. Union of India, A.I.R. 2005 S.C. 2920" explains the IMDT act, how the Supreme Court of India struck down the act. The decision was based on two pillars: Article 355 and Article 14 of the Indian Constitution. The immigrant issues disturbed the internal peace, and it's a kind of external attack on India. Article 355 of the Indian Constitution gives the center power to protect the country from any external aggression. The IMDT Act was struck down for being ultra vires Article 355. Another ground of striking down the act was Article 14. The court observed that the Violates the right to equality of the people of Assam.

Prasad (2006), in his article "Migration and The Question of Citizenship: People of Chittagong Hill Tract In Arunachal Pradesh" has shown how Environmental factor plays a vital role in refugee migration. There have been several incidents of environmental migration in South Asia. Chakma and Hajong refugees in India are major environmental refugee migrations in the South Asian region. After taking shelter in India, the refugees are longing for citizenship. Even after many years, their quest for citizenship has not been realized. Prasad has very smartly taken up refugees' politicization and using the refugees as vote banks. He has taken up the North East scenario and tried to establish a link between refugees' religion and its natural linkage to political parties.

Ahmed (2006) has successfully drawn a picture about how identity plays a vital role in Assam's politics in his article titled "Identity Issue, Foreigner's Deportation Movement and Erstwhile East Bengal (Present Bangladesh) Origin People of Assam." We all have an identity by which we would like to introduce ourselves, which tells everything from history to current society's holdings. Assam's politics have constantly evolved around the question of identity. There are some sections of people who felt the crisis of identity, especially Bengali-speaking Muslims who migrated from erstwhile East Bengal even before India's independence. India's constitution has laid down certain conditions by which one is recognized as Indian. Even after fulfilling these criteria, few Assam people question their citizenship and belongingness in this country.

Nair (2007), in his article titled "National Refugee Law for India: Benefits and Roadblocks", advocates for the need for a formalized national refugee law in India. As it lacks a dedicated legislative framework to address the refugee situation arises in any point of time. Despite hosting a significant number of refugees, India remains without a unified refugee law, instead relying on ad-hoc policies and practices to manage refugees. The study also explores the probable challenges in such an initiative, which may include domestic security concerns, political sensitivities, and economic constraints, particularly considering India's geopolitical position. Nair's work is a comprehensive guide to understanding the complexities

and need of structured refugee law in India, examining the difficult yet necessary task of aligning national law with international practices.

Arha & Singh (2008) in his book –Glimpses of Assam” presents a thorough cultural and historical overview of the state. The book is structured as a guide for anyone unfamiliar with the region, including highlights of its history, culture, landscapes, and people. While not a highly scientific work, it provides an educational introduction to Assam's diverse culture and traditions. The authors look at the significance of the Brahmaputra River, which dominates the landscape of Assam. They feature vivid descriptions of Assam's lush forests, tea gardens, and Kaziranga National Park, home of the famed one-horned rhinoceros. The book stresses Assam's distinct biodiversity and role as a global biodiversity hotspot. Assam's forests, wildlife, and river systems make it one of India's most ecologically diverse states. Arha and Singh analyse Assam's cultural and ethnic diversity, focussing on ethnic groups including the Ahoms, Bodos, Karbis, and Misings. The authors emphasise the region's different languages, traditions, and religious practices, advocating for Assam's own cultural identity within India.

Bhattacharjee (2008) has stressed in his article "India Needs a Refugee Law" on developing a refugee law for India. India does not have direction per law to distinguish the refugees from other foreigners. It must have a law that takes care of the constitutional rights extended even to the non-citizens or aliens. However, the condition of the people who enter India with the ambition of seeking asylum or issues is in bad shape for some groups of people. Even after spending decades, they are not getting any recognition in this land. On the other hand, some groups of people who migrated with India with the ambition of becoming refugees have assimilated with natives or do not even get any sort of recognition. These kinds of incidents arise because of the lack of a framework for identifying and regulating refugees.

Singh (2010), in his book, "Stateless in South Asia: The Chakmas between Bangladesh and India," provides a detailed account of the conditions of the Chakma people as refugees in India and their condition back in Bangladesh. He critically examined the social, political, and historical factors that have contributed to the

Chakmas' statelessness. The Chakmas are a Buddhist minority group used to be inhabitant of Chittagong Hill Tracts in Bangladesh. His study mentioned that the origins of the Chakma crisis were back to 1947 when East Pakistan (now Bangladesh) gained independence, and the Chakmas found themselves on the wrong side of the border. The main reason for their displacement is discussed as decades long persecution, isolation, and exile; then they decided to moved to India. Here also they have struggled to achieve citizenship and legal recognition.

Baruah (2012) provides a social history of Assamese literature in *Frontier Cultures: A Social History of Assamese Literature*, how Assam's location on the border between India and Southeast Asia shaped its literary traditions, which reflects the region's complex socioeconomic past and cultural hybridity. Baruah claims that Assam's position at the meeting point of Southeast Asia and India has produced a border area where several ethnic groups, dialects, and cultures have interacted and influenced one another. The book highlights the importance of indigenous oral traditions, which have substantially contributed to Assam's literary history. Examples of these traditions are the folk songs and stories of the Bodos, Khasis, and Garos. These oral traditions later influenced Assamese poetry, plays, prose, and predated written literature. Baruah looks at how Assamese literature developed from early religious texts like the Charjapadas to works like the Bhagavata Purana and Kirtan-ghosha, which were both heavily influenced by Vaishnavism and Shaktism. Saints like Sankardev made significant contributions to the highly spiritual Assamese literature of the era. There were contentious debates over the Assamese language's place in administration and education during the nineteenth and twentieth centuries.

Goswami (2012), in the book *The History of Assam: From Yandabo to Partition 1826-1947*, provides a comprehensive analysis of the political, social, and economic history of Assam from the Treaty of Yandabo in 1826, which is the start of British rule, until India's independence in 1947. The book explores how nationalist movements and colonial policies affected Assam during this period. Significant administrative changes occurred in the early years of British rule, most notably land revenue reforms that upended established landholding structures. The growth of tea

plantations, which the British encouraged, revolutionised the economy of Assam. A new class of plantation workers, many of whom endured harsh working conditions, was created by the influx of migrant labour from central India, producing demographic changes.

Goswami examines the development of Assamese nationalist organisations. In the broader framework of Indian nationalism, the Assam Association, established in 1903, played a crucial role in advocating for Assamese issues. A thorough analysis is conducted on the INC's involvement in the nationalist struggle in Assam. Assamese nationalists were greatly displeased with the 1905 Partition of Bengal, which united Assam with East Bengal, since they believed their language and culture would be marginalised. It discusses how this period laid the foundation for future demands for Assamese autonomy. These elements influenced the complex political landscape preceding Partition. Goswami details the 1947 Sylhet referendum, which led to the region's relocation from Assam to East Pakistan. This incident was a turning point in Assamese history and significantly altered the state's political and demographic climate. With an emphasis on the political and economic changes that shaped the region, the book explores Assam's colonial past in great detail. The book clarifies the complex relationship between colonialism, nationalism, and regional identity by relating Assamese local dynamics to the more significant national movement.

Borooah (2013) in the article titled "The Killing Fields of Assam: Myth and Reality of Its Muslim Immigration" mainly focused on the migration of Muslims to Assam both legal and illegal as per the guidelines. The author has shown in his article that how marginalized people have been targeted in the name of illegal migrants, which have resulted in violence several times in different places- Bodoland in 2008 and 2012, Barpeta in 1994, Bongaigaon in 1993, and the most infamous violence took place in Nagaon which killed over 4,000 people in 1983 most of whom were Bengali Muslims. The author has identified one of the reasons behind conflict between immigrants and native is when immigrants do better than the native population in exploiting the available opportunities and consequently more

tremendous greater economic success compared to their hosts; in the case of Assam, this migration is not supposedly post-independence, it applies to the migrants who have migrated in the colonial period, and those migrants are mostly Bengali speaking Muslims.

Ragi (2013) in the article "Price of IMDT Act: Migrants and Ethnic Politics in Assam" have made an important observation on different issues like the role of political parties in solving the migrant issues and other things. It also made observations on the Assam movement. It was observed that the Assam movement was led by the Assamese native population, mostly literate middle class. Still, it is noteworthy that the rightwing organization such as RSS, BJP who gave the national perspective to the whole movement. It also observed the stand of INC on migrant issues. It says that the philosophy of the Congress Party on this was multiple. In the lower Brahmaputra endowed the feelings of anti-migrant or had anti-migrant attitude, whereas in the east Assam it projected itself to be the sympathizer of migrants. Hence, the political parties' attitude toward migrants was purely electoral consideration. By taking advantage of migrants, political parties did a little in solving them. The article has also observed how political parties have gained strength using this burning issue and how the politics have changed after the IMDT act came into force and BJP started gaining from it than the AJP. Therefore, the need to repeal the law was realized.

Kumar (2014), in his article –Migration and Refugee Issue between India and Bangladesh,” delves into the unique migration and refugee issues between India and Bangladesh, focusing on the historical, political, and social dynamics that shape this complex relationship. Kumar examines the prolonged migration patterns across the Indo-Bangladeshi border, emphasizing the role of historical and cultural ties that facilitate population movement between the two nations. He explains that while some of this movement is economic migration, it includes refugees fleeing persecution, environmental degradation, or other crises. Kumar's analysis highlights the challenges India faces in distinguishing between economic migrants and genuine refugees, given the porous nature of the border and cultural similarities. He notes that

India's management of Bangladeshi migrants often intersects with political sensitivities, which complicates efforts to develop clear refugee policies.

Sharma (2015)'s *–The Discovery of North-East India*” delves deeply into India's northeastern region, including Assam. This book investigates the region's history, culture, geography, and sociopolitical processes, giving a thorough analysis of each northeastern state. The authors trace the pre-colonial history of northeastern states, including Assam, and examine the changes brought about by British colonial rule. The incorporation of the northeast into British India had far-reaching ramifications for its political borders, economy, and ethnic relations, which the authors investigate in depth.

In the Assam part, the authors provide a comprehensive description of the Ahom dynasty, emphasising its administrative efficiency and military power. They highlight key events such as the Battle of Saraighat, which liberated Assam from Mughal rule. Assam and the northeast are home to several ethnic groups, each with its own language and traditions. The book goes extensively into ethnic diversity, examining how various tribes have historically interacted and coexisted.

Saikia (2015), *–A Century of Protests: Peasant Politics in Assam Since 1900,*” thoroughly assesses Assamese peasant movements during the twentieth century. The book delves into the growth of agricultural politics, the peasantry's economic challenges, and their role in shaping modern Assam. Saikia thoroughly assesses how the region's agricultural structure and political economy fuelled widespread discontent, resulting in demonstrations and movements that transformed the state's political and social history. Saikia examines the history of land alienation in Assam, emphasizing the tea industry's expansion and depriving Indigenous peasants of their land. Also, it emphasizes the economic pain caused by the British's high taxation and resource exploitation. Economic issues, such as excessive revenue demands from colonial authorities and increased costs on landowners, regularly drove peasant protests in Assam. Tea workers from outside Assam played a vital role in labor movements and rallies. While they were not Assamese peasants, their contributions to the Assamese labor struggle impacted regional politics. Saikia

depicts how the labor movement around tea plantations got intertwined with peasant politics.

Ghosh (2016), in his book, *“Migrants, Refugees and the Stateless in South Asia.”* has discussed the various dimensions of refugees. The book analyses the relationship between ethnicity, security, and the refugee crisis, focusing on how these factors impact governmental attitudes and policy initiatives towards displaced individuals. Ghosh has explored the experiences of many refugee groups in India, including the Rohingya, Sri Lankan Tamils, and Tibetan refugees. It focused on how the state treats them differently based on their ethnicity and religion. For example, he notes that India's geopolitical challenges with China influence its more lenient treatment of Tibetan refugees. In contrast, Rohingya Muslims are the subject of mistreatment due to communal tensions and concerns about terrorism in India. The literature further examines regional collaboration in refugee management. Given that many of the refugee crises in South Asia are cross-border, also emphasizes the need for the region's coordinated strategy for refugee protection.

Patel (2016), in his book chapter titled *“Refugee Law, Policy and Practices of India,”* offers a comprehensive overview of India's refugee policy, situating it within the broader legal and policy frameworks governing refugees. Patel outlines India's historical approach to refugees, characterized by a case-by-case method rather than a structured legal mechanism, relying heavily on the government's discretion. He details the origins of this approach, noting India's preference to avoid formal commitments to the 1951 Refugee Convention and the 1967 Protocol, which enables India to navigate refugee policies with greater flexibility. Patel underscores the implications of this stance, emphasizing that while India has a tradition of providing refuge, the absence of a clear, consistent policy leaves refugees vulnerable to arbitrary decisions and limited legal recourse. He further analyzes the interplay between refugee issues and India's national security concerns, particularly regarding refugees from neighbouring countries. Patel discusses the socio-political ramifications of this approach, arguing that while flexibility has advantages, the lack

of formal protections risks marginalizing refugees and undermining their human rights.

Pulikkalakath & Varghese (2016) in their research “International Refugee Protection Regime and the Refugee Policy of India: A Case Study of Rohingyas” provides a focused examination of India’s refugee policy through the lens of the Rohingya refugee crisis, using this as a case study to analyze India's engagement with international refugee protection regimes. The authors highlight the Rohingya’s precarious position in India, noting that India’s lack of a national refugee law leaves them without formal protections. This absence has led to varied responses from local authorities, resulting in a lack of consistent policy enforcement. It argues that India's decision not to sign the 1951 Refugee Convention or its 1967 Protocol limits its accountability under international refugee protection norms, allowing for flexibility that has benefits and drawbacks. The authors explore the security narrative that often influences India’s Rohingya policy, especially given concerns over terrorism and regional security.

Murshid (2016) in his article "Assam and the Foreigner Within," has put forward a theory called ‘Lebensraum’ behind the infiltration from Bangladesh into India. Bangladeshi intellectuals are pushing the poor and homeless people to cross the border and enter India. Because scholars have analyzed the population growth, and they fear that the country will not be able to bear the size of the population by 2050. Another theory she has put forward behind infiltration is a confederation or ‘Greater Bangla’ by joining Tripura and some part of North-Eastern states with Bangladesh. This infiltrates a significant great impact on the regional as well as national security. She wrote that several militant groups are linked with the illegal immigrants, and the Islamist fundamentalist groups have funded them (Murshid, 2016).

Sarker (2017) in his book "Refugee Law in India The Road from Ambiguity to Protection" comprehended the philosophy of refugee protection. The idea of hospitality and universalism is the root of the philosophy of refugee protection. The philosophy has been taken down to the policy to provide shelter to the refugees

formally through his writing. Subsequently, he has started focusing on the refugee policy in India. He tried to answer many questions like why India does not ratify the refugee convention of 1951 and subsequent protocol. The attempts made by the legislators informing the refugee law have been discussed in his book. He categorically discussed how the status and protection of refugees is regulated at the political and administrative level in India, and he raises concerns over such a system. Being critical to the current monitoring system, he advocates for national legislation for the refugees and asylum seekers.

Behera (2017) analyzed in his article "The Majoritarian Way to Democracy" how the constitutional rights of minorities to preserve their culture have been used several times to turn a minority group into a majority in an exclusive territory. The Bodoland is such a case where Bodo, an ethnic minority group, had fought for greater political and democratic rights by demanding a separate state or special arrangement for themselves and ended up getting autonomy over an exclusive territory where they felt themselves the majority. The author has analyzed how ethnicity has become a dominant factor in local politics, especially in North-East. Such developments had given rise to the region's militancy, which has been a complex issue to get rid of or solve. Still, the fight is going on to eliminate the militancy issue from the North-East.

Mandal (2017) in his article "Understanding the Immigration History of Assam Through Contemporary Assamese Literature (1947-2016)" shows how the writings in Assamese literature have influenced the illegal immigrant issue. The issue of illegal migrants formed a notable theme among the writing of Assamese writers. He has identified the reason behind getting so much importance in the literature is rooted in the nature of Assamese literature. The Assamese literature has always focused on and deals with the issues and problems fundamental and natural to the region. The Assamese literature or writings have influenced many revolutions and condemned the violence taken in the name of solving any issues. The literaries have widely criticized the act of violence by the ULFA.

Misra (2017), in his book –Burden of History: Assam and the Partition—Unresolved Issues”, discusses the long-term effects of India's Partition on Assam, which focuses on the unresolved political, ethnic, and identity issues that resulted from this catastrophe. Large-scale migration, mostly from East Bengal (now Bangladesh), was one of the most noticeable consequences of Partition on Assam. The author thoroughly analyses the 1947 Sylhet referendum, which resulted in the region's separation from Assam and admission to East Pakistan (present-day Bangladesh). Misra emphasises how this event profoundly impacted Assamese identity and contributed to the escalation of ethnic tensions brought on by the post-Partition influx of Bengali Muslims into Assam. One of the book's major topics is the rise of Assamese nationalism in response to demographic upheavals.

Madhavan (2018), in her research article "Quest for a New Legal Regime: The Indian Perspective” has categorized the migrations. He has focused on the migration that is taking place from India into other nations. India is falling under one of the major countries receiving the most significant remittances making a massive difference in India's G.D.P. Where it comes to migration in the form of refugees, India is always a hosting nation. There will be no such incident when India sends refugees to any country. However, India has been receiving refugees from across the globe since its independence in different waves. It can be observed in his paper that he has stretched on the point of how India is handling the refugees without ratifying the 1951 convention and 1967 protocol whether India can practice any discrimination in regulating the refugees or not as India is not a party to the refugee convention. Then there comes several other conventions and agreements of which India is signatory, which prohibits India from any biases and discrimination .

Singh (2018) in his article "More Norms, Less Justice: Refugees, the Republic, and everyone in between" had emphasized the refugee protection laws and their implementation and the protection of refugees in an absolute sense. It has been observed that several conventions and agreements have attempted universalization of refugee protection laws; however, it could not be implemented because of the nature of refugees' migration, and the situation differs from place to place. In the case of the

Indian subcontinent, the refugees are mainly from Bangladesh and Myanmar. However, the attitude towards the refugees differs from group to group. The Indian government takes advantage of the subject as there is significantly less instruction in the constitution regarding this subject; it remains ad hoc and gives the executives the power to decide. However, it has been believed that the constitution offers protection to refugees through various rights, even though fundamental rights. The judiciary's response to this issue is also cannot be considered exemplary. The decisions of the court on this matter differed from case to case. Therefore, it suggested a law to deal with the refugee, which does not deal with the refugees but does justice. The law should inculcate the ethos of the constitution, such as pluralism.

Saikia (2023), in the book –The Quest for Modern Assam: A History, 1942-2000”, examines the social, political, and economic transitions in Assam from the end of the British colonial period to the beginning of the twenty-first century. The book focuses on the region's drive for modernity, looking at Assam's challenges and possibilities in the postcolonial era, particularly its difficulties with ethnicity, migration, and insurgency. Examines how the region's complex social fabric and issues such as land reform and economic underdevelopment increased tensions between Assamese nationalists and the Indian government. The language issue reappears in Saikia's narrative since disputes over the imposition of Assamese as the official language dominated Assam's political history after 1947, alienating many non-Assamese populations, particularly Bengali-speaking ones.

Debbarma (2024), in his article –Refugees Experience and the Host Communities: Critical Analyses on Absence of Refugee Law in India”, has critically examined the present refugee protection framework in India. It was highlighted in the research that a good number of refugees from Afghanistan, Myanmar, Bangladesh, Tibet and Sri Lanka are already there in India. It is needed to have a framework for addressing the challenges arising out of such groups living in India. He has emphasized the need for a refugee protection mechanism, which upholds basic elements maintaining the international standards of protection.

1.3 Research Gap

The above writings have been referred to gain a deep understanding of the historical background of the refugee problem and their protection, along with understanding the phenomena of illegal immigrants in Assam. By reviewing the listed literature, it was possible to identify the gap in the area that administrative challenges in protecting refugees and identifying refugees and illegal immigrants in Assam through the administrative mechanism have been least explored. Hence, the present study has been carried out to bridge that gap.

However, the issue of Illegal Immigrants in Assam and its related administrative and Judicial challenges; and challenges faced by the alleged Illegal Immigrants are least explored. Therefore, to bridge the gap and heuristic purpose, the present study has been carried out.

1.4 Statement of the Problem

It is essential to understand the theoretical background of refugees in order to understand the realm of refugee protection in India. Without understanding the theoretical background, it is not possible to understand and explain the other aspects of the said domain. India has not ratified the 1951 UN refugee Convention and its 1967 protocol. Therefore, it is speculated that India's refugee protection policy does not meet the international norms of refugee protection and regulations. Hence, it is important to look into India's refugee policies in light of international standards.

The systematic study of the policy initiatives to address the illegal immigrants' issues as well as protecting the refugees in Assam has been merely done. Since there is no designated legislation regarding the distinction between refugees and illegal immigrants hence it is important to investigate the administrative mechanism and the role of the judiciary in refugee protection and deporting illegal immigrants, but it has not been given much priority. Also, the administrative challenges in protecting refugees and identifying refugees and illegal immigrants through the administrative mechanism has been least explored. At last, it is very essential to have suggestions which incorporate all the qualities of a good policy and maintain the international

standards; hence the present study attempts to suggest measures for refugee protection mechanism and to solve the illegal immigrant issue.

1.5 Scope and Significance of the Study

The present study centrally focuses on the Refugee Protection and Illegal Immigration in the state of Assam. The study delves into theoretical background of Refugee, Refugee Protection and Illegal Immigration. The present study examines the policies of refugee protection in India in light of international standards. The present study also analyzes the historical background of the illegal immigrant crisis in Assam and the policy initiatives in this regard. Further, the study also focuses on administrative mechanisms and the role of the Judiciary in refugee protection and deporting Illegal Immigrants. Furthermore, the study identified administrative challenges in protecting Refugees and addressing the issue of Illegal Immigrants in Assam. Finally, the present study suggests certain measures, mechanisms and policy initiatives for refugee protection and address the issue of illegal immigrant issue in Assam.

This study is essential since the focus is on the refugee protection and movement against illegal immigrants. The need for a comprehensive study in this domain is very high in contemporary time. The outcome of the study is more useful in reviewing the literature of the refugee protection mechanism or framework and ascertain the type of approach that is more useful in bringing a framework that is refugee friendly as well as having a mass acceptance among the natives. Because the crisis has been a significant challenge for India since its independence; and a viable solution has not been found yet. There are also challenges at the administrative and judicial level, hence it is important to explore the administrative mechanism and role of judiciary dealing with refugees.

1.6 Objectives of the Study

Keeping the focus mentioned above in mind, the objectives of the research are,

1. To study the theoretical background of Refugee, Refugee Protection and Illegal Immigration
2. To examine the policies of refugee protection in India in light of International Standards
3. To delve into historical background of the illegal immigrant crisis in Assam and the policy initiatives in this regard
4. To analyze the administrative mechanism and the role of the judiciary in refugee protection and addressing the issue of illegal immigrants in Assam
5. To find out the challenges in protecting refugees and identifying illegal immigrants and deporting them from Assam

1.7 Research Questions

1. What is the theoretical background of Refugee, Refugee Protection and Illegal Migration?
2. What are the policies of refugee protection in India in light of International Standards?
3. What is the historical background of the illegal immigrant crisis in Assam and are there any policy initiatives in this regard?
4. What is the administrative mechanism and role of Judiciary in the protection of refugees and addressing the issue of illegal immigrants in Assam?
5. What are the challenges in protecting refugees and identifying illegal immigrants and deporting them from Assam?

1.8 Methodology

To attain the objectives mentioned above, the present study is descriptive in design. Both primary and secondary data were used for the study. Primary data was collected with the help of semi-structured interview- schedule tool from stake holders such as Declared Foreigners, Advocates, and Police Border Official.

Purposive sampling method was adopted to select the sample from Alleged Illegal Immigrants who are declared foreigners by the **Foreigners Tribunals**: i. A sample of 64 individuals identified as Foreigners who have experienced legal proceedings in Foreigners Tribunals. **ii. Advocates**: A sample of 50 legal advocates representing these individuals in tribunals. **iii. SP Border Official**: 1, who is involved in referral, detention and deportation process. Participants were selected based on their willingness to provide input and their relevant experiences. Therefore, total sample size is 115.

Apart from this, document analysis also were used such as 1. **Parliamentary Debates and Discussions**: Transcripts from parliamentary debates were examined to contextualize the legal and political landscape surrounding immigration and Foreigners Tribunals. 2. **Court Judgments**: Significant legal judgments were analyzed to understand how laws are interpreted and applied in relation to alleged illegal immigrants. 3. **Government Notifications and Gazettes**: Relevant policies, notifications, and gazettes were reviewed to identify formal procedures and regulations that govern the Foreigners Tribunals.

Secondary data was collected from published and unpublished books, journal articles, PhD theses and dissertations, newspapers, magazines, and internet (Websites, blogs, etc.).

Data Collection Procedures

Prior to conducting interviews, ethical approval was obtained from the relevant research ethics board. An interview guide was prepared, ensuring questions were aligned with the research objectives while allowing flexibility for follow-up

questions. Each interview was conducted in a private and confidential setting to encourage open and honest communication. Interviews lasted 30 to 40 minutes, depending on the participant's willingness to share their experiences. The government notifications and court judgments were accessed through concern archives and databases.

Data Analysis Techniques

The data from interviews were analyzed using Statistical Package for the Social Sciences (SPSS) software, which provides robust tools for statistical analysis.

Ethical Considerations

Participants were provided with comprehensive information about the study, including its purpose, procedures, risks, and benefits consent obtained before data collection begins. Participants' identities will be anonymized in all reports and publications. Data will be stored securely and accessible only to the research team.

1.9 Chapterisation

Chapter I: Introduction

This chapter introduces the scope, objectives, and relevance of the study. It provides an overview of refugee protection and illegal migration, focusing on India and, in particular, Assam. The chapter also highlights the global importance of addressing refugee rights and managing illegal immigration effectively. It establishes the context, research questions, and methodology, emphasizing the need for balanced approaches that safeguard refugees' rights while addressing illegal migration challenges.

Chapter II: Theoretical Background of Refugee, Refugee Protection, and Illegal Migration

In this chapter, the theoretical concepts of "refugee," "refugee protection," and "illegal migration" are defined and examined. Drawing from international human

rights and migration theories, it delves into the legal distinctions between refugees, asylum seekers, and illegal immigrants, along with the obligations of host countries. It explores the legal frameworks governing refugee rights under international law and highlights contrasting perspectives on migration, national security, and human rights, offering a foundation for understanding India's approach to these issues.

Chapter III: Policies of Refugee Protection in India in Light of International Standards

This chapter analyzes India's policies on refugee protection against the backdrop of international standards such as the 1951 Refugee Convention and the 1967 Protocol, which India has not ratified. It examines India's ad hoc approach to refugee protection and its implications for the treatment of different refugee groups, such as those from Tibet, Sri Lanka, and Myanmar. The chapter explores policy gaps and assesses the challenges and opportunities for India to align its practices with global norms, focusing on India's unique stance and its implications for broader refugee rights.

Chapter IV: History of Illegal Immigrant Crisis in Assam and Policy Initiatives

This chapter provides a historical overview of the illegal immigration crisis in Assam, tracing its origins, socio-political ramifications, and the evolution of public sentiment. It examines key events, such as the Assam Accord of 1985, and the establishment of the National Register of Citizens (NRC), designed to address illegal migration concerns. Policy initiatives and government actions in response to public demand and regional pressures are discussed, with a focus on Assam's unique socio-political and cultural challenges arising from cross-border migration.

Chapter V: Administrative Mechanism and Role of Judiciary in Refugee Protection and Addressing the Issue of Illegal Immigrants

This chapter explores the administrative and judicial frameworks in place for managing refugee protection and illegal immigration issues in Assam. It details the roles of various government agencies, the Assam state administration, and central

oversight bodies involved in implementing migration policies and protecting refugee rights. The judiciary's role is also critically assessed, with particular emphasis on landmark judgments, the intervention of the Supreme Court and High Courts, and their influence on policy decisions. The chapter reflects on the interplay between legal safeguards and administrative measures in balancing humanitarian concerns with national security.

Chapter VI: Challenges in Protecting Refugees, Identifying Illegal Immigrants, and Deportation

Here, the study delves into the multifaceted challenges of refugee protection and managing illegal immigration. Issues include identifying genuine refugees versus illegal immigrants, limited resources, administrative bottlenecks, political opposition, and humanitarian concerns regarding deportation. The chapter also addresses community tensions and resistance to policy enforcement, discussing how these factors complicate the balance between ensuring human rights and enforcing immigration law in Assam.

Chapter VII: Conclusion

The concluding chapter summarizes the study's key findings and reflections on India's refugee and immigration policies, particularly in Assam. It synthesizes insights into how India might navigate the dual challenge of protecting refugees while addressing illegal migration concerns, especially within Assam's complex socio-political landscape. Finally, it offers policy recommendations for balancing humanitarian obligations and national security concerns, suggesting paths forward that could contribute to more robust, rights-based approaches to refugee protection and immigration management in India.

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Chapter- II

Theoretical Background of Refugee, Refugee Protection and Illegal Migration

In this increasingly interconnected world, cross-border migration remains a pivotal issue that intertwines humanitarian needs with legal frameworks. This chapter dives into the complexities surrounding migration, focusing on the evolving definitions of terms such as "refugee" and "illegal immigrants." By tracing the historical significance of these terms, particularly in relation to post-World War II scenerio, we gain insight into the criteria that define the migration, especially which fall in what category. The chapter also highlights the ambiguity of migration classification across different nations, illuminating the challenges faced by vulnerable groups like the Rohingyas and stateless individuals. Furthermore, it examines the Individual and structural factors driving migration, while exploring how social networks can both facilitate and complicate the movement of people. Through India's nuanced approach to migration, the research will uncover the delicate balance between humanitarian concerns and national security, ultimately advocating for more inclusive policies that uphold human dignity and protect the rights of displaced individuals.

2.1 Who is a Refugee?

The term 'refugee' generally denotes someone who has left his homeland in fear or because of unbearable conditions and sought shelter or protection in a foreign land. It is a form of migration; however, it differs from other migration on several grounds. Human migration might be traced back to the very beginning of human civilisation. The unintended mass movement or migration of humans has mainly taken into consideration for regulation and protection through legal ways only after the Second World War, and the term refugee got popular with it. The term 'refugee' has a long history, nevertheless. It has its roots in Latin. It derives from the Latin term *refugium*, which means 'the act of taking shelter' or 'a place of refuge or asylum'. Refuge retains the connotations of its Latin source and may indicate both physical 'shelter' and figurative 'sanctuary'. *Refugium* derived from the word

refugere (to run away" or "to escape), which was developed from fugere (to flee or to avoid) (Merriam-Webster, n.d.). However, the word 'refugee' was used later in French in the case of 'Huguenots' who were the minority in France and faced persecution. They were a forcefully displaced group of Protestants known as 'Huguenots'. This group fled the persecution by then the French Government, predominantly catholic in the 16th and 17th Century and took shelter across Europe and America.

The world has experienced a massive movement of people in the post Second World War Era. Post-war displacement and cross-border migration have caught the world's attention, especially in Europe. Unified efforts had given to find a legal framework through which these movements of displaced people can be recognised and provided legal protection. The legal framework was initiated through the United Nations convention on refugees in 1951, which recognised the refugees and sought to protect them.

The idea of refugee and the process of recognizing a refugee is very different from scholar to scholar and country to country. A person is a refugee in some definitions and countries, whereas the same person can be an illegal immigrant in some countries and definitions. There is a fragile line between making a distinction and identifying a movement into specific categories. Hence, the theoretical background of refugees and other associated concepts is essential to explore. This chapter seeks to explain the theoretical background of refugees, other associated concepts and India's refugee framework.

2.2 Definitions of Refugees

There are different definitions by different schools or institutions of refugees. The prominent and most widely accepted definition is United Nations' specialized agency-UNHCR. This definition was extended through the 1951 Refugee Convention. The Convention defines refugees as:

Owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is

outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it. (UNHCR, 2010, p.14).

However, the definition of refugee extended by the Convention is limited to some ground, mainly based on the experience of war, as this definition was extended to identify refugees and protect them only in Europe. This was limited to the time and place around Europe, as Europe was severely affected by the Second World War, and millions of people were outside their homeland and needed to be protected.

However, the convention's scope was extended worldwide through a protocol in 1967, but the nature of the definition remained the same. The definition lacks prevalent grounds which can force people to displace from their homelands, such as poverty and natural calamities. The definition covers only those who have a well-founded fear of persecution based on one of the so-called protected grounds. Those who do not fear persecution, even in quite desperate straits, are not, then, refugees under this definition. ~~People~~ fleeing natural disasters, poverty (even extreme poverty), and at least some types of war are also not refugees on this approach, as they do not have a fear of persecution” (Lister, 2013).

That is why it is essential to categorise the refugees or people who apply for the refuge based on their reasons for leaving their homeland, social conditions and other grounds. So that they could be prioritised based on their category or nature of their category. One thing that could be observed from the other literature is that refugee protection is solely not possible by following specific definitions extended by some organisations. The utmost important factor in this discourse is rationality and morality. There could be people who are in serious need of protection, but they could not be identified as a refugee by those definitions, as their reasons would not fall under the criteria of those definitions. In such a situation, individual nations‘ take on the cause and rational judgment plays an important role. The media plays a crucial role in the refugee matter. However, there are some challenges associated with this.

The representation of the displaced people is not made correctly, and they are subject to face many unfavourable arguments and portrait. In such cases, art and independent expression play a vital role. –The interventions of artists, writers and activists also expose what is not visible to the eye of mainstream media or what is deliberately kept invisible” (Gallien, 2018). Another important organization that works for human rights; Amnesty, explains refugees as-

A refugee is a person who has fled their own country because they are at risk of serious human rights violations and persecution there. The risks to their safety and life were so great that they felt they had no choice but to leave and seek safety outside their country because their own government cannot or will not protect them from those dangers. Refugees have a right to international protection. (Amnesty, n.d.).

The refugees can be categorized based on the reasons for migration or the factors which force the people to displace to another place. While talking about the categorisation of refugees, the refugees can be broadly divided into two categories- moral and immoral refugees.

–Refugees are presented as deserving of support because refugee is a moral category that infers people in need of safety who hold some position of social worth based upon their vulnerability..... Other categories, including bogus asylum seekers, asylum seekers, migrants, economic migrants, and illegal migrants may instead be presented as undeserving of support because these are immoral categories” (Simon Goodman, 2017).

Some people migrate to another country as they no longer feel safe in their homeland, and their life is in danger. When this category of migration gets legal recognition, the host country is called refugees. On the other hand, some people who flee to other countries for a better livelihood without following the legal procedure and demanding legal recognition are immoral and considered illegal immigrants. Two examples from the migration history will explain the phenomena in the best

way. The recent outflow of refugees from Afghanistan is based on reasons and genuineness. They are being immediately considered refugees by the host countries.

There is always a question that arises while protecting the refugees, whether they are refugees or illegal immigrants? There is a fragile line between two groups- refugees and illegal immigrants. It mainly depends on the domestic laws and how they would like to consider any movement. Some people could fall under the category of refugees might not fall under the category of refugees under the domestic law of a nation. In some cases, domestic laws restrict the protection of refugees as it sometimes fails to recognise where such convention or international laws plays a vital role in their protection. Apart from the refugee frameworks, the universal human rights approach plays an essential role in protecting refugees. Alexandria argues that –There are unavoidably some gaps in protection where humans cannot rely on the protection of their state: they might be outside of the jurisdiction of their state but not offered protection by their host, or they might be stateless persons who are unable to avail themselves of the protection of any state” (Innes, 2021). The Rohingyas are perfect example of this. They have entered India with ambition of seeking refuge, however, India’s domestic laws did not recognize them as refugees. Many were pushed back and few are living as stateless person here in India.

There is another problem that arises while considering protection for refugees through legal definition. The definition emphasises the ‘persecution’ factor, and the persecution is linked with the individual. It does not identify a group being persecuted. In a situation where a group of people are threatened and fear persecution, and when they seek to leave their homeland and look for asylum, the problem arises. Refugee status as a group is denied in the international arena. In the very recent time, we have experienced Rohingya people being threatened as a group, and in the 20th, Century Jews were persecuted as a group.

Nevertheless, many countries have denied recognising them as a group. There might be political reasons behind it. The political ideology and beliefs of the asylum seekers play a crucial role in deciding their status as a group. Their political ambitions continue post their settlement in the host country. This may affect the

political scenario of the host country; hence the host nation becomes calculative while extending protection to the ideologically motivated refugee. It is only natural that those who left their homeland as self-alienated persons with strong political, religious or ideological motivation to live a life purposefully dedicated to such aims should, after their arrival in the country offering them permanent asylum, continue their pursuit in lands with sufficient freedom (Kunz, 1981).

2.2.1 The Legal Framework Theory

The Legal Framework Theory has been drawn from the legal provisions provided in the 1951 Refugee Convention and 1967 Protocol. This theory states that the status and rights of refugees are primarily defined by international legal instruments, such as the 1951 Refugee Convention and its 1967 Protocol. This framework outlines the rights of refugees and the obligations of states, emphasizing non-refoulement—the principle that refugees should not be returned to a country where they face serious threats to their life or freedom. The 1951 Refugee Convention.

The 1951 Refugee Convention and its 1967 Protocol contain certain basic protection principles. It states that Refugees should not be returned to a country where their life or freedom would be threatened. Refugees can, subject to certain guarantees, only be expelled from a country of asylum if their presence is a serious threat to national security or public order. There should be no discrimination in the protection offered to women, men, girls and boys because of their race, religion, nationality or gender. Moreover, they should not be penalised for entering or being present in a country illegally as long as they make their presence known to the authorities without delay.

2.2.2 Forced Displacement, Persecution and Stateless Person

The words ‘forced displacement’ or ‘forcefully displaced’, ‘persecution’ or ‘persecuted’ and ‘stateless person’ is very much connected with the term ‘refugee’. In most of the definitions of refugee extended by the different prominent institutions or governments and scholars, these terms are used to identify and consider someone

a refugee. It is impossible to categorise the refugees then the other groups without these factors or words.

The word ‘forced displacement’ means anyone who needs to move or displace from his land or place to another place without his intention or will. H/she is forced to leave the place out of some external force or pressure. This force comes in different ways in different forms. There is manmade force, as well as natural force, in which human has no control over it. The manmade force is also of different kinds. In the political sphere the manmade force is mainly violence, torture or execution against someone or some group, especially against the minority group. There are other aspects of manmade force, they can be in economic and development terms. In the course of economic transaction and development projects, people are often made to displace even without their will. On the other hand, there is natural force, which force people to displace without any human intervention. Some of the natural forces are comes in the disastrous form of natural calamities or hazards. Flood, tsunami, cyclone, land erosion, changes in course of river, drought and climate change etc can be seen behind the displacement of people sometimes.

Persecution is generally understood as the hostile or ill treatment to someone or some group of people because of their identity, origin, social class, belief and ideology. There could other reasons for persecution of someone or a group as well. The persecution is not limited to some specific reasons, but the course of actions remains the same, that targeting someone and showing hostility and ill treatment. the term ‘persecution’ has been in the centre point of refugee definition. Someone’s migration is considered as the refugee migration on the basis of their reason of migration or reason of leaving his homeland. The ‘persecution’ ground for leaving has been universally accepted for accepting the asylum and giving refugee protection. Moreover, the term ‘persecution’ and ‘forced displacement’ is also very much connected. One of the reasons behind forced displacement is ‘persecution’. by the act of persecution, someone is forced flee from his home, and take shelter in the foreign land in order to save his life.

Stateless person is someone who is not identified with any nation or place. Article 1(1) of the 1954 Convention relating to the status of Stateless Persons defines a stateless person as ‘a person who is not considered as a national by any State under the operation of its law’ (UNHCR, n.d.). Ironically, the stateless persons are not always immigrants or someone came from foreign land crossing the border, but they have origin in that country but they are legally not recognised or identified as citizens of that country. Basically, they find themselves stateless in their own country. Hence, international agency like, UNHCR has emphasised on taking account of stateless persons while framing the laws or framework for the refugee protection. They need to be protected at per the forced displaced of persecution flee on the humanitarian as well as the Human rights ground.

2.2.3 Refugee Vs Asylum Seekers

While defining and making a difference between a refugee and an asylum seeker, Amnesty International states that A refugee is someone who has fled out of his/her country on account of risk to life and serious violation of human rights and sought safety outside its native country. Whereas –An asylum-seeker is a person who has left their country and is seeking protection from persecution and serious human rights violations in another country, but who hasn’t yet been legally recognized as a refugee and is waiting to receive a decision on their asylum claim. Seeking asylum is a human right. This means everyone should be allowed to enter another country to seek asylum” (Amnesty, n.d.).

In simple terms, the difference between Asylum and Refugee is legal condition and recognition of its status an asylum seeker is someone who claims to be a refugee but whose claim hasn’t been evaluated (Refugees, Asylum Seekers & Migrants: A Crucial Difference, 2016). Persons seeking asylum are not formally identified refugees, but they are eligible for refugee status. They are fleeing their place of origin for fear of conflict or persecution because of their nationality, ethnicity, religion, or political affiliation (Love, 2020).

2.2.4 Migration

The term ‘migration’ is an umbrella term, it covers all the aspects of human migration, from voluntary movement to forcibly displaced people, and intra border movement to inter-border movement. This includes the refugees, asylum seekers, economic migrants and other people who are outside of their home land and residing in foreign land without citizenship. The term migration has been defined by the different scholars and organisation based on their understanding of the phenomena. The United Nations’ migration agency- the international organisation for migration defines migration as-

a migrant as any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person’s legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is. (UN, n.d.).

It has extended a wider scope. It does not enquire about the legal status of individual, or motive behind the movement. Rather, simply it seeks to define the act. It included both the intra-state as well as inter-state movement. In Explaining the international migration and forced displacement, UNHCR has identified the three major types of migration extended by the scholars. The types are- “Micro Theories”, “Macro Theories” and “Meso Theories”.

Macro theories emphasise the structural, objective conditions which act as "push" and "pull" factors for migration..... Meso theories can help explain these discrepancies. They reject the macro focus on push and pull factors, instead locating migration flows within a complex system of linkages between states..... Micro theories focus on the factors influencing individual decisions to migrate, analysing how potential migrants weigh up the various costs and benefits of migrating. (Boswell, 2002)

The migration has increased in modern time, there could be different reasons. But one important factor of volunteer migration is search for better social and economic condition. The labour markets get affected by such movement of people. Ethnic identity plays an important role in the life of migrants and their involvement in the economic activities. Hence the concern remains with the ethnic identity of the migrant who wish to migrate migrated for better economic conditions. But it has not been a great concern for the highly educated migrants as they assimilate very easily with the host society –“Ethnic identity can change after arrival, as opposed to ethnicity which remains a permanent characteristic of the source country” (Gil S. Epstein). Also, the migration has become so common since the 20th Century that it is considered as one of the waves of globalisation –“Migration, or movement of people, has been referred to as the third wave of globalization, following goods and capital” (Editorial, 2019). On the other hand, this mobility of people has put a great challenge in the form of illegal migration‘.

While explaining the international or cross border migration, it is observed in the migration literature that the migration theories can be classified into discipline specific, also can be classified based on the level of analysis and based on the initiation and perpetuation of migration. However, mainly four types of migration can be identified based on the explanation of these theories on migration. These are- Labour migration, Return migration, chain migration and asylum migration.

Labour migration is movement of skilled, semi-skilled and unskilled labour into foreign land for better wages and livelihood. This movement is based on the economic condition of host and sender countries. This movement mostly takes place between Under-developed countries to Developed, Under-developed countries to Developing and Developing to Developed Countries.

Such kind of migration sometime leads to permanent resettlement in the host country but it’s very rare and tough process to get through. Mostly, it’s a temporary migration. The migrants get back to their native country once they feel that they are in better condition of living and lead their rest of in their native land. When such international migrants return to their native country and live there at least for one

year is called as Return Migrants. When an Individual moves from one country to another country for the family re-unification, and family formation is called Chain Migrants. Asylum migrants are those who seek refugee status in a foreign country.

From the discussions, it is observed that the main factors in identifying refugees, their protection, and identifying the difference between illegal immigrants and refugees are all based on the motive and reason behind the migration. Migration is the key factor to be investigated and studied thoroughly. Hence, it is important to understand the theoretical concept of migration to understand the whole spectra of refugees and illegal immigration.

2.3 Theories of Migration

2.3.1 Micro Theories of Migration

A basic feature of human history has been migration. In which people and societies have moved across borders for a variety of reasons. Scholars have developed various theoretical frameworks to analyse the reasons for migration, and among those, some notable theories like Micro Theories of Migration, which concentrate on the choices made at the individual level that influence migration, are one of the most used theories in explaining and understanding migration and its related individual-level decisions involved. These ideas are founded on the idea that migration results from individual or household decisions that are based on a calculative analysis of the advantages and disadvantages of the relocation. The macro and meso theories, which concentrate on more extensive structural factors and social networks, respectively, are in opposition to this paradigm.

The factors which enter into the decision to migrate and the process of migration may be summarized under four headings, as follows:

1. Factors associated with the area of origin.
2. Factors associated with the area of destination.
3. Intervening obstacles.

4. Personal factors. (Lee, 1966).

Micro theories examine migration from the perspective of human agency, frequently taking into account the psychological, social, and economic aspects that affect migration choices. By doing this, they offer a sophisticated perspective on migration as a personal tactic to raise living standards, increase financial stability, or satisfy emotional and familial demands. These sections examine the key ideas and structures that comprise the micro theories of migration.

2.3.1.1 Rational Choice Theory and Human Capital Theory

The Rational Choice Theory, one of the main pillars of micro theories, advocates that people are logical agents who weigh the advantages and disadvantages of migration before making decisions. From deciding what activities to carry on, to the place where to do these activities, we see a link between who makes these choices and why decisions are made (Alushi, 2016). This theory states that people balance the possible benefits of relocating, including more income, better employment prospects, or better housing conditions, against the drawbacks, which may include travel costs, social disruption, and the hazards of starting over in a new place. A reasonable decision to migrate is always one for the aspirant migrant in which the perceived benefits are greater than the expenses, which is rationale of one in making choice.

Tunali (2000) has done empirical test on rational choices of migrants. Found out that Migrants from Sub-urb are doing better than originating from rural. The Human Capital Theory expands on the notion of rational decision-making by arguing that migration can be viewed as an investment in one's future. According to this theory, people migrate in order to maximise the return on their human capital—which includes their education, skills, and work experience—and therefore better their economic standing. For example, a skilled worker from a developing nation might decide to move to a developed nation in order to increase their earnings and have their skills recognised. By doing this, they want to raise their lifetime income and enhance their standard of living.

Human Capital Theory also takes into account how migration can benefit a person and their family in the long run in order to improve their children's future earning potential. Migrants frequently seek to give them better healthcare and education, these factors are kept in mind it seems before making decisions. According to this perspective, migration is a means of ending cycles of poverty and ensuring improved socioeconomic results down the road.

2.3.1.2 Push-Pull Model

Everett Lee's (1966) Push-Pull Model of Migration is another significant paradigm within micro theories. This model suggests that a mix of pull factors that draw people to a destination and push ones that push them away from their place of origin impact migration decisions, which is greatly helped in this research to understand the dynamics of migration into India from across the border. Normally, push factors include unfavourable domestic circumstances like high unemployment, unstable politics, poverty, natural disasters, or civil unrest. These elements foster a feeling of urgency or compulsion to depart. These factors create a sense of necessity or urgency to leave. Another practical implication is that political factors, both pull and push, have greater influence on migration.....addressing political issues such as war and terrorism, unfair and bad government, unfair legal system, violent conflicts, underdevelopment, poverty, political instability and corruption would help to address the issues that lead to migration (Urbański, 2022).

Conversely, it is observed that pull factors are the favourable aspects of the destination nation that attract people to migrate there. A better standard of living, improved employment prospects, more income, political stability, and educational opportunities are a few examples, which are notices across the migration dynamics. When the attraction of the destination outweighs the incentive to remain in one's native country, one decides to migrate.

The Push-Pull Model emphasises how both personal initiative and environmental factors influence migration. It demonstrates that although people may consciously choose to migrate in search of advantages, political and socioeconomic

factors that are outside of their control frequently have an impact on their choices. For example, work opportunities in their field may entice a young professional to migrate to a developed nation, but high levels of corruption or a lack of career options may also drive them out of their native country.

2.3.1.3. New Economics of Labor Migration (NELM)

An alternative to the neoclassical theories of migration is the New Economics of Labour Migration (NELM), which is very much relevant in understanding the migration in this globalised world. NELM highlights that migration decisions are frequently made within the framework of the home or family unit rather than by people alone, in contrast to classic economic models that concentrate on individual decision-making based on income and employment prospects. Migration decisions are often made jointly by the migrant and by some group of non-migrants (Stark 1985).

The goal of migration, as per NELM, is not just to boost income; it is also a tactic to diversify the household's sources of income and lower the risk of economic shocks in the home country. In developed countries, household income risks are generally mitigated through private insurance markets or government programs; however, in developing countries, these institutional risk management mechanisms are imperfect, absent, or inaccessible to poor families, giving them incentives to diversify risks through migration (Massey, 1993). Remittances are one of the revenue sources of countries, particularly poor countries, and they play an important role in equalising their development (Hidayati, 2020). To ensure that the household has a steady income even in the event that local economic conditions worsen, a family may, for example, choose to send one member overseas to work and send money home; this has been found very common in every society around us. This makes migration less of an individual quest for greater income and more of a group tactic to increase household financial security.

Additionally, NELM stresses how crucial remittances are to the migration process. The money that migrants send home to their families, known as remittances,

is essential to the financial stability of households in developing nations. The common utilisation of these remittances for necessities like housing, healthcare, and education serves to further support the justification for migration. According to the NELM paradigm, migration is therefore a household risk management tactic as well as a reaction to income inequality.

2.3.1.4. Behavioral and Psychological Theories of Migration

Micro theories take into account not only economic causes but also behavioural and psychological aspects of migration. Migration psychology is the study of individual behavior with respect to movement across space (Fawcett, 1985). These methods highlight that material factors are not the only factors that impact migration; social contacts, familial ties, emotions, and personal goals all have a significant impact on migration decisions. The essential principles of migratory behaviour that will be addressed are: 1. the concept of place utility, 2. the field theory approach to search behaviour, and 3. the life-cycle approach to threshold creation. (Wolpert, 1965).

For instance, some people may migrate to try new things or to feel adventurous, while others may migrate to be with family or to get away from a dangerous or stressful situation. In this approach, emotional and psychological factors that influence how people view their current circumstances and their possibilities for the future might influence migration rather than being a logical economic decision.

Two broad questions define the scope of migration psychology: What factors are responsible for a person's voluntary change of location? And, what are the consequences for the person of the new environmental factors associated with a change of location? The first question points toward the application of motivational constructs and decision models in migration psychology. The second question relates to adjustment, acculturation, or adaptation models and brings in issues of environmental stress, mental health, and community intervention. (Fawcett, 1985).

Perception and information have a part in migration decisions, according to behavioural theories. Information about possible migration destinations, whether from personal networks, the media, or social contacts, frequently influences people's decisions to migrate. Even while the reality may not quite match expectations, positive views of life in the destination nation can raise the possibility of migration. This feature emphasises how arbitrary migration decisions are and how information flows influence people's decisions.

2.3.1.5. Network Theory

Last but not least, Network Theory is crucial in elucidating how people decide to migrate within a larger social framework. Migrant networks are sets of interpersonal ties that connect migrants, former migrants, and nonmigrants in origin and destination areas through ties of kinship, friendship, and shared community origin (Massey et al., 1993). It explains the migrant networks as ‘sets of interpersonal ties that connect migrants, former migrants, and non-migrants in origin and destination areas through ties of kinship, friendship, and shared community origin’ (Massey, 1993). According to this notion, those who have friends, family, or neighbours who have already moved are more likely to migrate themselves. Through the provision of useful information, resources, and assistance in the destination nation, these networks lower the expenses and dangers related to migration.

Every new immigrant enhances the network and raises the possibility of more migration from the same community, a phenomenon known as a self-perpetuating cycle. This dynamic aids in the explanation of why particular migration patterns emerge and why particular nations or regions emerge as significant migration hotspots.

2.3.2 Macro Theories of Migration

A variety of factors, ranging from individual incentives to more general socioeconomic circumstances, impact the complex phenomena of migration. Macro Theories of Migration stress the structural factors that influence migration patterns at the national, regional, and international levels, whereas Micro Theories concentrate

on personal choices. These theories examine the external factors—such as labour needs, governmental policies, economic disparities, and international relations—that shape the surroundings in which migration takes place. Large-scale migratory fluxes, which are frequently uncontrollable by individuals and are influenced by strong systemic influences, can be better understood using macro theories.

This investigation of macro theories explores the ways in which global social, political, and economic systems impact migration. By linking regional migration trends to global dynamics, theories such as Neoclassical Economic Theory, World Systems Theory, Dual Labour Market Theory, and others offer a thorough grasp of the migration process on a broader scale.

2.3.2.1. Neoclassical Economic Theory of Migration

The Neoclassical Economic Theory of Migration, one of the most well-known macro theories, explains migration as the outcome of wage disparities across nations or regions. This hypothesis contends that economic inequality is the primary cause of migration, with workers from low-wage nations moving to high-wage nations in pursuit of better economic prospects. According to this theory and its extensions, the cause for international migration is the geographical imbalance between demand and supply of labour (Wickramasinghe, 2016).

According to this idea, labour migration contributes to the equilibrium of labour supply and demand in various geographical areas. There is a need for workers in nations with high salaries and a shortage of labour, and a surplus workforce in nations with low wages and an excess of labour. In effect, analysis is centered on studying the conditions and determining factors of the decision taken by each actor with regard to whether or not to start a process of migration, and when and how to do it and where to go (Canales, 2019). Both sending and receiving nations gain from the redistribution of labour to places that need it most. While the receiving nation receives the labour it needs for economic expansion, the sending nation decreases its labour excess and may benefit economically via remittances.

However, this theory ignores social, political, and legal barriers to migration and implies that economic considerations alone affect migrant movements. Wage disparities are a major cause of migration, but other elements including labour market laws, immigration policy, and cultural links all have a big impact on how people migrate. Although the neoclassical theory offers a comprehensive explanation of migration as a market-driven phenomenon, it falls short in addressing the intricacies of migration dynamics in the real world.

2.3.2.2. World Systems Theory

Wallerstein (1974) has extended a theory to understand the history and the changes took place around the world, known as World System Theory. World Systems Theory has a more holistic stance, examining migration in light of global capitalism and historical inequities between nations, as opposed to the neoclassical theory's exclusively economic focus. To explain the interdependence of the global economy and how it affects migratory patterns, Immanuel Wallerstein and associates created this theory in the 1970s.

Structural globalization as an objective variable characteristic of world society is very different from the “globalization project” of capitalist neoliberalism—a political and economic program that has supported policies such as deregulation, privatization, the alleged superiority of market forces, monetization, free flows of investment capital and attacks on welfare programs and labor unions (Chase-Dunn, 2023). The global economic system, which is defined by an unequal division of labour between core (developed) and periphery (developing) countries, is the cause of migration, according to World Systems Theory. While periphery nations supply cheap labour and raw materials, core nations control capital, technology, and resources, so dominating the global economy. People frequently relocate to core nations in quest of better prospects because of the economic reliance and underdevelopment caused by this imbalance.

World Systems Theory draws attention to the historical background of migration, especially how colonialism and imperialism shaped global inequality. Due

to colonising powers' exploitation of their resources, former colonies frequently suffer from economic underdevelopment, which causes migration from former colonies to the nations that previously controlled them. This helps to explain why many migrants follow old trade routes or colonial ties, and why migration movements frequently occur from poorer, emerging countries to wealthy, industrialised ones. Rodriguez (2023) capitalist world-system in historical eras from the seventeenth to the twentieth centuries. Migration of capital and labor helped configure economic and political relations among core, peripheral, and semiperipheral regions of the growing world-system.

This theory also highlights how migration is not a random occurrence but rather is a fundamental part of the global capitalism system, which generates labour surpluses in developing nations and labour demands in rich ones. For instance, industrialisation in core nations frequently necessitates a significant number of unskilled labourers, which drives migration from less developed areas with limited employment prospects.

2.3.2.3. Dual Labor Market Theory

The Dual Labour Market Theory, which focusses on the composition of labour markets in receiving nations and how they generate demand for migrant labour, is another significant macro theory. According to this idea, which was created by Michael Piore in the 1970s, developed economies have two distinct labour markets: the primary and secondary labour markets.

The primary sector provides decent working conditions, job stability, high earnings, and prospects for growth. Native people who are talented, educated, and looking for steady work usually hold jobs in this industry. Low-paying, precarious occupations with unfavourable working conditions and few prospects for advancement make up the secondary sector. This industry relies on migrant labour to fill jobs because native workers frequently don't want to work there.

This idea holds that the need for low-skilled labour in the secondary labour market, rather than only salary differences, is what drives migration. We define

labor market segmentation as the historical process whereby political-economic forces encourage the division of the labor market into separate submarkets, or segments, distinguished by different labor market characteristics and behavioral rules (Reich, 1973). Labour shortages are common in developed nations in sectors like construction, household work, and agriculture where local workers find the pay and working conditions unappealing. Due to the relative economic advantage these positions offer over chances in their native countries, migrants—particularly those from poorer nations—are prepared to take them on.

The dual labour market theory casts doubt on the notion that migration results only from changes in the economic circumstances of the sending nations. Rather, it emphasises how, despite restrictive migration rules, migrant workers can still find opportunities due to structural labour demands in recipient nations. As a result of being forced into low-paying, precarious positions in the secondary labour market, this hypothesis also explains why migrant workers frequently endure hazardous working conditions.

2.3.2.4. Political Economy of Migration

The way that political and economic policies of any given states or land influence migrant flows is the main emphasis of the political economy approach to migration. This theory places a strong emphasis on how international relations, trade agreements, and state policies all contribute to the conditions that lead to migration. Trade agreements that expand markets in developing nations, for example, may generate economic instability, which in turn may result in labour migration. State policies in both sending and receiving nations also dictate who is eligible to move and under what circumstances. Examples of these policies include border restrictions, immigration rules, and visa requirements. Prior to 9/11, conceptions of the "new world order" were based on an optimistic view of the triumph of political and economic liberalism over Communism at the close of the Cold War (Rudolph, 2003).

This idea also takes into account the geopolitical connection among nations. Migration flows, for instances, are frequently associated with nations that have a history of colonisation or close diplomatic links. Former colonial powers may retain political and economic ties to their former colonies, which may have an impact on migration trends. Furthermore, forced migration, including that of refugees and asylum seekers, can result from wars, conflicts, and political instability that are frequently made worse by outside actions.

The Political Economy of Migration emphasises how crucial it is to comprehend migration as both a politically motivated and an economic activity. Whether by enforcing limitations to regulate population flows or by promoting labour migration to meet economic demands, governments play a critical role in shaping migration through their policies. This idea emphasises how intricately politics, economics, and migration interact.

2.3.2.5. Migration Systems Theory

The theory of migration systems is another macro paradigm that sees migration as a component of a broader system of international exchanges, which is a broader in scope in terms of understanding and explaining any given migration. The central idea of the systems approach is that the exchange of capital and people between certain countries takes place within particular economic, social, political, and demographic context (Jennissen, 2007). This idea holds that migration is a part of a larger framework of social, political, and economic connections rather than a singular occurrence. People, goods, capital, and information flow between sending and receiving nations make up migration systems.

According to this concept, Initial migrant flows or beginner set the stage for subsequent movement, highlighting the cumulative character of migration. Early migrants, for examples, frequently create networks in their new countries, which facilitates the following of subsequent migrants. As social and economic linkages between sending and receiving nations strengthen, migration eventually becomes self-sustaining. More specifically, the network patterns modeled here show that,

above and beyond dyadic reciprocity and outdegree, migration networks are hierarchical both in terms of their triadic structure and in terms of the distribution of their indegrees (Leal, 2021).

Globalisation also plays a part in influencing migration, according to Migration Systems Theory. Migration has become easier and more accessible in a globalised world due to greater interconnection through trade, communication, and transportation. Economic shifts in one region of the world might affect migration patterns globally by reverberating across national boundaries.

2.3.3 Meso Theories of Migration

A multitude of factors, from personal choices to international political and economic forces, impact the complicated issue of migration. Meso Theories of Migration offer a compromise by analysing how social networks, communities, and institutions either promote or restrict migration, whereas Micro Theories concentrate on individual motivations and Macro Theories highlight more extensive structural dynamics. These theories investigate the relationships that exist between people and households and larger social structures, as well as how these relationships influence migratory trends. Meso theories provide as a link between the macro-level emphasis on political and economic systems and the micro-level focus on individual agency.

The idea that migration is a socially embedded activity lies at the core of meso-level theories. The experiences, resources, and support offered by their institutions and social networks often affect people's migration decisions rather than them making them on their own. This knowledge offers important new perspectives on the processes that support and prolong migration throughout time.

2.3.3.1. Social Network Theory

Social Network Theory is a highly important meso-level theory that suggests the presence of social ties between migrants and non-migrants facilitates and sustains migration. It is through social networks that migrants learn about opportunities and conditions in potential destinations; at home, the structure of migrants' social

networks shapes their ability and desire to leave (Blumenstock, 2022). Family members, relatives, neighbours, or acquaintances who have already moved and can offer prospective migrants knowledge, resources, and support are examples of these relationships. People can travel across borders more easily thanks to these networks, which lower the costs and hazards associated with migration. When studying the role of networks in migrants' labor market integration, a large body of migration literature examines prior connections with relatives or friends in the destination country (Gerxhani, 2020).

In several phases of the migration process, social networks are essential. For example, networks teach prospective migrants on employment prospects, living circumstances, and legal requirements in the country of destination during the pre-migration phase. The major implication intended by this paper is that the personal experience of individuals is closely bound up with larger-scale aspects of social structure, well beyond the purview or control of particular individuals (Granovetter, 1973). When it comes to finding accommodation, finding work, and negotiating immigration restrictions, migrants often rely on their networks for logistical support. These networks enhance the process of integrating into the new society after migrating by providing financial and emotional support as well as aiding in cultural and legal adaptation.

Social Network Theory also explains why migration frequently turns into a self-reinforcing process. The establishment of migration flows between two locations facilitates the following of later migrants by expanding the social networks between migrants and non-migrants. This phenomenon explains why a lot of people migrate from particular places to particular destinations, making some countries or regions migration hotspots. For instance, long-standing networks have aided in the facilitation of ongoing migrant flows spanning decades in the case of Mexican migration to the United States.

2.3.3.2. Cumulative Causation Theory

The theory of cumulative causation of migration was developed by Myrdal (1957) and extended by Massey and his colleagues., which is closely tied to Social Network Theory. According to this idea, migration is a self-reinforcing process in which every act of migration increases the likelihood of future migration by generating social, economic, and cultural circumstances. Probably the most influential and widely used approach to the study of human migration is the individual cost-benefit model, which views migration as the outcome of a rational evaluation of the costs and benefits of movement (Massey, 1990). Cumulative causation draws attention to the feedback loops that form in both sending and receiving communities, which let migration flows continue to grow and endure over time.

Individuals leaving the sending community cause a number of changes that promote more migration. Remittances sent by migrants to their families, for instance, raise household incomes and increase the appeal of migration to other community members. A migration culture may emerge as a result of remittances, making it more common for people to leave their town in search of better prospects outside. Migration-related social capital is a set of resources that are embodied in social networks that acquire instrumental value for people who wish to emigrate (Fussel, 2004).

The existence of established immigrant communities in the receiving community reduces the obstacles faced by new arrivals. In order to help immigrants locate employment, housing, and other resources, migrants offer social and economic networks. Migration to these regions thus becomes simpler and easier to reach, which causes a snowball effect where migration flows keep increasing. Information about or direct assistance with migrating provided by prior migrants, which decreases the costs of moving for potential migrants (Garip, 2008).

Another way that migration impacts social norms and expectations in both the origin and destination countries is through cumulative causation. Migration can

occasionally turn into a status symbol, with those who migrate being viewed as successful and those who stay under pressure to follow suit. Even though the initial economic or political motivations for migration may have changed, this cultural transformation nevertheless fuels movement.

2.3.3.3. Institutional Theory of Migration

The study of formal and informal institutions' influence on migration trends is known as institutional theory. The relevance of migration within the debate on institutions, in broader context, has been stressed by recent research which mission between institutions and economic outcomes (Bertocchi, 2008). In this context, institutions include government agencies, non-governmental organisations (NGOs), international organisations, and labour market intermediaries, as well as policies and legal frameworks that impact migration. Depending on their objectives and methods of operation, these organisations can either promote or hinder migration.

Formally, immigration laws and government policies are crucial in defining who is eligible to move, how simple it is to migrate, and under what circumstances. For example, visa policies, refugee resettlement plans, and labour migration programs all influence the legal routes for travel. While some governments actively promote migration by establishing guest worker programs or attempting to recruit skilled labour, other governments impose severe obstacles on prospective migrants through stringent immigration laws. Using the whole sample of developed and developing countries both as senders and receivers, we find evidence that total migration affects directly the change in institutions (Beine, 2013).

Formal institutions are important in migration, but so are informal institutions including smuggling, underground labour marketplaces, and migrant support networks. Informal institutions frequently take over to help people move across borders when there are few official migration routes available. For instance, migrants may use smugglers or other illegal means to get to their destination in areas with stringent immigration laws. Because of the enormous demand for migration and the

dearth of legal alternatives, these unofficial institutions persist despite the hazards they bring to migrants.

Additionally, international organisations and non-governmental organisations (NGOs) like the United Nations High Commissioner for Refugees (UNHCR) and the International Organisation for Migration (IOM) frequently offer humanitarian, social, and legal help to migrants and refugees. These organisations are essential in defending the rights of migrants, promoting equitable treatment, and making sure that migration takes place within the parameters of international law.

2.3.3.4. Transnationalism

A meso-level approach known as "transnationalism" examines how migrants create new lives in their new nations while preserving connections to their home countries. Transnationalism highlights the cross-border ties that migrants maintain through frequent travel, communication, cultural exchange, and remittances. Transnationalism recognises that migrants frequently lead parallel lives, engaging in the social, economic, and political systems of both their home and destination nations, in contrast to previous migration theories that presumed migrants would completely integrate into the host country. Some things are new, however, including ease of transportation and communication, the mode in which migrants are inserted into the labor market, sending-states' increasing dependence on remittances, and the policies they put in place to encourage migrants' enduring long-distance nationalism (Levitt, 2004).

By making remittances, investing in local companies, getting involved in politics, and preserving family and cultural ties, transnational migrants keep close ties to their home nations. In addition to giving the sending communities financial support, these transnational activities help migrants feel connected and like themselves. For example, migrants may participate in political activism from overseas, donate to community projects, or even return home for important occasions. Onward migrants have experience of staying in two or more destination countries for extended periods of time (Ahrens, 2022).

Because it highlights the fluidity of contemporary migration in a globalised environment, transnationalism also questions conventional notions of nation-states and borders. Transnational communities, which span many countries, have grown as a result of migrants being able to stay in touch with their home countries in ways that were previously inconceivable due to the ease of communication and transportation. This perspective on transnationalism permits addressing the ambitions of migrants and their attitudes, as well as apparent inconsistencies in their conduct, and conflicts that may occur between long-term inhabitants and newcomers from other countries (Nowcika,2020).

2.3.3.5. Migration Industry Theory

The migration industry is a collection of both for-profit and nonprofit organisations that help in the migration process. These players include, among others, smugglers, transport firms, legal counsel, recruitment firms, and travel agents. According to Migration Industry Theory, migration is a business that encompasses several actors that make money by enabling people to move around, in addition to being a social process. Research on the migration industries can be loosely characterised as that which is concerned with the infrastructures that facilitate mobility, what was until recently described as the ‘black box’ in our understanding of migration (Lindquist, 2012)

This idea emphasises how services pertaining to work, housing, transportation, and visas are marketed to potential migrants, hence commercialising migration. For instance, recruitment agencies, who frequently charge for their services, are crucial in bringing migrant workers and employers together in other nations. Despite being illegal, smuggling networks play a role in the migration sector by giving migrants who are unable to use regular migration channels a way to travel.

In addition to assisting people in navigating difficult migration procedures, the migration sector also helps to sustain migration flows. These actors build an infrastructure that facilitates migration by providing services that lower the legal and logistical obstacles to migration. However, because some players put money ahead of

the welfare of the people they help, this commercialisation can also result in the exploitation of migrants. It is important for us to understand the ways in which migration industries facilitate and control mobility, there remains a need to investigate how these industries produce a market for themselves within migration processes (Cranston, 2017).

2.4 Refugee Protection in India

Migration, a significant socio-economic phenomenon, occurs for a variety of reasons, including economic opportunities, social factors, political conflict, or environmental disasters etc. The Migration which is non-volunteer and forced are categorized as refugees, which is widely legally recognize and are need to be protected. In India, migration holds specific relevance due to its diverse socio-political landscape, particularly concerning the protection of refugees and the challenges posed by illegal immigration. The theories of migration—Macro, Micro, and Meso—provide a framework to understand the underlying causes and implications of migration in various contexts, including the protection of refugees and the movement against illegal immigration in Assam.

India has a long history of hosting refugees, ranging from Tibetan refugees in the 1950s to the recent influx of Rohingya Muslims fleeing violence in Myanmar. However, unlike many countries, India lacks a specific legal framework to protect refugees. Instead, the country operates through a combination of international commitments, constitutional provisions, and administrative practices. Despite its non-signatory status to the 1951 Refugee Convention and the 1967 Protocol, India has adopted various measures to accommodate and protect refugees within its borders.

On the other hand, in Assam, illegal immigration, especially from neighboring Bangladesh, has been a sensitive issue, leading to social, political, and economic tensions. The region has seen movements like the Assam Movement in the 1980s and more recent developments like the updating of the National Register of Citizens (NRC), aimed at identifying illegal immigrants. In this context,

understanding migration through the lens of the three key theories—Macro, Micro, and Meso—provides insights into both refugee protection and anti-immigration movements.

2.4.1 Theoretical insight into the Migration and Refugee Protection in India

The Micro theory of migration focuses on individual decision-making processes, examining how personal motivations, aspirations, and circumstances influence the decision to migrate, which helps in this research to understand the immigrants probable personal choices behind crossing the border in entering India. In the context of refugees, this theory highlights the push-and-pull factors that drive individuals or families to flee their countries, like refugees from East Pakistan, Afghanistan, Sri Lanka etc. Micro-level factors like fear of persecution, personal safety, and economic survival play a critical role in refugee movements, which are push factors. For instance, Rohingya refugees often cite personal experiences of violence, discrimination, and lack of access to basic resources as key reasons for fleeing to India. Similarly, Afghan and Tibetan refugees often emphasize personal security and religious freedom as primary motivators for seeking refuge in India.

The Macro theory of migration refers to large-scale structural factors that drive migration, such as economic disparities, political instability, or conflict between countries. From a global perspective, these forces push people to leave their homeland, often becoming refugees. In the context of India, the Macro theory explains how large-scale political crises and humanitarian disasters in neighboring countries have led to waves of refugees entering the country. For instance, the influx of Rohingya refugees from Myanmar is primarily due to ethnic cleansing and persecution. Similarly, Tibetan refugees arrived in India following China's annexation of Tibet in 1959, and Afghan refugees fled during the Soviet invasion and subsequent political turmoil. These macro factors are critical in understanding refugee movements into India, particularly from conflict-ridden areas like Erstwhile East Pakistan, Afghanistan, Myanmar (Rohingya refugees), and Tibet.

India's response to these macro-level forces has been marked by a combination of humanitarian assistance and strategic interests. While the country is not bound by international refugee laws, it has hosted refugees on humanitarian grounds. Tibetan refugees, for example, have been provided with settlement opportunities in designated areas. However, this protection is often ad-hoc and inconsistent, as seen in the case of Rohingya refugees who face significant challenges in terms of legal status, employment, and social integration due to India's national security concerns. The Meso theory of migration bridges the gap between Macro and Micro theories by focusing on the role of social networks, institutions, and communities in shaping migration patterns. It emphasizes the role of family, friends, and community networks in facilitating migration.

2.4.2 Application in Refugee Protection

India's policies on refugee protection are not uniform across refugee groups. While some refugees, like Tibetans, have received support for settlement and education, others, particularly Rohingyas, face precarious living conditions. The lack of a comprehensive refugee law means that individuals are subject to varying treatment based on political considerations rather than individual needs. Micro-level decision-making highlights the need for refugee policies that are sensitive to individual circumstances. India's current approach, which treats refugees as a national security issue, particularly in the case of Rohingyas, overlooks the personal safety concerns that drive refugees to seek protection. A rights-based approach that takes individual experiences into account, including the provision of legal status, work permits, and access to basic services, would strengthen refugee protection mechanisms.

The Macro theory highlights the need for a coherent and consistent national policy on refugees. India's approach has been reactive, lacking a comprehensive legal framework to ensure long-term protection. A refugee law that addresses large-scale movements, provides legal status, and ensures human rights protection in line with international standards would enhance India's ability to manage refugee inflows driven by macro-level factors like political instability and conflict.

In the context of refugees in India, Meso-level factors such as diaspora networks and community support play a crucial role in the settlement and integration of refugees. Tibetan refugees, for instance, have benefited from strong community networks, including support from the Tibetan government-in-exile and religious institutions. This has enabled them to create cohesive communities in various parts of India, preserving their cultural identity while integrating into Indian society. However, the situation is different for Rohingya refugees, who lack strong community networks and face hostility from local populations. Without adequate support systems, they struggle to access basic services, employment, and legal protection.

The Meso theory highlights the importance of building community-based support systems for refugees. India's refugee policies could benefit from strengthening partnerships with international organizations, local NGOs, and community networks to ensure better integration and protection for refugees. Community support can also play a key role in reducing tensions between refugees and host communities, as seen in the case of Tibetans and Refugees from East Pakistan settling in Assam, Tripura and West Bengal.

2.4.3 Theory and Illegal Immigration in Assam

In Assam, the Micro theory explains how individuals from Bangladesh make the decision to migrate based on personal aspirations for economic betterment, access to employment, and better living conditions. For many, the decision to cross the border into Assam is driven by the hope of escaping poverty and finding better opportunities. The Macro theory helps to understand the large-scale migration of people from Bangladesh due to economic disparities and political instability. Over the years, economic hardships and environmental factors like river erosion in Bangladesh have driven large numbers of Bangladeshi immigrants into Assam. This large-scale migration has led to demographic changes in the region, creating tensions between the indigenous population and immigrants.

The Macro theory provides insights into the root causes of the Assam Movement (1979-1985), which was triggered by concerns over illegal immigration from Bangladesh. The movement, spearheaded by the All Assam Students' Union (AASU), demanded the detection and deportation of illegal immigrants who were perceived to be altering the state's demographic balance and competing for resources. This culminated in the signing of the Assam Accord in 1985, which set March 24, 1971, as the cut-off date for identifying illegal immigrants.

Meso-level factors such as kinship ties and ethnic networks have facilitated the migration of people from Bangladesh. Many immigrants are drawn to Assam due to established community networks that provide support in finding housing and employment. These networks help immigrants navigate the challenges of living in a new country, including dealing with legal uncertainties. The presence of strong social networks among immigrants has, however, contributed to local tensions. Indigenous Assamese communities perceive these networks as enabling illegal immigration and altering the socio-cultural fabric of the region. The fear of losing cultural identity and political influence has been a major driver of anti-immigration sentiments in Assam.

Meso-level dynamics suggest the need for policies that address the role of social networks in migration. While these networks provide crucial support for immigrants, they can also exacerbate local tensions. Policies aimed at fostering dialogue between immigrant communities and indigenous populations, along with measures to ensure equitable resource distribution, could help ease tensions and promote social cohesion.

Overview

This chapter discusses the interconnectedness of migration, laws, and humanitarian needs. It provides the theoretical explanation on terms such as "refugee" and "illegal immigrant," highlighting how their meanings have evolved over time. The word "refugee" originates from a Latin term meaning "shelter" and gained significance post-World War II, particularly through key agreements like the 1951 Refugee Convention. According to these agreements, a refugee is defined as

someone who leaves their home country due to danger related to their race, religion, or political beliefs. However, this definition fails to include individuals fleeing poverty, natural disasters, or harsh living conditions.

The chapter also addresses the ambiguity surrounding who qualifies as a migrant, noting that varying definitions exist across different countries. This discrepancy creates tension between international laws designed for those facing persecution and local laws that often prioritize national security. The challenges faced by stateless individuals and marginalized groups, such as the Rohingyas, highlight these definitional gaps, revealing larger systemic issues that lead to displacement.

To understand the motivations behind migration, the chapter explores various perspectives. On one hand, there are personal factors—choices that individuals make and the circumstances that compel them to leave or draw them to a new location. On the other hand, broader issues like economic difficulties and political instability play a significant role. Additionally, the chapter examines how social networks and organizations facilitate migration, demonstrating that these connections can actually amplify the number of migrants.

India's approach to migration illustrates a balance between humanitarian concerns and national security. The country accepts refugees, including Tibetans and Bangladeshi migrants, but lacks a comprehensive legal framework to support them. Decisions regarding migration are made on a case-by-case basis, often swayed by political considerations instead of adherence to international refugee laws. The situation in Assam exemplifies the challenges of large-scale migration, with population shifts resulting in social and political tensions.

In conclusion, the chapter emphasizes the necessity for improved policies that harmonize respect for individuals' rights with practical solutions. It advocates for stronger collaborations with NGOs and community organizations, addressing social conflicts, and developing inclusive legal frameworks. Such measures are essential to ensure that displaced individuals are treated with dignity and protection while also working to alleviate local tensions..

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Chapter- III

Policies of Refugee Protection in India in light of International Standards

The evolving history of refugee protection reflects the continuous struggle and collective efforts to address displacement and suffering across the globe. As millions flee conflict, persecution, and violence, the need and urgency for effective protection mechanisms becomes increasingly vital in political discourse as well as in the scholarly discussions. This present study attempts to explore the evolution of refugee rights, framed by key international agreements which contributed in shaping global responses, particularly the 1951 Refugee Convention and the 1967 Protocol through this chapter. Also, highlight the role of the United Nations High Commissioner for Refugees (UNHCR) in safeguarding the rights of refugees and finding sustainable solutions. However, the challenges are immense, especially in developing countries like India, which, despite hosting diverse refugee populations, lacks a formal legal framework. By examining both global standards and the practices undertaken by India, this chapter aims to uncover the inconsistencies and gaps in the system, advocating for comprehensive legislation that balances humanitarian needs with national interests in a rapidly changing world.

3.1 Unfolding Refugee Crisis and Protection Mechanism

According to UNHCR (2024) data, there are around 122.6 million forcibly displaced people in the world- including asylum seekers, irregular migrants, returnees and internally displaced persons. Of which 37.9 million are refugees; 8 million are asylum seekers as of mid-2024. The majority of them are under the UNHCR's mandate, and a few million Palestinian refugees are under UNRWA's mandate. In mid-2024, as a result of persecution, conflict, violence, human rights violations, or events seriously disturbing public order (UNHCR, 2024). Apart from these figures, millions of refugees are unregistered and do not come under UNHCR data hosted by many countries across the globe on humanitarian grounds.

The realm of refugee protection has come to the limelight after the devastating Second World War, which caused millions of people homeless and

displaced. The UN declaration was initially extended to those displaced people in Europe. Moreover, in the immediate aftermath of World War, the world entered into an ideological division and race known as the Cold War; during the Cold War, the state's policy, legislations and refugee protection was based on ideological grounds. However, one of the most important effects of the ending of the Cold War in terms of asylum and refugee policy and practice has been that refugee status and asylum policies practised by states are no longer based upon ideological grounds (Towle, 1997).

Moreover, the issue that emerged in the Developed nations and now the frontier of refugee protection framework and policies are comparably hosts of a minority of refugees. Over two-thirds of the world's refugee populations are hosted in developing countries (Kelley, 2007), which are less comprehensive regarding refugee protection framework and mechanisms. Nevertheless, some countries are not signatories of the refugee convention and its protocols are the host of a significant number of refugees.

Even though India is not a signatory to any international refugee agreement or convention, it does not have specific legislation to deal with the refugees. Despite all that, India has been a regular host of refugees. Since the country became independent, people have come to the country from around the world, especially Afghanistan and Bangladesh. Refugees from Pakistan, Sri Lanka, Myanmar, Tibet, and Uganda had also arrived in India. India has felicitated those coming to India on humanitarian grounds and attempted to accommodate everyone, even after having a population of more than a billion. It has distended itself from the UN initiatives on dealing with and protecting refugees. India is not signing and ratifying the convention because it will somehow impact its call or decision-making power on refugee matters. While protecting the persecuted persons who cannot turn to their own land and government for protection has become either a legal or moral obligation that the international community has imposed upon itself, it is an obligation that States seem to view as increasingly burdensome. Hence, many states wants to decide on this matter discretionally.

3.1.1 International Standard of Refugee Protection

The refugee crisis since World War II has compelled the international community to think about the management of cross-border migration due to the vast human displacement. After the displacement caused by the Second World War, the United Nations, which seeks to promote and maintain peace in international order, made several efforts to design a universal policy to deal with the involuntary or forced human displacement around the globe. Following a number of precedents before and during the Second World War, the UNHCR was created by the United Nations (UN) General Assembly in the UN and worked on refugee issues through its specialised 1950 to protect refugees and find a solution to their plight (Loescher, 2013). –The Statute of the UNHCR- agreed to in a General Assembly Resolution of December 14, 1950- emphasized UNHCR's responsibilities promote the legal protection of refugees and measures to reduce the number of refugees requiring protection” (Gallagher, 1989). –UNHCR’s 1950 statutes sets out a clear mandate, defining the scope and role of the organization....focusing on two principal areas...first, the office was created to work with states to ensure refugees access to protection...second, access to durable solutions and would either be reintegrated within their country of origin or permanently integrated within a new country” (Ibid, p2). The UN had formulated frameworks for refugee protection and dealing with its associated issues. The first such effort by the UN was “The 1951 Refugee Convention”; another protocol was added in 1967. The UNHCR is the guardian of the Convention and its 1967 protocol. The member countries of the United Nations and UNHCR were expected to sign and ratify the convention in their national policies. Few countries signed initially, and many member countries had signed eventually.

The most popular and accepted refugee definition came into existence by this Convention only. However, the definition of a refugee has a narrow scope regarding place and time. This was exclusively formed to recognise and protect the European refugees caused by the Second World War. However, it was realised that refugee migration is not limited to Europe. Therefore, another protocol was made in 1967,

which gave a universal look. This convention widened the scope of the definition. Hence, both the 1951 Convention and 1967 Protocol have become central instruments in protecting refugees and for the international refugee framework.

These two instruments in the field of refugee protection deal with the various aspects in the process of identifying who is a refugee, granting asylum, providing refugee status and giving protection and guaranteeing the non-refoulment. The policies are universal in nature; there is no discrimination while processing for granting refugee status to anyone and in the protection. The laws advocate for non-refoulment as it will violate an individual's human rights. Instead, it has advocated for the voluntary reparation process with the cooperation of UNHCR. The 1951 Convention was called to establish an agency or organisation that will work for the refugees in coordination with international state governments, the United Nations High Commissioner for Refugees. This organisation was specially designed to implement the policy of the Convention and act as per the provisions mentioned in the convention regarding refugees.

UNHCR had also convened another important convention in the protection of stateless persons, that is the Convention on the Status of Stateless Persons. The convention relating to the Status of the Stateless Persons was adopted on 28th September 1954 and came into force on June 1960 (UNHCR, nd). The convention had defined the term “stateless person” as “a person who is not considered as a national by any State under the operation of its law”.

The international community recognizes the plight of refugees as one of the most pressing humanitarian crises of our time. Defined by the 1951 Refugee Convention, a refugee is an individual who, due to a well-founded fear of persecution based on race, religion, nationality, membership in a particular social group, or political opinion, has fled their home country and is unable to return safely. This definition sets the foundation for a framework of international protection aimed at safeguarding the rights and well-being of refugees. The need for such protection is underscored by historical events and the evolution of international law, which has shaped the current legal landscape concerning refugees.

UNHCR also has endemic political Problems (Steiner, 2003). Sometimes, it confronts and conflicts with the policies and interests of political regime in power in implementing its objectives in relation to refugees in any given state. –UNHCR do not only promotes the implementation of refugee norms; it also monitors compliance with the international standards” (Ibid, p5). It assures that international standards are maintained, such as notably non-refoulment.

3.1.2 Legal Framework of Refugee Protection

The 1951 Refugee Convention and its 1967 Protocol are the foundational legal instruments defining refugee status and outlining the rights of refugees. –Central to these instruments are several key principles, notably the non-refoulement principle, which prohibits refugees' return to countries where their life or freedom would be threatened” (UNHCR, 2011). This principle is enshrined in Article 33 of the Convention and is considered a cornerstone of international refugee law.

In addition to the 1951 Convention, various regional frameworks complement international standards. For instance, The Organization of African Unity (OAU) convention which is development of OAU expands the definition of a refugee to include those fleeing generalized violence or events seriously disturbing public order. –The establishment of OAU in May 1963 can be regarded as definitive step in the evolutionary growth of Pan-Africanism” (Mathews, 1977). –The Organization African Unity Convention of September 10, 1969, governing the specific aspects of refugee problems in Africa” (Mpabansi, 2023) and aims to solve the regional refugee issues in an institutional way. Similarly, the European Union has developed its Common European Asylum System (CEAS) to harmonize asylum policies among member states, reflecting a commitment to uphold refugee rights while balancing national interests. Which is also subject to criticism for its functioning. –The CEAS suffers from a lack of common implementation in practice rather than a deficit of new harmonised rules” (Jakulevičienė, 2019).

3.1.2.1 Non-Refoulement Principle

The principle of non-refoulement is critical in the protection of refugees and has been the subject of extensive legal interpretation and analysis. “Non-refoulement has also emerged in complementary areas of international law, in human rights treaties and in international customary law” (Duffy, 2008). Non-refoulement ensures that individuals seeking asylum are not forcibly returned to countries where they may face persecution. “This principle is not only a legal obligation but also a moral imperative, as returning individuals to perilous situations contravenes fundamental human rights standards” (Balkan, 2009).

Numerous cases have illustrated violations of the non-refoulement principle. The issue of the international legal status of the principle of non-refoulment has been debated since the 1960s (Coleman, 2003). For example, the European Court of Human Rights has ruled on several occasions that the expulsion of individuals to countries where they would face torture or inhumane treatment is a violation of the European Convention on Human Rights. Such judicial interpretations highlight the significance of safeguarding the rights of refugees and the necessity of adherence to international standards. “It applies independently of any formal recognition of refugee status or entitlement to other forms of protection, and it applies to the actions of States, wherever undertaken, whether at the land border, or in maritime zones, including the high seas” (Goodwin-Gill, 2011).

3.1.2.2 Rights of Refugees under International Law

Following World War II did the issue of international migration seen as seeking an international solution (Keenz, 2008). Hathway (2005) emphasises that refugees have a number of rights under international law that are critical to their dignity and survival. Wherever the United Nations Charter mentions promoting and supporting respect for human rights and basic freedoms, it means all people, regardless of race, gender, language, or religion (Weis, 1971). These rights include economic, social, and cultural rights, in addition to civil and political rights. The 1951 Refugee Convention defines fundamental rights such as access to education,

healthcare, and work (Hathaway, 2014). These rights are vital not just for refugees' assimilation into host cultures, but also for their general well-being and capacity to reconstruct their lives. To successfully advocate for asylum rights, one must first define them and grasp where they stand in international law today (Boed, (994).

Mass human rights violations, civil conflicts, internal struggle, community violence, forced displacement, and natural calamities all result in the formation of refugees (Nirmal 2001). Thus, long-term options for refugees, such as voluntary repatriation, local integration, and relocation, are critical components of international refugee protection. Each approach poses distinct obstacles and possibilities. For example, voluntary repatriation entails the safe and dignified return of refugees to their home countries, which frequently necessitates extensive international assistance and supervision (UNHCR, 2019). Local integration, on the other hand, might face opposition from host communities, especially in areas with few resources or significant unemployment (Zetter, 2017). Resettlement, while an important option for certain migrants, is nevertheless restricted in breadth and frequently dependent on host nations' political will (Kälin, 2016).

3.1.2.3 Role of UNHCR in Refugee Protection

UN General Assembly resolution 425 (V) of 14 December, 1950, through which the Assembly adopted the statute of the Office of the UN High Commissioner for Refugees (Debbas, 1996). The UNHCR plays a pivotal role in the protection of refugees, working tirelessly to ensure their rights are upheld and their needs met. As a global leader in refugee protection, the UNHCR is responsible for monitoring compliance with international refugee law, providing assistance and services to refugees, and advocating for their rights at various levels (UNHCR, 2020). The agency works collaboratively with governments, NGOs, and civil society to promote the integration of refugees into host communities and facilitate durable solutions.

One significant aspect of the UNHCR's work is its capacity for advocacy. The agency engages with states to promote adherence to international obligations and encourages the development of national policies that align with international

standards (Feller, 2001). For example, the Global Compact on Refugees, adopted in 2018, aims to enhance international cooperation in refugee protection and emphasizes the importance of shared responsibility among states (UNHCR, 2018). This compact marks a significant shift towards a more collaborative approach to addressing refugee crises. The office of the UNHCR is the agency entrusted with this function, as the representative of international community, but States also have a protecting role (Godwin-Gill, 2021)

3.2 Challenges in Refugee Protection

Despite the robust legal framework and the efforts of organizations like the UNHCR, significant challenges persist in the realm of refugee protection. The global refugee crisis has reached unprecedented levels, with over 26 million refugees worldwide as of 2020, a figure that continues to rise due to protracted conflicts, persecution, and climate change. Despite the high expectation of a peaceful and collaborative world generated by the end of the cold war, the post cold war era has been experiencing a conflict-ridden world where violence is a constant feature in nearly every parts of the world and is out of control. The increasing number of refugees places immense pressure on host countries, often leading to strained resources and rising tensions within communities.

Political challenges also have a significant impact on refugee protection. The growth of nationalism and anti-immigrant attitudes in numerous nations has resulted in a reaction against refugees and asylum seekers, which frequently leads to restrictive laws and practices (Zetter, 2018). It is no longer as robust as it once was, owing to its members' unwillingness to fulfil their supposed obligations under the Convention (Ibid, p2). This political atmosphere undermines international standards and jeopardises refugees' safety and dignity.

Moreover, legal and procedural barriers also exacerbate the protection landscape. Many migrants encounter lengthy and difficult asylum procedures, which are sometimes aggravated by insufficient legal counsel and support services

(Crawley, 2018). Such hurdles can enhance vulnerability and exploitation, weakening the safety measures designed to keep migrants safe.

3.2.1 Best Practices and Innovations in Refugee Protection

Despite the challenges, numerous best practices and innovations have emerged in the field of refugee protection. Community-based approaches that involve refugees in decision-making processes and program design have proven effective in enhancing their agency and fostering resilience (Mastrorillo, 2016). By involving refugees in developing solutions, organisations can create more tailored and effective interventions that address their specific needs. The role of NGOs and civil society in refugee protection cannot be overstated. These organisations often provide critical services, advocacy, and support that complement the efforts of larger entities like the UNHCR (Kalin, 2015). Their grassroots knowledge and community connections enable them to respond quickly to emerging needs and challenges.

Technological innovations also hold promise for improving refugee protection. Data collection and digital platforms can enhance the efficiency and effectiveness of refugee services. For instance, mobile applications that provide refugees with information about available services and resources can empower them and facilitate their integration into host societies (Riemens, 2017). Moreover, technology can streamline asylum processes, reducing bureaucratic delays and improving access to justice.

3.2.2 Future of Refugee Protection

Taking a look into the future, refugee protection confronts a number of rising trends and problems. One of the most important concerns is the effect of climate change on forced relocation. As environmental variables increasingly influence migration, established definitions of refugees may need to change to include persons displaced by climate-related catastrophes (Schwerdtle, 2018). With the absence of land, one of the essential constituent elements of statehood, it is unclear if these nations would continue to exist as such (Jaswal, 2013). This transformation will

necessitate a rethinking of international institutions and a commitment to addressing the core causes of displacement.

Moreover, the need for global cooperation and burden-sharing remains critical. As the number of refugees continues to rise, states need to work collaboratively to develop comprehensive solutions that distribute responsibilities equitably (UNHCR, 2019). The ongoing dialogue surrounding the Global Compact on Refugees offers a platform for such cooperation, but its success will depend on the commitment of individual states to uphold their obligations.

3.3 Policies of Refugee Protection in India: A Comparative Analysis with International Practices

In general, it is important to recognise that a person becomes a refugee due to circumstances beyond his or her control, which are frequently tragic (Ananthachari, 2001). India has a long history of offering asylum to those escaping persecution, conflict, and natural catastrophes. It recognises the sensitive nature of unintended migration and visiting a foreign nation. It has welcomed a variety of refugees throughout the years, including Tibetans, Sri Lankans, and Afghans. Because of India's very big and sophisticated economy, this is a prevalent tendency among its neighbours (Samaddar, 2003).

However, India's policies regarding refugee protection are complex and not codified in a single comprehensive law. Instead, they are derived from constitutional provisions, domestic laws, and international obligations. This portion examines refugee protection policies in India, compares them with internationally practised policies, and identifies the similarities and differences. India has no obligation by the United Nations High Commission for Refugees to ratify the 1951 Refugee Convention or 1967 Protocols. However, India has always maintained its adherence to principles such as non-refoulement, which prohibits the forceful repatriation of refugees to a country where their freedom or lives are at risk (Shailzi, 2024).

In the lack of a national refugee legislation, refugees in India are subject to the Foreigner's Act of 1946, which restricts access to work and identity papers and

assigns them the same status as migrants (Rajan, 2021). The terms 'refugee' and 'protection' are frequently evoked in discussions about the requirements of persons for shelter and asylum (Helton, 1990). which is not addressed by the *Foreigners Act of 1946*, hence, it comes under the radar of critics in terms of refugee protection in India.

3.3.1 Historical Context of Refugee Policies in India

Historically, India has been known for its cultural ethos of hospitality, often referred to as "Atithi Devo Bhava," which translates to "the guest is God." This principle has fostered an environment where displaced individuals, regardless of their origin, could find solace. Various groups, including Jews, Parsis, and Afghans, have found refuge in India over the centuries. This tradition underscores India's moral responsibility to offer sanctuary to those in need. During ancient times, the subcontinent was characterized by a rich tapestry of cultures, languages, and religions. Invaders and refugees alike were often absorbed into Indian society, contributing to its cultural diversity. Ancient Indian texts and scriptures reflect a society that valued the protection of those fleeing violence or seeking new opportunities.

The post-colonial era marked a significant change in the dynamics of refugee influx into India. The partition in 1947, which led to the displacement of approximately 15 million people, set a precedent for India's refugee policies. The traumatic experience of partition not only transformed the demographic landscape of the region but also shaped India's future approach to refugees. Following partition, India experienced significant refugee inflows from various regions, including Pakistan, Tibet, and Sri Lanka. Moreover, it is important to note that despite a host of a vast number of refugees, India is unwilling to sign the Refugee Convention because it worries it will interfere with local interests and previous interactions with the global community. India's rejection to sign the Refugee Convention of 1951, which is regarded as the cornerstone of refugee protection, must also be evaluated in light of Partition (Ibid, p.854). The International Refugee Organisation (IRO), established

in 1947 and forerunner to the UNHCR, rejected India and Pakistan's requests for assistance with the refugee problem precipitated by Partition (Loescher 2001).

3.3.2 The Refugees of partition

In the history of India's Partition, the 'refugee' is a fundamental - almost traditional - character without whom the national histories of India and Pakistan cannot be written (Kaur 2009). The political leadership in India and Pakistan did not foresee any large-scale movement of minorities (Sen, 2018). or maybe they were hasty and did not think about this subject beforehand. However, later, the Congress Working Committee issued the following resolution on November 25, 1947: The Congress is obligated to provide complete protection to any non-Muslims from Pakistan who have crossed the border into India or want to do so in order to safeguard their lives and honour (Ghosal, 2014). India first fought hard not to identify them officially as 'refugees', as this title included social security and a few other necessary benefits. In official records or reports, they were referred to as displaced persons (1946-47), optees and migrants (early 1950s), evacuees and illegal aliens or migrants (late 1950s), infiltrators/Pakistani minorities/fugitives (after 1964), and 'Sharanarthi' during the Liberation War of 1971 (Ghoshal, 2018).

India has experienced an influx of refugees along with its independence. The partition between India and Pakistan has led to flee of people from one side to another by choice or forcibly. The people who migrated to India were primarily settled in northern India. Nevertheless, in Bengal and the Northeast region. "Between 1947 and 1949 an estimated one million Bengali Hindus migrated from East Pakistan to India, to Calcutta in Particular (Ghosh, 1998). "Many Hindus went to West Bengal from East Pakistan and there was also a reverse flow of Muslims" (Khan, 2024).

3.3.3 Refugees from Tibet

The next major refugee influx, India, as an independent nation, experienced when the Dalai Lama, along with his followers, fled Tibet and sought Asylum in India. A scholar like Kapoor (2019), and Bentz (2012) illustrates the plight of

Tibetan refugees, legal issues, sociocultural interactions and the preservation of their unique identity. ~~Following~~ China's declaration of the ~~peaceful~~ "liberation" of Tibet in 1951 and its crushing of the Tibetan national uprising in Lhasa in 1959, the situation changed dramatically" (McConnel, 2011). ~~In~~ 1959 the Dalai Lama escaped from Chinese-occupied Tibet and fled to India, followed by about 80,000 Tibetan refugee" (Bhatia, 2002). He was forced to flee by Chinese incursion in 1951 and the continuation of human rights violations in Tibet. Later on, it could be observed that scene Indian relation impacted for providing political asylum to Dalai Lama.

The Tibetan polity, settlements, businesses, and religio-political system have not only thrived in India, but have also altered and developed from the Tibetan paradigm into an active component of the contemporary world (Michael, 1985). Many people think that no other refugee group has gotten the same treatment as Tibetan refugees have. The Dalai Lama also pleased the host country's authorities, who, based on their own experiences in a multiracial and multi-religious society, demonstrated outstanding comprehension of the spiritual and social values of the cultural group they had welcomed (Ibid, p.738). ~~The~~ decision not to create large camps had obvious political reasons. Internationally, in 1959, Nehru's government was inclined to underplay the whole Tibetan situation in the interests of peace with China, while nationally there was the possibility of discontent among Bengali refugees if they had any reason to believe the Tibetans were better treated than they" (Woodcock, 1970).

The GoI has designated three categories of Tibetans who are eligible for RCs: Tibetans who came to India between 1959 and 1979, Tibetans born in India, and designated Tibetans who arrived in India after 2003 and who carry a Special Entry Permit (SEP) for persons of Tibetan origin issued by the Indian Embassy in Kathmandu (McConnell Ibid, p972). Every Tibetan refugee in India must periodically renew their Registration Certificate from the Foreigner's Regional Registration Office of the GOI, either once or twice a year (depending on the locality) (Ibid, p175).

The Tibetan refugees are provided with benefits of social welfare schemes by the Government including leasing land. However, other means are adopted by the refugee group to acquire land ownership such as using social network. –So-called –Gyagar Khampas,” or Kinnauris, Spitis or Ladakhis, and so on, are Indian citizens, but by virtue of their Tibetan –ethnicity,” or religio-cultural affiliations with Tibetans, have been well placed to help Tibetan refugees as go-betweens and as brokers, sometimes legally and sometimes illegally, assisting Tibetans in exile to purchase land or to acquire Indian citizenship” (Falcone, 2008). The government of India has issued a circular from time to time in the interest of the refugee group, especially extending welfare schemes of the state and centre. Such a circular issued in 2014 by the Ministry of Home Affairs-

Extending the benefit of the Central Government Schemes:

It has been observed that there is no uniformity in extension of benefits of Central/State Developmental Schemes to the Tibetan Refugees. The Government of India categorically wishes to clarify that the Tibetan Refugees may be extended the benefits of various development schemes of the Government of India.

More particularly, the benefits of the following Schemes may be extended to the Tibetan Refugees:-

Mahatma Gandhi National Rural Employment Guarantee Scheme (MNREGS):- The Scheme is a demand based scheme and is open to all the Tibetan refugees. Efforts may be initiated to sensitize such refugee habitations in different States and prepare locally appropriate plans.

Public Distribution System:- The Tibetans in India are considered Refugees and they are staying temporarily in India on humanitarian considerations. For relief and rehabilitation of these Refugees, the Govt. of India has provided land and other facilities with the objective of providing them with means of their survival. Although the National Food Security Act (NFSA) 2013 or the existing Targeted Public Distribution System (TPDS) are

applicable to Indian citizens only, the State Government may consider extending the benefits of TPDS and NFSA to the Tibetan Refugee families as a welfare measure on humanitarian basis, subject to the availability of food grains.

Indira Awas Yojana (IAY):- This scheme can be extended to Tibetan Refugees also.

National Rural Livelihood Mission (NRLM):- Those identified through a participatory process are brought into the Self Help Group (SHG) network through women. Special efforts Can be made in the Tibetan Refugee areas to organize the women and promote livelihood activities as appropriate to them. Rajiv AwasYojna (RAY). National Rural Health Mission (NRHM). Extension of loan facilities by the Nationalized Banks

The above is just an illustration. Any developmental scheme in the social sector, whether of the Central Government or of the state Government should be considered for extending it to all the Tibetan Refugees on the basis of the Registration Certificate (RC) held by them.

Extension of other benefits by the State Governments:- The State Governments are requested to extend all the benefits of the Government of India Schemes as well as their own Schemes. (MHA, 2014).

3.3.4 Refugees from East Pakistan (Present day Bangladesh)

The second biggest refugee group in case of the number knocked on the door of India from Erstwhile East Pakistan. Saha (2003) elaborates that East Pakistan, which was dominated by the Bengali-speaking population, was part of Pakistan until 1971, which was constantly under persecution by the West Pakistani regime. Which had declared to be inclusive after gaining independence; however, it did not stick to its principles and did the opposite in reality. –The 1st Governor General of Pakistan, Muhammad Ali Jinnah’s pragmatic advocacy for Hindu-Muslim unity: _You are free

to go to your temples, you are free to go to your mosques or to any other place of worship in this State of Pakistan” (Feldman, 2022).

—The history of united Pakistan from 1947 to 1971 was one of constant conflict between Pakistani nationalism which could barely acquire a definite identity, and the emerging Bengali nationalism or sub-nationalism” (Ghosal, 2020). A civil war erupted against Pakistan's administration, prompting military intervention to suppress the insurrection. India engaged in the situation on humanitarian grounds, siding with East Pakistan's Bengali-speaking inhabitants. The Bengali revolt and India's participation led to Bangladesh's freedom. On March 30, 1971, Indian Prime Minister Indira Gandhi introduced a resolution in both chambers of Parliament denouncing the events in East Pakistan and describing the government's reaction. India had intervened and pushed out the Pakistani Army from East Pakistan, making it a separate State and gaining sovereignty. However, the long struggle against the Pakistani regime and their constant persecution led to a massive displacement of people from East Pakistan, mostly entering into India. Millions of East Pakistani people, mostly Bengali-speaking Hindus, fled the persecution and entered India in the hope of a better and more secure life.

The refugees coming from Bangladesh were primarily settled in the Indian states of Assam, West Bengal and Tripura. On July 30, 1964 the prominent Congress leader Atulya Ghosh stated that upto the end of 1963 “a total of 48.64 lakhs refugees from East Pakistan had entered into West Bengal, out of which only a small fraction 1.54 lakhs went outside the state” (Dasgupta, 2000). There are also a handful of Bangladeshi refugees living in Meghalaya, Manipur, Madhya Pradesh, and Delhi. The government has extended citizenship to people who entered India on or before March 24, 1971. The individuals who entered after the cut-off date, following laws, are considered illegal immigrants who entered India without valid documents until the passage of an act in 2015 that exempts minority communities from Bangladesh and Pakistan from the Foreigners Act and the Passport Entry Act, who entered India prior to December 2014.

3.3.4 Refugees from Sri Lankan

–The conflict in Sri Lanka between successive governments and the LTTE has, after 1983, produced waves of refugees to India, Europe, North America, and Australia” (Schalk, 2007). The majority of the refugees had sought asylum in India. Refugees from Sri Lanka on Indian soil have been the result of ethnic between the Tamils and the Sinhalese. The Sinhala community is the majority in numbers and consists of around 74% of Sri Lankan total population. Whereas Tamil consists of around 11% of the country’s total population. However, this population consists of 2 groups, Indian Tamil and Sri Lankan Tamil.

The Indian Tamils were merged to Sri Lanka during the British colonial period as plantation workers. Sinhalese community are not happy about the Tamil population, and this has been reflected in various policies of Sri Lanka Parliament which led to several Civil Wars. The Tamilians were persecuted structurally, which caused refugee progression into India in different waves. –Separated from northern Sri Lanka by the narrow Palk Straits, the southern Indian State of Tamil Nadu has been an important destination for refugees fleeing the conflict between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE)” (Bentz, 2019). The Sri Lankan refugees are mostly living in the refugee camps built across the Indian state of Tamil Nadu. –The largest group consisted of 181,000 Srilankan Tamils living in the southern state of Tamil Nadu” (Chimni, 1994). –Currently, more than 62,000 Tamil refugees live in 107 camps spread throughout Tamil Nadu, and just under 37,000 refugees live outside the camps” (Silvela, 2019). The refugees had landed in four stages to Tamil Nadu (Sankar, 2019). According to him, a total of 303076 refugees entered Tamil Nadu in four different phases. According to the Ministry of Home Affairs (MHA)'s 2021-2022 Annual Report, 304 269 Sri Lankan refugees entered India between July 1983 and August 2012 and were provided relief assistance, including monthly cash doles, subsidised ration rice, clothing materials, utensils, medical aid, and free education until higher secondary. (Goreau-Ponceaud, 2024).

Voluntary repatriation has taken place multiple times with UNHCR cooperation, but there is little legislation in place to grant citizenship to this group. Although the refugees were initially welcomed in Tamil Nadu, the assassination of then-Prime Minister Rajiv Gandhi in May 1991 by a suicide bomber and suspected member of the Liberation Tigers of Tamil Eelam turned public opinion and government officials against them (Nair, 1997). The refugee group experienced non-volunteer or state-led forced repatriations as well.

Repatriation of Sri Lankan refugees took place in 1987 and 1991. The first repatriation took place after the signing of the Indo - Sri Lanka Peace Accord in 1987. It was voluntary in nature. After the first repatriation most of the camps were closed down (Public [Refugees] Rehabilitation Department 1987, p.6), The assassination of former Indian Prime Minister Rajiv Gandhi, on May 21, 1991, prompted the Indian government to re- patriate the refugee. For a year attempts at forcing the refugee to go back were made. The policy was ambivalent, not uniform and carried out by local officials. In some camps the refugees were explained about the process of repatriation, given the option to stay and forms in Tamil were distributed. In other camps no explanation was offered. Some refugees signed the form without realizing what it meant because it was given by the officers who distributed the cash assistance. Others who did understand that it was a returnee form signed it under pressure from the officer concerned under a threat that if they did not do so, no further assistance would be given. (Hans, 1993).

3.3.5 The Refugees from Afghanistan

Afghanistan has never been a peaceful country; it has for centuries been a conflicted state with a warrior groups (Akhtar, 2008). Afghanistan has suffered several turbulences since the Cold War. Afghans were compelled to abandon their homeland for a variety of causes at different times throughout history. In the 1980s, only the Afghan elite, primarily Pashtun, arrived in India, but this trend shifted in the

1990s. With the onset of the Afghan civil war in 1992, and especially after 1996, when the Taliban took power, Hindus and Sikhs began fleeing to India (Ibid, p. 379). Mostly, the uncertainty over security has led to widespread relocation.

There have been several political transitions in the country which led to the changes in the governance in the country. The political turbulence caused several civil wars and military actions in the country, which caused the displacement of people. Afghans started fleeing abroad in the aftermath of the Saur Revolution, which resulted in Mohammad Taraki, from the People's Democratic Party of Afghanistan (PDPA), coming to power in April 1978 (Bentz, 2013). —With increasing tensions in the region, the Soviet Union, to prevent a political fragmentation in the region, entered Afghanistan in 1979.....instigated the US and its allies to project the invasion as a threat to the stability of the region and they offered financial and military support to Mujahideen, to help remove the Soviets created large scale instability in the region, forcing the Afghans to migrate to neighbouring countries such as Pakistan and Iran” (Abraham, 2013). These turbulences had caused outflow of people from Afghanistan and sought shelter as refugees in different countries. India is among the nations who gave shelter to the Afghan refugees in different time periods, a considerable number of people have fled to India in search of security and stability in countries other than Afghanistan (Mehraj, 2024).

—India is the key destination and transit country for the Afghan refugees” (Bose, 2004). What further complicates matters further is that, in addition to not being a signatory to either of the two instruments, India lacks domestic legislation to deal with the granting of refugee status to forced migrants, and the term "refugee" has not been defined in any domestic legislation in the country (Alexander, 2022). However, India has accepted fleers as persecuted people in the country of origin and exempted them from tagging illegal immigrants, especially because of socio-cultural and religious ties. Recently, another outflow took place from Afghanistan after the Taliban took control of the Power in 2021. What surprised me in terms of religious persecution in Afghanistan is that it's not only umbrella religious persecution but

sect-based persecution that takes place within same religion. According to the Hazaras, they are considered as outsiders in their country and they have been persecuted throughout Afghan history (Sarmah, 2018).

In response to the prevailing situation in Afghanistan, the Indian government has decided to offer emergency visas to Afghanistan, whose lives are in danger, and they won't fly from the country. –Owing to the prevailing security situation in Afghanistan and streamlining of the visa process by introducing the e-Emergency X Misc visa, it has been decided that all Afghan nationals henceforth must travel to India only on e-Visa. Keeping in view some reports that certain passports of Afghan nationals have been misplaced, previously issued visas to all Afghan nationals who are presently not in India stand invalidated with immediate effect. Afghan nationals wishing to travel to India may apply for e-Visa at www.indianvisaonline.gov.in” (GoI, 2021)

UNHCR works on documentation of the Afghan refugees and their regulatory process in India. –The UNHCR, New Delhi gives a certificate to Afghan refugees which says: "This is to certify that (name)...a national of Afghanistan is on the basis of available information considered to be a refugee within the Mandate of the Office of the United Nations Commissioner for Refugees" (Bose, 2004). This certificate is valid for 18 months. Furthermore, if a refugee want to work in India or start his own business, he must get a work permit. UNHCR plays an important role in the lives of Afghan refugees. Even in the past, the Afghan government sought UNHCR assistance for restitution and settlement of returnees.

As could be expected, the Afghan government did not wish to view their rapidly expatriating citizens as refugees. It immediately sought to reverse the flow. A note in the UNHCR archives recounting a 17 December 1979 meeting between the then president of Afghanistan, Hafizullah Amin, and a UNHCR official showed Afghanistan urging the UNHCR to help extraterritorial Afghans by encouraging their return to Afghanistan. The government offered full amnesty and land grants for these refugees. (Eisenberg, 2013).

It's important to note that, Afghan refugees are one of the few refugee groups that have assimilated into Indian society and made a place for themselves (Beri, 2021). They are mostly settled in Delhi (Ghosh, 2016). “It has been argued that many of the Afghan migrants made the countries they fled to, their homes, as there was no return option” (Pandey, 2019). This might be a reason for their assimilation with the host society.

3.3.6 Rohingya Refugees

The UN deems the Rohingyas to be the most persecuted group on earth to date. Following the arrival of Myanmar Defence Forces in Myanmar's Rakhine state, severe violations of human rights occurred. Military crackdowns on the Rohingya people have lasted more than five decades, including 1978, 1991-1992, 2012, 2015, and 2016-2017 (Aldamen, 2024). The Rohingya population began fleeing, largely to Bangladesh. In the first half of 2017, the newest purge began in September, with the UN Refugee Agency estimating that as many as 2,70,000 individuals fled in less than a month.

From Bangladesh, Rohingyas started entering India through Assam, Tripura, and West Bengal. A notable number has appeared in India. However, the government has not taken any protective initiatives towards them. The Rohingya community, previously unseen, gained visibility in India on April 9, 2012, when approximately 3000 Rohingya individuals, including men, women, and children, staged a months-long protest in front of the UNHCR office in Delhi (Verma, 2024). Later, this scenario has changed, the government had started taking action against them as they have entered India without valid documents overlooking the humanitarian factor. Approximately 40,000 Rohingya refugees entered India to escape persecution. However, the Indian government deemed them unlawful immigrants and urged Myanmar's authorities to repatriate them. Normally, India follows the concept of non-refoulment, although in this situation, there has been a shift in India's approach towards refugee protection regulations. While only a relatively small number of these asylum seekers made their way to India to seek refuge, the Indian government was already beginning to change its policies and attitude of tolerance towards the

community (Tiwari, 2024). A landmark petition in the Supreme Court on Rohingya deportation illustrates the government's stand on the deportation of this group, citing security concerns.

The petitioners laid out the threat to Rohingya life and liberty that forcible deportation to Myanmar would entail, and the detrimental impacts of mass detentions in the interim, including of women and children (who have additional claims to rights protection due to India's constitutional and international human rights obligations). On this, in 2021, the Supreme Court (ostensibly the arbiter of rights and justice for all within its jurisdiction) issued an interim order which effectively approved the refugee 'illegalisation' position laid out in the 2017 executive order. In its order, the Supreme Court rejected the Rohingyas' humanitarian claim to not be returned to Myanmar and effectively accepted the Indian government's contentious position viewing them as a grave security (and economic) threat to Indian citizens. Further, the Supreme Court stated that it does not have the authority to comment on the 'internal affairs' of another country, and so cannot consider the imminent threat of genocidal violence against the Rohingya in Myanmar in their decision-making. (Tiwari Ibid, p.4915).

3.3.7 Chakma and Hajong Refugees from Chittagong, Bangladesh

Chakma and Hajong are two groups of people that left the Chittagong Hill regions of present-day Bangladesh. Chakma are Buddhists. Hajong follows the Hindu faith. Almost 50 years ago, two refugee groups fled from the Chittagong Hill Tracts to India. Many members of these refugee groups have yet to be granted citizenship or political rights.

They had experienced violence several times. The insurrection in Arunachal Pradesh makes their lives more difficult even after directives from the Centre; sometimes things cannot be accomplished due to local political situations. These two groups of individuals departed the nation for separate reasons. Chakma departed the

nation and entered India, as demonstrated by the power project, while Hajong subjected the country to religious persecution.

3.3.8 Refugees from Uganda

The political crisis in Uganda and General Idi Amin's announcement led to the expulsion of 40000 Asians, including both Citizens and non-citizens, from Uganda in 1972. –During the first week in August 1972 General Idi Amin Dada, President of the Second Republic of Uganda, announced the mass expulsion of Asians over a period not to exceed three months” (Patel, 1972). General Idi Amin expressed his view on Indian Community in Uganda as burden on Uganda. He treated Indian Community as obstacle on the path of development of Uganda’s black people. He believed that Asian Communities, especially Indians were having monopoly over many economic sectors. Hence, he tried to get rid of Indian and Asian Community as a whole. After his announcement of expulsion of Asian Community and an ultimatum of three months, many efforts have been made under several mediation for the reconsideration of the decision of Amin. Even, diplomatic pressure was built on Amin government, but nothing could stop Amin government for targeting the Asian Communities. After several failed attempts, arrangements were made to take out the Asian Communities out of Uganda immediately. –The Asians were air-lifted-some 23,000 came to Britain, about 5,000 allowed temporary residence in India, and the rest were flown to Canada, Australia, Malawi, and various countries of Europe” (Gupta, 1974).

The Government of India, under the Ministry of Home Affairs passed an order in 1972 for allowing the citizens of Uganda who are fleeing the persecution under the regime of Amin, to enter into India. The order describes the term ‘foreigners from Uganda’ as- “a person ordinarily resident in Uganda who holds a passport issued by or on behalf of the Government of United Kingdom and whose status is described in such passport as a citizen of the United Kingdom and Colonies; and a citizen of Uganda” (GoI, 1972). This order was called the ‘Foreigners from Uganda Order, 1972’.

3.3.9 Chin Refugees

The Chin, an ethnic minority in Myanmar, have faced decades of systemic discrimination and violent suppression, particularly during military rule and subsequent internal conflicts. “Like many other ethnic nationalities in Burma, widespread human rights abuses have caused tens of thousands of Chin from Burma’s western hills to flee Burma in search of survival elsewhere” (Alexander, 2008). Most Chin refugees enter in India through the northeastern states, particularly Mizoram and Manipur, due to their proximity to the Myanmar border and shared ethnic and cultural ties with local communities. Meanwhile, Mizoram, stands out as the only state with an open receptive policy towards Myanmarese refugees, with every household, village and city also contributing towards their welfare (Mathur, 2023). “Chin refugees in Aizawl, Mizoram’s largest city, share history, cultures, and languages with the Mizos, the host population on the Indian side” (Myey, 2024). While these connections initially facilitated their settlement, the lack of formal refugee status under Indian law has left the Chin in precarious circumstances. India is not a signatory to the 1951 Refugee Convention, and the refugees rely largely on the United Nations High Commissioner for Refugees (UNHCR) for recognition and aid.

The movement of Chin refugees within Mizoram is largely survival-driven and community-oriented. Many settle in urban centres like Aizawl, seeking work and aid through local church networks, while others remain in border areas. Movement is fluid, influenced by livelihood opportunities, security concerns, and access to essential services. The Chin refugees face numerous challenges, including poverty, limited access to healthcare, education, and employment, as well as occasional social tensions with local populations. Recent political upheavals in Myanmar, particularly the military coup in 2021, have exacerbated the Chin refugee crisis, prompting fresh waves of displacement. The influx of Chin refugees into Mizoram has sparked a complex tussle between the state government and the Centre. “The Mizoram government claims the State is currently sheltering some 31,000 Chin people” (Bureau, 2024). Despite these hardships, Mizoram has displayed solidarity through

community support and local church networks, which provide assistance and advocacy for the refugees.

Mizoram, driven by ethnic ties and humanitarian concerns, has shown significant support for the refugees, offering temporary shelter and basic aid. However, the central government's cautious approach stems from India's non-signatory status to the 1951 Refugee Convention and concerns over national security and migration control. This has led to tensions, with Mizoram advocating for greater flexibility and aid while the Centre emphasizes strict border management.

3.4 Legal Framework for Refugee Protection in India

3.4.1 Constitutional Provisions

The Indian Constitution provides several fundamental rights that indirectly extend to refugees. While India does not have a dedicated refugee law, certain constitutional provisions offer a semblance of protection. Article 14 guarantees equality before the law and equal protection of the laws to all persons. This includes refugees, although their status can often be ambiguous. The Supreme Court of India has interpreted this article to extend protections to non-citizens, ensuring that refugees are treated with dignity and respect.

Article 21 asserts the right to life and personal liberty, which has been interpreted by the Supreme Court to extend protections to non-citizens, including refugees. The Supreme Court has ruled that the right to life includes the right to live with human dignity, thus ensuring that even refugees have the right to basic necessities such as food, shelter, and healthcare.

3.4.2 Domestic Legislation

India's refugee protection policies are governed by a mix of domestic laws that do not specifically address the needs of refugees.

3.4.2.1 The Foreigners Act, 1946

This act regulates foreigners' entry, presence, and departure in India. It provides the framework for the government to manage the entry of foreign nationals. However, it does not provide clear guidelines for the treatment of refugees. Instead, refugees are often classified as irregular migrants, leaving them vulnerable to detention and deportation, except for the government's exemption order. The Act gives power to the Government have power over the domain.

While all persons who are not Indian citizens are 'Foreigners' including refugees, it is necessary to clearly distinguish the latter from other categories of 'foreigners'. There are considerable misgivings in the minds of many in India because of the failure to clearly understand the difference between 'refugees' and various 'other categories of foreigners'. The consequence of this misunderstanding, particularly because of the large number of 'illegal immigrants' from Bangladesh who have spread into different parts of India, has tended to adversely influence the thinking of many in the country about the basic issues involved in the problem of 'refugees'. Unless the distinction between the 'refugees' on the one hand and all other categories of 'foreigners' on the other, is clearly brought home, our attempts to sensitise people in the various strata of our society will remain inadequate. (Ananthachari, 2001).

3.4.2.2 The Passport (Entry into India) Act, 1920

This law mandates the regulation of the entry of foreigners into India and sets the groundwork for how refugees are treated upon their arrival. While it allows for some flexibility in the entry of asylum-seeking individuals, it does not establish comprehensive protections for refugees.

3.4.2.3 The Citizenship Act, 2019

India's complicated colonial and post-colonial background is the foundation of the 2019 Citizenship Amendment Act (CAA). It has its roots in the 1947 division

of India into India and Pakistan, two distinct countries based on religious identity, mainly Islam and Hinduism. Due to the massive migration and relocation that followed the split, there was persecution of religious minorities on both sides of the newly drawn borders as well as communal violence. Hindus, Sikhs, and other non-Muslims migrated to India at this time because of the violence and prejudice experienced by several religious minorities in the newly formed Pakistan (which included Bangladesh, previously East Pakistan, and modern-day Pakistan). In a similar vein, Muslims moved to Pakistan from India. Despite its founding as a secular republic, India had to handle the difficulties of awarding these people citizenship.

The 1950 Constitution, which enshrined India's founding pledge of secularism, granted all people, regardless of faith, equal rights. The Citizenship Act of 1955 established the procedure for obtaining Indian citizenship. This Act established naturalisation, registration, citizenship by birth, descent, and territorial inclusion procedures. However, in the border and northeastern states, the problem of illegal migrants, especially those escaping religious persecution, remained a problem. This had to be addressed on a legal basis to protect them here in India. Understanding this background is essential to comprehending subsequent legislative initiatives to address India's citizenship issue, especially in border states.

Genesis of the Law

Introduced as an amendment to the Citizenship Act of 1955, the Citizenship Amendment Bill (CAB) in 2014 eventually evolved into the CAA. Several administrations had attempted to address the issues of illegal immigration and the protection of religious minorities before the 2019 law; however, the interconnectedness of both issues has resulted in the complex issue and, therefore, remained unsolved.

In 1955, the Citizenship Act established the requirements for obtaining and relinquishing Indian citizenship. It did not, however, offer any particular treatment to those who relocated as a result of religious persecution. The issue of refugees,

especially those from nearby nations like Pakistan, Bangladesh, and Afghanistan, where religious minorities were frequently persecuted, was acknowledged by succeeding administrations over the years.

The change aimed to give certain non-Muslim immigrants who had arrived in India from these nations before December 31, 2014, a route to citizenship. The claim that these religious minorities—mainly Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians—faced religious persecution in countries with an Islamic majority served as the humanitarian justification for this.

Initially proposed in 2014, the measure was shelved after massive demonstrations, especially in Assam and the northeastern regions. However, both chambers of Parliament reintroduced and approved the measure in 2019 following the Bharatiya Janata Party's (BJP) re-election. After receiving presidential assent on December 12, 2019, it became the Citizenship Amendment Act (CAA). —To a larger extent, the CAA is a carry forward to the amendments made in the Citizenship Act of 1955 in 2003” (Ranjan, 2023).

Prior to the passage of the law, the government cleared the ground via executive orders in 2015 and 2016 that amended the Foreigners Order and Entry into India Rules. Which had already provided some relief and a sigh of relief in India as refugees. In 2015, both the Rules under the Passport Act and the Orders under the Foreigners Act were amended to exempt the very same religious groups as the ones mentioned in the CAA from (a) the requirement of holding valid passports and visas, and (b) from being prosecuted or deported, on the same grounds that they 'were compelled to seek shelter in India due to religious persecution or fear of religious persecution' (Jayal, 2022)

In exercise of the powers conferred by section 3 of the Foreigners Act, 1946 (31 of 1946), the Central Government hereby makes the following order further to amend the Foreigners Order, 1948, namely:-

1. (I) This Order may be called the Foreigners (Amendment) Order, 2015.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Foreigners Order, 1948, after paragraph 3, the following paragraph shall be inserted, namely:-

"3A. Exemption of certain class of foreigners.- (I) Persons belonging to minority communities in Bangladesh and Pakistan, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians who were compelled to seek shelter in India due to religious persecution or fear of religious persecution and entered into India on or before the 31st December, 2014-

(a) without valid documents including passport or other travel documents and who have been exempted under rule 4 from the provisions of rule 3 of the Passport (Entry into India) Rules, 1950, made under section 3 of the Passport (Entry into India) Act, 1920 (34 of 1920); or

(b) with valid documents including passport or other travel document and the validity of any of such documents has expired,

are hereby granted exemption from the application of provisions of the Foreigners Act, 1946 and the orders made thereunder in respect of their stay in India without such documents or after the expiry of those documents, as the case may be, from the date of publication of this order in the Official Gazette. (MHA, 2015).

The CAA's Provisions

The Citizenship Amendment Act amends the Citizenship Act of 1955's current citizenship structure in some significant ways. The following are the main clauses of the CAA.

- (i) **Citizenship Eligibility:** For religious minorities from Pakistan, Bangladesh, and Afghanistan, the CAA offers a route to Indian citizenship. Citizenship applications are specifically open to Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians who arrived in India on or before December 31, 2014. Muslims who are escaping these nations are not eligible for this assistance under the legislation.
- (ii) **Relaxation in Residency Period:** Before the change, anyone who wanted to become citizens by naturalisation had to live in India for 11 years. For the qualifying religious minority listed under the Act, the CAA shortens this time frame to five years. This clause covers those whose documents have expired or who entered India without proper documentation.
- (iii) **Prosecution Exemption:** People from the aforementioned groups who arrived in India prior to the deadline are not considered unlawful migrants under the CAA. This indicates that they are not subject to prosecution under the Passport (Entry into India) Act of 1920 or the Foreigners Act of 1946, which regulate illegal immigration.
- (iv) **Territory Exempted:** The Sixth Schedule of the Constitution includes tribal territories in Assam, Meghalaya, Mizoram, and Tripura, which are exempt from the Act. In Arunachal Pradesh, Nagaland, and Mizoram, it also excludes regions covered by the Inner Line Permit (ILP). The purpose of this exception was to allay these states' worries about changing demographics.
- (v) **Time Frame:** The deadline is December 31, 2014, according to the CAA. According to the Act, citizenship is only available to people who arrived in India on or before this date.

- (vi) **Religions Covered** : The Act specifically names six religious groups: Christians, Buddhists, Jains, Parsis, Sikhs, and Hindus. The Act does not apply to Muslims, including those who are escaping persecution, such as the Rohingyas in Myanmar or the Ahmadiyya minority in Pakistan.

Criticism of the CAA

In India and abroad, the CAA has provoked intense debate and demonstrations. Opponents claim that the Act is discriminatory and goes against the secular values guaranteed by the Indian Constitution. Critics contend that by overtly discriminating based on religion, the CAA threatens India's secular culture. Discrimination based on religion, race, caste, sex, or place of birth is illegal under the Indian Constitution, especially Articles 14 and 15. It is believed that the CAA's exclusion of Muslims directly violates these basic precepts.

There has been criticism over the absence of Muslim populations who face persecution, including the Rohingyas from Myanmar, the Hazaras from Afghanistan, and the Ahmadiyyas and Shias from Pakistan. Despite the fact that Muslims in these nations are also persecuted due to their ethnicity or religion, critics point out that the Act favours non-Muslims. The legislation's core objective has come under scrutiny due to its selective inclusion. The exclusion of persecuted Jews, atheists, agnostics, Shias, and Ahmadiyas from those countries bears no rational nexus with this object (Chandrachud, 2020). Some even defended the CAA on the persecution ground and defended the Muslim exclusion on their populous status of majority in their home country. “Is the persecution of religious minorities largely a result of the Partition of 1947? If so, then there are definite historical reasons to provide for preferential treatment to those communities who have been victimized” (Bhattacharjee, 2020).

The United Nations and other international human rights organisations have voiced their worries about the CAA's discriminatory character. According to the UN High Commissioner for Human Rights, the Act is "fundamentally discriminatory" and violates international human rights norms, especially those pertaining to non-

discrimination based on religion. Many have have criticised the Act's exclusion of several persecuted minorities, particularly the Tamil refugees from Sri Lanka and the Rohingya Muslims from Myanmar. Critics contend that by granting citizenship only to those who identify as religious, the CAA violates India's humanitarian obligations.

Link to the NRC (National Register of Citizens)

The NRC is often discussed as necessary to check on the alleged Muslim illegal immigrants, citing the growth of the Muslim population in Assam. —From 1991 to 2011, the growth rate of Assam's Muslim population is (almost) same as India's Muslim population” (Sufian, 2020). This primary objective of NRC give rise to the concern over prejudicial mindset of government on formulating policy. —The CAA was to be followed by the enumeration of a National Register of Citizens (NRC)” (Roy, 2024). —The recently concluded NRC exercise has identified 1.9 million Assam residents as noncitizens” (Roy, 2020), which has raised concern over the statelessness of individuals living as citizens for decades. Moreover, the combination of the CAA and the National Register of Citizens (NRC) is concerning. The outcome of the mixture of both policies results in a purposive exclusionary policy against Muslim communities. The NRC would identify non-citizens irrespective of religion; however, the CAA would protect everyone, excluding Muslims. The Muslims, in such circumstances, would become stateless.

After the completion of the NRC updation in Assam, it is often claimed by the members of the Present government to roll out in the whole of India. If this comes into effect, this would be a catastrophic step in the modern history of India, making millions of people stateless in their own land. —The argument goes that a large number of citizens will be left out of the NRC because they will be unable to prove their citizenship” (Chandrachud, 2020). —In the backdrop of the Act coupled with the NRC exercise in the state of Assam (and supposedly continuing that model pan-India), there are severe concerns, as there exist lack of clarity as to the fate of millions of persons who may be unable to prove their citizenships through documents” (Malik, 2020).

4. Effect on States in the Northeast:

—The 1971 refugee crisis and the mingling of Bengali Hindus with those already in the state, revived Assamese fears about becoming a linguistic minority in their own state and being deprived of economic opportunities that they feared would favour Bengali” (Datta, 2022). This led to the protest to secure the interest of the Assamese people in Assam. This was finally addressed through the Assam Accord of 1985, was designed to overcome Assam's longstanding opposition to illegal immigration from Bangladesh, which resulted in NRC serving the purpose of the Assamese Indigenous people. However, CAA dilutes the objective. It was on the government to make decisions on the fragile matter. However, the government has stressed more the protection of the persecuted minorities than the concern of the Indigenous identity outnumbered by migrants. The government, on paper, tried show solving both issues by preparing the NRC and enacting the CAA. NRC to address the illegal immigrants and fear of identity crisis, and CAA for protecting religious persecuted minorities living in India as illegal immigrants.

The CAA's passing has sparked protests around the country, some of which have descended into violence. The country's universities, Assam, and Delhi saw the most prominent demonstrations. In many parts of India, the Act has sparked communal hostilities and caused severe socioeconomic divides. The region spearheaded the demonstration movement against the controversial Citizenship Amendment Act (CAA) throughout 2019, with Assam being the epicenter of the demonstrations (Project, 2020). People in Assam worry that the CAA would give citizenship to the Approx. 1.5 million illegal immigrants are excluded in NRC, endangering the indigenous population's cultural and linguistic identity. This would give no meaning to NRC, as the majority of the excluded people will be given citizenship instead of promised deportation.

Legal Difficulties

The Supreme Court of India has received many petitions contesting the CAA's validity. The petitioners contend that the Act is in violation of Articles 25

(Right to Freedom of Religion), 21 (Right to Life and Personal Liberty), and 14 (Right to Equality). Although the court's decision on these petitions is still pending, the legal challenges have heightened the discussion over the validity of the CAA. Ratha (2021) talks about the constitutional provisions of CAA and if its maintaining international norms. Jain (2022) discusses the future effects of the amended Citizenship Act 2019 and suggest alternatives to accommodate India's constitutional ethos.

3.4.3 UNHCR and International Treaties

India engages with the United Nations High Commissioner for Refugees (UNHCR) for refugee status determination, although it is not a signatory to the 1951 Refugee Convention or its 1967 Protocol. The UNHCR provides guidelines and support for refugee protection in India, yet the absence of formal legal status leaves many refugees vulnerable. The lack of a dedicated refugee law means that many refugees are reliant on the goodwill of the Indian government and the support of NGOs and international organizations. The UNHCR has played a crucial role in facilitating refugee registration and providing essential services, but its capacity is often stretched, given the growing number of refugees and limited resources.

The concern of the financial strain that 'recognising' refugees, either directly through a national asylum law or through the UNHCR, could impose on the nation at large, as well as the international criticism that any shortcomings in refugee protection after signing international refugee conventions might invite, has also driven India's apathetic approach to refugees (Ibid, p.855).

3.4.3.1 Registration and Status Determination

The process of registering refugees in India is primarily managed by the UNHCR, which assesses their claims for international protection. The registration process can be lengthy and bureaucratic, leading to significant delays in the granting of refugee status. This inefficiency results in many refugees living in limbo, without legal recognition or access to basic rights. The UNHCR conducts refugee status determination (RSD) interviews, where applicants present their cases for protection.

However, this process can be marred by challenges such as language barriers, lack of legal representation, and bureaucratic inefficiencies. Many refugees report feeling anxious and uncertain during this process, which can take months or even years to complete.

3.4.3.2 Rights and Protections Offered

Refugees in India face challenges in accessing the labor market. While some refugees, particularly those recognized by the UNHCR, may obtain permission to work, this is not universally granted. Many refugees are relegated to informal employment, which leaves them vulnerable to exploitation. For instance, Afghan refugees in Delhi often work as laborers or in low-paying jobs, facing discrimination and limited opportunities for advancement. The lack of legal recognition further complicates matters, as many employers are hesitant to hire refugees due to the uncertainty surrounding their legal status. Consequently, refugees are often forced to take on jobs that do not provide fair wages or safe working conditions.

The access to education and healthcare services for refugees varies across states. In some states, refugees can access public education and healthcare, while in others, these services are limited. For instance, Tamil refugees in Tamil Nadu have been able to access educational institutions and healthcare services, whereas refugees in other states may face barriers due to local policies or lack of awareness among officials. Healthcare access is particularly critical for refugees, many of whom arrive with pre-existing health conditions or face trauma from their experiences. NGOs and international organizations often step in to fill the gaps, providing medical assistance and mental health support, but these efforts are not always sufficient to meet the needs of the refugee population.

Despite the support provided by the UNHCR and various NGOs, refugees in India often face significant integration challenges. Language barriers, cultural differences, and social stigma can hinder their ability to assimilate into local communities. In many cases, refugees remain marginalized and face discrimination from local populations. Moreover, the lack of a formalized refugee status often limits

refugees' ability to engage fully in society. Without legal recognition, they may find it difficult to access essential services such as housing, education, and employment. This marginalization can lead to a cycle of poverty and vulnerability, making it challenging for refugees to rebuild their lives.

3.5 Comparison with International Refugee Protection Policies

The 1951 Refugee Convention and its 1967 Protocol provide the primary international foundation for refugee protection. These agreements define refugees' rights and nations' duties, notably the principle of non-refoulement, which prohibits the removal of refugees to places where their lives or freedoms are endangered. The 1951 Refugee Convention defines a refugee comprehensively, including the conditions for refugee status and the rights granted to those who meet them. These rights include access to education, job, and social security. Furthermore, the convention establishes the principle of non-discrimination, ensuring that refugees are treated fairly and without prejudice.

India's historical commitment to humanitarian values aligns with international norms, emphasizing a moral responsibility to assist those in need. This ethos is reflected in India's willingness to host diverse groups of refugees over the years. Similar to the international community, India's response to refugee crises has been shaped by moral imperatives, a recognition of shared humanity, and the need for international solidarity. India practices a form of non-refoulement, where refugees are not forcibly returned to countries where they face persecution. This principle is often honored in practice, even in the absence of a formal commitment under international law. For instance, India has allowed Tibetan refugees to settle and thrive, despite its non-signatory status to international treaties. This practice aligns with international norms, highlighting India's commitment to humanitarian values.

3.6 Limitations

3.6.1 Lack of Comprehensive Law

Unlike many countries, India lacks a specific refugee law, relying instead on ad-hoc measures and existing domestic legislation. This absence creates legal ambiguities, leaving refugees without clear rights and protections. In contrast, countries that have enacted comprehensive refugee laws can provide a clearer framework for the treatment and rights of refugees, ensuring their integration and protection. Countries such as Germany, Canada, and Australia have developed robust legal frameworks that define the processes for refugee status determination, appeal mechanisms, and access to social services. These frameworks facilitate smoother integration and provide refugees with the tools they need to rebuild their lives. In comparison, India's fragmented approach often leads to inconsistencies and inequities in the treatment of different refugee groups.

3.6.2 Limited Rights for Refugees

International standards typically provide broader rights for refugees compared to India's limited provisions. For instance, while the 1951 Convention guarantees refugees access to work, education, and social security, Indian policies often restrict these rights. In many cases, refugees are left to navigate a complex web of bureaucratic hurdles that limit their access to essential services. Additionally, while the 1951 Convention calls for the establishment of a fair and efficient asylum procedure, the Indian system lacks transparency and predictability. Many refugees experience delays in processing their claims, leading to uncertainty and anxiety. In contrast, countries with established refugee frameworks prioritize efficiency and fairness in the determination process, ensuring that refugees receive timely decisions regarding their status.

Overview

This chapter explores the journey of international regime of refugee protection, highlighting its evolution, guiding principles, and the challenges faced

along the way. It contrasts the global mechanisms in place with India's approach to handling refugees. By framing the refugee crisis within a historical and legal context, the chapter emphasizes the importance of international agreements like the 1951 Refugee Convention and the 1967 Protocol. These tools are pivotal in global refugee protection, defining who qualifies as a refugee and emphasizing the principle of non-refoulement, which ensures that individuals are not sent back to dangerous situations. Yet, the universal application of these measures is often limited, notably as many developing countries bear the brunt of hosting the largest numbers of refugees, often with inadequate protection systems.

Turning to India, the chapter critiques the country's refugee policies, which lack a formal legal framework. Although India hasn't signed the international conventions, it has a history of hosting a variety of refugee groups, from Tibetans and Bangladeshis to Rohingyas and Sri Lankans, relying instead on constitutional provisions and temporary measures. While this approach shows a level of pragmatism, it results in inconsistencies and puts refugees at risk. For example, Tibetan refugees may receive organized assistance, while Rohingyas often encounter hostility, illustrating a selective application of the non-refoulement principle that prioritizes political and security concerns.

When comparing global standards to India's practices, the chapter identifies notable deficiencies. International frameworks grant refugees essential rights to work, education, and protection from discrimination, but India's policies frequently impose restrictions that push refugees into informal economies and precarious living situations. The reliance on the Foreigners Act of 1946, which treats refugees similarly to illegal immigrants, is a significant concern, as is India's hesitance to ratify the 1951 Refugee Convention due to fears it would limit its sovereignty.

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Chapter- IV

History of Illegal Immigrant crisis in Assam and policy initiatives

This chapter comprehensively examines Assam's historical and contemporary landscape, focusing on the complex dynamics of migration and its profound impact on the region's socio-political and economic fabric by tracing migration patterns from the colonial period to the present. It illuminates the concerns of the indigenous Assamese community regarding identity crisis and cultural preservation. It tries to critically engage with significant events, such as the Assam Agitation and the subsequent Assam Accord, illustrating how these movements reflect deeper anxieties about resource competition and political representation. Moreover, it contextualizes recent policies, including the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA), within the ongoing discourse surrounding migration and identity in Assam. This exploration reveals a continuous struggle for balance between development and cultural integrity, highlighting the pivotal role of historical grievances in shaping contemporary identity politics.

4.1 Overview of Illegal Immigrant Issue in Assam

The core identity of Assam is its diversity. Assam is a diversified society where people of different cultures, languages, ethnicities and religions live together. This diversity is the result of a long history of migration. A different group of people with different identities has migrated into Assam in different periods, resulting in a multicultural society. However, the migration was felicitated until India became independent without legal bindings. Since independence, cross-border migration has been regulated under established law. Unregulated migration or undocumented migration is considered illegal migration under laws.

The issue of illegal migrants in the present day in Assam is a backdrop of history. This issue has been linked with the British administration in Assam and its policy of reframing assam boundary and bringing migrants from different region. The illegal migration has mainly occurred from neighbouring nation Bangladesh, erst while East Pakistan. Several reasons have been identified by scholars and several

studies for the outflow of people from Bangladesh and migrating to India. The Course of migration has led to changes in the demographic nature of the state. This has awakened the Indigenous people of the land about their identity being becoming the minority and losing political control of the state This demographic evolution gave birth to a sense of cultural and political insecurity among the Assamese population, sowing seeds of discontent towards these immigrants among the locals (Choudhary, 2022). Which has triggered several movements in the state.

To address the concern raised by the people of the state, the government has formulated several policies to tackle the illegal migration problem. In solving the illegal migration problem, there were proper sequence of framework required. In this framework, the first thing was to find out the suspicious illegal migrants and ask them to prove their nationality or citizenship. Hence, the IMDT Act came into existence. The IMDT Acts was bring into force to identify the suspicious illegal migrants enrolled in the voter list and delete them from the voter list, and prove nationality of the suspicious person, and if found Foreigner, entered into India illegally, then the person was to be deported from the Assam. The Act was later on scrapped, as it was not serving the purpose instead it was making the process more complicated than before through the process of proving nationality or citizenship.

4.2 Profile of Assam

Figure 4.1 Map of Assam



Source: Burning Compass, accessed on 23 July 2023 from <https://www.burningcompass.com/countries/india/assam-district-map.html>.

Geographically, Assam is significant since it is part of three physiographic divisions: the Deccan Plateau (Karbi Anglong), the Northern Plains (Brahmaputra plain), and the Northern Himalayas (Eastern Hills). The Brahmaputra River affects the climate of the area, bringing with it low temperatures and steady rains all year round. According to geomorphic research, the Brahmaputra River existed before the Himalayas. It becomes a braided river as it passes into Assam, forming the Brahmaputra Valley, a large floodplain. Once a part of the South Indian Plateau system, the hills in areas like Karbi Anglong, North Cachar, and Guwahati have

since eroded. The Barak River rises in the Barail Range in southern Assam and passes through the Cachar district before joining the Surma River in Bangladesh.

Known as the "Land of the Red River and Blue Hills," Assam has a population that is as varied as its terrain. Assam's position on the borders of Bhutan, Bangladesh, and Myanmar makes it an important entry point into northeastern India.

Tucked away in India's northeast, Assam serves as a point of entry to the region's captivating scenery. Because of its advantageous position, it serves as a vital hub that links Southeast Asia and the Indian subcontinent. With a land area of 78,438 square kilometers (30,285 square miles), Assam is the second-biggest state in the northeast by size and the largest by population among the northeastern states. Its large region is home to a diverse range of customs, languages, and civilizations. Assam has 31.2 million people living there as per the 2011 Census, making up 2.58% of India's total population. There were 15.9 million men and 15.3 million females in this population. Assam's weather is classified as a tropical monsoon rainforest with significant rainfall and high humidity. Warm summers and milder winters are enjoyed by locals all year round. The best seasons to visit are usually spring (March–April) and fall (September–October), when temperatures and rains are mild.

4.2.1 Adjacent States and Nations

Assam borders a wide array of states and nations, defining its boundaries with a heterogeneous group of neighbors. The peaceful countries of Bhutan and Arunachal Pradesh are to the north, while Nagaland, Arunachal Pradesh, and Manipur encircle it to the east. Assam borders Bangladesh, the neighboring country, and the lush states of Meghalaya, Tripura, and Mizoram to the south. It borders the vibrant state of West Bengal to the west.

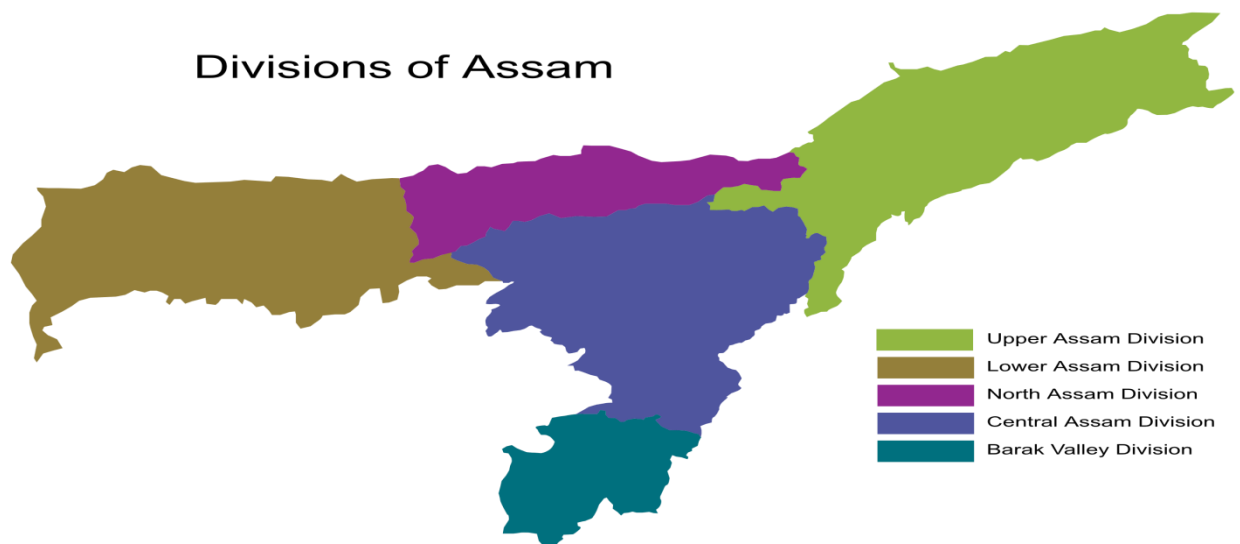
4.2.2 Physiographic Divisions

Assam's varied physiographic divisions, which cover three of India's six physiographic regions, are a noteworthy geographical characteristic. The towering peaks of the Himalayas decorate the northern edges of Assam, bestowing upon it a

gorgeous environment studded with lush foliage and gushing rivers. These are known as the Northern Himalayas, or Eastern Hills. The terrain and climate of the state are shaped by the Eastern Hills, which act as a natural barrier.

The vast Brahmaputra Plain, also known as the Northern Plains, hugs the meandering course of the Brahmaputra River as it sweeps over the central region of Assam. This lush region supports a variety of plant and animal species and dynamic agricultural techniques, which support the state's agrarian economy and ecological diversity. The Deccan Plateau, also known as Karbi Anglong, is a rough region that marks the boundary between lowlands and plateaus. It is located in the southern part of Assam. Offering a peek into Assam's rich tapestry of natural beauty, its undulating landscapes, decorated with green forests and rolling hills, hold unique biodiversity and cultural history.

Figure 4.2 Map of Administrative Divisions of Assam



Source: PNGWING, accessed on 23 July 2023 from [pngwing.com](https://www.pngwing.com)

Assam has five administrative divisions, each with a unique personality and cultural legacy. These divides are essential to the state's growth and governance. Namely- Barak Valley, Central Assam, Lower Assam, North Assam and Upper Assam.

Table 4.1 List of Divisions and Districts

Sl No.	Name of Divisions	Divisional Office	Districts
1	Barak Valley	Silchar	Cachar, Hailakandi, and Karimganj
2	Central Assam	Nagaon	Dima Hasao, East Karbi Anglong, West Karbi Anglong, Morigaon, and Nagaon
3	Lower Assam	Guwahati	Baksa, Barpeta, Bongaigaon, Chirang, Dhubri, Goalpara, Nalbari, Kamrup Metropolitan, Kamrup Rural, Kokrajhar, and South Salmara-Mankachar
4	North Assam	Tezpur	Darrang, Sonitpur, and Udalguri
5	Upper Assam	Jorhat	Charaideo, Dhemaji, Dibrugarh, Golaghat, Jorhat, Lakhimpur, Majuli Sivasagar, and Tinsukia
Total	5	5	

Source: Government of Assam official website, accessed on 23 July 2023

4.2.4 Districts

Assam, with its thirty-five administrative districts, is a well-designed administrative framework to support administration and guarantee efficient public service delivery. Geographical elements like rivers, hills, and woods are used to demarcate districts; more recent additions reflect changing socioeconomic dynamics. Recently, in 2024, the Government of Assam implemented a concept of co-districts within the district for better administrative disposals.

Table 4.2 Districts of Assam

Serial No.	Name of the Districts	Co-Districts
1	Bajali	Bajali (Pt), Sarupeta (Pt)
2	Baksa	Baganpara (Pt), Barama Pt, Baska, Jalah (Pt)
3	Barpeta	Baghbor, Barnagar (Pt), Barpeta, Chenga, Kalgachia, Sarthebari
4	Biswanath	Biswanath, Gohpur, Helem, Na-Duar
5	Bongaigaon	Boitamari, Bongaigaon (Pt), Danttal Revenue Circle, Manikpur Srijangram
6	Cachar	Katigora Lakhimpur Silchar Sonai Udarbond
7	Charaideo	Mahmora Sapekhati Sonari
8	Chirang	Bengtoll Bijni (Pt) Sidli (Pt)
9	Darrang	Dalgaon (Pt) Mangaldoi (Pt) Pathorighat (Pt) Pub Mangaldai Sipajhar
10	Dhemaji	Dhemaji, Gogamukh, Jonai, Sissibargaon
11	Dhubri	Agamoni Athani Bilasipara Pt Chapar Pt Dhubri Gauripur Golakganj Pt South Salmara Pt
12	Dibrugarh	Chabua Dibrugarh East Dibrugarh West Moran Naharkatiya Tengakhat Tingkhong
13	Dima Hasao	Haflong
14	Goalpara	Balijana Dudhnai Lakhimpur Matia Rangjuli
15	Golaghat	Bokakhat Dergaon Golaghat Khumtai Morangi Sarupathar
16	Hailakandi	Algapur Hailakandi Katlichara Lala
17	Hojai	Doboka Hojai Lanka
18	Jorhat	Jorhat East Jorhat West Mariani Teok Titabor
19	Kamrup Metropolitan	Azara Chandrapur Dispur Guwahati Sonapur
20	Kamrup	Boko Chamaria Chhaygaon Goroimari Hajo Kamalpur Koya Nagarbera North Guwahati Palasbari Rangia
21	Karbi Anglong	Diphu Phuloni Silonijan
22	Karimganj	Badarpur, Karimganj, Nilambazar Patharkandi Ramkrishna Nagar
23	Kokrajhar	Bagribari (Pt) Bhowraguri Dotoma Gossaigaon (Pt) Kokrajhar
24	Lakhimpur	Bihpuria Dhakuakhana (Pt-I) Kadam Naobaicha Narayanpur North Lakhimpur Subansiri (Pt-I)

24	Majuli	Majuli Ujani Majuli Circle
26	Marigaon	Bhuragaon Laharighat Marigaon Mayong Mikirbheta
27	Nagaon	Dhing Kaliabor Kampur Nagaon Raha Rupahi Samaguri
28	Nalbari	Banekuchi Barbhag Barkhetri Ghograpar (Pt) Nalbari Pachim Nalbari Tihu (Pt)
29	Sivasagar	Amguri Dimow Nazira Sibsagar
30	Sonitpur	Chariduar Dhekiajuli (Pt) Naduar Tezpur Thelamara
31	South Salmara-Mankachar	Mankachar South Salmara
32	Tinsukia	Doom Dooma Margherita Sadiya Tinsukia
33	Udalguri	Harisinga Kalaigaon Khoirabari Mazbat Udalguri
34	West Karbi Anglong	Donka
35	Tamulpur	Goreswar (Pt) Tamulpur
Total	35	

Source: Government of Assam official website accessed on 23 July 2023

Table 4.3 District-wise Population as per the 2011 Census

Serial No.	District	Population	Increase %	Sex Ratio	Literacy %	Density
1	Nagaon	2,823,768	22.00	962	72.37	711
2	Dhubri	1,949,258	24.44	953	58.34	896
3	Sonitpur	1,924,110	15.55	956	67.34	370
4	Cachar	1,736,617	20.19	959	79.34	459
5	Barpeta	1,693,622	21.43	953	63.81	742
6	Kamrup	1,517,542	15.69	949	75.55	489
7	Tinsukia	1,327,929	15.47	952	69.66	350
8	Dibrugarh	1,326,335	11.92	961	76.05	392
9	Kamrup Metropolitan	1,253,938	18.34	936	88.71	1313
10	Karimganj	1,228,686	21.90	963	78.22	679
11	Sivasagar	1,151,050	9.44	954	80.41	431

12	Jorhat	1,092,256	9.31	962	82.15	383
13	Golaghat	1,066,888	12.75	964	77.43	305
14	Lakhimpur	1,042,137	17.22	968	77.20	458
15	Goalpara	1,008,183	22.64	964	67.37	553
16	Morigaon	957,423	23.34	967	68.03	617
17	Karbi Anglong	956,313	17.58	951	69.25	92
18	Baksa	950,075	10.74	974	69.25	387
19	Darrang	928,500	22.19	954	63.08	586
20	Kokrajhar	887,142	5.21	959	65.22	269
21	Udalguri	831,668	9.61	973	65.41	413
22	Nalbari	771,639	11.99	949	78.63	733
23	Bongaigaon	738,804	20.59	966	69.74	676
24	Dhemaji	686,133	19.97	953	72.70	212
25	Hailakandi	659,296	21.45	951	74.33	497
26	Chirang	482,162	11.34	969	63.55	251
27	Dima Hasao	214,102	13.84	932	77.54	44

Source: *Census of India 2011, accessed on 26 July 2023*

4.2.5 Administrative Structure

The multi-tiered hierarchy of Assam's administrative structure is intended to support the government and guarantee efficient service delivery to the state's heterogeneous populace. The state government, headed by the Chief Minister, who also functions as the head of the executive branch, is at the top of this structure. A council of ministers, each in charge of a particular ministry like finance, education, health, or agriculture, supports the chief minister. They work together to draft laws, create policies, and manage governmental operations. The layers of bureaucrats placed in each department are to implement the government's policies. Moreover, the state is divided into administrative divisions for better functioning and disposal of governance. Each division contains certain districts, which are the primary units of administrative functioning.

The district administrations, which function as the administrative units responsible for carrying out state policies and initiatives locally are situated under the state government. Assam is organized into a network of districts, with District Commissioners serving as the top administrative officers in each district. District administrations are essential to the smooth operation of government programs, settling neighbourhood conflicts, and providing effective public services to the populace. The DC leads each district and is the key administrative person in charge of managing revenue, upholding law and order, and overseeing general governance. Typically, the District Commissioner is an officer of the Indian Administrative Service (IAS), with support from a group of officers from other state administrative agencies.

The District Commissioner is also in charge of revenue administration, which includes managing land affairs, registering, and changing land revenue. Revenue Circles are also supervised by the District Commissioner's Office's Revenue Branch, supported by the Additional District Commissioner (Revenue). Below the ADC, Circle officers are placed in each circle office of the district. Along with managing revenue, the District Commissioner is in charge of the district's development, utilising funds from the MP's Local Area Fund, the MLA's Fund, and the Border Area Development Fund to carry out welfare programs and infrastructure projects that improve socioeconomic well-being.

In the capacity of District Magistrate, the District Commissioner is in charge of upholding peace and order in the district. Along with the District Police Administration, which is led by the Superintendent of Police, the District Commissioner maintains peace and concord with the help of Additional Deputy Magistrates, Sub-Divisional Magistrates, and Executive Magistrates.

Furthermore, the creation of gram panchayats and tehsils results in more decentralization of government. Tehsils are administrative units within districts that are in charge of local government and revenue administration. They are sometimes referred to as taluks or sub-divisions. A Tehsildar leads every tehsil and consists of many villages. On the other side, gram panchayats, which stand for the local level of

rural government, are in charge of local development initiatives, including infrastructure, sanitation, and healthcare. Sarpanches, elected representatives, head each of these panchayats, which are democratically elected councils.

Assam has a unique administrative structure with distinct objectives in addition to the traditional administrative structure. These Administrative bodies such as autonomous councils to handle the cultural and socioeconomic needs of the state's indigenous tribes. Examples of self-governance in land, forestry, and cultural preservation areas include the Karbi Anglong Autonomous Council (KAAC) and the Bodoland Territorial Council (BTC).

4.3 A Brief History of Assam

The history of Assam is a Salad Bowl with diverse cultures, dynasties, and traditions. Throughout history, Assam has hosted migrants from many regions. The region has seen waves of migration both during and before written history, which affected the state's ethnography throughout time. Assam's history spans thousands of years, including ancient kingdoms, colonial oppression, and its participation in India's freedom fight.. The region in northeastern India is known for its unique geographical position, fertile plains, and strategic location between South and Southeast Asia. This present study traces the history of Assam from its ancient origins to its journey to independence.

4.3.1 Ancient History

The earliest known history of Assam can be traced to the kingdom of Pragjyotisha, which is mentioned in various ancient texts, including the Mahabharata and the Puranas. According to Borah (1993), Pragjyotisha was established by Naraka, a mythological figure believed to be an Asura king. Naraka and his successors, notably his son Bhagadatta, played prominent roles in Indian epics, positioning Pragjyotisha as a significant early state in Assam. The epic Mahabharata refers to it as the Kirats' dominion, with Pragjyotishpur serving as its capital. According to legend, Narakasura, one of Kamrupali's early mythical Kirat Kings, brought a huge number of Aryans from Northern India to promote Aryan civilisation

in the region. According to historians, the Aryan migration to Assam likely began in the first or second century A.D. Pragjyotisha eventually grew into the kingdom of Kamarupa, one of the first known historical polities in the area, thriving between 350 CE and 1140 CE.. According to Gupta (1998), the rulers of Kamarupa were primarily from three major dynasties—the Varmans, the Salastambhas, and the Palas. The Varman dynasty, starting with Pushyavarman (350-380 CE), established Kamarupa as a strong and independent kingdom, often interacting with the Gupta Empire. Under Bhaskaravarman (600–650 CE), Kamarupa reached its zenith and became well-known in Southeast Asia and China. His relations with Harshavardhana, the emperor of North India, further enhanced Kamarupa's political standing.

The earliest credible information on the ancient Kamrupa is included in the narrative of his voyage given by the Chinese pilgrim Hiun Tsiang, who travelled India in the first part of the seventh century (Ibid, p. 22)., as per the account of him, the state of Kamrupa was about 1700 miles in circuit and the capital was about 30 miles. From the discussions of the Gait, it is believed that the country of Kamrupa was extended as much as modern-day Assam, going up to the Mymensingh of present-day Bangladesh. The Australoid, also known as pre-Dravidians, were the early inhabitants of Assam. Long before the compilation of the Hindu holy scripture known as the Vedas, the Mongoloids infiltrated the region via the eastern mountain passes. Migration to Assam has also occurred from the Northeast, Western China, and Southeast Asia (Bordoloi, 1991). Upper Burmese Buddhists known as the Khamyang, Khamti, Phakial, and Asitonia people established themselves in upper Assam as well. The earliest known historical migration to Assam occurred in the 13th century (1228 AD), when the Ahom of Siam (now Thailand) came. During Ahom rule, in the 17th century, the country was also subject to Muslim invasion, and many Muslims remained and eventually constituted a large component of the state's indigenous population.

4.3.2 Medieval Assam: Ahom Rule and Expansion

The medieval history of Assam was primarily shaped by the Ahom dynasty, which began in the early 13th century with the arrival of Sukapha, a Tai prince from Southeast Asia. According to Barua (1994), Sukapha settled in the Brahmaputra valley in 1228 and established the Ahom kingdom, which would endure for almost 600 years. The Ahoms resisted Mughal invasions and integrated diverse ethnic communities into their kingdom. The Ahom administration was highly centralised and relied on an advanced system of governance, which Baruah (2005) calls a precursor to modern bureaucratic systems. The Ahom state was divided into administrative units, and military service was an essential aspect of governance.

During the reign of Rudra Singha (1696–1714), the kingdom reached its zenith, with expansions into Bengal and Bhutan. According to Dutta (1999), Rudra Singha encouraged the arts, culture, and architecture, leaving many notable monuments, including temples and palaces. The Buranjis, the historical chronicles maintained by the Ahoms, provide detailed accounts of their rule, shedding light on the socio-political and cultural dynamics of the time. Sarkar (2001) notes that the Ahom state faced significant challenges in the later part of the 18th century, especially from internal revolts and external invasions, such as those led by the Burmese. The Moamoria rebellion (1769–1805), which stemmed from economic disparities and social unrest, weakened the Ahom power significantly. Eventually, the kingdom fell to the Burmese invasions in the early 19th century.

4.3.3 History of Invasions in Assam

Muhammad Bakhtiyar Khilji had overthrown the Sen of Bengal in 1198, making him the last Sen. After the Bengal expedition, he had marched towards north along with his Mech chief. The account of invasion is documented in the Kanai-Boroxibua rock inscription. In the inscription, there is mention of Bakhtiyar Khilji, who was a Turk of the Khilji tribe who invaded Kamrupa in about 1205 A.D. Prithu was then the Raja of Kamrupa (Nath, 2019). –He Plundered the inhabitants but was at least checked by an army of Mongol horsemen and compelled to retrace his steps”

(Ibid, p.34). While returning, he faced great difficulties as it took 15 days to reach the plains of Kamrupa; however, after reaching the plains, it was even worse as the Raja had destroyed the bridge which he built to cross the river and was plotting to attack him. With great difficulties, he had somehow crossed the river with a handful of soldiers, and a good number of soldiers drowned whoever tried to cross the river.

Ghiyas-ud-din, a Bengal governor in the early thirteenth century, is claimed to have ascended the Brahmaputra as far as Sadiya before being crushed and pushed back to Gaur (Ibid, p. 35). Tughril Khan began his next expedition about 1278 A.D. For a time, he was triumphant, and he celebrated by erecting a mosque, but when the rains came and the country flooded, his men were in desperate circumstances, and many died. The monarch of Kamrupa returned from the hills where he had sought sanctuary, and only a handful succeeded in making a good escape to Bengal. At times, the Sultans were momentarily successful in penetrating their kingdoms: Yuzbak Khan and Azam Shah penetrated Gauhati, while Bahadur Shah, Sikandar Shah I, and Turbak advanced as far as the region of Nowgong (Ahmad 1990). Husain Shah reached the territory beyond the Barnadi and briefly occupied the Kamata realm before moving on to Temani (Tirmohani) in the Kalang Valley (Ahmad Ibid, p170). In reality, multiple Muslim invasions had occurred and damaged the district of Kamrup and its surrounding territories (Kar, 1980).

In 1337, Muhammad Shah despatched 1,000 well-equipped horsemen to Assam, but the whole army died in the realm of witches, leaving no trace. He ordered a second army to revenge the previous tragedy, but when they reached Bengal, they refused to proceed any farther, and the plan had to be abandoned. These historical accounts demonstrate that the country's boundary extended up to the Brahmaputra River.

In 1527, another Muslim invasion took place, accounting for the first invasion of Ahom rule, and was defeated by Ahom King (Ibid, p.89). Hostilities started again with the Muhammadans, who had advanced up the Brahmaputra with fifty ships. The Ahoms won the fight at Temani, and the Muhammadan commander escaped on horseback, abandoning his vessels. Soon after, a strong force of Muhammadans

invaded but were defeated and chased as far as Nowgong, where their commander, Bit Malik, was killed. In 1532, a Muhammadan commander named Turbak attacked the region with thirty elephants, 1000 horsemen, an extensive array of artillery, and many foot soldiers, stationed near the Ahom fort at Singiri. Upon hearing this, King Suhungmung despatched his son Suklen, who attacked the Muhammadan encampment. He was met with fierce opposition and ultimately suffered a crushing loss, with eight of his commanders dead and himself seriously wounded.

The Muhammadan army stopped in Kaliabar for the rainy season, and the only incident documented during the following several months was their seizure of seven boats on the Brahmaputra. They arrived in Ghilasdhari in October, and in November, Suklen, who had been superseded as Commander-in-chief by Barpatra Gohain due to a wound, resumed leadership. The Muhammadans soon encircled him. They burned down the house outside the fort, but when they attempted to storm the fortress, the Ahoms blasted them with boiling water. A sortie was launched, and the Muhammadan cavalry was being pushed back until their artillery arrived to rescue and confuse the elephants linked to the Ahom army, which was subsequently defeated with great casualties. In one or two later confrontations, Muhammadans were likewise successful.

In March 1533, the Ahoms won a crucial naval battle at Duimunisil. Two commanders, Bengal and Taju, were slain, along with a large number of regular troops. The fatalities were believed to be 1500 to 2500 men, as well as 22 ships and many huge guns. The next day, Tubrak was reinforced by Hussain Khan with six elephants, 100 horses, and 500 foot soldiers, and they took up position at the mouth of the Dikrai, while the Ahom camped on the opposite side. The two armies faced each other for months, waiting for the other to leave the entrenchment. Eventually, Ahoms fought and destroyed the invaders via a series of engagements. Hussain Khan was arrested during the pursuit and executed. The profitable commerce between Tibet and China that passed via Assam some time ago may have been the reason why Indian Kings (Turko-Afghans) and Tai-Shans attempted to capture the Brahmaputra Valley (Ahmad Ibid, p.171). However, the last attack before to British colonisation

was by Man or Burmese forces. The Burmese invaded in three stages, undermining the Ahom government and laying the way for the British invasion.

4.4 History of Migration in Assam

4.4.1 History of Muslim Migration in the Pre-colonial Era

Multiple factors contributed to the expansion of the Muslim community in pre-British Assam. The most significant was a series of Muslim invasions in this region that began in the first decade of the 13th century and ended in the latter half of the 17th. Following Bakhtiyar Khilji's invasion attempt, several troops lived in the region. The migration began in the mid-13th century (1257 A.D.), when the Bengal Sultan Malik Ikhtiyar-ud-din Yuzbag Tughril Khan first settled in this region. —A good number of Muslim spiritual religious personalities like Hazrat Shahjalal (R), Shah Paran and other ‘Aulias’ came from Yemen to Sylhet and Chittagong areas and settled there in 1344” (Islam, 2007). Another notable wave of Muslim migrants was brought about by Ghiyasuddin Bahadur Shah, who occupied the southern portions of the present Goalpara and Kamrup districts from 1321-22 A.D. until 1397-1407. Another group of Muslims entered Assam after the invasion of Alauddin Shah in 1498 after the defeat of Kamatapur King Nilambar and annexed the whole territory as far as Hazo. There is another factor for Muslims settling in Assam is bringing War Prisoners after winning Wars against Muslim rulers by then the Rulers of Assam.

Muslim immigrants arrived in western Assam when Koch Hazo, which included Kamrup and Goalpara districts, was conquered by the Mughals in 1613 and remained so until 1667, with a brief hiatus in 1658-1660. Following the Ahom invasion of the whole Kamrup district and the eastern portion of the Goalpara district up to the Manaha River, the Muslim community dispersed from western to eastern Assam. The final Muslim immigration to pre-British Assam unfolded during the turbulent days of the Moamaria rebellions and Burmese invasions at the end of the 18th and early 19th century. Some of them may become so prominent and strong that

Assamese traditions detail the exploits of one Niamut Ullah, who once occupied Gauhati.

The second aspect that contributed to the rise of the Muslim population was the arrival of a number of Peers and Fakirs, who typically followed the Muslim army. Some of them married and made this their permanent home. Aside from them, Muslim religious pontiffs occasionally visited Assam with the intention of proselytising or promoting Islam. Thus, Ghiyasuddin Auliya got a number of converts from the local people. He was so revered that local Muslims refer to his burial site as Poa Mecca (meaning one-fourth of Mecca). Similarly, Hazrat Shah Milan alias Azan Fakir, the celebrated author of a number of Zikirs, came to Assam in the late 17th century with four other Peers from somewhere in the western country and settled here permanently with land grants from Ahom king Gadadhar Singha (1682-1696). In his Zikirs, it is stated that he had 120 students and converted several Nagas to Islam. The conversion of the locals to Islam undoubtedly enhanced the Muslim population in the whole region. However, large-scale conversions never occurred in Assam, owing to the spread of the neo-Vaisnavite movement and the Ahom rulers' prohibition on any act of persuading people to leave their religion, even within Hinduism itself. The Ahom monarchs imported Muslim craftsmen from Mughal territory and employed them in different professions under the Ahom administration, which contributed to the rise of the Muslim population in the nation. So were business links between Assam and Bengal, which attracted some Muslim traders to Assam shortly after it became acquainted with Muslim dominance in India.

The true strength of the Muslim population in pre-British Assam cannot be determined since the results of the Ahom rulers' censuses are unknown. In 1808-09, Hamilton wrote that "there were many Muslims in the province of Kamrup." In 1841, the British estimated the Muslim population in the Kamrup area to be 23,490.¹⁰ Their overall numerical strength in the district climbed to 45,823 in 1872 (or 8.2% of the district's total population).¹¹ Of the same year, the total Muslim population of Assam Valley's six districts was 1,78,109. Of them, 89,916 were from the district of Goalpara alone, comprising more than half of the total Muslim population in Assam.

It can be surmised that at least one-fourth of these were fresh migrants during the period of internal disorder resulting out of the Burmese invasions and of the early years of British rule. In the period preceding these events, the Muslims were undoubtedly a great minority in comparison with the Hindu population (Baruah, 1978).

The district of Sylhet had a settled Muslim population before its conquest in 1384 by a spiritual-cum-military leader, Shah Jalal. The last Hindu ruler of the Lohit Kingdom embraced Islam, naturally inspiring further Muslim settlements there. Sylhet and Cachar formed part of province of Bengal during Akbar's rule. Till 1765, these territories were ruled by a succession of Amils subordinate to the Nawab of Decca. 1874 these were transferred east to the present district of Kamrup. Although Hussain Shah's invasion of Kamata ultimately proved to be a failure, it paved the way for establishing a Muslim colony in Hazo, where a mosque was erected by a saint called Ghiyasuddin Auliya. Even after the recovery of these regions by the Ahoms in 1532 to Assam (Kar, 1980). King Rudra Singha, who reigned from 1696 to 1714, placed Cachar under Ahom authority. The rich Barak Valley in Cachar proved to be an allure for farmer migrants due to the severe population strain in Sylhet. Lieutenant Fisher unofficially placed Cachar under British rule in 1830, and Lord William Bentick annexed it in 1832.

In the course of the conflict between Cooch Behar and the Mughals, Kamrup and Goalpara came under the control of the latter (KarIbid, p68), which led to a share territorial border between the Mughals and Ahoms. Later of the century, Gadadhar Singha had pushed back the Mughals and Pushed them across the Manas River, making it new territorial border.

Apart from the above-mentioned factors, the trade with the Muslim-dominated Bengal has also contributed to the Muslim presence in Assam. The region exported raw cotton, lac, mustard seeds, mooga silk, ivory, and gold to the Bengal. This shows the trade relations with the Bengalis and their interactions with the Bengalis and Muslims. This interaction often influenced people to come across the territory and sometimes even settle across boundaries.

4.4.2 History of Migration in British Colonial Assam

The arrival of the British in Assam in 1826, after the conclusion of the Anglo-Burmese War and the signing of the Treaty of Yandabo, marked the beginning of large-scale demographic changes in the region and modern migration. There were several types of migration under British administration. Under British rule, Assam was integrated into the colonial economic framework, developing new industries and agricultural expansion that would eventually require a more significant labor force. Kar (2006) explains that British authorities viewed Assam as an underdeveloped frontier region with significant untapped agricultural potential, which could be exploited for economic gain. “The British encouraged Bengali Muslim peasants from present Bangladesh to move into Lower Assam for putting virgin land under cultivation” (Das, 2016). However, the local Assamese population was small and largely subsistence-based, and the British sought external labor sources to develop the region's agriculture. Hence, migration into the region was inevitable. Since the British arrived, migration into the region has been divided into five distinct waves. Four of these five waves happened before independence. The final and fifth wave of migration began after independence and continues now. The fifth wave was related with the Bangladesh liberation movement and the process that followed. (Upadhyay, 2018).

The advent of the Tea Industry, right before the end of the nineteenth century, triggered Assam's first large wave of migration. With the increased need for workers in this industry, migrants had to be transported to Assam from the bordering states of Bihar, Orissa, Madhya Pradesh, Andhra Pradesh, and Uttar Pradesh, resulting in an increasing need for greater food supplies. “Historically, large-scale migration from the region constituting present-day Bangladesh started after tea cultivation was introduced in Assam by the British rulers of India in the early 19th century” (Ranjan, 2016). Apart from the Bengal, Nepalese immigrants came to the region in search of agricultural, military, and office occupations. Marwaris from Rajasthan's Marwar region operated as traders, and migrants from Bihar, Uttar Pradesh, and Madhya Pradesh work as artisans, porters, and office clerks.

4.4.2.1 The Tea Plantations and Labor Migration

A significant factor in the migration was the development of the tea industry, which began in the 1830s. Assam's tea industry, spearheaded by the British, quickly grew into one of the most critical sectors of the colonial economy. However, the labor-intensive nature of tea cultivation required a large and steady workforce, which could not be met by the local Assamese population alone. Initially, the British planters brought in laborers from Chotanagpur, Bihar, and Odisha, who were primarily Adivasis. However, Bengali migration to Assam was not limited to agricultural peasants. Many Bengali Hindus from Sylhet and other parts of Bengal migrated to Assam to take up clerical, managerial, and supervisory positions in the tea industry. Bengalis often filled these positions, which required literacy and administrative skills due to their educational advantage and familiarity with British governance structures.

This migration not only shaped the tea industry but also contributed to the growing presence of Bengali communities in urban centers like Guwahati, Dibrugarh, and Silchar, where they played key roles in the commercial and administrative life of the region. The influx of Bengali professionals into Assam created a divide between the Indigenous Assamese middle class and the Bengali migrants, as the latter were seen as occupying privileged positions in both the economy and bureaucracy.

4.4.2.2 Agricultural Expansion and the Influx of Bengali Peasants

The British policy of agricultural development was a major driver of migration from Bengal to Assam before independence. The British administration aimed to make Assam self-sufficient in food production by cultivating enormous areas of empty land to suit the growing population's needs. The fertile floodplains of the Brahmaputra Valley, particularly the Chars (riverine islands) and forested areas, were ideal for cultivating crops like rice, jute, and mustard. The Wasteland Grants Act of the 19th century allowed the British colonial government to offer large tracts of uncultivated land to settlers willing to clear and cultivate it. Das (1998) notes that

while the Assamese people were traditionally agriculturalists, their population was insufficient to meet the labor demands for large-scale cultivation.

Since the adopted policy required more agricultural labourers, which Assam did not have at the time. As a result, the British turned to East Bengal, particularly the districts of Mymensingh, Pabna, and Sylhet, where population pressures and periodic famines drove many peasants to seek better opportunities elsewhere. Bengali Muslim peasants, in particular, were recruited or encouraged to migrate to Assam to cultivate its fertile lands. Baruah (1980) mentions that many of these migrants were from economically marginalized backgrounds, with little to no land in Bengal, and were willing to settle in areas of Assam that were prone to flooding or previously considered unsuitable for habitation.

From the writing of Guha (1968), it is found that initially Darrang, Nowgong, Lakhimpur and Sibsagar were came under British occupation in 1825. From his account, it is noted that the region had had a series of civil wars since 1769, which had resulted in the depopulation of the state. Moreover, the series of Burmese invasions and occupation had contributed in that regard. Over and above the depopulation, the agricultural sector and trade, especially export, had been tremendously impacted by the mentioned occurrence.

In addition to agricultural labourers, the British government brought in many migrants from East Bengal to Assam between 1874 and 1905 to work on railroads and other building projects, leading in widespread network migration. Bengal was partitioned into two provinces by Lord Curzon, the British Viceroy of India, in 1905. Assam merged with East Bengal, a Muslim-majority state, which encouraged Muslim labourers from East Bengal to relocate to Assam (Goswami, 2008). By 1911, Assam had become a distinct province with its own Chief Commissioner, and up to 118,000 migrants had settled in the Goalpara district, accounting for 20% of the total population. Over the next two decades, they moved further up the Brahmaputra Valley. By the middle of the nineteenth century, this wave of migration had begun to change the demography of Assam. Migration from East Bengal continued unabated for many years thereafter. Assamese nationalists expressed concern over unfettered

migration (Misra, 1981). In districts like Goalpara, Nagaon, and Kamrup, Bengali Muslim peasants have started to form significant communities, often settling in remote areas that the local Assamese population had not fully cultivated.

The British supported these settlements as they increased the region's agricultural productivity and contributed to the colonial economy. Goswami (1988) notes that the British viewed the migration of Bengali peasants to Assam positively, who saw it as a solution to both Assam's labour shortage and Bengal's overpopulation. However, the British government anticipated the consequences of this population movement and created the Line System in 1920. Under this "system," a virtual barrier was built to divide areas where migration from villages was permitted from those where it was not. The government characterized migrant colonies as "open", "closed", or "partially open".

From 1937 to 1946, the Muslim League, led by Mohammed Saadulla, administered home rule in Assam. During this period, Mohammed Saadulla and his Muslim League party persuaded Muslims from East Bengal to relocate to Assam on the pretext of enhancing agricultural production. The scheme they established to do this was called "Grow More Food," but their true purpose was to increase the Muslim population and eventually merge with the future Muslim-dominated Pakistan after partition (Borgohain, 2009). To escape any examination of their genuine objective, Saadulla had declared to the British Administration that he was doing his utmost to assist the Allied Forces' food needs during World War II under the project Grow More Food. The Saadulla government resigned in 1946 when the Saadulla land development project, which had begun in 1928, was abandoned in 1942 due to growing opposition from indigenous landholders (Misra, 1981).

4.4.3 Demographic Changes by Migration and Political Tensions (1900–1947)

By the early 20th century, the demographic impact of Bengali migration was becoming increasingly evident. In districts such as Goalpara, Kamrup, Nagaon, and Darrang, Bengali Muslims formed significant portions of the population. According to Weiner (1983), the migration of Bengali Muslims, particularly from Mymensingh,

continued into the 20th century, driven by economic opportunities in Assam and the availability of land for cultivation. Many of these migrants were settled in sparsely populated areas, leading to the reclamation of land and increased agricultural productivity.

Table 4.4 Illustration of Decadal population growth

Period	Increase in Population	Growth Percentage
1872-1881	759,996	18.3
1881-1891	456,448	9.3
1891-1901	362,097	6.7
1901-1911	852,431	14.9
1911-1921	880,889	13.4
1921-1931	1,163,134	15.6
1931-1941	1,757,942	20.4

Source: *Census of Assam, 1941, accessed on 3rd August 2023*

It is observed in the decadal growth that from 1872 to 1881 Population increased by 759,996, which represents an 18.3% growth over 9 years, from 1881 to 189 the population rose by 456,448, showing a slightly lower growth rate of 9.3%, 1891 to 1901 a growth of 362,097 was recorded, with an 6.7% growth rate, showing a slowing in population growth compared to previous decades. However, 1901 to 1911 this period witnessed an increase of 852,431, which marks a growth rate of 14.9%, a resurgence of growth compared to the previous decade, 1911 to 1921 the population grew by 880,889, an increase of 13.4% over the decade. 1921 to 1931 this period shows an even more significant growth, with 1,163,134 additional people, a growth rate of 15.6%. 1931 to 1941 The population saw its largest increase yet, adding 1,757,942 people, a 20.4% growth rate, marking a rapid acceleration in population growth during this period.

The population steadily increased in every period, with a notable acceleration in growth from the early 20th century onwards. The smallest growth occurred between 1891 and 1901, where the rate slowed down to 6.7%. This may reflect historical events or economic conditions affecting the population growth in that decade. However, the largest single growth happened between 1931 and 1941, where the population grew by over 20%. This could be attributed to various factors. This demographic shift created tensions between the indigenous Assamese population and the Bengali settlers. Assamese elites, particularly the Assam Association, which was formed in 1903, began to express concerns about the cultural and demographic impact of Bengali migration. Guha (1991) notes that Assamese nationalists feared becoming a minority in their own state, as the influx of Bengali Muslims and Hindus threatened to overwhelm the Assamese language and culture.

The colonial government, for its part, often encouraged Bengali migration as a means of increasing the population and economic output of Assam. According to Baruah (2005), the British administration viewed the Bengali settlers, particularly the Muslim peasants, as essential for the economic development of Assam. The colonial policy of supporting migration from Bengal thus created a lasting demographic legacy that would shape Assam's political landscape for decades.

4.4.4 The Role of Sylhet in Assam's Demographic Transformation

The district of Sylhet, which was part of Assam from 1874 until India's partition in 1947, played a unique role in the migration dynamics between Bengal and Assam. Sylhet, though geographically part of Bengal, was administratively attached to Assam by the British to bolster Assam's population and revenue base. According to Ahmed (2012), this administrative attachment of Sylhet to Assam facilitated the movement of Bengali settlers, both Hindus and Muslims, into Assam.

The Sylhetis, being more educated and economically active, also contributed to the growing middle class in Assam. Many Sylheti Bengalis entered Assam's burgeoning bureaucracy, tea plantations, and commercial sectors. Sharma (2010) argues that Sylheti Hindus, in particular, played a key role in the clerical and

managerial sectors of Assam's tea industry, which was rapidly expanding under British control. This migration further entrenched Bengali influence in Assam, particularly in the Barak Valley and other Bengali-speaking areas.

4.4.5 The Imposition of Bengali as the Official Language (1836–1873)

One of the most contentious issues related to the migration of Bengalis to Assam during the pre-independence period was the imposition of Bengali as the official language of Assam in 1836. The British colonial administration, relying heavily on Bengali clerks and bureaucrats, decided to make Bengali the language of administration, replacing Assamese. This decision was primarily pragmatic from the British perspective, as they already had a large pool of Bengali bureaucrats who could efficiently run the administration. However, the imposition of Bengali as the official language deeply alienated the Assamese-speaking population.

According to Phukan (2005), the decision to replace Assamese with Bengali sparked resentment among the Assamese intelligentsia and contributed to the rise of Assamese nationalism. The linguistic imposition was viewed as an attempt to marginalize the indigenous Assamese population in their own land, and it further fueled fears that the growing Bengali population, both Hindu and Muslim, would eventually dominate Assam politically and culturally. The language issue was eventually resolved in 1873 when Assamese was reinstated as the official language of Assam. However, the cultural and linguistic tensions between the Assamese-speaking population and the Bengali migrants continued to simmer beneath the surface, laying the groundwork for future conflicts. Goswami (2003) argues that this period marked the beginning of a long-standing rivalry between Assamese and Bengali linguistic communities, which would play a significant role in the region's politics in the decades to come.

4.4.6 The Rise of Assamese Nationalism

The British policy of migration for economic benefits has incentivised the migrants to come to the region and settle here in the Assam province. —An open-door policy followed sub-region apparently led to danger of the swamped or

demographically outnumbered by a dominant and numerous community” (Goswami, 2001). –This demographic evolution gave birth to a sense of cultural and political insecurity among the Assamese population, sowing seeds of discontent towards these immigrants among the locals” (Choudhary, 2022). The Assamese literary works also played an important role in the realism of the masses on the outcomes, sensitizing the issue and developing the feelings of oneness and the need for uniformity in culture and adopting one cultural identity. Sarma writes, that he calls the –we feeling” emerged from a predominately anti-Bengali sentiment that developed out of British policies of favouring Bengali language and Bengali clerks (Mandal, 2017). These had ultimately influenced all the ethnic groups to come under one unbrealla identity and fight for their rights. –Another catalysing factor cementing the ethnic identities- and the consequent antagonism between them- of different indigenous communities of Assam at t beginning of the 20th century: the unabated immigration of land-hungry peasantry from the erstwhile East Bengal to Assam” (Bordoloi, 2014).

This idea of a threat to the identity of Indigenous communities in Assam by the influx of illegal immigrants in the post-independence era still haunts state. –The identity issue has another side which is that the people of Assam feel threatened that this large influx of people from the neighbouring state may outnumber the native population and thus serving a threat in the hearts of the natives” (Sarmah & Dutta, 2014).

4.4.7 The Sylhet Referendum and Partition (1947)

The prelude to India’s partition in 1947 saw heightened political tensions surrounding the migration issue, especially in the district of Sylhet, which had been part of Assam since 1874. During the partition of India, a referendum was held in Sylhet to decide whether the district would remain part of Assam or join East Pakistan. The majority voted for Sylhet to join East Pakistan, which it eventually did, except for a few areas that were retained by Assam. According to Ahmed (2012), the Sylhet referendum was a critical moment in the migration history of Assam, as it led to the displacement of thousands of Bengali Hindus, who migrated to Assam in the wake of partition.

This migration further complicated Assam's already fraught demographic and political landscape, as the influx of Bengali Hindus from Sylhet added to the existing tensions between the Assamese and Bengali-speaking populations. Sharma (2015) argues that the Sylhet referendum and the partition of India were pivotal moments that shaped Assam's post-independence politics, particularly concerning questions of migration, identity, and language.

4.4.7 The Illegal Migration in the Post Independence Era

Illegal Migration into Assam, notably from Bangladesh, has continued to be a significant problem in the region. The migration has continued for several reasons and several push and pull factors are associated with migration from Bangladesh to Assam. The diverse motivations for migration vary depending on the groups involved and the specific time periods. Predominantly, Hindus and Muslims have been the primary groups migrating from Bangladesh to India, though smaller communities of Buddhists, Christians, and other religious minorities have also contributed to this phenomenon. Understanding the various drivers behind this migration requires examining a range of interconnected causes, including historical ties, economic pressures, demographic shifts, environmental challenges, and political upheavals.

The deep historical and cultural links between regions that now form India and Bangladesh trace back centuries. Assam shares a rich historical connection with Bengal, a region that includes both West Bengal in India and modern-day Bangladesh. These connections fostered movement across borders even before the political boundaries were redrawn in 1947. The shared cultural and linguistic ties often made migration to Assam appear less foreign to the migrants, enabling smoother assimilation into certain communities. However, the subsequent creation of borders disrupted these traditional patterns, leading to both legal and illegal migration. Natural disasters have also resulted in both forced and voluntary migration. While most evacuees see their evacuation as a temporary relocation

to escape natural disasters, in many cases, their migration becomes a voluntary "permanent" relocation, especially if the "newer" place of residence offers more property to grow (Gohain, 2013).

Economic disparities between Bangladesh and India have been a significant pull factor for migration. While Bangladesh has seen periods of economic growth, its densely populated regions, limited arable land, and resource constraints often push individuals and families to seek better opportunities elsewhere. Assam, with its vast agricultural potential and industrial prospects, has historically been an attractive destination. Migrants often work in unskilled labor sectors such as farming, construction, and domestic work, filling gaps in local labor markets but simultaneously exacerbating social tensions over employment and resource sharing. Bangladesh's high population density contrasts sharply with the relatively sparsely populated areas of Assam and other northeastern states. This demographic pressure has driven many to cross into Assam in search of land and resources. For instance, the Brahmaputra Valley, with its fertile plains, has been a significant draw for agricultural communities seeking new opportunities for cultivation.

The partition of India in 1947, which led to the creation of Pakistan (including East Pakistan, now Bangladesh), marked a turning point in migration patterns. The violent upheavals of partition caused mass displacement of populations along religious lines. Hindus, facing religious persecution in East Pakistan, migrated in large numbers to India, including Assam. Further waves of migration occurred during the India-Pakistan War of 1965 and the Liberation War of Bangladesh in 1971.

These conflicts created widespread instability and forced many individuals and families to flee. Religious insecurity played a critical role, especially for minorities such as Hindus, Buddhists, and Chakma tribes, who faced persecution and violence in the Chittagong Hill Tracts. The atrocities inflicted on the Chakmas during this period caused many to seek refuge in India, with Assam being a key destination due to its geographic proximity. Hence, it is essential to discuss immigration events to better understand the migration pattern, motivation and government responses to migration.

4.4.7.1 The Partition of India 1947

The fates of those living in of undivided Bengal, including Assam, have not remained the same since Sir Cyril Radcliff, the head of the Bengal boundary panel, drew the eastern line that separates India and Pakistan in 1947. The partition of India into two countries—India and Pakistan—based on religion was the major cause of migration from East Pakistan (now Bangladesh) to India during the 1940s and 1950s. the issues that occurred as a result of the partition still exist today. Riots between Hindus and Muslims on both sides of the nation caused millions of fatalities, three wars, and the foundation of Bangladesh. The institutionalised politics of the Indian National Congress and the Muslim League, as well as their participation in the disturbances, were the primary causes of the Hindu-Muslim riots during partition. This led in widespread emigration from both sides.

P. Vaghaiwalla, Census superintendent of Assam in 1951, in his Prefatory Note to the report on the Census of 1951 stated that the biggest migration into Assam that took place during the 1940s was the influx of Hindu refugees from Pakistan. Following the Noakhali riots in East Pakistan in October 1946, and the partition of India in 1947, there was steady and continuous exodus of Hindus from Pakistan to Assam. The district which sheltered the largest number of refugees was Cachar due to its proximity to Sylhet, from which the majority of the refugees came.

As reported by Vaghalwalla (1951), there were several incidents (or situations) that contributed to the exodus of a sizeable number of Hindu and other minority communities from East Bengal. The 1949 incidents in Soneswar and Habibganj, the oppression of the Hajongs in North Mymensingh and the atrocities committed on the Santhals in Rajshahi and East Dinajpur in February and March, 1950 are some examples (Vaghaiwalla, 1951). Due to some gruesome incidents reported on sporadic violence from across East Pakistan, including the capital city of Dacca (now spelled as Dhaka), led 500,000 Hindus to leave their homes to seek shelter and security in either West Bengal or Assam, whichever was nearest. According to Vaghaiwalla, more than half of the total refugees in Assam came in 1950 alone.

In response to these crises, an agreement was signed on April 8, 1950, between India's Prime Minister Jawaharlal Nehru and Pakistan's Prime Minister Liaquat Ali Khan. This accord, known as the "Nehru-Liaquat Pact" or "Delhi Pact of 1950," aimed to protect minorities and stem the tide of migration. The pact sought to alleviate fears among minorities, foster communal harmony, and create conditions conducive to resolving bilateral issues. It outlined a comprehensive "bill of rights" for minorities in both countries, guaranteeing full citizenship, personal security, cultural preservation, property rights, and dignity, irrespective of religion. Fundamental freedoms, including the rights to move freely, speak openly, choose occupations, and worship, were assured.

Additionally, minorities were permitted to participate in public life, hold political offices, and serve in governmental roles. The implementation of this agreement restored some confidence among minorities, resulting in a decline in migration rates. The pact also facilitated the repatriation of approximately 600,000 migrants to East Pakistan, with a significant portion originating from Assam.

4.4.7.2 The Liberation of Bangladesh and the 1971 India-Pakistan War

Ranjan (2016) highlights that the economic exploitation and systemic prejudice faced by East Pakistanis culminated in demands for independence after Sheikh Mujibur Rahman was denied the position of Prime Minister in 1970. This was despite his party, the Awami League, securing a decisive majority in the general elections. The denial triggered widespread discontent, eventually leading to a brutal liberation war. During the conflict, the Pakistani military perpetrated severe atrocities, including the killing of millions and the widespread sexual assault of women. Assam, located near East Pakistan (now Bangladesh), experienced a massive influx of refugees fleeing these atrocities (Ranjan, 2019). Many East Pakistanis crossed into India to escape violence and oppression, with most of them refusing to return even after Bangladesh gained independence in 1971.

Pramanik (2005) notes that East Pakistan suffered under a political system designed to subordinate it to West Pakistan, resulting in economic discrimination and the suppression of Bengali culture and language. Tensions escalated after West Pakistan's refusal to accept Sheikh Mujibur Rahman as Prime Minister, despite his party's majority, triggering civil unrest. By 1970, East Pakistan demanded greater autonomy, leading to civil war. Nandy (2005) suggests that the country reached an irreversible point of division. Samantha Power, in *A Problem from Hell*, described this civil war as genocide, reporting that one to two million people were killed, and approximately 200,000 women were subjected to sexual violence. Additionally, around 10 million refugees fled to India, making it the largest refugee crisis globally at the time (Power, 2003).

India faced immense challenges during this crisis, including security threats and managing the refugee influx. By May 1971, over 300 refugee camps were set up across border states like West Bengal, Assam, Meghalaya, and Tripura. Parliamentary records from June 1971 reported 4.7 million refugees in India, which increased to 6.9 million by July (Lok Sabha Debate, Government of India, 1971).

The Indo-Pakistani War of December 1971, supported by the Mukti Bahini, culminated in the liberation of Bangladesh after a swift two-week conflict. Bangladesh emerged as an independent nation, led by Sheikh Mujibur Rahman, who was released from imprisonment in Pakistan. Pakistan officially recognized Bangladesh in 1974. The Indira-Mujib pact of 1972 attempted to address the refugee issue by allowing those who entered India before March 25, 1971, to remain. However, despite 80% of refugees returning to Bangladesh, continuous infiltration and the absence of effective measures to control it remain contentious issues, particularly in Assam (Nandy, 2005; Upadhyay, 2001).

4.4.7.3 Migration of Chakma

The partition of India in 1947, based on the 'Two-Nation' theory, largely focused on the religious divide between Hindus and Muslims, neglecting the plight of smaller ethnic groups. One such community was the Chakmas, an indigenous Buddhist tribe from the Chittagong Hill Tracts (CHT), now in Bangladesh. The partition's aftermath brought severe challenges for the Chakmas, who were the majority in the CHT but found themselves isolated and marginalized within the newly formed Pakistan.

The region's integration into Pakistan, a predominantly Muslim nation, created religious and cultural tensions for the Chakmas, who were neither Muslim nor Bengali. Over time, their traditional way of life came under threat due to systemic neglect and policies favoring other groups. The construction of the Kaptai Dam in the 1960s further exacerbated their plight, submerging vast areas of Chakma land and displacing thousands without adequate compensation or resettlement support.

Faced with these challenges, many Chakmas sought refuge in India, particularly in northeastern Arunachal Pradesh, Tripura, and Assam, where they hoped for cultural and physical security. Their migration, beginning in the late 1940s, continued through subsequent decades, driven by worsening conditions in their homeland. The arrival of Chakma refugees added to the region's complex demograp-

-hic and socio-political landscape. While some were granted refugee status, others struggled with statelessness, limited resources, and social integration. Tensions occasionally arose with local communities over land and resources.

4.4.7.4 Rohingya Infiltration

The issue of Rohingya infiltration into Assam has emerged as a significant concern over recent decades, adding to the complex demographic and socio-political challenges of the region. The Rohingyas, a Muslim minority group from Myanmar's Rakhine State, have faced decades of persecution, statelessness, and systemic discrimination. Fleeing violence, particularly during the military crackdowns of 2012 and 2017, they sought refuge in neighboring countries, including India.

Due to its proximity to Bangladesh, Assam has become one of the regions experiencing the effects of this migration. Many Rohingya refugees, after crossing into Bangladesh, travel further into Indian territories, including Assam, often through illegal channels. They seek shelter and livelihood opportunities, but their presence raises concerns about security, demographics, and resource allocation in an already sensitive region.

The infiltration has been gradual but persistent. Rohingyas, often with the assistance of human trafficking networks, cross into India using porous borders shared with Bangladesh. Once inside, they settle in various parts of Assam and other northeastern states, sometimes blending in with local populations. Reports indicate that some acquire forged documents to legitimize their stay, complicating efforts to monitor their movements and numbers.

The government and local communities view the infiltration with apprehension. Concerns about the impact on Assam's fragile demographic balance are particularly pronounced. Assam has a history of grappling with issues related to migration and identity, making the presence of Rohingyas a sensitive subject. Political and social groups argue that their continued presence may strain local resources, exacerbate unemployment, and create law-and-order challenges. Furthermore, the potential exploitation of the Rohingya crisis by extremist groups is seen as a serious security risk.

Efforts to address the issue include crackdowns on illegal migration, tighter border controls, and identification of undocumented residents. The central and state governments have occasionally conducted operations to locate and deport illegal Rohingya settlers. However, these measures are fraught with legal and humanitarian concerns. International organizations and rights groups emphasize the need for India to balance national security with its obligations to human rights, urging a humane approach to the crisis. The Rohingya infiltration into Assam underscores the broader regional challenges of displacement, statelessness, and migration.

4.4.8 Anti-Foreigners Movement in Assam (1979-1985)

The Anti-Foreigners Movement in Assam began in July 1979 under the leadership of the All Assam Students' Union (AASU) and the All Assam Gana Sangram Parishad (AAGSP). The agitation centered on three primary objectives: identifying illegal immigrants, removing their names from voter rolls, and deporting them (Assam Background, 2001). Sparked by allegations of a manipulated voter list in the Mangaldai Lok Sabha constituency by-election, the movement quickly escalated. On June 8, 1979, AASU organized a statewide strike, marking the beginning of mass protests that would last for six years.

During this period, Assam witnessed widespread strikes, boycotts, and administrative shutdowns. Parliamentary elections in 1979-80 were largely boycotted, barring the Cachar district. Educational institutions closed, and oil supplies to the rest of India were disrupted. While Guha (1980) observed the largely non-violent nature of the movement, sporadic communal violence marred its legacy, particularly the Nellie massacre of February 1983, where over 1,700 people, primarily from minority communities, were killed (Hazarika, 2000).

The formation of the United Liberation Front of Assam (ULFA) in April 1979 added a militant dimension to the agitation. Initially aligned with anti-immigration objectives, ULFA later adopted a secessionist ideology. In December 1979, Assam was declared a disturbed area, leading to the imposition of presidential

rule and the deployment of the army. Despite local opposition, elections were conducted in 1983, with limited participation from tribal and minority communities. The Congress Party's subsequent victory brought relative calm, but debates over the cut-off date for identifying illegal immigrants persisted. The central government maintained March 25, 1971, as the deadline, contrasting with the movement leaders' demand for a pre-1951 date.

4.5 Policy Initiatives in Addressing the Issue of Illegal Immigrants in Assam

Assam's proximity to Bangladesh and its porous borders have made it a hub for illegal immigration, altering its demographic and socio-political landscape. The issue intensified post-partition in 1947 and after Bangladesh's independence in 1971. In response, successive governments introduced several policies to address illegal immigration.

One of the earliest measures was the Prevention of Infiltration of Pakistani Nationals (PIP) scheme in 1962, which aimed to establish a comprehensive screening mechanism along the border. This included physical checks and identity verification to prevent infiltrators from blending into local communities. The scheme covered both border districts like Goalpara, Garo Hills, and Cachar, and interior districts such as Kamrup, Nowgong, and Darrang.

Subsequent initiatives included the Assam Accord of 1985, the enactment of the Illegal Migrants (Determination by Tribunal) Act (IMDT), and periodic updates to the National Register of Citizens (NRC). Other measures, such as the Foreigners Act and Tribunals, as well as amendments to citizenship laws in 2003 and 2019, have been pivotal in managing immigration. However, challenges such as the porous border, political resistance, and inadequate enforcement mechanisms have hindered their effectiveness. Addressing illegal immigration remains a polarizing issue, with significant implications for Assam's socio-political fabric.

4.5.1. Electoral Roll Scrutiny in Assam

The scrutiny of electoral rolls has been one of the first mechanisms implemented to address the problem of illegal immigrants in Assam. The root of the issue lies in the fear among Assamese citizens that illegal immigrants were being enrolled as voters, thereby influencing electoral outcomes. This concern reached its peak during the Assam Agitation, a student-led movement in the late 1970s and early 1980s that demanded the identification and deportation of illegal immigrants.

The Assam Agitation, led by the All Assam Students' Union (AASU), was based on the argument that the demographic composition of Assam was being irreversibly altered by illegal immigrants, primarily Bengali-speaking Muslims from Bangladesh, who were getting their names entered into voter lists. Consequently, scrutiny of electoral rolls became a significant component of the Assam Accord, signed in 1985.

The Assam Accord specifically demanded the detection of foreigners in the state and their subsequent deletion from electoral rolls. The primary cutoff date for identifying illegal immigrants was set as March 25, 1971, in reference to the commencement of the Bangladesh Liberation War. While this measure aimed to safeguard Assam's cultural and political identity, it faced significant hurdles. Many eligible citizens, particularly marginalized and poor groups, were either unable to provide the required documentation or were mistakenly left out of the electoral rolls. Mitra (2018) argues that electoral roll scrutiny was necessary but insufficient. The process became mired in bureaucratic delays, leading to the exclusion of legitimate citizens. The inefficiencies in this policy contributed to the ongoing frustration and unrest in Assam, as it failed to meaningfully address the presence of illegal immigrants while creating fresh grievances.

In 1985, the process of revising Assam's electoral rolls underwent significant scrutiny, with January 1, 1985, set as the qualifying date and the final publication taking place on November 7, 1985. This revision was undertaken following a commitment made to the Supreme Court in September 1984 during proceedings challenging the legitimacy of the 1983 General Elections in the state. In 1987, the state administration opposed the Election Commission's suggestion for a summary update of the voter lists using the 1985 rolls as a reference point. Instead, they sought an exhaustive revision using January 1, 1987, as the qualifying date, advocating for the 1966 electoral rolls to serve as the foundational reference document rather than the rolls of 1971. After extended consultations, a decision was made to conduct a thorough review of the voter lists, establishing January 1, 1989, as the qualifying date and using the 1966 rolls as the primary basis for reference.

In 1993, a fresh revision exercise was initiated. The Commission directed the state administration to identify polling station areas where there had been a surge exceeding 4% in registered voters between the 1990 and 1992 voter lists. The identified areas were to undergo special scrutiny. However, discrepancies emerged between the figures provided by the state government and those held by the Election Commission, leading to further instructions for comprehensive revisions using January 1, 1993, as the qualifying date. Following house-to-house surveys and consolidation of names by polling stations, the data was forwarded to district authorities for verification of Indian citizenship based on existing laws and prior voter rolls or registers. Two lists were prepared: one with individuals confirmed as Indian citizens and another with those whose citizenship could not be verified.

The Election Commission approved the publication of revised rolls for 86 constituencies but withheld publication in 40 constituencies, citing dissatisfaction with the verification process. In 1994, these 40 constituencies underwent further review, while a summary update was conducted for the remaining areas, with Janua-

-ry 1, 1994, as the qualifying date. Subsequently, the Supreme Court intervened, and all updates were halted temporarily. Following legal orders, the names of individuals whose citizenship was under question, except for those disqualified by tribunals, were subject to appropriate procedures, including hearings. Final rolls were published on August 31, 1994.

This process incorporated instructions from previous court rulings and required thorough verification of individuals provisionally listed. Local Verification Officers (LVOs) were tasked with confirming the citizenship status of such individuals. Where doubts remained, cases were referred to competent authorities under the applicable laws. Those whose citizenship status could not be verified were marked with a "D" against their names, indicating disputed or doubtful citizenship. This designation rendered such individuals ineligible to vote or contest elections.

During this intensive exercise, the Commission directed that the "D" designation be applied after verification by LVOs and confirmation by Electoral Registration Officers. Cases involving "D" voters were then forwarded to district authorities for referral to tribunals to ascertain their citizenship. Tribunal decisions ultimately determined whether the "D" designation was removed or the individual's name was deleted from the voter list. In total, 2,31,657 cases marked as "D" were referred to authorities for tribunal adjudication, underscoring the complexity and scale of the verification efforts in Assam.

"In 1997, the Election Commission of India, carried out what it described as an "intensive revision" of the list of Assam's voters electoral rolls....by the time the revision ended, as many as 3.13 lakh voters had been designated as "doubtful" or D-voters" (Zaman, 2024). It is argued that in the name of intensive revision, lakhs of voters were disqualified from voting and assigned D mark against their name, suspecting as illegal immigrant, such cases were referred to Foreigners Tribunal for its opinion, whether the Individual is Indian or Illegal Immigrant who entered India after the midnight of 24th March 1971. However, this process is proven faulty many times at the court when court inquired on the basis of referral of given individual, it is found that such referral was made on mere suspicion, without any documentary or substantial evidence.

4.4.2. Assam Accord and Its Implementation

The signing of the Assam Accord in 1985 was a watershed moment in the history of Assam's efforts to tackle illegal immigration. The Accord, which brought an end to the six-year-long Assam Agitation, outlined several measures aimed at addressing the issue of illegal immigration. The key provision of the Accord was the identification and deportation of all foreigners who entered Assam after March 25, 1971. This cutoff date, closely tied to the Bangladesh Liberation War, was intended to distinguish between pre-1971 migrants, who were to be granted citizenship, and post-1971 migrants, who were deemed illegal.

In addition to the detection and deportation of illegal immigrants, the Assam Accord also promised to safeguard Assam's linguistic and cultural identity through constitutional, legislative, and administrative measures. However, while the Accord was widely celebrated at the time of its signing, its implementation has been fraught with challenges. Over the decades, successive governments have failed

to adequately execute the provisions of the Accord, leading to disillusionment among the Assamese population.

The difficulty in implementing the Assam Accord primarily stemmed from the practical challenges involved in detecting illegal immigrants. Many migrants, particularly those from marginalized and impoverished backgrounds, lacked the necessary documents to prove their residency status. This created a significant administrative burden on the authorities tasked with enforcing the provisions of the Accord. Moreover, political factors also contributed to the delay in its implementation. Governments, both at the state and central levels, were reluctant to fully enforce the deportation provisions due to fears of alienating migrant communities, which formed significant vote banks in some areas. As noted by Baruah (2009), the Assam Accord, while symbolically important, has largely failed to address the root causes of illegal immigration. The government's inability to implement its provisions has led to growing resentment among indigenous Assamese communities, who feel that their demographic and cultural dominance in the region is under threat.

4.4.3. Illegal Migrants (Determination by Tribunal) Act, 1983

The Illegal Migrants (Determination by Tribunal) Act (IMDT) was enacted in 1983, during the height of the Assam Agitation, as a legislative measure to deal with the problem of illegal immigration. The IMDT Act applied exclusively to Assam and aimed to detect and deport illegal immigrants through a tribunal system. However, the IMDT Act differed significantly from the Foreigners Act, 1946, which applied to the rest of India. Under the IMDT Act, the burden of proving an individual's illegal status fell on the complainant, rather than the accused, making it far more difficult to identify and deport illegal immigrants. Hazarika (2000) provides an in-depth analysis of the failure of the IMDT Act, highlighting how its convoluted tribunal process allowed illegal immigrants to continue residing in Assam with little fear of deportation. The Act, rather than solving the problem, exacerbated tensions between

local communities and migrants by making the detection process virtually ineffective

The IMDT Act quickly became a source of contention. Critics argued that it was designed to protect illegal immigrants rather than facilitate their detection. The Act's tribunal system was slow, inefficient, and bureaucratically cumbersome, resulting in a negligible number of deportations over the years. The Act was widely seen as politically motivated, with some scholars arguing that it was introduced to protect the interests of certain vote banks, particularly among Bengali-speaking Muslim communities. In 2005, the Supreme Court of India struck down the IMDT Act, declaring it unconstitutional. The Court argued that the Act violated the principle of equality by applying a different standard for detecting illegal immigrants in Assam compared to the rest of India. The repeal of the IMDT Act was a significant victory for the indigenous Assamese population, who had long argued that the Act was an impediment to the implementation of the Assam Accord.

4.4.4. Foreigners Act and Tribunals

After the repeal of the IMDT Act in 2005, the Foreigners Act, 1946, was made applicable to Assam. This marked a significant shift in the legal framework governing the detection and deportation of illegal immigrants. Under the Foreigners Act, the burden of proving citizenship now fell on the individual accused of being an illegal immigrant, thereby simplifying the process of identifying and deporting illegal immigrants. To implement the provisions of the Foreigners Act, the government established Foreigners Tribunals across Assam. These tribunals were tasked with hearing cases of disputed citizenship and determining whether individuals were illegal immigrants. While the application of the Foreigners Act has been more effective than the IMDT Act, the tribunals themselves have faced significant criticism.

Many of the tribunals are overwhelmed with cases, leading to long delays and backlogs. Furthermore, concerns have been raised about the transparency and fairness of the tribunal proceedings. Critics argue that the tribunals often make

arbitrary decisions, and many individuals, particularly from poor and marginalized communities, have been wrongfully declared illegal immigrants due to a lack of proper documentation. Borooah (2019) notes that the tribunal system has been particularly harsh on women, the elderly, and the rural poor, who often lack the necessary paperwork to prove their citizenship status. While the Foreigners Act has made the detection and deportation of illegal immigrants more feasible, it has not fully addressed the problem. The tribunals remain overburdened, and the process continues to be controversial, with ongoing concerns about human rights violations and wrongful deportation

4.4.5. National Register of Citizens (NRC)

With a lengthy and intricate history that stems from India's colonial past and post-independence population changes, the National Register of residents (NRC) is a special document created to record and identify all legitimate Indian residents. In 1951, shortly after India earned independence from British rule in 1947 and experienced the painful division that resulted in the birth of Pakistan, the NRC was born. People moved across newly formed borders between India and Pakistan, particularly its eastern half, which became Bangladesh in 1971, as a result of the partition, which produced widespread migrations, intercommunal violence, and the displacement of millions.

Given its extensive borders with Bangladesh (previously East Pakistan), migration was a major issue in Assam. It has always been divisive in the state because of the large number of Bengali-speaking immigrants, both Muslim and Hindu. The boundaries of ethnic groups in Assam are continually shifting and a long-standing issue has been the protection of a distinctive regional identity (Hari, 2022). The Assamese were concerned that this migration would put a strain on their resources, alter their demographics, and jeopardise their cultural identity. It was in early nineteenth century Assam when the preliminary grounds for linguistic Assamese nationalism was given shape (Gogoi, 2024), this nationalism had greatly influenced shaping and implementing policies in the state, NRC is one of them.

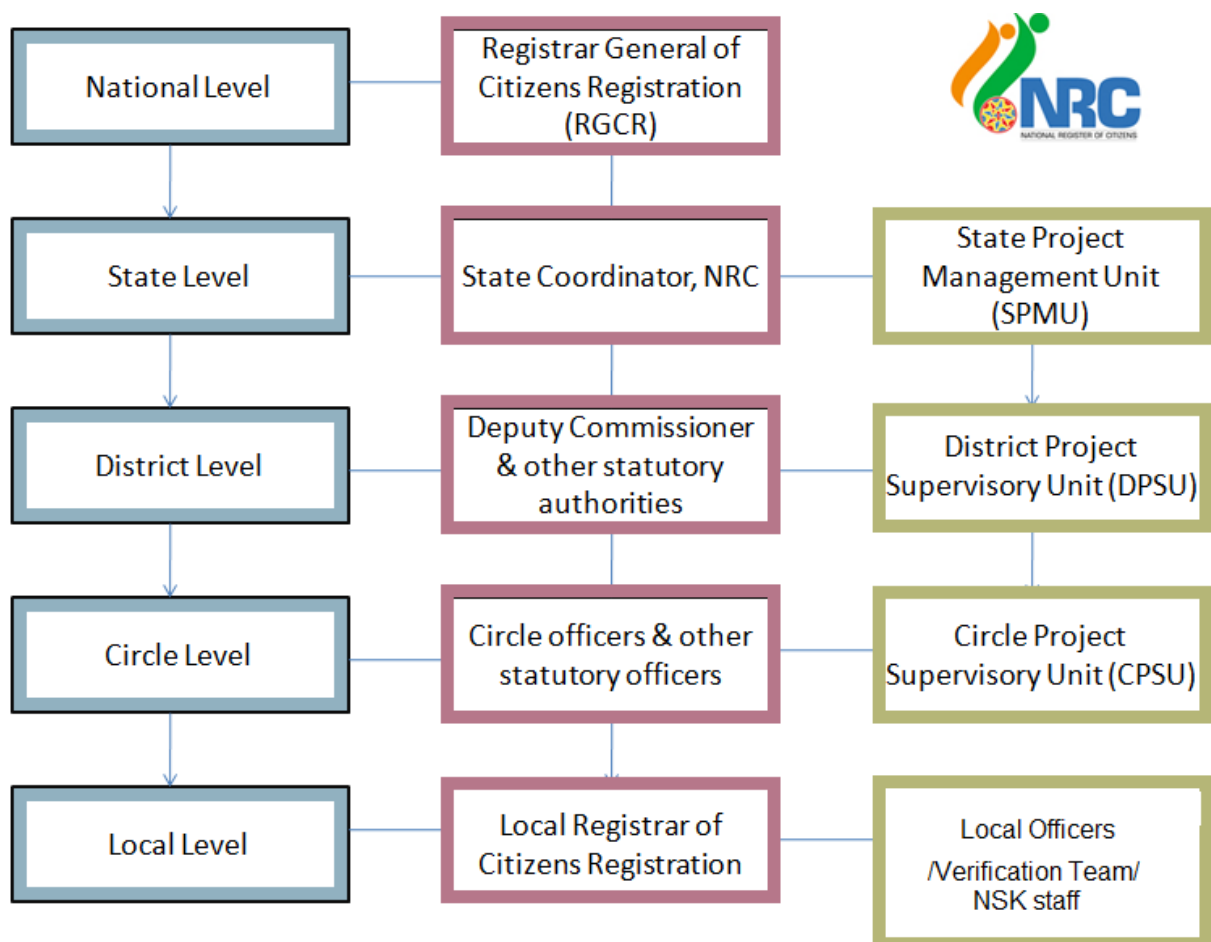
When many people escaped the bloodshed and persecution in East Pakistan and sought safety in India, especially in Assam and West Bengal, during the 1971 Bangladesh Liberation War, tensions increased. Assam saw a rise in hostility against "illegal immigrants" from Bangladesh as a result of this refugee inflow. The migration of different communities to Assam led to strife between the Assamese and bidshi (or foreigner)/Ona-Axomiya (or non-Assamese) over access to resources (Borah, 2019). Which led to a massive movement against such migration in the state. The Assam Gana Parishad (AGP) and the All Assam Students' Union (AASU) were the main leaders of the six-year Assam Movement (1979–1985), which advocated the identification and deportation of illegal immigrants as a result of the state's demographic concerns.

The Assam Accord, which was signed in 1985 and stipulated those foreigner entering Assam after March 24, 1971, would be tracked down and deported, put a stop to the movement. The NRC was suggested as a way to differentiate between legal residents and undocumented immigrants in order to speed up this procedure. However, for practical and political reasons, the NRC's implementation was postponed for decades. The process did not pick up speed until the Supreme Court of India stepped in, which ultimately resulted in the completion of the NRC update in Assam in 2019. The National Register of Citizens turned out to be more complex and distressing than one could ever think of (Srujana, 2024). The Notification of NRC by MHA, Office of the Registrar General, India dated 5th December 2013 read as follows

Whereas, in exercise of the powers conferred by Section 18 of the Citizenship Act 1955, that Central Government has made the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 which provides under Sub Rule (3) of rule 4A that the Registrar General of Citizens Registration shall notify the period and duration of the enumeration in the Official Gazette. And whereas, the Central Government has decided to update the National Register of Citizens 1951 in the State of Assam; Now therefore, pursuant to the provisions of Sub rule (3) of rule 4A of the Citizenship

(Registration of Citizens and Issue of National Identity Cards) Rules, 2003, the Registrar General of Citizens Registration hereby notifies that the enumeration in respect of the State of Assam shall take place from the date of publication of this notification and shall be completed within a period of three years. (MHA, 2013).

Figure 4.3 Organizational Structure of NRC Updation



Source: NRC official website, accessed on 9th August 2023 (<https://nrcassam.nic.in/org-structute.html>)

The organizational structure of the National Register of Citizens (NRC) operates across five levels: National, State, District, Circle, and Local. At the National Level, the Registrar General of Citizens Registration (RGCR) oversees the overall implementation and functioning of the NRC process. At the State Level, the State Coordinator for NRC is responsible for managing the process within the state.

This is supported by the State Project Management Unit (SPMU), which ensures technical and administrative efficiency. At the District Level, the District Commissioner (DC) and other statutory authorities handle district-level operations. They are assisted by the District Project Supervisory Unit (DPSU), which provides support in monitoring and execution.

The Circle Level involves Circle Officers and other statutory officers who are tasked with local coordination and verification. The Circle Project Supervisory Unit (CPSU) provides additional technical and administrative support at this level. Finally, at the Local Level, the Local Registrar of Citizens Registration takes charge. Local officers, verification teams, and NRC Seva Kendra (NSK) staff ensure direct engagement with the public, such as document verification and claim processing. This hierarchical structure ensures seamless coordination from the national to the grassroots level, enabling efficient and accurate updation of the NRC.

The Role of Judiciary

Particularly in Assam, the judiciary—especially the Supreme Court of India—was crucial to the NRC's implementation. The Assam Accord and other pledges made by succeeding administrations did not execute the NRC update for decades, hence the court intervention was essential. An NGO named Assam Public Works petitioned the Supreme Court in 2009 to have the names of illegal immigrants removed from voting rolls. With the NRC being a central focus, the case ultimately grew into a more extensive legal analysis of the problem of illegal immigration in Assam.

In 2013, the Supreme Court assumed responsibility for overseeing the NRC process and ordered the federal and state governments to update the register within a certain time frame. After years of stagnation, the court's oversight made sure that the NRC process proceeded. In order to guarantee that the state machinery worked tirelessly to finish the upgrade, it also established deadlines for the completion of the exercise's several stages. Throughout the NRC hearings, the court also addressed a number of legal issues pertaining to the verification procedure, the rights of non-

participants, and the rules for carrying out the exercise. In order to ensure that no legitimate Indian citizen was left out, the court underlined that the NRC should be carried out in a fair, open, and non-discriminatory way.

Although the Supreme Court played a crucial role in guaranteeing the NRC update, its participation has also drawn criticism. While some contend that the courts shouldn't have direct control over an administrative procedure, others have expressed worries about the court's orders' potential effects on human rights, particularly with regard to those who were left off the final NRC list.

Eligibility Requirements for Enrolment in NRC

The NRC mandated that people provide documentation attesting to their Indian citizenship. Before March 24, 1971, people in Assam were required to present proof that they or their ancestors had lived there. The records utilised for this purpose included birth certificates, election registers, land records, school certificates, and other papers provided by the government. The valid documents for admission are stated in the Writ Petition (Civil) No.274 Of 2009 Assam Public Works Petitioner(S) Versus Union of India & Ors.

LIST A -LIST OF LEGACY DOCUMENTS ADMISSIBLE

1. Extract of NRC, 1951
2. Extract/certified copy of Electoral Rolls up to the midnight of 24th March 1971 (midnight)
3. Land records including tenancy records of relevant period [upto 24th March, 1971 (midnight)]
4. Citizenship Certificate issued by competent authority (upto 24th March, 1971 (midnight))
5. Permanent Residential Certificate issued from outside the State upto 24th March, 1971 (midnight) (which all should be got verified from the issuing authority by the Registering authority)
6. Refugee registration certificate issued upto 24th March, 1971 (midnight)

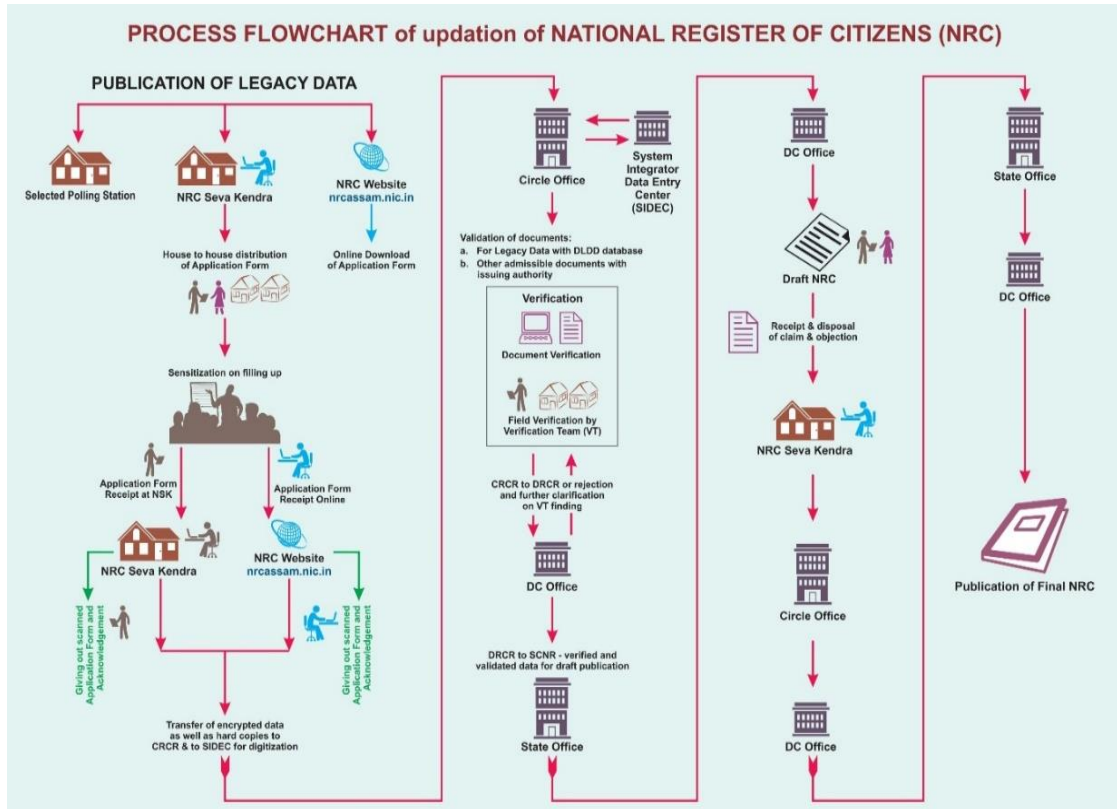
7. Passport issued by the Government of India upto 24th March, 1971 (midnight)
8. Life Insurance Corporation of India Insurance Policy (LICI) of relevant period upto 24th March, 1971 (midnight)
9. Any license/certificate issued by any Government authority of relevant period i.e. upto 24th March, 1971 (midnight)
10. Document showing service/employment under Government/Public Sector Undertaking upto 24th March, 1971 (midnight)
11. Bank/Post Office Accounts of relevant period i.e. upto 24th March, 1971 (midnight)
12. Birth certificates issued by the competent authority upto 24th March, 1971 (midnight)
13. Educational certificate issued by Board/Universities upto 24th March, 1971 (midnight)
14. Records/processes pertaining to court upto 24th March, 1971 (midnight)

12 Supporting Documents

15. Ration cards issued by competent authority with official seal and signature upto 24th March, 1971 (midnight)

Note: Any of the documents specified in the above List of Documents would be accepted except Document mentioned against Sl. 15 which may be regarded as supporting document only. (Assam Public Works Petitioner(S) versus Union of India & Ors., 2009).

Figure 4.4 Flowchart of Updation of NRC



Source: NRC official website, accessed on 9th August 2023 (https://nrcassam.nic.in/images/pdf/process_flow-chart.pdf)

The process for the updation of the National Register of Citizens (NRC) involves multiple steps, beginning with the Publication of Legacy Data. This data can be accessed through selected polling stations, NRC Seva Kendras (NSK), or downloaded from the NRC website. The process includes house-to-house distribution of application forms and community sensitization on how to fill them. Applications can be submitted physically at NSK or online, following which a receipt and acknowledgment are issued.

The next phase involves transferring encrypted application data and hard copies to Circle Registrars of Citizen Registration (CRCR) and the System Integrator Data Entry Center (SIDECD) for digitization. Validation of documents is carried out by verification teams using legacy data, DLDD databases, or other admissible sources, which include field verification. Verified data moves from CRCR to the

District Registrar of Citizen Registration (DRCR) for further checks. Once validated, it is forwarded to the State Coordinator for NRC (SCNR) for the publication of the draft NRC. Following this, individuals can file claims and objections at NSK, which are processed through circle and district offices. Finally, after resolving claims and objections, the verified data is approved by the state office, leading to the Publication of the Final NRC, which completes the process.

Tribunals and Appeals

Those who were left out of the final NRC had the chance to challenge their exclusion before Foreigners Tribunals, which are quasi-judicial organisations established to ascertain a person's citizenship status. Excluded individuals might contest the tribunal's ruling in higher courts and had the opportunity to appeal within 120 days after receiving their rejection orders.

Civil Appeal No. 5012 Of 2019 (Arising out of Special Leave Petition (Civil) No. 23127 Of 2018) Abdul Kuddus Versus Union of India And Others. The court has reiterated that if the nationality is already questioned and decided by FT, then the Individual has no right to appeal again under the purview of NRC appeal.

24. In view of the aforesaid findings, it has to be held that paragraph 8 of the Schedule to the 2003 Rules which gives a right to appeal before the Tribunal under the 1964 Order would apply only if and, in those cases, where the Tribunal constituted under the 1964 Order has not already adjudicated upon and decided the issue as to whether the person is an Indian National or a foreigner. In other words, where the issue and question of nationality has already been determined under the 1964 Order, an appeal would not be maintainable under paragraph 8 of the Schedule to the 2003 Rules. The determination would be final and binding on the Registering Authority under the Schedule and the Local Registrar. Paragraph 8 does not envisage and provide for a second round of litigation before the same authority i.e. the Foreigners Tribunal constituted under the 1964 Order on and after preparation of the final list. Provisions of paragraph 8 of the Schedule to the

2003 Rules will apply when there has not been an earlier adjudication and decision by the Foreigners Tribunal. (Abdul Kuddus versus Union of India, 2018, para 8).

Criticism of NRC

The implementation of the NRC as well as its wider ramifications for Indian citizenship and human rights have drawn harsh criticism. The final NRC list in Assam does not include over 19 lakh persons, which has caused serious humanitarian concerns. Many of the people excluded are impoverished, uneducated people who might not have access to the paperwork required to verify their citizenship. This has raised concerns that many people, particularly women and under-represented groups, may become stateless and have no obvious way to obtain protection or legal redress.

Despite the NRC's stated goal of being non-discriminatory, there have been claims that it unfairly singled out some groups, especially Muslims who speak Bengali. Political considerations, according to critics, led the NRC to identify and exclude Muslim immigrants while defending Hindu newcomers. Fears that the NRC-CAA combo might be used to deny Muslims their rights are heightened by the 2019 passage of the Citizenship Amendment Act (CAA), which gives non-Muslim immigrants from nearby nations a road to citizenship. We identify the administration of the NRC in conjunction with the 2019 CAA as a project of state modernization that can generate statelessness in situ (Hari, 2022).

It is considered irrational to seek documented evidence of lineage spanning many decades in a nation like India, where a large number of individuals, particularly in rural regions, lack birth certificates or other official documents. Vulnerable groups that do not have the means to collect or provide the required documentation have been disproportionately impacted by the procedure. Assamese citizens, especially those who were left off the list, are extremely anxious and apprehensive as a result of the NRC process. Suicides have been reported by people who were afraid of being detained in camps or made stateless. Assam's social cohesion has also been affected,

with concerns about escalating intercommunal conflict following the NRC procedure.

The creation of detention centres for those deemed unlawful immigrants by the Foreigners Tribunals is part of the NRC procedure. Human rights groups have expressed worry about the circumstances in these camps and the possibility of incarceration without charge or trial, particularly for those who have lost their citizenship as a result of their expulsion from the NRC. The NRC update in Assam required many administrative and financial resources, making it a logistical undertaking. The Central government's proposal to expand the NRC to the entire nation would be even more difficult and expensive. Opponents contend that instead of spending money on a national NRC, the government ought to focus on other urgent concerns, such as economic growth and poverty reduction. Writ Petition (Civil) No. 274/2009 Assam Public Works Petitioner Versus Union of India & Ors. Respondents (Ia No. 98512/2019 - Appropriate Orders/Directions and Ia No. 98446/2019 - Clarification/Direction) read as follows

7. Another matter which the undersigned wishes to bring to the kind attention is about such cases of descendants of D Voter (DV)/ Declared Foreigner (DF)/Cases Pending at Foreigners Tribunals/Other Courts (PFT), whose one parent is DV/DF/PFT but the parent from whom the legacy is drawn for inclusion in NRC is not WP(C) 274/2009 4 DV/DF/PFT and is also found eligible for inclusion in NRC. The Hon'ble Supreme Court in their order of 2 July 2018 have ordered that those persons who are Dvs or PFTs as well as their descendants are not to be included in updated NRC. As descentance can be drawn from either of the parents, clarification appears to be required in cases where one of the parents is clear from all angles (not DV/DF/PFT and eligible for NRC inclusion) while the other parent is a DV or DF or PFT. It also appears that while deciding eligibility of descendants, provisions of Section 3(1)(b) & (c) of the Citizenship Act, 1955 may be important to be taken into account, though citizenship purely by birth and not by descentance (Section 3(1)(a) is not eligible for inclusion in NRC. It is humbly felt that the

sustenance of Section 3(1)(b) & (c) is that while determining citizenship of any descendant born up to 3 December, 2004, citizenship eligibility of any one of the parents suffices, while for those descendants born on or after 3 December 2004, citizenship eligibility of both the parents needs to be taken into account. From a conjoint reading of Hon'ble Supreme Court's order dated 2 July 2018 and the provisions contained in Section 3(1)(b) & (c) of the Citizenship Act, 1955, the following appears to be the best course of action:

- a. For any NRC Applications/Claimants, if parent/legacy person through whom eligibility is sought to be established is a DV or DF or PFT, then such persons will not be included in NRC irrespective of the status of the other parent.
- b. For those persons born before 3 December 2004, if the parent through whom legacy is drawn is not DV or DF or PFT and is found eligible for inclusion in NRC, but the other parent from whom legacy is not drawn is a DV or DF or PFT, then, such descendants may be included in NRC.
- c. For those persons who are born on or after 3 December 2004, they will not be included in NRC if any of the parent is DV or DF or PFT even if the parent from whom legacy is drawn is clear from all angles. In this regard, it is submitted that the aforementioned matter was submitted by the deponent before the Judges Committee for opinion but the Committee advised to seek the order of the Hon'ble Court on the matter. As such the WP(C) 274/2009 5 above is submitted for kind approval.

8. That the deponent also would like to seek clarification on the matter of validity of orders passed under the Illegal Migrants (Determination by Tribunal) (IMDT) Act. Some of the applicants have submitted orders passed under IMDT declaring them as Indian. This matter was also referred by the deponent to the Judges Committee, however, the Committee advised the deponent to seek order from the Hon'ble Court on the matter. As such, directions are sought about acceptability of orders of IMDT, whether declaring the person to be Indian or Illegal Migrant. (Assam Public Works Petitioner Versus Union of India , 2019).

Supreme Court on Citizenship by Birth born after December 3, 2004 express its opinion through the order passed in Writ Petition (Civil) No.274 Of 2009 Assam

Public Works versus Union of India & Ors. With I.A. Nos.114781, 114788, 114807, 114814, 116964, 117074, the paragraphs in the order read as follows

5. The suggestions/prayers made in paragraph 7(b) and (c) of the Report dated 10th July, 2019 of the learned State Coordinator are in consonance with the provisions of Section 3 (1) (b) and (c) of the Act and the Standard Operating Procedure (SoP) for disposal of claims and objections. Therefore, we find no reason to refuse leave to the learned State Coordinator to act in terms of the action proposed in the said suggestions/prayers made in Paragraph 7(b) and (c) subject to such orders that this Court may pass in Writ Petition (Civil) No.311 of 2015. Moreover, as suggested by the learned State Coordinator, the issue raised could be best decided by the Tribunal, if so required as and when appeals are filed. (Assam Public Works versus Union of India & Ors, 2019, pp. 5).

4.4.6. Border Management Policy

Effective border management has been a central component of India's policy to control illegal immigration from Bangladesh. Assam shares a 267-kilometer-long border with Bangladesh, much of which is riverine and difficult to patrol. The porous nature of the border has historically facilitated the movement of people between the two countries, both legally and illegally. In response, the Indian government has implemented several measures aimed at securing the border. These include the construction of a border fence, the deployment of the Border Security Force (BSF), and the use of surveillance technology such as drones and floodlights. The aim of these measures is to prevent further illegal immigration into Assam. However, the border management efforts have faced significant challenges. The construction of the border fence has been delayed due to geographical obstacles, such as rivers and wetlands, as well as opposition from local communities who rely on cross-border trade and migration for their livelihoods. Moreover, many sections of the border remain unfenced, making it difficult to fully control illegal crossings.

Dasgupta (2016) argues that while securing the border is a necessary step, it is not sufficient to solve the problem of illegal immigration. Many immigrants who entered Assam before the border management measures were implemented remain in the state, and their presence continues to be a source of tension. Furthermore, socio-economic factors, such as poverty and lack of employment opportunities in Bangladesh, continue to drive migration, making border security only a partial solution.

4.4.7. Citizenship Rules Amendment in 2003 and the Citizenship (Amendment) Act, 2019

The Citizenship (Amendment) Act (CAA) of 2003 introduced significant changes to India's citizenship laws, particularly in the context of Assam. One of the most important changes was the introduction of the concept of "illegal migrants," which referred to individuals who entered India without valid documentation or stayed in the country beyond the permitted time. Under the CAA 2003, individuals who could not prove their residency in India prior to March 25, 1971, were classified as illegal migrants, in line with the provisions of the Assam Accord.

The CAA 2003 was seen as an attempt to provide a legal framework for dealing with illegal immigration in Assam. However, it also placed a significant burden on individuals to prove their residency status, which created challenges for marginalized communities who lacked documentation. In 2019, the Citizenship (Amendment) Act was passed, further altering India's citizenship laws. The CAA 2019 provided a pathway to citizenship for non-Muslim refugees from Bangladesh, Pakistan, and Afghanistan who had entered India before December 31, 2014. The Act, however, did not extend this provision to Muslim immigrants, a move that sparked widespread protests across India.

In Assam, the CAA 2019 was particularly controversial, as it was seen as a violation of the Assam Accord, which had set 1971 as the cutoff date for identifying illegal immigrants. Assamese nationalists argued that the CAA would legalize the presence of a large number of Bengali Hindu immigrants, further diluting the

indigenous Assamese identity. As Sharma (2020) notes, the CAA has deepened communal divides in Assam, with ethnic Assamese and indigenous groups viewing it as a threat to their cultural and political dominance. The Act has also been criticized for its exclusionary and communal nature, as it explicitly excludes Muslim refugees, raising concerns about its constitutionality and its impact on India's secular fabric .

Overview of the Chapter

The chapter provides a thorough historical overview of Assam, focusing on how migration has reshaped the region's socio-political and economic landscape, and its significant influence on identity. It traces the waves of migrants that arrived before independence, highlighting the concerns of the indigenous Assamese community about the potential erosion of their identity and the rise of movements opposing illegal immigration. These events are closely intertwined with various policy measures designed to address the complexities of migration, offering a nuanced perspective on Assam's ongoing efforts to maintain its cultural and political integrity.

Starting with migration trends during the colonial period, the chapter explains how British economic strategies encouraged Bengali laborers and peasants to move to Assam. This influx aimed to optimize the use of the fertile land and support the growing tea industry. While the migration brought economic development, it also significantly changed the demographic fabric of the region. Indigenous Assamese began to perceive the influx of migrants as a threat to their cultural identity and traditional livelihoods. The study effectively portrays how migration, initially a product of colonial policy, transformed into a source of identity-related strife. A deeper exploration of the long-term socio-political ramifications of this migration by the colonial authorities would further enrich this discussion.

Illegal Migration into Assam notably from Bangladesh has continued to be a significant problem in the region. The immigration is due to both 'pull' and 'push' factors. Foremost among these are the economic factors (like better employment opportunities in India) while the poverty, subsistence living, ravages caused by flood

and other natural calamities in Bangladesh act as push factors. Nonetheless, it is widely acknowledged that migration provides material benefits for migrants and their families (Afsar, 2003). One of the main destinations for ‘illegal’ Bangladeshi migrants is India, for economic and cultural reasons (Ranjan Ibid, p314).

The three general methods that a potential migrant adopts to cross the border are:

a) Border crossing – crossing the border at the vulnerable porous border spots in the dark of the night. Sometimes, even in the day time, migrants venture into other parts of the country by bribing the border guards in the name of going to nearby places for shopping or purchase of local items.

b) Overstaying beyond the visa period – some migrants come through legal channels with a valid visa, however, by the end of the visa period instead of returning back to their country of origin, they overstay with concealed identity in some other parts of India.

c) Sham marriages – the third method adopted by some migrants is through a marriage alliance with an Indian girl or boy to settle permanently in the country. Notably, brokers or dalals play an important role in the crossing of the border. (Mayilvaganan, 2019)

The large volume of influx of migrants have modified the population structure of Assam in respect of ethno-religious composition, literacy and education pattern, occupational structure, age-sex composition, economy, work force etc (Basumatari, 2014). –The influx of immigrants has not only had adverse effects on the delicate ethnic balance within the population leading to social and ethnic unrests and political movements but also has had short and long-run effects on the economy of Assam” (Nath, 2011). The fight against illegal immigration has resulted in multiple incidences of violence around the state. The Gohpur and Neillie Massacres were two major events during this time period. The occurrences occurred in the early months of 1983. Four thousand people were slaughtered, a quarter of a million were

left homeless, and many fled the state (Weiner, 1983). Apart from Gohpur, Apart from the Gohpur, Bodoland had experienced several others ethnic clashes throughout the decades.

The issue of illegal immigration in Assam is one of the most contentious and complex challenges facing the region. Over the decades, various policy initiatives have been introduced, ranging from electoral roll scrutiny and the Assam Accord to the NRC and the Citizenship (Amendment) Act. While each of these policies has sought to address the problem of illegal immigration, they have also created new tensions and controversies.

The difficulty in implementing these policies stems from a range of factors, including administrative inefficiencies, political opposition, and socio-economic realities. Moreover, the lack of a comprehensive solution to the problem has left many questions unanswered, particularly regarding the future of those excluded from the NRC and the impact of the CAA on Assam's demographic and cultural landscape.

Moving forward, it is clear that any effective policy must balance the need for securing borders and protecting national interests with human rights concerns and the socio-economic realities of the region. Only through a careful and sensitive approach can the issue of illegal immigration in Assam be resolved in a manner that promotes peace, justice, and social harmony.

In India, the National Register of Citizens (NRC) is a complicated and divisive process that touches on important topics related to identity, migration, and citizenship. Although the original goal of the NRC in Assam was to address the long-standing problem of illegal immigration, its execution has given rise to grave worries over human rights protection, discrimination, and justice. —Assam is a flood-prone area, and every year, thousands of people lose their homes and possessions, including documents, in floods or other calamities like land erosion and conflicts between communities. As a result, the possession of documents and legacy data is a luxury available to only the privileged” (Sharma, 2019). Which might lead to unreasonable

exclusion from the list and lead to statelessness in their own country. A sizable section of the populace is uncertain and anxious due to the exclusion of roughly 19 lakh persons from the final list, and the possibility of the NRC being extended nationally has spurred more discussion regarding its effects on Indian culture.

The Citizenship Amendment Act (CAA) and the NRC have also raised questions regarding India's secular character and its dedication to treating all citizens equally, regardless of their religious beliefs. As the nation struggles with these issues, any immigration and citizenship policies must be carried out in a way that respects the principles of equality, justice, and human dignity as stated in the Indian Constitution. However, the matter seems to be politically motivated for electoral benefits for a political party in power. —The NRC and the promise of the detection and deportation of all “foreign nationals” (illegal migrants who fail to figure in the NRC) are the best bait to keep these sections under tenterhooks, favouring the BJP” (Thomas, 2021).

—In the 2019 election campaign, Interior Minister Shah compared the illegal immigrants from Bangladesh to “termites” and demanded their expulsion” (Wagner, 2020). The CAA was also a matter of debate over social media, especially Twitter, which had two groups, supporters and against the law, influencing the young voters over the matter. As Srivastava (2021) explains, the Act was hugely applauded and supported by the BJP supporters, especially from the BJP ruling states.

The government is planning to update NRC in the whole country, which is mostly announced in the election campaigns of BJP in every state in the last few years. Updating the NPR database is regarded as the first step toward a nationwide NRC (Halder, 2021). Updating NRC all over the country will create chaos and tension, especially in the socially, educationally and economically backward sections of the society. Which will also consume the country's resources and time.

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Chapter- V

Administrative Mechanism and Role of Judiciary in Refugee Protection and Addressing the Issue of Illegal Immigrants

This chapter delves into realm of refugee protection and undocumented immigration in India, highlighting the challenges posed by the absence of a comprehensive refugee policy. It critically examines the interplay between various administrative, judicial, and legal frameworks that govern the treatment of refugees, particularly through the lens of the Foreigners Act of 1946 and the Passport (Entry into India) Act of 1920. As discretionary powers within these laws are exercised, the chapter reveals the implications of recent legislative amendments, including the Citizenship Amendment Act (CAA) of 2019. Notably, it underscores the judiciary's pivotal role in safeguarding the rights of refugees, invoking constitutional safeguards while scrutinizing state practices. By addressing the tensions between national security concerns and humanitarian obligations, this chapter aims to illuminate the ongoing struggle for an equitable refugee protection regime in India, examining the judiciary's protective measures in light of systemic inadequacies within administrative responses.

5.1 Administrative Mechanism for Refugee Protection in India

The Indian administrative framework for refugee management is primarily governed by general laws on foreigners and immigration, such as the Foreigners Act, 1946, and the Passport (Entry into India) Act, 1920. These laws provide broad discretion to the executive but lack specific provisions for refugees, leaving refugee protection largely dependent on administrative and executive discretion.

The Foreigners Act, 1946, forms the cornerstone of India's policy towards refugees, treating them as "foreigners" under the law. It grants wide powers to the executive to regulate, detain, and deport foreigners. Refugees who enter India without proper documentation, or who overstay their visas, are liable to be treated as illegal immigrants under this act, making them vulnerable to arrest and deportation. The government of India had issues notifications and regulations on entry and exit of

the foreigners aiming to take shelter in India fleeing persecution in the origin country. The government has putted effort to recognize the refugees and protecting them uniformly through Citizenship Amendment Act, 2019. The rules of the CAA are notified in 2024 in the Gazette of India. The background of the legislation, terms and conditions etc. are thoroughly discussed in the Chapter III, hence I am not discussing in detail here again. Before enacting the legislation, the Government had recognized and protected the forcedfully displaced person through executive orders.

In exercise of the powers conferred by section 3 of the Passport (Entry into India) Act, 1920 (34 of 1920), the Central Government hereby makes the following rules further to amend the Passport (Entry into India) Rules, 1950, namely:-

(1) These rules may be called the Passport (Entry into India) Amendment Rules, 2015

(2) They shall come into force on the date of their publication in the Official Gazette. In the Passport (Entry into India) Rules, 1950, in rule 4 in sub-rule (1), after clause (h), the following clause shall be inserted, namely: -

Persons belonging to minority communities in Bangladesh and Pakistan, namely, Hindus, Sikhs, Buddhists, Jains. Parsis and Christians who were compelled to seek shelter in India due to religious persecution or fear of religious persecution and entered into India on or before the 31st December, 2014-

(i) without valid documents including passport or other travel documents; or

(ii) with valid documents including passport or other travel documents and the validity of any of such documents has expired:

Provided that provision of this clause shall take effect from the date of publication of this notification in the Official Gazette. (MHA, 2015).

Same year the Home Ministry had amended the Foreigners Order for incorporating additional clause in the order for recognizing and protecting refugees coming from the notified countries and the specified groups. In addition to incorporating clause to Entry in to India laws, it was necessary to amend the Foreigners Act to accommodate the forcefully displaced people.

In exercise of the powers conferred by section 3 of the Foreigners Act, 1946 (31 of 1946), the Central Government hereby makes the following order further to amend the Foreigners Order, 1948, namely:

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1. (I) This Order may be called the Foreigners (Amendment) Order, 2015.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Foreigners Order, 1948, after paragraph 3, the following paragraph shall be inserted, namely:-

3A. Exemption of certain class of foreigners.- (I) Persons belonging to minority communities in Bangladesh and Pakistan, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians who were compelled to seek shelter in India due to religious persecution or fear of religious persecution and entered into India on or before the 31st December, 2014-

(a) without valid documents including passport or other travel documents and who have been exempted under rule 4 from the provisions of rule 3 of the Passport (Entry into India) Rules, 1950, made under section 3 of the Passport (Entry into India) Act, 1920 (34 of 1920); or

(b) with valid documents including passport or other travel document and the validity of any of such documents has expired,

are hereby granted exemption from the application of provisions of the Foreigners Act, 1946 and the orders made thereunder in respect of their stay in India without such documents or after the expiry of those documents, as the case may be, from the date of publication of this order in the Official Gazette. (MHA, 2015).

By the above order, the Central Government had exempted the Persecuted minority communities in the Pakistan and Bangladesh who entered India without Valid documents from the Category of Illegal Immigrants. By these order, government had recognized them as Refugees and sought to protect them from legal penalties. Further, government has sought to exempt and protect the religious minorities coming from Afghanistan into India using its discretionary power.

In exercise of the powers conferred by section 3 of the Foreigners Act, 1946 (31 of 1946), the Central Government hereby makes the following order further to amend the Foreigners Order, 1948, namely:-

1. (I) This Order may be called the Foreigners (Amendment) Order, 2016.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Foreigners Order, 1948, after paragraph 3A, for the word –Bangladesh” , words –Afghanistan, Bangladesh” shall be substituted. (MHA, 2016).

The Ministry of Home Affairs (MHA) plays an important role in regulating refugee entry and stay in India. The act’s provisions allow the government to make arbitrary decisions regarding the stay and deportation of refugees. Despite this, the government has, on occasion, provided administrative relief to specific refugee groups, such as issuing long-term visas (LTVs) to Tibetan and Sri Lankan Tamil refugees. These visas permit access to employment and education, albeit within

limited parameters. However, for many other refugee groups, particularly Rohingyas, those from Myanmar, no such special provisions are made, and they face the constant threat of deportation.

Long Term Visa (LTV) to Pakistan, Bangladesh and Afghanistan nationals coming to India on valid travel documents i.e. valid passport and valid visa and seeking permanent settlement in India with a view to acquire Indian citizenship

(A) Categories of persons eligible for LTV

(B) Following categories of Pakistan' Bangladesh' Afghanistan nationals shall be eligible for grant of LTV:-

(i) Members of minority communities in Pakistan/Bangladesh/Afghanistan, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians.

(ii) Pakistan / Bangladesh women married to Indian nationals and staying in India and Afghanistan nationals married to Indian nationals in India & staying in India.

(iii) Indian origin women holding Pakistan/ Bangladesh/ Afghanistan nationality married to Pakistan/ Bangladesh/ Afghanistan nationals and returning to India due to widowhood/divorce and having no male members to support them in Pakistan/ Bangladesh/ Afghanistan

(iv) Cases involving extreme compassion. (MHA, 2020).

Exercising the powers bestowed upon the Centre, the MHA had issued notifications on several occasions for issuing LTV to foreigners coming from neighboring countries, especially Pakistan, Bangladesh and Afghanistan even after the implementation of CAA. As, CAA only protected the refugees coming to India before December 2014, this does not help any further beyond the specified date. Hence, the government has used its power to issue notification for refugees coming beyond this date.

The Government of India also issues notifications and directions on the welfare of the recognized refugees residing in India and under the government's protection. One such group is refugees from Tibet. They have been primarily living in Dharamshala under the government's oversight mechanism. They have been treated well since they arrived in India. However, they have been subject to lack of assistance from state governments and authorities. The government is in good coordination with the group, for their assistance, issued directions for their welfare, and sought cooperation from state governments.

After the occupation of Tibet by China, many Tibetans, under the leadership of His Holiness The Dalai Lama, came to India along with their families and have been living in India since the past 50 years. The issues relating to Tibetan Refugees are coordinated by His Holiness The Dalai Lama's Central Tibetan Relief Committee (CTRC) located at Dharamshala. The Government of India consults CTRC on a regular basis to find out about the issues relating to Tibetan Refugees and the problems that they are confronted with. The Tibetan Refugees are approximately numbering 1,10,095 as per the 2009 figure. These Tibetan Refugees are located in 45 number of settlements spread out mainly in 10 States of India. Many Tibetans are also living outside these settlements

2. The Government of India has been having a series of discussions with the representatives of the CTRC to address the problems of the Tibetan Refugees. It was found that the level of assistance/facilities extended by the various State Governments are not uniform. Therefore it was thought appropriate to provide a uniform Guideline clearly demarcating the facilities to be extended to the Tibetan Refugees living within the jurisdiction of each State Government. (MHA, 2024).

5.1.1 UNHCR in India

UNHCR is governed by the UN General Assembly and the Economic and Social Council (ECOSOC). The UNHCR Executive Committee oversees the

agency's biannual plans and budget. These are delivered by the UN General Assembly-appointed High Commissioner. The UNHCR Statute of 1950 serves as its definition. The Inspector General's Office (IGO) serves as the foundation of UNHCR's system of independent oversight. The UNHCR's involvement is so restricted, as it can only help in granting refugee certificates and giving limited legal protection, but it cannot enforce these rights under Indian law (Sinha, 2021). This dependence on foreign entities in the absence of a binding legislative framework leads to uneven application of refugee protection legislation in India (UNHCR, nd).

The United Nations High Commissioner for Refugees (UNHCR) operates in India but does not have formal recognition from the Indian government. The UNHCR provides refugee status determination (RSD) and legal protection for certain groups, including Afghans, Myanmar nationals, and African refugees. However, the lack of a formal agreement between India and the UNHCR means that the latter's decisions do not hold legal validity in Indian courts, and refugees under the UNHCR's mandate often face administrative hurdles when seeking formal legal status or long-term visas. In a situation where Government of India denies access to UNHCR and other foreign humanitarian agencies, domestic NGOs play the most crucial role to provide "protection" to the refugees

However, India has been cooperating in certain cases with UNHCR in managing refugees, especially Afghans in Delhi. Moreover, it sent the secretary to the UNHCR meeting under the Indian UN Permanent Mission and discussed the refugee issues in the forum. It has also assured its vision of refugee protection and asserted that being without a signatory, it has been discharging its duty on humanitarian grounds.

That we recognize the fact that a number of States not parties to the international refugee instruments have shown a generous approach to hosting refugees and that the commitments and obligations of those who are party to the Refugee Convention and its protocol and those who are not, differ.....I take this opportunity to renew the commitment of India, a generous host to a large number of refugees

and not their source, for protection of refugees and cooperation with the international community. We look forward to a positive and win-win outcome through a constructive engagement. (Alam, 2018).

5.2 Role of the Judiciary in Refugee Protection

In the absence of a comprehensive refugee law, the Indian judiciary has been playing a pivotal role in protecting the rights of refugees. The courts have often stepped in to interpret constitutional provisions favoring refugees, particularly concerning the right to life and personal liberty under Article 21 of the Indian Constitution. Through judicial intervention, the Supreme Court and High Courts often review the principle of nonrefoulement. Indian courts have also exercised judicial review over executive actions related to refugees, ensuring that administrative decisions conform to constitutional standards. The judiciary has acted as a check on arbitrary executive decisions, particularly in cases involving the deportation or detention of refugees. Indian courts have decided in a number of cases that the constitutional protection of life and liberty must be provided to refugee (Bhattacharjee, 2008).

In addition to the Supreme Court, High Courts in India have played a vital role in refugee protection. The courts in various cases held that despite the lack of domestic refugee legislation, the government is bound by specific by international humanitarian law principles in which it is a signatory and also bound by the Constitutional Provisions guaranteed to the aliens as well. Certain Cases illustrate the willingness of Indian High Courts to rely on international principles to protect refugees, even when there is no domestic law specifically addressing refugee rights. The judiciary's proactive stance ensures that refugees are not left without legal recourse, even without a formal refugee protection framework. Such an instance was *Nandita Haksar vs. State of Manipur Case*, (2021), which states

This Court is conscious of the fact that India is not a signatory to the Geneva Refugee Convention, 1951, or the New York Protocol of 1967. However, it is a party to the Universal Declaration of Human

Rights and also the International Covenant on Civil and Political Rights. That apart, the protection afforded by Article 21 of the Indian Constitution is not limited to citizens and can be availed by non-citizens also. The principle against refoulement, i.e., the forcible return of refugees to a country where they are liable to be subjected to persecution, can prima facie be read into Article 21 of the Indian Constitution. (Nandita Haksar vs. State of Manipur, 2021).

Almost in every case related to aliens, the courts have reiterated that the refugees are entitled to certain rights extended by the constitution of India, notably rights guaranteed by Article 21. Even this article guarantees the Aliens living in India approach the Courts under the ambit of the right of life endangerment. They take the help of this right to approach the court against non-volunteer deportation or refoulment. It may be noted that the benefit provided by the Indian Constitution under article 32, which provides “remedies for the enforcement of rights conferred in Part III,” as a fundamental right to petition the Supreme Court for the protection and enforcement of any of their fundamental rights, in case of infringement can be availed by every person (Najar, 2022).

India is not a party to the 1951 Refugee Convention nor its 1967 Protocol, on grounds of security and public order. In any case, Article 253 of the Constitution of India provides that the Parliament can only implement international treaties or conventions by making laws to that effect. However, no law on refugees exists in India at present. All the same, India has assisted refugees within its territory, by way of State practice and communication with the UNHCR: often, refugees here are categorised as either mandated or non-mandated. Moreover, Articles 14 (equality before the law) and 21 (right to life and liberty) of the Constitution are available to non-citizens as well, and have been utilised by refugee groups in Indian courts for obtaining protections against deportation, expulsion and repatriation without consent. (Neyatitus vs The Regional Passport Officer, 2023)

The High Courts also care for the basic amenities and welfare of the refugees living under government protection. It has held the government accountable for not discharging of its duty towards the refugees. It has ascertained the refugees are entitled to Fundamental Rights.

A refugee has to be housed in reasonably decent accommodation. The basic infrastructural facilities must be available. He or she must also have access to the fundamental amenities such as sanitation, health care, clean drinking water etc., When the right to shelter and housing has been recognised internationally as a human right, it cannot be denied to the refugees living in a camp. A camp houses a few hundred families. There are women and young girls. Their privacy has to be ensured. Otherwise, there is no meaning in declaring privacy as a fundamental right. (Athipathi vs The Principal Secretary, 2023).

In our view, the stand of the respondents shows that assistance is being provided to the Tamil refugees from Sri Lanka, but they want more, as urged by the petitioner. There is no intrinsic right much less any constitutional right in this behalf, as their basic needs are being looked after, despite being refugees, in view of Article 21 of the Constitution of India. It is for the concerned Governments to decide whether any modified or further facilities are to be provided or not. (P.Ulaganathan vs The Government Of India, 2019).

Another important judgement shows the High Court and the Supreme Court's firm stand on the rights of aliens related to Article 21 of the Constitution. In the case of Hanuffa Khatoon, related to the subject of violence by the Railway Employee, the High Court has given judgment for providing compensation to her by the Railway Department on the ambit of dignity. The judgement was challenged in the Highest Court of the Country. However, the Supreme Court upheld the judgement by the High Court, stating that she is entitled to the rights guaranteed under Article 21, and it cannot be overlooked.

Smt. Hanuffa Khatoon, who was not the citizen of this country but came here as a citizen of Bangladesh was, nevertheless, entitled to all the constitutional rights available to a citizen so far as "Right to Life" was concerned. She was entitled to be treated with dignity and was also entitled to the protection of her person as guaranteed under Article 21 of the Constitution. As a national of another country, she could not be subjected to a treatment which was below dignity nor could she be subjected to physical violence at the hands of Govt. employees who outraged her modesty. The Right available to her under Article 21 was thus violated. Consequently, the State was under the Constitutional liability to pay compensation to her. The judgment passed by the Calcutta High Court, therefore, allowing compensation to her for having been gang-raped, cannot be said to suffer from any infirmity. (The Chairman, Railway Board & Ors vs Mrs. Chandrima Das & Ors., 2000).

The most significant contribution of the judiciary in refugee protection has been its endorsement of the principle of non-refoulement, even in the absence of statutory provisions. In the landmark case of *Ktaer Abbas Habib Al Qutaifi v. Union of India* (1998), the Gujarat High Court held that the principle of non-refoulement is part of Article 21, which guarantees the right to life and personal liberty. The court ruled that refugees could not be deported to countries where their lives would be in danger. This interpretation has provided legal protection to refugees and has served as a basis for future judicial decisions.

From the conspectus of the aforesaid, following principle emerges in the matter of enforcement of Humanitarian law :- (1) The International Conventions and Treaties are not as such enforceable by the Government, nor they give cause of action to any party, but there is an obligation on the Government to respect them.(2) The power of the Government to expel a foreigner is absolute. (3) Article 21 of the Constitution of India guarantees right of life on Indian Soil to a non-

citizen, as well, but not right to reside and settle in India. (4) The international covenants and treaties which effectuate the fundamental rights guaranteed in our constitution can be relied upon by the Courts as facets of those fundamental rights and can be enforced as such. (5) the work of the UNHCR being humanitarian, on certification of Refugee, FS the Government of India is under obligation to ensure that Refugees receive international protection until their problem is solved. (6) The principle of 'non-refoulment' is encompassed in Article 21 of the Constitution of India and the protection is available, so long as the presence of the refugee is not prejudicial to the national security. (7) In view of directives under Article 51(c) and Article 253, international law and treaty obligations are to be respected. The Courts may apply those principles in domestic law, provided such principles are not inconsistent with domestic law. (8) Where no construction of the domestic law is possible, Courts can give effect to international conventions and treaties by a harmonious construction. (Ktaer Abbas Habib Al Qutaifi And Anr. vs Union Of India, 1998).

Similarly, in NHRC v. State of Arunachal Pradesh (1996), the Supreme Court intervened to prevent the forcible eviction of Chakma refugees from Arunachal Pradesh. The court held that the refugees' right to life and personal liberty under Article 21 could not be violated, and their deportation would result in a breach of this fundamental right. This case reinforced the judiciary's role in upholding refugee rights, even in the absence of specific legal protections for refugees.

We are a country governed by the Rule of Law. Our Constitution confers rights on every humanbeing and certain other rights on citizens. Every person is entitled to equality before the law and equal protection of the laws. So also, no person can be deprived of his life or personal liberty except according to procedure established by law. Thus the State is bound to protect the life and liberty of every human-being, be he a citizen or otherwise, and it

cannot permit any body or group of persons, e.g., the AAPSU, to threaten the Chakmas to leave the State, failing which they would be forced to do so. No State Government worth the name can tolerate such threats by one group of persons to another group of persons; it is duty bound to protect the threatened group from such assaults and if it fails to do so, it will fail to perform its Constitutional as well as statutory obligations. Those giving such threats would be liable to be dealt with in accordance with law. The State Government must act impartially and carry out its legal obligations to safeguard the life, health and well-being of Chakmas residing in the State without being inhibited by local politics. Besides, by refusing to forward their applications, the Chakmas are denied rights, Constitutional and statutory, to be considered for being registered as citizens of India. (National Human Rights Commission vs State Of Arunachal Pradesh & Anr, 1996).

5.3 Challenges and Limitations in Refugee Protection

Despite the proactive role of the judiciary in refugee protection, several challenges remain. The most significant issue is the lack of a formal refugee law in India, which leads to inconsistent treatment of different refugee groups and leaves many refugees vulnerable to arbitrary administrative decisions. Without a comprehensive legal framework, refugees often rely on ad hoc executive orders and judicial interventions for protection, resulting in uncertainty and legal insecurity.

Moreover, while the judiciary has invoked constitutional guarantees to protect refugees, the enforcement of these decisions is often hindered by political considerations and the lack of resources at the administrative level. For instance, the government's stance on Rohingya refugees, despite court orders, remains hostile, with many refugees still facing the threat of deportation and arbitrary detention.

Another challenge is the balance between national security and humanitarian protection. The judiciary has had to navigate complex cases where the government

has cited national security concerns to justify restrictive measures against refugees. While courts have generally sided with refugee protection, this balancing act remains a contentious issue, particularly in light of rising concerns about cross-border terrorism and illegal immigration. Rohingya Refugees are denied protection in India. They are declared by UN as the most persecuted minorities in the world (Rai, 2021).

5.4 Administrative Mechanism and Role of Judiciary in Addressing the Issue of Illegal Immigrants in India

India faces a complex challenge regarding the influx and regulation of illegal immigrants, owing to its geographical position and porous borders shared with several neighboring countries. Illegal immigration in India is a multifaceted issue involving security, demographic pressures, and socio-economic concerns. Addressing this problem requires a robust administrative mechanism to monitor and regulate immigration, and the judiciary plays a critical role in ensuring that actions taken by the state are in compliance with the constitution and human rights standards. This section explores how the Indian administrative system handles illegal immigrants and the judiciary's interventions in addressing the legal and human rights dimensions of this issue.

5.4.1 Administrative Mechanism for Handling Illegal Immigrants in India

The administrative response to illegal immigration in India is shaped by a combination of laws, executive actions, and border security measures. The framework lacks a single, comprehensive policy specifically aimed at illegal immigrants, relying instead on several general laws that cover all foreigners, including illegal migrants.

The Foreigners Act, 1946, is the primary legal tool governing the entry, stay, and exit of foreigners in India, including illegal immigrants. It gives the Indian government significant powers to detain, deport, or regulate the activities of any foreigner. Under this law, the executive has broad discretion to expel illegal immigrants or restrict their movements within the country.

Section 3 of the Foreigners Act grants the central government the power to make orders regarding the stay of foreigners, including illegal immigrants, and to enforce deportation when necessary. The act also mandates that foreigners, including illegal immigrants, register themselves with the authorities, failing which they are subject to arrest and prosecution. However, in practice, the implementation of these provisions has been inconsistent, and there is often ambiguity regarding who qualifies as an "illegal immigrant".

Illegal migrants (including those who claim to be refugees) are dealt with under – (i) The Foreigners Act, 1946, (ii) The Passport (Entry into India) Act, 1920, (iii) The Registration of Foreigners Act, 1939 and (iv) The Citizenship Act, 1955. To deal with such immigrants (including those who claim to be refugees), the powers of the Central Government under Section 3 of The Foreigners Act, 1946 to detect, detain and deport illegal foreign nationals and powers under Section 5 of The Passport (Entry into India) Act, 1920 to remove an illegal foreigner by force have been entrusted under Article 258(1) of the Constitution of India to all the State Governments. Further, under Article 239(1) of the Constitution of India, Administrators of all Union Territories have also been directed to discharge the functions of the Central Government relating to the aforesaid powers. MHA had also issued a Standard Operating Procedure (SOP) to be followed by all concerned agencies, including the State Government of Uttar Pradesh while dealing with foreign nationals who claim to be refugees vide letter dated 29.12.2011 which has been further revised on 20.03.2019. (Rajya Sabha, 2020)

Under the Passport (Entry into India) Act, immigrants without valid travel documents are subject to penalties, including imprisonment. This law empowers the authority, especially the Police working under the state government, to arrest such violators of the given provisions in the Act. The Government notification through which the power is extended states that

I am directed to say that the matter regarding powers vested with the State Governments/UT Administrations for arresting foreign nationals living illegally in India has been examined by the Government. In this context, the State Governments/UT Administrations may note that the police authorities can exercise the power to arrest a foreign national living illegally in India in terms of Section 4 of the Passport (Entry into India) Act, 1920, which is reproduced below:-

"Power to Arrest - (1) Any officer of police, not below the rank of a Sub Inspector, and any officer of Customs Department empowered by a general or special order of the Central Government in this behalf may arrest without warrant any person who contravened or against whom a reasonable suspicion exists that he had contravened any rule of order made under Section 3""

2. Further, any foreign national who remains in any area in India for a period exceeding the period for which the visa was issued to him can be proceeded against under Section 14 of the Foreigners Act, 1946. It may also be mentioned that a foreigner who enters into or stays in any area in India without the valid documents required for such entry or for such stay, as the case may be, can also be proceeded against under Section 14A (b) of the Foreigners Act, 1946. (MHA, 2012).

5.4.2 The National Register of Citizens (NRC)

One of the most significant administrative measures to address illegal immigration is the National Register of Citizens (NRC). Initially confined to the state of Assam, the NRC is a registry that aims to identify genuine Indian citizens and separate them from illegal immigrants. In the 2019 update of the Assam NRC, over 1.9 million people were excluded. The tribunals will have a key role in adjudicating cases related to the NRC. The tribunals will assess the evidence submitted by individuals to prove their citizenship status, whose names are not included in NRC, and their decisions are binding.

The government looks into the NRC as a necessary step to address the long-standing problem of illegal immigration from Bangladesh, particularly in Assam, where demographic pressures have led to social unrest. However, critics argue that the NRC's implementation has been marred by errors, leading to the wrongful exclusion of genuine citizens, including marginalized communities such as tribal groups and linguistic minorities.

5.4.3 Foreigners Tribunals

Foreigners Tribunals, established under the Foreigners (Tribunal) Order, 1964, are quasi-judicial bodies tasked with determining whether an individual is an illegal immigrant or a legitimate citizen. The various department of the government, such as SP(Borde), Election Office refer cases to the FTs for the opinion of the Member about the nationality of the alleged person.

However, the functioning of Foreigner tribunals has been subject to scrutiny. The recent High Court judgment has given direction to the state government (Assam) to scrutinize the opinion passed by the FT Members. Overall, the FTs are under the ambit of the state government, as the recruitment, salary, tenure, etc., are under the state government. Hence, the government plays a crucial in the functioning of the FTs.

5.4.4 Border Security and Deportation Mechanisms

India's geographical proximity to the origin country of Illegal Immigrants, like Bangladesh, Border management is a significant issue. The Border Security Force (BSF) plays a crucial role in preventing illegal immigration by patrolling the borders and intercepting individuals attempting to cross into India without proper documentation. Apart from the BSF, the state police's special department, Border Branch, plays an important role in giving a check on infiltration into the country via Assam. It conducts joint operations along with BSF and also has its BoPs and Check Post for checking the infiltration into the state. However, the porous nature of India's borders makes it difficult to completely stem the flow of illegal immigrants, particularly along the India-Bangladesh border.

Deportation remains a key administrative tool for dealing with illegal immigrants. The process of deportation is governed by bilateral agreements between India and neighboring countries, particularly Bangladesh. However, the deportation of illegal immigrants is often a slow and bureaucratic process, with many individuals remaining in detention centers for prolonged periods due to the lack of documentation or inability to confirm their nationality.

In the case of refugees without valid documentation, the MHA has occasionally issued deportation orders, as seen with the Rohingya population. For instance, in 2017, the MHA ordered state governments to identify and deport Rohingyas, citing national security concerns. However, this administrative discretion has often been challenged in the courts, which intervene to safeguard the fundamental rights of refugees.

5.5 Role of the Judiciary in Addressing Illegal Immigration

The Indian judiciary has played a vital role in addressing the issue of illegal immigration, particularly in ensuring that the administrative actions taken by the government adhere to constitutional and human rights standards. While the judiciary has recognized the state's right to regulate immigration and protect its borders, it has also emphasized that such powers must be exercised in a manner that respects individual rights and adheres to due process.

5.5.1 Foreigners Tribunals and Due Process

The very process after the detection and arrest of Illegal Immigrants starts in the judicial ambit. Be it a referral case to the FTs, visa violation or related case in Civil Courts, the Judiciary plays a crucial role in addressing the issue of Illegal Immigrants. The judiciary, especially the highest court, the Supreme Court of India, is the ultimate interpreter of the Constitution. Which has contributed in this field tremendously by the interpretation. It has struck down the IMDT Act in *Sonowal vs Union of India* judgement, making a notable change in the process of detection and declaration by the courts.

To sum up our conclusions, the provisions of the Illegal Migrants (Determination by Tribunals) Act, 1983 are ultra vires the Constitution of India and are accordingly struck down. The Illegal Migrants (Determination by Tribunals) Rules, 1984 are also ultra vires and are struck down. As a result, the Tribunals and the Appellate Tribunals constituted under the Illegal Migrants (Determination by Tribunals) Act, 1983 shall cease to function. The Passport (Entry into India) Act, 1920, the Foreigners Act, 1946, the Immigrants (Expulsion from Assam) Act, 1950 and the Passport Act, 1967 shall apply to the State of Assam. All cases pending before the Tribunals under the Illegal Migrants (Determination by Tribunals) Act, 1983 shall stand transferred to the Tribunals constituted under the Foreigners (Tribunals) Order, 1964 and shall be decided in the manner provided in the Foreigners Act, the Rules made thereunder and the procedure prescribed under the Foreigners (Tribunals) Order, 1964. (Sarbananda Sonowal vs Union of India, 2005).

After the eradication of IMDT, The Foreigners Tribunal, under the Foreigners order, started deciding upon referral cases. Moreover, the NRC-related cases were excluded from the final list to be trialed in FTs. It's important to note that the whole process of NRC was updated under the constant supervision of the Supreme Court. It had issued orders and judgements from time to time when any kind of challenge or concern arose.

5.5.2 Non-Refoulement and National Security Concerns

While illegal immigrants are generally subject to deportation under Indian law, the judiciary has invoked the principle of non-refoulement in cases where deportation would lead to persecution or a threat to life. The principle of non-refoulement, though not explicitly recognized in Indian law, has been upheld by the courts as part of the right to life under Article 21 of the Constitution. However, the Courts have also prioritized the National interest and Security in many instances.

In *Mohammad Salimullah v. Union of India* (2021), the Supreme Court reiterated the issue of national security arising out of undocumented immigrants or aliens in India. The petition was challenging the deportation of Rohingya refugees, citing the risk of persecution in Myanmar. The court emphasised that the Indian Constitution guarantees certain rights under Article 21 on Indian soil to refugees. However, the right to settle and move to any part is available only to the citizens. Moreover, the concern of national security is also emphasized in this case.

We have carefully considered the rival contentions. There is no denial of the fact that India is not a signatory to the Refugee Convention. Therefore, serious objections are raised, whether Article 51(c) of the Constitution can be pressed into service, unless India is a party to or ratified a convention. But there is no doubt that the National Courts can draw inspiration from International Conventions/Treaties, so long as they are not in conflict with the municipal law. Regarding the contention raised on behalf of the petitioners about the present state of affairs in Myanmar, we have to state that we cannot comment upon something happening in another country.

13. It is also true that the rights guaranteed under Articles 14 and 21 are available to all persons who may or may not be citizens. But the right not to be deported, is ancillary or concomitant to the right to reside or settle in any part of the territory of India guaranteed under Article 19(1)(e). (*Mohammad Salimullah and Anr. Versus Union of India and Ors.*, 2021).

The judiciary's non application of non-refoulement has ensured that illegal immigrants, are subject to deportation to countries where they belong. The government also stressed on the national security concerns by illegal immigrants in the state, particularly in cases where individuals are suspected of links to cross-border terrorism.

5.5.3 Overlooking NRC Updataion Process

One of the most significant areas where the judiciary has intervened is determining citizenship and illegal immigration through the NRC. The Supreme Court of India has been actively involved in monitoring the implementation of the NRC in Assam. The court has sought to ensure that the process is transparent and that individuals are given adequate opportunities to prove their citizenship.

In the case of *Assam Public Works v. Union of India* (2019), the Supreme Court ordered the preparation of the NRC, emphasizing that illegal immigration posed a significant threat to national security and the demographic composition of Assam. However, the court also stressed the need for procedural fairness, directing the government to ensure that no genuine Indian citizen was wrongfully excluded.

Despite these interventions, the NRC process has faced criticism for its exclusionary practices. The judiciary has attempted to balance the state's concerns regarding illegal immigration with the need to protect individuals from wrongful exclusion and statelessness.

Overview

This chapter examines the administrative and judicial frameworks governing refugee protection and undocumented immigration in India, particularly in the context of the absence of a comprehensive refugee policy. It evaluates the synergies between established legal statutes, executive directives, and judicial interventions, with a focus on the application of the Foreigners Act of 1946 and the Passport (Entry into India) Act of 1920. The discretionary powers inherent in these laws are scrutinized, particularly regarding their implementation in the regulation of refugees and unauthorized migrants.

The administrative approach largely employs general laws applicable to foreigners, as refugee-specific provisions remain minimal. Notably, recent amendments to the Passport and Foreigners Acts in 2015 and 2016 introduced exemptions for persecuted minorities from neighboring countries such as Bangladesh

and Pakistan, allowing them to bypass illegal immigrant designations. This selective acknowledgment of refugee status, culminating in the Citizenship Amendment Act (CAA) of 2019, raises critical concerns regarding inclusivity, particularly for groups such as the Rohingyas, who remain unprotected under these measures. The issuance of Long-Term Visas (LTVs) is emblematic of an ad hoc administrative response, lacking consistency and effectively rendering many vulnerable populations vulnerable to arbitrary executive decisions.

In the void left by an explicit refugee law, India's judiciary has emerged as a critical defender of refugees' rights, often invoking constitutional provisions, notably Article 21, which enshrines the right to life and personal liberty, along with international humanitarian principles like non-refoulement. Significant judicial precedents such as *Ktaer Abbas Habib Al Qutaifi v. Union of India* and *NHRC v. State of Arunachal Pradesh* reinforce that constitutional protections extend to non-citizens. These rulings underscore the judiciary's function as a bulwark against capricious administrative practices, protecting refugees from unlawful deportation or detention that would contravene their fundamental rights.

The chapter further explores the judiciary's role in scrutinizing institutions such as the National Register of Citizens (NRC) and Foreigners Tribunals (FTs). It critiques the operational inconsistencies and the potential for politicization within these tribunals, particularly regarding citizenship determinations. Although the NRC is positioned as a mechanism to combat illegal immigration, its implementation has drawn significant criticism for wrongful exclusions and the disenfranchisement of marginalized groups. Judicial oversight over the NRC's processes, demanding procedural fairness, reveals an ongoing endeavor to reconcile state security imperatives with the preservation of individual rights; however, it also exposes the inadequacies of judicial mechanisms in rectifying deeper systemic issues within administrative practices.

The involvement of international bodies such as the United Nations High Commissioner for Refugees (UNHCR) is briefly assessed, highlighting their constrained operational capacity in India, exacerbated by the government's lack of

formal recognition. This gap in international cooperation complicates the situation, leaving non-mandated refugees dependent on sporadic support from NGOs. The chapter concludes by addressing the ongoing tension between national security needs and humanitarian responsibilities. While the judiciary has reiterated principles like non-refoulement, it has concurrently recognized the state's prerogative to regulate immigration and mitigate potential security threats. This duality is particularly pronounced in cases pertaining to Rohingya refugees, where judicial caution is evident in relation to governmental directives justified by national security concerns. This complex judicial posture illustrates the intricacies of balancing constitutional rights, international commitments, and state sovereignty.

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CHAPTER VI

CHALLENGES IN PROTECTING REFUGEES, IDENTIFYING ILLEGAL IMMIGRANTS, AND DEPORTATION

In recent years, the complexities of refugee protection, illegal immigration, and deportation in India have garnered increasing attention, revealing deep-rooted challenges within the nation's administrative and legal frameworks. This chapter seeks to unravel these intricate issues, particularly focusing on individuals labeled as illegal immigrants whose lives become entangled in the often opaque processes of Foreigners Tribunals (FTs). The absence of a defined refugee policy exacerbates the difficulties in identifying undocumented individuals, creating significant hurdles in resolving citizenship disputes.

As we delve into the nuances of refugee protections, a stark contrast emerges between the discretionary powers exercised by the executive and the dire circumstances faced by specific groups, most notably the Rohingyas. The Citizenship Amendment Act (CAA) of 2019 further complicates the landscape, raising troubling questions about fairness and inclusivity in a nation that prides itself on its diversity. By examining the procedural inconsistencies and profound human impacts that flow from these challenges, this chapter highlights the urgent need for reform in India's migration management system, which continues to affect the lives of vulnerable populations and shape the broader narrative of human rights in the country.

6.1 Refugee Groups in India and their Protection Status

The fundamental element of refugee protection is identifying someone or some group as refugees by any state. I have discussed in the past chapter that India does not have a framework which categorizes someone as a refugee. Whoever enters India without valid documents and permission is recognised as an illegal immigrant, irrespective of motive and circumstances. It is evident that the person who is subjected to persecution or forcefully displaced will not have the privilege to gather all the formalities before knocking on the door and asking for formal permission to enter India and then seek refuge.

However, despite not having a refugee framework, India does give protection to the refugees as per government discretion. The constitution has vested power with the Union government to make rules on this subject. The union government can allow somebody to enter its territory without even valid documents, and the government can give protection. Also, government can exempt anyone from being persecuted as illegal immigrants for violation of laws related to immigration and Foreigners. Also, India has exempted people from time to time from being labeled as illegal immigrants.

Moreover, the recent amendment in Citizenship laws in 2019, has given certain group of people who had arrived in India in the ambit of being refugees, however; recognized as illegal immigrants, exemption from persecution under Foreigners Act and Deportation. It has even extended citizenship to those group. Hence it is become important to identify whichever group has entered into India and sought asylum or refuge and government has de-notified them as illegal immigrants and given legal protection under CAA, 2019 and whichever people who are remained as illegal immigrants. Below are the major groups who had entered India in the aspiration seeking refugee status and protection from the deportation.

Table 6.1 Refugees in India and Their Status Under CAA, 2019

Refugee Group	Country of Origin	Settled in (India)	Religion	Protection Status under CAA (2019)
Tibetan Refugees	Tibet (China)	Dharamshala (Himachal Pradesh), Karnataka, Uttarakhand, Delhi	Predominantly Buddhist	Not covered under CAA; protected under special agreements with India.
Sri Lankan Tamil Refugees	Sri Lanka	Tamil Nadu, Kerala, Karnataka	Hindu, Christian	Not covered under CAA; protected under existing asylum mechanisms.
Rohingya Muslims	Myanmar	Delhi, Jammu, Hyderabad	Muslim	Not covered under CAA

Chakma and Hajong	Bangladesh	Arunachal Pradesh, Tripura	Buddhist (Chakma), Hindu (Hajong)	Covered under CAA
Afghan Refugees	Afghanistan	Delhi	Hindu, Sikh, Muslim	Hindu and Sikh refugees covered under CAA;
Bihari Muslims (Stranded Pakistanis)	Bangladesh (former East Pakistan)	Bihar, West Bengal	Muslim	Not covered under
Sindhi Hindus	Pakistan	Rajasthan, Gujarat, Delhi	Hindu	Covered under CAA
Pakistani Christians	Pakistan	Punjab, Delhi	Christian	Covered under CAA
Bangladeshi Hindus	Bangladesh	West Bengal, Assam, Tripura	Hindu	Covered under CAA .
Buddhist refugees (Ladakh)	China, Tibet	Ladakh	Buddhist	Not covered under CAA; protected under special arrangements.
Ahmadiyya Muslims	Pakistan	Delhi, Punjab	Muslim (Ahmadiyya)	Not covered under CAA
Burmese Refugees (Chin)	Myanmar	Mizoram	Christian (Chin)	Covered under CAA due to Christian faith.
Nepalese	Nepal	Various parts of India (border states)	Hindu, Buddhist	Not covered under CAA; special agreements between India and Nepal.
Hindu Sindhis (Pakistan)	Pakistan	Rajasthan, Gujarat	Hindu	Covered under CAA

Source: *Gazette of India, Extra Ordinary, Citizenship (Amendment) Act, 2019, Ministry of Law and Justice (Legislative Department), accessed in 2023.*

The table 6.1 reveals that certain groups of people from certain countries of origin are only exempted and protected under this law. It is not an umbrella policy for all the refugee aspirants. Hence, the law has poses certain challenges in the ambit of refugee protection in India. The people from same country of origin, immigrated

under same circumstances are treated differently under this law. This differentiated treatment has possess significant question and concerns among the academicians working on refugee protection.

The very first question and concern arises in this present research is that certain group of people who are protected under this law will not be protected for certain conditions given in the present law; what will happen to those group? How will they be protected? The second question is that what will happen to the rest of the people who are not protected under this law?

Visa law violators are the ones who arrive in India with valid visas. However, they do not exit from India within the stipulated time. They stay beyond the visa period. It is a violation of laws in India, hence, they come under the category of illegal immigrants. The visa law violators quickly come to the notice of the Indian government as the government maintains the record of foreigners entering India and exiting. When someone does not exit in their prescribed time and stay here, it comes to the government's notice. The government orders the concerned department to track them down, bring them to the legal system, and deport them. They are not directly deported in such cases. They are being put under fair trial and sent to jail. If they are found to be guilty of visa law violation, they will spend their pronounced punishment period in jail, and they will be deported to their country of origin.

6.2 The Identification of Illegal Immigrants and Administrative Challenges

The identification of illegal immigrants among the voters who are living as citizens are the most challenging process. The government has tried several mechanisms to identify illegal immigrants among the citizens. The initial attempt was done through the verification of electoral rolls. The election office of the respective districts has been ordered scrutinize the voters. After scrutiny, if someone is found to be doubtful, their names are sent to the Border Branch of the police department. The Border Branch conduct enquiry whether the doubtful person is Indian or an illegal immigrant from Bangladesh. If the border branch is not satisfied, they refer the case to the Foreigners Tribunal of the District. In this process, they

voting right is being ceased and 'X' mark is being placed against his/her name in the electoral rolls. Then, the Election Office of the concerned district refer the case to Foreigners Tribunal for its opinion. Election Commission of India First Annual Report 1983 Chapter III (A) paragraph reads as-

The Commission held a meeting on 20.6.1983 with the Chief Electoral Officers of North Eastern States excepting Assam to deal with the problem of the so-called foreign nationals who were alleged to have infiltrated into those States. On the basis of sample survey undertaken in selected areas of the constituencies having abnormal increase of electors with reference to 1.1.1983 as qualifying date, it was apprehended by the concerned Chief Electoral Officers that the abnormal increase of electors might be due to large scale influx of people from a neighbouring country. It was also found that the names included in the enumeration cards were new names not found in the electoral rolls currently in force. Those related to persons of doubtful citizenship, the Commission was concerned that the problem similar to that of Assam should not develop in other States specially those having borders or proximity with neighbouring countries. It was, at the same time, anxious that Commission's directions and instructions that the names of electors included in successive electoral rolls up to the rolls last revised intensively should not be deleted unless the citizenship of the affected persons were determined under due process of law by the prescribed authority entrusted with the duty of determining the question of citizenship. Also utmost care had to be exercised against inclusion of names of persons with doubtful citizenship qualification. (ECI, 1984, p.11).

Table 6.2 Administrative Challenges in Addressing Illegal Immigrants Issue in Assam

Sl No	Challenge	Description	Impact
1	Availability of Data	The Government does not have an accurate data of Illegal Immigrants present in the state	Can not take a firm decision because of the unavailability of data. Several initiatives had to be taken for gathering data to initiate any further action.
2	Changing Legal Framework	1 IMDT Act (1983): The Illegal Migrants (Determination by Tribunal) Act placed the burden of proof on the accuser, making it difficult to deport illegal immigrants.	This act was widely criticized for making it nearly impossible to identify and deport illegal immigrants, leading to an influx of immigrants and a backlog of unresolved cases.
		2. IMDT Scrapped (2005): After the Supreme Court's judgment, the Foreigners Act (1946) was reinstated, transferring the burden of proof back to the accused, making detection and deportation theoretically easier.	The scrapping of IMDT created a legal void, and the authorities struggled to adapt quickly, resulting in confusion about legal procedures.
		3. Foreigners Tribunal (FT) Order (1964): The Foreigners Tribunal was created under the Foreigners Act to decide the citizenship status of individuals.	- Prolonged legal battles as individuals challenged their status. - Massive pendency of cases due to lack of resources, infrastructure, and trained personnel in Tribunals.
		4. Citizenship Amendment Act (CAA) (2019): CAA allows certain religious minorities from neighboring countries to acquire Indian citizenship, excluding Muslims.	Deeply divisive as it changes the scope of who can be deemed illegal. - Created confusion in Assam, where large illegal immigrant populations may no longer be considered illegal under this Act.
3	Staff of FTs	Staffs are recruited on contractual Basis and non-specialized	Casuse uurdles in the who process. Non-specialization creates erroneous opinions.
4	Lack of Deportation Agreement	5. No Bilateral Agreement with Bangladesh: India and Bangladesh do not have a formal agreement for	Illegal immigrants identified by Tribunals cannot be deported back to Bangladesh, resulting in

		deportation of illegal immigrants.	them remaining in Assam indefinitely. - Diplomatic roadblocks in resolving the issue.
5	Detention Infrastructure	6. Insufficient Detention Camps: There is a significant gap between the estimated number of illegal immigrants and the available capacity in detention centers. 7. Human Rights Concerns: Detention camps have been criticized for overcrowding, lack of basic amenities, and lengthy detention periods without resolution of cases	Overcrowding and poor conditions in detention centers, leading to accusations of human rights violations. - Legal challenges due to poor living conditions for detainees. - India faces international criticism for human rights violations. - Prolonged detention can lead to mental health issues and poor living conditions for detainees, complicating legal and humanitarian processes.
6	Political Interference	Political Influence: Successive governments in Assam and at the national level have taken different stances on the issue, leading to inconsistent enforcement of immigration laws.	Policies on illegal immigration are often determined by political calculations rather than effective long-term strategies. - This leads to a lack of coherent and sustainable solutions to the immigration crisis.
7	International Relations	Diplomatic Sensitivities: India's attempts to address illegal immigration from Bangladesh have occasionally caused diplomatic tensions between the two nations.	
8	Documentation Issues	4. Lack of Clear Documentation: Many people, especially from poor, rural backgrounds, lack birth certificates, or other documents needed to prove citizenship.	Inability to provide documentation leads to wrongful exclusion from the NRC or designation as an illegal immigrant. - Contributes to widespread social unrest and legal complications.

Source: Field study conducted in July-August 2023, January-February 2024 and July-August 2024, RTI Reply, 2024; Court Judgements (Sarbananda Sonowal vs

Union of India, 2005), and Official Notifications for Recruitment of Members of Foreigners Tribunal by Gauhati High Court on 01/04/2015, accessed in 2023

The changes in the legal framework, e.g., Shifting from IMDT to Foreigner Tribunals (Order) 1964, have given a tremendous legal shift from the burden of proof on the state to the OP. Moreover, re-registering the cases under the new act has given another burden on the judicial system. Most importantly, the CAA has posed another challenge. In the cases filed with FT, some were given opinions, and some were under trial; however, all of those needed to be dropped; these thousands of cases consumed a tremendous amount of time and resources of the Judiciary.

A few important judgments at the Gauhati High Court have highlighted the discrepancies with the opinion of the FT members. Their logical approach to drawing a conclusion is being questioned by the High Court. The court has ordered the government to form an executive department to review the opinion pronounced by the FTs, as 85% of their opinion is overturned in the Upper court. Hence, it is a challenge for the Executive to train the FT members for their accurate disposal.

However, after all the judicial process, if someone is declared a foreigner by the FTs and if any document is not found about the country of origin especially in terms of the referral cases, the declared foreigners remain in a dilemma. They cannot deport to the country from which the FT has asserted to come, as India does not have any agreement or MoU with Bangladesh. This information is sought from the BM section of the Ministry of External Affairs (2024), Government of India.

6.4 Legal Challenges

The Foreigners Tribunal is the primary judicial institution dealing with the referred case of Citizenship. The FT issues notice to the Concerned individual and gives the opportunity to probe his/her citizenship claim before pronouncing its opinion, which is binding on the individual as well as on the state. However, if someone does not participate in the proceeding after several notices, the FT member pronounces their opinion Ex-parte. Its important to note that the Foreigners Tribunal is a quasi-judicial body. It does not enjoy the civil court privileges. It pronounces its

opinion and refers the case back to the SP office for further action. If someone is not satisfied with the opinion, one can apply for the review. However, the review is very limited in nature. If the opinion is not changed in the review, one can file Writ petition in the High Court. The High Court has very limited jurisdiction over the Foreigners Tribunal Matter. It has Certiorari jurisdiction over the matter. It does not hear the matter fresh, but enquire on if FT has done any wrong on the face of submitted documents, and gone beyond established law. The case cannot be heard freshly in the Highly. It is only revisiting the case finding error on the face of law.

In the matter of Foreigners', Supreme Court exercise the supreme power as well as exponential jurisdiction. It can overturn the opinion of FTs as well as the High Court. Many a time, the documents which were submitted in the former courts were rejected, accepted in Supreme Court. Also, the interpretation of Evidence Act is interpreted considering the gravity and natural Justice in the Supreme Court.

The Matter of Illegal Immigrants is very fragile and controversial, hence the FTs and High Courts does not dive deep into the interpretation and favouring natural justice for being leniency, while being lenient to the alleged illegal immigrants can be an issue for them. This will be disliked by the state, as the state's ultimate objective is to find the maximum illegal immigrants and get rid of the matter. There is an important factor that FTs are more aligned to the Government's objective is its functioning style. The FTs are established by the Foreigners Order 1964, under Foreigners Act 1946 which is a union subject. But the act empowers and delegate the state government to look over the matter, hence the state enjoys and exercise enormous power over Foreigners Tribunals and its functioning. Therefore, it is observed that, the Foreigners Tribunal mostly promote the interest of the government in this regard.

There are 100 numbers of Foreigners Tribunal are functioning across the state for determination citizenship status of referred cases. Moreover, after the NRC updation process started in Assam, additional 200 FTs are sanctioned to establish in Assam for the determination of the citizenships of the Individuals whose names were

not included in the Final list of NRC. Those Individuals will be referred to the FTs for determination of their claim.

Table 6.3 Structures of Foreigners Tribunal

Serial Number	Designation	Nature of Appointment	Qualification	Pay Band
1	Member	Contractual	Retired District Judges/ ADJ (Grade-I Officer)/ Advocate with 10 years of legal Practice	-
2	Stenographer	Contractual	Graduate and Skilled in Stenography	14,000-60,500 + GP 7,400 INR
3	Lower Divisional Assistant	Contractual	Graduate	PB-2, 14,000-62000 + GP 6,200 INR
4	Typist	Contractual	HSLC and Computer Diploma	14,000-60,500 + GP 6,200 INR
5	Bench Assistant	Contractual	HS and Computer Diploma	14,000-60,500 + GP 6,200 INR
6	Copyist	Contractual	HS	Fixed Pay
7	Data Entry Operator	Contractual	HS	Fixed Pay
8	Office Peon	Contractual	Class VIII passed and Under Class X	12,000-37,000 + GP 3,900 INR
9	Chowkidar	Contractual	Class VIII passed and Under Class X	12,000-37,000 + GP 3,900 INR

Source: Field study conducted in July-August 2023, January-February 2024 and July-August 2024, GoA Notification No. PLB.179/2019/334 of 2023, Official Notifications for Recruitment of Members of Foreigners Tribunal by Gauhati High Court on 01/04/2015, accessed in 2023

The Foreigners' Tribunals (FTs) are quasi-judicial bodies tasked with determining whether an individual is an Indian citizen or an illegal immigrant based on allegations or suspicions. While FTs were intended to provide a legal framework for resolving citizenship disputes, their structure and functioning have introduced significant challenges. The members of these tribunals, including advocates with a certain level of experience, retired judges, and retired civil servants, are recruited on a contractual basis. Their terms are subject to government review and extension, which potentially compromises their independence.

Unlike the judiciary, FTs do not enjoy the same level of autonomy, which raises concerns about their impartiality. The contractual nature of tribunal members' appointments, coupled with performance reviews conducted by the government, creates a situation where tribunal members may feel pressured to align with the government's stance. This undermines the perception of fairness and the independence of these tribunals. As quasi-judicial bodies, FTs were expected to function impartially; however, the current structure invites skepticism about their ability to ensure justice without external influence.

Another important challenge in judicial process is the fair and error free disposal of cases. The Gauhati High Court has observed in its one of judgement that The FTs do not analyse the produced documents, and without explaining the reason, the Members arrive at a conclusion, which greatly impacts the outcomes of such cases. The High Court Observed

As a number of such orders of the Tribunals answering a reference to declare the proceedees to be foreigners without stating any reason and without analyzing the materials on record and without arriving at any decision have been noticed, we also wanted to know as to what procedures have been followed by the Tribunals in declaring the proceedees to be citizens. We are particularly interested in view of a submission made by the learned counsel for the State of Assam in the Home Department that statistically speaking in about 85% of the referred cases, the proceedees have been declared to be citizens. (Forhad Ali vs Union of India, 2023, p.9).

Table 6.4 Legal Challenges in Addressing the Illegal Immigrants Issue in Assam

Serial Number	Challenge	Description	Impact
1	Backlog of Cases	Large number of pending cases in Foreigners Tribunals (FTs).	Delayed justice, increased anxiety for individuals under scrutiny.
2	Quality of Adjudication	Inconsistent and arbitrary decisions by FTs.	Undermines fairness and credibility of the citizenship determination process.
3	Appointment and Training of Members	Concerns about criteria and adequacy of training for FT members.	Poor handling of complex citizenship issues, affecting justice delivery.
4	Lack of Legal Aid	Economically disadvantaged individuals lack access to legal representation.	Difficulty in defending citizenship claims, leading to unfair outcomes.
5	Awareness and Education	Individuals are often unaware of legal rights and procedures.	Missed deadlines, poor preparation, and compliance issues.
6	Pro Bono Legal Services	Limited availability of free legal aid, despite NGO efforts.	Insufficient support to meet demand, leading to unequal access to justice.
7	Arbitrary Detentions	Detentions without sufficient evidence or due process.	Violations of human rights, causing trauma and uncertainty.
8	Conditions in Detention Centers	Inhumane conditions in detention centers, such as overcrowding and lack of healthcare.	Violates detainees' basic rights and worsens human rights concerns.
9	Risk of Statelessness	Individuals stripped of citizenship may become stateless.	Loss of protection and rights, creating severe human rights challenges.
10	Judicial Oversight and Appeals	Complex and time-consuming appeals process in higher courts.	Many lack resources for legal battles, leading to feelings of helplessness.
11	Judicial Review	High volume of cases and complex issues burden higher judiciary.	Delays in timely justice and inconsistent rulings.
12	Ambiguities in Law	Citizenship and immigration laws have gaps and ambiguities.	Varied interpretations lead to inconsistent application and confusion.
13	Legislative Changes	Frequent changes in immigration and citizenship	Creates uncertainty and complicates legal processes.

		laws.	
14	Coordination with International Law	Balancing India's domestic laws with international human rights obligations.	Complex legal challenges, requiring careful policy alignment with global commitments.

Source: *Field study conducted in July-August 2023, January-February 2024 and July-August 2024, RTI Reply, 2024, Court Judgements and Official Notifications accessed in 2023.*

The few important petitions in the Gauhati High Court have highlighted the issue that FTs face on the matter of staff. The Members and other staff are mostly recruited on a contractual basis. The members are recruited from different backgrounds, such as retired civil servants, judicial officers and advocates with 15 or more years of practice and two years of office terms; they might get an extension based on the performance review by the government. This recruitment style posed certain severe challenges in the face of the judicial process. The members' credibility in dealing with sensitive laws concerning people's citizenship status is also essential.

Another challenge which is related to addressing the issue of FT cases is the limited appeal scope in High Court. The jurisdiction of Courts in the matter of FT cases is very limited. High Courts have certiorari jurisdiction, which limits the court from interference and gives limited power to the court. Gauhati High Court on interference of High Court Kahinur Begum vs Union of India Review.Pet./8/2022 cited from WP(C) No.7412/2016. High Court issues writ of certiorari under Article 226.

On a careful analysis of the order passed by the Tribunal, it is seen that Tribunal had appreciated whatever evidence were tendered by the petitioner whereafter, a finding was recorded that petitioner was a foreigner. Such a finding is a finding of fact based on appreciation of evidence. Ordinarily, a writ court would not interfere with such a finding of fact, unless it is a case of violation of the principles of natural justice or non-conformity with the procedure prescribed under the Foreigners' (Tribunals) Order, 1964 or if it is a case of admissible evidence being not taken into consideration or

inadmissible evidence being taken into consideration or if the finding recorded by the Tribunal is based on no evidence at all, in which event, it would be a case of perversity; thus, an error apparent on the face of the record. The other errors of fact, howsoever grave those may be, would not be corrected in a writ proceeding having regard to the fact that the jurisdiction exercised by the writ court under Article 226 of the Constitution of India is supervisory and not appellate. (*Kahinur Begum vs Union of India*, 2016, p.3).

The High Court's jurisdiction under Article 226 of the Indian Constitution is limited in scope, particularly when it pertains to reviewing decisions made by statutory bodies such as Foreigners Tribunals (FTs). In exercising its writ powers, the High Court focuses primarily on examining the decision-making process rather than re-evaluating the substantive findings of fact established by the Tribunal. This principle is rooted in the understanding that statutory bodies are specialized fact-finding authorities equipped to assess evidence and make determinations within their jurisdiction.

The High Court's intervention is generally restricted to ensuring that the Tribunal's proceedings adhere to the principles of natural justice, procedural fairness, and compliance with applicable laws. It does not have the authority to substitute its own findings for those of the Tribunal unless a glaring procedural irregularity, jurisdictional error, or violation of fundamental rights is evident. The doctrine of certiorari jurisdiction limits the Court's role to correcting errors in the process rather than the content of the decision.

This limited scope is essential to maintain the functional autonomy of statutory bodies, prevent judicial overreach, and ensure that the High Court does not become a fact-finding forum. Such restraint reflects the judiciary's commitment to the separation of powers and judicial discipline while safeguarding the rule of law. However, this limited High Court role, and giving maximum autonomy to the FTs which is under the purview of Government, rises the question fairness and its credibility in terms of independent ness in functioning. *Central Council for Research in Ayurvedic Sciences and Anr. Vs. Bikartan Das & Ors* (2023) and *Arabinda*

Biswas and 4 Ors. Vs Union of India reiterate the jurisdiction of High Court on Certiorari matter. On Arbinda Biswas Case, one paragraph Gauhati High Court Judgment reads as-

Before embarking to adjudicate the issue involved vis-a-vis the submissions and the materials on record, we are reminded that a Writ Court in exercise of jurisdiction under Article 226 of the Constitution of India would confine its powers to examine the decision making process only. Further, the present case pertains to a proceeding of a Tribunal which has given its findings based on the facts. It is trite law that findings of facts are not liable to be interfered with by a Writ Court under its certiorari jurisdiction. (Arabinda Biswas and 4 Ors. Vs Union of India, 2024, p. 10).

6.5 Challenges Faced by Alleged Illegal Immigrants

One of the primary concerns with the referral of individuals to Foreigners Tribunals (FTs) based on unsubstantiated suspicions is the risk of unjust consequences for those involved. The process of identifying and referring individuals as "illegal immigrants" or "foreigners" must be grounded in solid, verifiable evidence rather than vague or hearsay-based allegations. When authorities initiate proceedings based on unverified or weak allegations, it can lead to arbitrary decisions, resulting in significant harm to individuals' lives, including their right to citizenship, livelihood, and freedom.

The referral process based on suspicion, without credible evidence or supporting documentation, undermines the integrity of the legal system. In many cases, such referrals lack clarity on how the specific allegations, such as the origin of the individual, were substantiated. The absence of clear and reliable material can make the proceedings appear unjust, leaving individuals vulnerable to arbitrary detention, prolonged legal battles, and a lack of accountability for those responsible for initiating these proceedings.

Furthermore, individuals who are wrongly referred may suffer from emotional distress, stigma, and loss of rights without proper legal redress. It is crucial to ensure that only well-supported, fact-based claims are used to trigger such serious legal processes, thereby protecting individuals from undue harm and preserving the fairness of the system. Supreme Court also observed on the matter of referral to FTs on being suspicious Md. Rahim Ali @ Abdur Rahim vs The State of Assam. The paragraph of the judgement read as-

In the absence of the basic/primary material, it cannot be left to the untrammelled or arbitrary discretion of the authorities to initiate proceedings, which have life-altering and very serious consequences for the person, basis hearsay or bald and vague allegation(s). In neither round of the proceedings before the Tribunal, whether it be the initial ex-parte one, or even after the matter was referred by this Court to the Tribunal to hear the appellant and pass an order, has it been revealed as to how and from where such specific allegation, down to the alleged village of origin of the appellant in Bangladesh was brought to or came to the knowledge of the authorities. Nor do we locate any supporting material. (Md. Rahim Ali @ Abdur Rahim vs The State of Assam, 2024, p.15).

The Supreme Court, in this case, highlighted critical concerns regarding the referral of individuals to Foreigners Tribunals (FTs) based on unsubstantiated suspicions. The Court emphasized that initiating proceedings against individuals accused of being foreigners requires solid and credible evidence. Life-altering decisions with severe consequences cannot be based on hearsay, vague allegations, or unsupported claims. The Court observed that in this case, there was no basic or primary material presented to justify the proceedings against the appellant. It criticized the arbitrary discretion exercised by the authorities, as no clear basis was provided for the claim that the appellant originated from Bangladesh. The lack of specific evidence—such as how the allegation arose, who made it, or any corroborating documentation—undermined the validity of the proceedings. The

Court questioned whether Section 9 allows authorities to randomly target individuals, accuse them of being foreigners without any solid basis, and then require them to prove their innocence. Specifically, the Court scrutinized the S.P. (B) Nalbari's direction to Sub-Inspector Dutta, which initiated the inquiry against the appellant. The Court found that the record was silent about the basis or grounds for this direction, leading to the conclusion that the State cannot act arbitrarily or without proper justification.

Furthermore, even after the matter was remanded to the Tribunal for a rehearing, the authorities failed to present credible material to substantiate their claim. This reflects a systemic issue where individuals can be subjected to serious accusations without adequate evidence, leading to potentially unjust outcomes. The Supreme Court underscored the need for rigorous standards and accountability in such cases, ensuring that accusations are substantiated with reliable evidence before initiating proceedings.

In the landmark case of *Sarbananda Sonowal v. Union of India* (2007), the Supreme Court emphasized the importance of protecting the rights of genuine Indian citizens and ensuring that they are not unjustly excluded or "thrown out" of the country. The Court recognized the need for safeguards to prevent wrongful accusations of foreignness, affirming that any individual who claims to be a citizen of India, whether under the Constitution of India or the Citizenship Act, is entitled to procedural and substantive protections to prove their citizenship. These safeguards are crucial to prevent arbitrary actions and ensure that every citizen's right to stay in the country is upheld.

The Court also clarified that while burden of proof may be placed on the individual in certain legal contexts (such as in some criminal or immigration matters), this does not strip the individual of their procedural safeguards. The Evidence Act and other statutory provisions lay down clear guidelines on how the burden of proof should be discharged, and individuals are entitled to a fair and just process to defend their status. The Court's ruling underlined that procedural fairness, including the opportunity to provide evidence and contest allegations, is a

fundamental right for anyone facing proceedings that affect their citizenship or liberty. In *Sarbananda Sonowal v Union of India* it was held that

There cannot, however, be any doubt whatsoever that adequate care should be taken to see that no genuine citizen of India is thrown out of the country. A person who claims himself to be a citizen of India in terms of the Constitution of India or the Citizenship Act is entitled to all safeguards both substantive and procedural provided for therein to show that he is a citizen.

36. Status of a person, however, is determined according to statute. The Evidence Act of our country has made provisions as regards “burden of proof”. Different statutes also lay down as to how and in what manner burden is to be discharged. Even some penal statutes contain provisions that burden of proof shall be on the accused. Only because burden of proof under certain situations is placed on the accused, the same would not mean that he is deprived of the procedural safeguard. (*Sarbananda Sonowal v Union of India*, 2006, p.17).

6.5.1 Analysis of Data

For the present study the total sample size is 115, out of which 64 samples are who were Declared foreigners by the Foreigners Tribunal, 50 Advocates and one Border Branch official. The collected data is analyzed using the statistical software SPSS. Below are the Descriptive statistics of the collected sample of Declared Foreigners (DF).

Table 6.5 Descriptive Statistics of Alleged Illegal Immigrants

Category	Minimum	Maximum	Mean	Std. Deviation
Gender	1	2	1.61	.492
Age category	3	4	3.91	.294
Educational Qualifications	1	4	3.64	.966

Source: *Field study conducted in January-February 2024 and July-August 2024*

Table 6.5 reveals that the mean value for gender is 1.61, indicating a higher proportion of females (coded as 2) than males (coded as 1). The standard deviation of 0.492 suggests a relatively balanced representation between the two genders. Respondents predominantly fall into the age categories of 45-60 years (coded as 3) and 61 and above (coded as 4). The mean age category is 3.91, reflecting that most participants belong to the older age groups. The low standard deviation of 0.294 indicates limited variation in age among respondents, with a strong clustering around these categories.

Educational attainment varies, with a mean of 3.64, suggesting that the majority of respondents have no formal education (coded as 4). The wider standard deviation of 0.966 indicates more diverse educational backgrounds within the sample, ranging from primary education (coded as 1) to XII and above (coded as 3). Overall, the respondents are primarily older adults, with more females than males, and many lack formal education. This demographic profile highlights the need for tailoring interventions or studies to suit the needs and characteristics of an older, less formally educated population.

Table 6.5.1 Gender Distribution of the Respondents

Gender	Frequency	Percent	Valid Percent	Cumulative Percent
Male	25	39.1	39.1	39.1
Female	39	60.9	60.9	100.0
Total	64	100.0	100.0	100.0

Source: Field study conducted in January-February 2024 and July-August 2024

Table 6.5.2 Age Category of the Respondents

Age category	Frequency	Percent	Valid Percent	Cumulative Percent
36-45	6	9.4	9.4	9.4
45-60	58	90.6	90.6	100.0
Total	64	100.0	100.0	100.0

Source: Field study conducted in January-February 2024 and July-August 2024

From the table 6.5.1, it is found that the total respondents from the category of alleged Illegal Immigrant for the study are 64 out of which total male were 25 and female were 39. Table 6.5.2 reveals that the majority of the people belonged to 45 years of age and above. It is likely because the mass scrutiny the voter list taken place in 1990s and in the beginning of the 2000s. The suspicious registered voters were sent for verification and later referred to the FTs for their opinion. Most of the voters who were subject to referral were mostly first-time voters who made it to the voter list.

Table 6.5.3 Educational Qualifications

Educational Qualification	Frequency	Percent	Valid Percent	Cumulative Percent
Primary	7	10.9	10.9	10.9
Class X	1	1.6	1.6	12.5
No Formal Education	56	87.5	87.5	100.0
Total	64	100.0	100.0	100.0

Source: *Field study conducted in January-February 2024 and July-August 2024*

Table 6.53 reveals that the majority of the referred individuals to the Foreigners Tribunal are illiterate or without formal Education. Out of 64 respondents, 7 respondents were having primary education, and one respondent was having Secondary education up to Class X. Here Education plays an important role in the fate of the proceeding of an FT Case. Having admitted in Schools and having education means having school certificates, which gives you a document to prove your date of birth, family linkages etc. Moreover, it is likely to have more awareness on the importance of proceeding of a Citizenship case.

It is found in the research that the majority of cases referred to FTs involve women and illiterate individuals. This trend reflects systemic biases and socio-economic factors that make these groups particularly susceptible to being classified as “suspected foreigners.” Women, especially in rural areas, often lack access to formal education and official documentation, such as birth or school certificates, which are crucial for proving citizenship. Moreover, traditional family structures and practices often leave women dependent on male family members for documentation, further complicating their ability to navigate the legal system independently.

The absence of documentary evidence creates a significant hurdle for these individuals in defending their citizenship claims. For women, the challenges are

compounded by societal norms and family dynamics. Women accused of being illegal immigrants face not only legal battles but also emotional and financial burdens within their families. Many women report being subjected to violence and mistreatment by their husbands or in-laws, who view the legal process as a burden. These women are often stigmatised, isolated, and blamed for bringing instability to the family, adding layers of emotional trauma to an already distressing situation.

Question of Nationality

Table 6.6 Responses on the question of nationality

Response	Frequency	Percent	Valid Percent	Cumulative Percent
Fair	0	0	0	0
Unfair	64	100	100	100.0
Total	64	100.0	100.0	100.0

Source: *Field study conducted in January-February 2024 and July-August 2024*

When it was asked the respondents, “Do you believe that you are genuinely an Indian citizen?” table 6.6 highlights that cent per cent of the respondents answered that they were genuine citizens. They were not caught while crossing the border or in any dubious activities. The Election office and border branch had referred their cases to FTs out of suspicion without any documentary or substantial basis.

A key aspect of the citizenship determination process is the role of the Border Branch of the Assam Police, which refers cases to FTs based on suspicions. These referrals are often made without substantive evidence, such as the seizure of documents or materials to support allegations of illegal immigration. Instead, individuals—often Indian citizens and active voters—are classified as “suspected foreigners” based on subjective assessments by the police.

This practice creates a significant burden on the individuals accused of being illegal immigrants, as they are required to prove their citizenship in a tribunal. This burden of proof, which ordinarily rests with the state, is shifted entirely onto the accused, who must present documents such as birth certificates, school records, or other materials that establish their lineage and connection to Indian citizenship. The challenge becomes particularly acute for illiterate individuals or those without access to such documents, as they are left vulnerable to adverse rulings by FTs.

The research also highlights several procedural and ethical concerns surrounding the functioning of FTs and the broader citizenship determination process. The reliance on suspicion rather than substantive evidence by the Border Police creates a system prone to errors and abuse. Innocent individuals, including Indian citizens, are often dragged into legal battles with little recourse or support.

Moreover, the adversarial nature of the process, where individuals must defend themselves without adequate resources or legal representation, further skews the system against the accused. For illiterate individuals or those unfamiliar with legal procedures, the process is particularly intimidating and inaccessible. Many individuals are unable to present their cases effectively, leading to adverse rulings that may result in detention or deportation.

The ethical concerns surrounding the independence of FTs are also significant. As discussed earlier, the contractual nature of tribunal members' appointments and their reliance on government reviews for extensions create potential conflicts of interest. This undermines public confidence in the impartiality and integrity of these tribunals, raising questions about whether justice is being served.

Table 6.7 Threat and Violence face by the Trialed alleged illegal immigrants or DFs

Response	Frequency	Percent	Valid Percent	Cumulative Percent
Yes	36	56.3	56.3	56.3
No	28	43.8	43.8	100.0
Total	64	100.0	100.0	100.0

Source: *Field study conducted in January-February 2024 and July-August 2024*

The table 6.7 provides insights into the prevalence of threats and violence faced by trialed alleged illegal immigrants or detained foreigners (DFs). Out of the 64 respondents, 36 individuals (56.3%) reported experiencing threats and violence, while 28 individuals (43.8%) did not report such experiences. The results indicate that a majority of respondents have faced some form of threat or violence during their trial or detention process.

The cumulative percent shows that over half of the respondents experienced such adversities, suggesting a significant issue within the systems handling these individuals. Meanwhile, the 43.8% who reported no incidents reflect that not all detainees face violence, indicating variability in experiences. This data underscores the need for further investigation into the conditions faced by alleged illegal immigrants or DFs, particularly to identify systemic gaps contributing to these threats and acts of violence.

Table 6.8 Details on review petition in FT

Response	Frequency	Percent	Valid Percent	Cumulative Percent
Yes	46	71.9	71.9	71.9
No	18	28.1	28.1	100.0
Total	64	100.0	100.0	100.0

Source: *Field study conducted in January-February 2024 and July-August 2024*

The table 6.8 highlights whether trialed alleged illegal immigrants or Declared Foreigners (DFs) have filed petitions for review in Foreign Tribunals (FT). Out of the 64 respondents, 46 individuals (71.9%) indicated that they have filed petitions for review, while 18 respondents (28.1%) have not. The data demonstrates that a significant majority (nearly three-quarters) of the respondents sought legal recourse by filing petitions for review in the FT, indicating an active effort to contest or seek clarity on their status or treatment. This high percentage might reflect a sense of urgency among these individuals to address legal issues or perceived injustices. However, the remaining 28.1% who did not file petitions may highlight barriers such as lack of awareness, legal assistance, or confidence in the review process.

Table 6.9 Details on the filing of review petition in High Court challenging the Foreigners Tribunal's decision

Gender	Yes	Total
Male	25	25
Female	39	39
Total	64	64

Source: *Field study conducted in January-February 2024 and July-August 2024*

Table 6.10 Status of the Case

Status	Frequency	Percent	Valid Percent	Cumulative Percent
Pending	41	64.1	64.1	64.1
Disposed Off	23	35.9	35.9	100.0
Total	64	100.0	100.0	100.0

Source: *Field study conducted in January-February 2024 and July-August 2024*

The table 6.9 reveals that all 64 respondents (100%) have filed review petitions with the High Court challenging the decisions of the Foreigners Tribunal (FT). This highlights a universal reliance on the High Court as a venue for legal redress after FTs. Gender distribution shows that all 25 males and all 39 females have taken this step, reflecting no disparity in the pursuit of appeals between genders. The table 6.10 indicates that out of the 64 cases filed, 41 (64.1%) are still pending, while 23 cases (35.9%) have been disposed of. This suggests that the majority of respondents are still awaiting final outcomes from the judicial process.

The significant proportion of pending cases may point to delays or backlogs in the High Court, prolonging uncertainty for the affected individuals. The combination of universal petition filing and a high rate of pending cases underscores the legal complexity and time-intensive nature of these disputes. It also emphasizes the need for efficiency in resolving such cases to alleviate the burden on individuals and the judiciary.

Table 6.11 Crosstabulation of Educational Qualifications and Having Birth Certificate

Educational Qualifications	Do You Have a Birth Certificate?	Male	Female	Total
Primary	Yes	1	-	1
	No	3	3	6
Class X	No	1	0	1
No Formal Education	No	20	36	56
Total		25	39	64

Source: Field study conducted in January-February 2024 and July-August 2024.

The table 6.11 shows the relationship between education, gender, and possession of a birth certificate among alleged illegal immigrants, whose citizenship status is under scrutiny. A birth certificate is a vital document in establishing a legal link between the respondent (proceedee) and their parents, a key factor in determining citizenship eligibility under current laws. The table provides insights into how educational qualifications and gender influence the likelihood of possessing a birth certificate.

Out of the 64 respondents, only 1 individual reported having a birth certificate. This individual was male with primary education. The overwhelming majority, 63 respondents, did not possess a birth certificate. Among these, males accounted for 24 (3 with primary education, 1 with Class X, and 20 with no formal education), while females accounted for 39 (3 with primary education and 36 with no formal education). Notably, no female respondents with Class X education were recorded.

The data suggests a strong correlation between lack of education and absence of a birth certificate, particularly among those with no formal education (56 respondents). Additionally, a gender disparity is evident, as females without a birth certificate outnumber their male counterparts. These findings highlight the

compounded challenges faced by uneducated and female respondents in establishing their citizenship due to inadequate documentation.

The Impact on Families and Children

The impact of citizenship trials extends beyond the individuals accused, affecting their families and children. Women facing legal battles in FTs often face uncertainty about their future, which creates a ripple effect on their mental health and overall well-being. The financial cost of defending a citizenship case in an FT can be significant, particularly for low-income families, further exacerbating tensions and contributing to domestic conflicts.

A particularly distressing issue is the statelessness of children born to individuals undergoing citizenship trials, especially those born after 2004. Under Indian law, children born after this year do not automatically acquire citizenship by birth if either parent is deemed a foreigner. This leaves many children in a legal limbo, where they are effectively stateless despite being born and raised in India. Statelessness has far-reaching consequences, denying children access to basic rights, education, and opportunities for a stable future. This uncertainty about the status of their children adds to the mental and emotional burden faced by accused individuals.

Table 6.12 Crosstabulation of Educational Qualifications and Child Born After 2004

Educational Qualifications	How Many?	1	2	3	None	Total
Primary		1	1	0	5	7
Class X		1	0	0	0	1
No Formal Education		17	9	1	29	56
Total		19	10	1	34	64

Source: Field study conducted in January-February 2024 and July-August 2024.

Table 6.12 reveals whether these individuals have children born after 2004 and how the parents' citizenship status could affect the citizenship status of their children. As per the existing citizenship laws of India, if either parent is an illegal immigrant, children born after 2004 are not eligible to gain citizenship by birth. This raises questions on the future of these children, who may face challenges in attaining citizenship.

Out of the respondents, the majority (56) had no formal education, while smaller groups, that is, 7 respondents, had primary and one person is having Class X education. Among those without formal education, 27 individuals had one or more children born after 2004, on the other hand 29 responded to not have any children. In contrast, those with primary education showed lower numbers, with only two individuals having children born after 2004. The single respondent with Class X education reported one child born after 2004. These findings highlight a potential link between education and awareness of the legal implications of having children under uncertain immigration status. Educated individuals might better understand these laws, possibly influencing their reproductive decisions and mitigating the legal risks faced by their children.

Table 6.13 Crosstabulation of Gender and Appeal before the Supreme Court

Gender	Yes	No	Pending with High Court	Not Applicable	Total
Male	8	2	14	1	25
Female	4	4	27	4	39
Total	12	6	41	5	64

Source: *Field study conducted in January-February 2024 and July-August 2024*

The table 6.13 presents data on the status of appeals against opinion given by Foreigners Tribunals (FTs), segregated by gender and the outcomes of subsequent legal actions. It is found that out of a total of 64 individuals, 12 respondents have

filed appeals before the Supreme Court after the High Court upheld the FT decision, with 8 males and 4 females. Six individuals (2 males and 4 females) have not filed appeals to the Supreme Court. A notable portion, 41 cases (14 males and 27 females), are still pending before the High Court. Additionally, 5 cases (1 male and 4 females) fall under the "Not Applicable" category, suggesting either the Court gave decisions on their favour or circumstances not requiring an appeal. The data reveals that a higher number of females (39) are involved in these cases compared to males (25) and that many cases are awaiting resolution at the High Court level.

After critically examining the data collected from respondents such as Alleged Illegal Immigrants and Concerned Advocates, the table below is formulated as a summary of the common challenges faced by the trailed individuals in the FTs.

Table 6.14 Challenges Faced by The Party of FT Case

Serial Number	Challenges	Description	Impact
1	Presumption or Prejudice	The referred case to Foreigners Tribunals (FTs) are mostly based on assumptions or without any substantial evidence.	Innocent people among the citizens are falsely accused, leading to unnecessary legal proceedings and harassment.
2	Illiteracy	Most of the alleged illegal immigrants are illiterate, which makes it difficult for them to understand legal processes or provide proper documentation.	Vulnerable individuals are easily misled, and lack awareness of their legal rights and processes, worsening their situation.
3	Mostly Women	A disproportionate number of women are	Women are especially vulnerable due to societal

	Facing Trials	subject to trials in Foreigners Tribunals.	inequalities and lack of financial and legal support, increasing their chances of being wrongly declared illegal immigrants.
4	Lack of Documents	Many immigrants lack essential documents, such as birth certificates or school certificates, to prove their citizenship due to non-enrollment in school or informal births.	It becomes difficult for individuals to prove their identity and lineage, increasing the risk of being declared a foreigner.
5	Discrepancies in Names and Ages	Rural communities often face issues with varying spelling and discrepancies in names or ages across different documents.	Inconsistent documentation leads to further scrutiny and doubt about their identity, making it harder to prove citizenship.
6	Financial Constraints for Legal Proceedings	Many alleged immigrants cannot afford the legal expenses required for cases in the Foreigners Tribunal, filing a writ in High Court, or appealing to the Supreme Court.	Due to financial hardship, many individuals are unable to defend themselves adequately, leaving them vulnerable to unfavorable verdicts.
7	Lack of Family Support	Family support is often crucial for emotional and financial assistance during legal proceedings, but many individuals do	Without family backing, the accused individuals are left isolated and unable to gather the necessary resources or

		not receive adequate support from their families.	support, which can weaken their case in the tribunal.
8	Torture by Spouse or In-laws	Many women face domestic violence or harassment from spouses or in-laws due to the burden and stigma associated with Foreigners Tribunal proceedings.	This adds to the psychological and emotional stress on the women, affecting their ability to focus on defending themselves.
9	Statelessness of Children	Children born after the 2003 amendment to the Citizenship Act are at risk of statelessness, especially if either of their parents are involved in FT proceedings and fail to prove their citizenship.	Children face a precarious future without a clear legal status, denying them basic rights.
10	Societal Discrimination and Stigma	Accused individuals and their families often face societal stigma and discrimination due to their alleged illegal immigrant status.	Social exclusion and prejudice further marginalize these individuals, affecting their access to work, education, and community support.
11	Mental and Emotional Stress	Prolonged legal battles, societal stigma, and uncertain outcomes cause immense psychological stress for individuals	Increased mental health issues such as anxiety and depression, leading to a deteriorated quality of life.

		involved in FT proceedings.	
12	Burden of Proving Citizenship on Individuals	The legal burden of proving citizenship lies on the individuals, often without adequate support from government agencies in obtaining required documents.	Individuals face an uphill battle as they must prove their citizenship without proper legal or institutional assistance, making the process more challenging and leading to unjust declarations.
13	Fear of Detention	The constant fear of being sent to detention centers if declared a foreigner.	This fear hampers everyday life, causing individuals to live in a constant state of anxiety and fear of losing their freedom.
14	Lack of Proper Legal Representation	Many alleged immigrants cannot afford or access skilled lawyers who specialize in citizenship cases.	Without proper legal representation, individuals are at a significant disadvantage in proving their case, leading to an unfair outcome in many cases.

Source: *Field study conducted in January-February 2024 and July-August 2024*

Overview

This chapter takes a close look at the complex issues surrounding refugee protection, illegal immigration, and deportation in India, particularly focusing on the challenges faced by individuals labeled as illegal immigrants whose cases are referred to Foreigners Tribunals (FTs) for review. It discusses the flaws in both administrative and legal systems and how they fall short in addressing these issues.

Notably, the lack of a specific refugee framework in India complicates the identification of illegal immigrants and creates significant obstacles in resolving citizenship disputes through FTs. By examining these interconnected topics, the chapter highlights the structural problems in India's migration management and its impact on human rights.

The discussion begins with refugee protection, pointing out that India often relies on discretionary powers of the executive rather than a formal legal framework. While some groups, such as Tibetan exiles and Sri Lankan Tamils, have received certain protections, others, including Rohingyas, experience systemic exclusion. A major focus is on the Citizenship Amendment Act (CAA) of 2019, which selectively offers protection to specific religious minorities while excluding others like Muslims. This selective approach raises serious questions about fairness and inclusivity, particularly where individuals in similar situations are treated differently due to their religion or country of origin.

In terms of illegal immigration, the chapter addresses the administrative hurdles in identifying undocumented individuals. It criticizes the reliance on subjective judgments from Border Police and election officials, which can lead to incorrect referrals to Foreigners Tribunals. The system's tendency to favor procedural shortcuts and a lack of substantial evidence further complicates matters, placing an excessive burden of proof on individuals who may already struggle with socio-economic challenges and lack proper documentation. The chapter also points out inconsistencies in tribunal procedures, such as the contractual nature of tribunal staff and their potential susceptibility to government influence, which can compromise fairness and impartiality.

The judicial landscape is another key focus, with an analysis of how courts attempt to balance national security with individual rights. The judiciary has referred to constitutional principles, including Article 21, to offer protections like non-refoulement. However, the chapter argues that the scope of judicial review is limited, especially under High Court writ jurisdiction, often failing to confront systemic biases and procedural issues within Foreigners Tribunals. While the judiciary has

sometimes acted as a check on arbitrary administrative actions, its interventions are often inadequate to tackle the wider structural problems.

Furthermore, the chapter highlights the human consequences of these administrative and legal issues, especially for marginalized groups such as women, illiterate individuals, and children. Women often struggle to navigate legal proceedings and may face stigma or domestic violence due to their perceived "foreign" status. Additionally, children born after 2004 are at increased risk of statelessness, particularly if their parents are entangled in citizenship disputes. This generational effect deepens social exclusion and denies these children access to basic rights and opportunities.

Another critical area discussed is the inefficiencies surrounding detention and deportation. The absence of bilateral agreements, particularly with Bangladesh, often leads to a situation where declared foreigners find themselves stuck in limbo—unable to be deported and stripped of their rights. The chapter also critiques the inhumane conditions in detention centers, which fall short of international human rights standards and worsen the psychological impact on detainees.

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Chapter- VII

Conclusion

This chapter delves into the dynamics of migration, refugee protection, and illegal immigration, focusing on their manifestation in India and the northeastern state of Assam. It unravels the historical, socio-political, and legal frameworks that have shaped India's approach to these issues. The chapter critically analyzes the theoretical underpinnings of migration, utilizing micro, macro, and meso-level migration theories to provide a comprehensive understanding of the push-and-pull factors influencing migration and displacement, especially when choosing a destination such as India. These theories shed light on the motivations behind cross-border movements, particularly between Bangladesh and India, and offer insights into the broader global patterns of refugee crises.

The study further transitions to India's refugee protection mechanisms, highlighting the absence of a comprehensive legal framework and the ad-hoc, discretionary nature of refugee policies. It also explores the delicate issue of illegal immigration in Assam, tracing its historical roots back to colonial-era migration patterns and its evolution into a polarizing socio-political challenge. Through critical analysis of key instruments such as the Citizenship Amendment Act (CAA), the National Register of Citizens (NRC), and the role of Foreigners Tribunals, the chapter elucidates how these mechanisms reflect broader narratives of nationalism, identity, and exclusion. This chapter sets the stage for examining the challenges and pathways toward equitable and sustainable migration governance in India.

7.1 Theoretical Background of Refugees and their Protection

The theories and approaches for refugee protection are developed gradually based on the situation, time and framework extended by the UN Specialized agencies and scholarly discussions. The foundation of all the theories and methods is the UN Convention for Refugee Protection and its subsequent protocols. However, the individual states and signatories formulated their own framework by incorporating the essential elements from the conventions and

protocols and amended time to time based on their needs and situation. The theoretical approach to studying the movement of refugees and their protection has emphasised on understanding the circumstances and factors behind migrating to alien land. They have considered the individual and a structural or institutional factor behind such movement or displacement. Hence, it has become essential to study migration theories deeply.

While critically analysing migration theories, the present study taken the help of macro, micro, and meso theories of migration. Micro theories explain the individual decision-making processes, stressing on personal motivations behind any migration. While Macro theories discusses broad factors like economic inequality, political unrest, and resource scarcity, etc. Meso theories inter-links the macro and micro perspectives of migration. It emphasize on the role of social networks, communities, and institutions which facilitate or hinder migration. These theories offer a clear picture of migration dynamics, which helps in understanding the realm of the Refugee movement and Illegal Immigration across the border.

The said theories provide a useful framework for understanding the Migration dynamics in cross border migration from Bangladesh to India. In the case of Bangladesh-India migration, economic disparities and political instability in Bangladesh push people to seek better livelihoods in India. Similarly, refugees, such as Rohingyas from Myanmar, flee due to persecution and conflict, looking for safety in India. These factors behind deciding to move from homeland choosing India as destination are better understood using the migration theories such Micro, Macro and Meso.

7.2 Refugee Protection in India

It has been discovered in this research that India lacks a comprehensive refugee protection framework or mechanism. All the decisions on refugee matters are vested in the discretionary power of the Central Government. It is essential to mention that while India has not ratified the 1951 Refugee Convention, it has been historically providing asylum to various refugee groups, such as Tibetans, Sri

Lankans, and Rohingya, using the discretionary power derived from established laws from time to time. These decisions, were often ad-hoc, reflecting India's selective approach to refugee protection.

The recent Legislation, The Citizenship Amendment Act (CAA) of 2019, is seen or shown as a refugee law, but it has been argued in this research that it cannot be considered a refugee framework. The act grants citizenship to particular religious minorities from particular neighbouring countries like Afghanistan, Bangladesh, and Pakistan, excluding other vulnerable groups such as Rohingyas and Tamils. It is argued that the act is a one-time relief which focuses on protecting certain individuals who came to India in a given period without extending a holistic framework for future use in similar situations.

It is also necessary to look into the role of judiciary in protection of refugees. It is found that India's judiciary, particularly the Supreme Court, has played a crucial role in upholding the rights related to refugees. In several instances, the court has uphold certain rights of refugees guaranteed by Constitution of India such as Rights provided under Article 21 (Right to Life). Court also extended relief to them time to time base on the International statues, without conflicting with or violating the laws of the land, while there is an absence of a formal refugee law. For example, the Supreme Court has intervened in cases involving the deportation of Rohingya refugees, emphasizing the need for humanitarian consideration.

The study argues that despite the efforts shown through administrative means, India's refugee policy remains inconsistent. Moreover, the lack of a universal framework led to a differentiated or varied treatment of refugees, and motivated protection. A well-defined refugee protection law is necessary which will reflect global standards and include humanitarian principles. Such a framework would ensure that all refugees, regardless of their origin, religion, or political affiliation, are given basic rights and protections, addressing both national security concerns and obligations to humanity.

7.3 Issue of Illegal Immigrants in Assam: Origin, Policy Initiatives, Judicial Response, Challenges and Way Forward

The issue of illegal immigrants and movement and mobilization around it is a complex phenomenon which needed a systematic and in-depth study. The illegal immigration issue is often reflected in the research as a post-independence phenomenon however; it is rooted back in the history of evolution of the state. Assam has evolved through centuries of political, cultural, and geographical shifts. The present geographical existence is a contribution of different dynasties, empires and rules. There have been political, geographic and demographic shifts throughout the history which is at the core of the present-day tensions surrounding illegal immigration, particularly with the focus on migration from neighboring Bangladesh.

Ancient dynasties such as the –Baro-Bhuyan”, –Ahoms”, –Koch”, and –Kachari” ruled the region, but the most significant change to Assam’s boundaries occurred during British colonial rule. The British annexed various territories from different big and small empires into what we see today as Assam from bordering regions and formulated as one British Province. For example, –Cachar” was taken from the –Kachari kingdom”, –Sylhet” from the –Bengal Sultanate”, and –Goalpara” from –Kamatapur” Kingdom, amalgamating them into a singular administrative unit under British control. This process shaped modern Assam, introducing a mix of religious, linguistic, and cultural groups, as the annexation of land did not mean just annexation of land, it also brought in people, with people different culture, language and religions were also brought in. Notably, in the nineteenth and twentieth centuries, the most contributory factor in this present scenario, that is human migration took place, from other British Indian, resulting in a shift in the demographic character of various administrative unit in the state. The expansion of the tea industry and cultivation of Rice had motivated the Britishers to opt for migration of people from Bihar, Orissa, and other provinces to serve as workers in said sectors. With the passing of time, as the, local economy, and tea business expanded, a good number of Marwari traders from Rajasthan relocated to Assam.

Furthermore, the expansion of railways and the discoveries of coal and oil facilitated migration from other parts of British India. The British also encouraged educated Bengalis to go to Assam and serve in the province government's administration in relatively lower divisions, such as teachers, clerks, and other occupations. These all type migration has resulted in change in the demographic composition of the state. The changes in the composition was quiet evident and noted by the Assamese people who were inhabitants of the state in pre-colonial time. The notable source of realizing the demographic shift was through the census report. The State's demographic makeup from the 1901 census onwards shows that the population of various religious classes has grown at varied rates. It should be noted that districts like as Goalpara, Nowgong, Darrang, and Kamrup have had considerable demographic shifts since the 1871 census.

The demographic unpleasant change had caused the rise of tensions among the local Assamese population. Many Assamese saw the influx of Migrants, the notable migrant community was Bengalis as a threat to their cultural and linguistic identity. This sentiment laid the groundwork for what would later become a strong linguistic-cultural nationalism—aimed at preserving Assamese identity and dominance in the face of perceived external influence. This period of British-fueled migration marked the beginning of the protests against outsiders, which would later be labelled as illegal immigrants. Assamese locals perceived these migrants as cultural and linguistic threats. It is also important to note that, at that time, this migration was purely an ‘inter-provincial movement’ within India, as Assam and Bengal were part of the British Indian Empire. However, the legacy of labelling these groups as outsiders, particularly Bengalis, continued even after independence, and given a non-legal term ‘Miya’.

After gaining Independence from British, the geographic makeup of the region had also changed, as the sub-continent had seen a partition into two sovereign states. Which carries a very significant role in shaping the future of Assam. As, the Region which contained the Majority of Bengali Speaking people especially Muslims, the ‘Sylhet’ had gone with Pakistan, giving a sigh of relief to Assamese

people in terms of fear of outnumbered by non-Assamese in the state. However, when the migration into the state continued even after Independence in a significant number, it had gained attention immediately. The cross border migration was out of the legal way, hence termed as Illegal Immigration, and eventually it had become most significant issue in the state, till this date. This modern cross border migration started with the communal disturbances outbreak in early 1950 across both side of the border. In Indian side, it was no difference in Assam. A large number of people from the districts of Goalpara, Kamrup, and Darrang fled to East Pakistan, leaving their possessions behind, and vice versa. The respective governments of India and Pakistan agreed in the Nehru-Liaquat Agreement, signed on April 8, 1950, that the rights of a migrant's immovable property would not be disturbed and would be restored to him, even if it was occupied by another person during his absence, as long as he returned to his original home by December 31, 1950. The deal permitted the return of nearly all displaced people.

The influx of cross border migration had continued into India from East Pakistan into India in the decades after the Creation of two states. To tackle such infiltrators The Ministry of Home Affairs of India approved Project PIP (Prevention of infiltration into India of Pakistani Nationals) in June 1962. In 1964, the State Government had established four tribunals under an executive order to handle cases involving suspected infiltrators who claimed to be Indian. Furthermore, the Political unrest and Military operations in East Pakistan had contributed to pushing the Immigrants across the Indian border without valid documents. These Illegal Immigrants are believed to be impacting socioeconomic and political factors in the state, especially endangering the indigenous populations. These factors resulted in Movements in the state for the expulsion and protection of Indigenous rights. The Assam Agitation was the first of its kind after Independence.

The Assam Agitation (1979-1985) was launched against illegal immigrants in Assam led by All Assam Students' Union (AASU) and All Assam Gana Sangram Parishad (AAGSP) to compel the Government to identify and expel illegal immigrants. After a 6 year long Assam agitation from 1979 to 1985, a landmark

agreement Assam Accord was signed on August 15, 1985 at the behest of Prime Minister Shri Rajiv Gandhi. The Assam Accord established March 24, 1971, as the deadline for identifying and deporting immigrants from East Pakistan into Assam. This agreement also granted citizenship to people who arrived in Assam between January 1, 1966 and March 24, 1971, after defranchising for a term of ten years, subject to registration. It also stressed on finding out the Illegal Immigrants living in the state and their expulsion through legal means. Moreover, it advocated for the protection of the interests of Indigenous People, popularly Known as “~~Khilonjiya~~” or “~~Bhumi Putra~~”, through constitutional means. It is also observed that there have been many policies formulated, and laws enacted based on the Assam Accord, or around it, such as Scrutiny of Electoral Rolls, IMDT Act, Insertion of Schedule 6A in the Constitution, Citizenship order amendment of 2003 and updating NRC etc.

The Migration during British colonial times created discomfort among the Assamese, which further worsened in the post-independence Illegal Immigration. The insecurity of losing identity and socio-political power in the hands of immigrants as they might possess a challenge with outnumbering Assamese. This was realized and raised questions during the 20th century, that had to be firmly taken action in the post-independence period. Hence, it was necessary to mobilize and put pressure on the government to address it constitutionally and protect the rights of Assamese in terms of Political Representation, Economic opportunities, social recognition Linguistic protection, etc.

The said fear and insecurity have played a significant role in making policies for the protection of Indigenous people and the removal of Illegal Immigrants. This fear is further fueled by unsubstantiated claims by the people in power, establishment and Political Sphere for electoral gains. Which created a gap between different communities, especially Bengali-speaking people and Assamese, irrespective of religion. The Bengali-speaking people are holistically viewed as doubtful illegal immigrants and a threat to the Assamese society. Such a scenario resulted in instances of violence in the state at different points in time.

Such nationalist movements, while aiming to preserve Assamese culture, has often been mix of reality and presumptions and prejudices. The central premise of the movement—that Bengali speaking people, particularly Muslims, are illegal immigrants—has fueled tensions for decades. In many cases, individuals are presumed to be illegal immigrants without any substantial evidence and are referred to Foreigners' Tribunals (FTs). Where, it becomes the accused person's burden to prove their citizenship. The process is fraught with 'prejudiced assumptions', where certain groups, particularly Bengali Muslims, are targeted based on their identity rather than any legal basis. Even in many instances, when the alleged person of any said criminal activities, is supposedly Bengali Speaking Muslim, that person will immediately be addressed as Suspicious Bangladeshi. In the most recent tensed event of Assam, when few organizations had demanded for the vacation of Bengali Speaking Muslims from Upper Assam who mostly migrants working in unorganized sectors. The member of the organizations had sought to visit the houses of the said people to give them time frame for vacating the house and leave the district. The organization ascertained that this was threat to the identity of indigenous people, and the said people are allegedly illegal immigrants.

Interestingly, the current political regime who is in power are openly supported this in the State Assembly. It is important to note that, Right to Movement is a fundamental right guaranteed by Indian Constitution. In respect of migration, that was inter-district, Intra-state migration, that too not a notified restricted area. Moreover, in respect of allegation of being Illegal Immigrants, the Government had concluded and Published the Final NRC. The government office has the data of alleged illegal immigrants. The authority can simply verify the data of migrants who are living in Upper Assam instead of giving authority of Cultural youth organization.

As far as the policy initiatives, The National Register of Citizens (NRC) was initially seen as a solution to this problem. The assam movement resulted in Assam Accord pave the path for NRC in the state. However, it was implemented decades later only after intervention of Supreme Court. It was designed to identify illegal immigrants and separate them from genuine citizens systematically. However, the

NRC process was criticized for its functioning style and fear of misconduct by the officials involved. But, above all, the final draft of NRC was published, and people seem to be happy with the process. However, the political regime in power seems to be unhappy with the results.

The NRC's credibility was diluted and its objective was compromised when the Citizenship Amendment Act (CAA) was introduced in 2019. The CAA was enacted to provide citizenship to specific religious minorities—Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians—from “Afghanistan, Pakistan, and Bangladesh” who had entered India before December 31, 2014. However, it specifically excluded Muslims, particularly Bengali Muslims, from its protections, which raised significant concerns about its discriminatory nature. The introduction of the CAA not only undermined the NRC's purpose but also sparked widespread protests and debates about India's secular fabric and constitutional values.

In the context of Assam, the CAA was seen by many as a tool that worked against the very spirit of identifying and addressing illegal immigration. While the NRC was meant to be an inclusive, evidence-based process, the CAA was viewed as selective and exclusionary. When both are examined together, it becomes clear that much of the immigration debate in Assam is targeted at “Muslim populations” and that the entire framework seems disproportionately aimed at identifying them as illegal immigrants. This has led to accusations that the NRC-CAA combination is driven by a “pre-decided political motive”—to exclude Muslims from the social and political fabric of Assam, while selectively offering citizenship to others.

In the broader sense, the issue of illegal immigration in Assam remains heavily influenced by “historical, political, and nationalist factors”. The historical migration patterns, which were once inter-provincial movements within British India, have now been framed as illegal immigration. The political narrative, fueled by Assamese nationalism, has targeted specific communities, particularly Bengali Muslims, based on assumptions rather than evidence. The introduction of legal frameworks like the NRC and CAA, while aimed at addressing the problem, have only further complicated the situation, leading to more divisions and polarization.

The entire debate around illegal immigration in Assam is based on a combination of _historical migration, nationalist sentiment, and political motives‘. While legal mechanisms like the NRC were designed to address the issue systematically, they have been undermined by introducing selective laws like the CAA. The process of identifying illegal immigrants has often been _prejudicial‘, targeting specific communities without concrete evidence. Assam’s history, shaped by migrations during the British era, has left a legacy of _presumption and prejudice‘, which continues to influence the state’s political and social landscape today. The issue, which is highly politicized, disproportionately affects Muslim populations and raises questions about the fairness and inclusivity of India’s citizenship policies.

7.4 Major Findings

7.4 .1. India Does Not Have a Refugee Protection Framework

This research has discovered that India does not have a formal legal framework specifically designed for refugee protection. Despite being a host to millions of refugees over decades—ranging from Tibetans, Bangladeshis, and Sri Lankans to Rohingyas and Afghans—India is neither a signatory to the 1951 United Nations Refugee Convention nor its 1967 Protocol. Consequently, India lacks a comprehensive legal framework which will systematically address refugee rights, leading to ad-hoc and often politically motivated approaches to refugee management. The absence of a refugee-specific framework forces India to rely on the Foreigners Act of 1946 and the Passport (Entry into India) Act, 1920, which were not designed to address the unique vulnerabilities of refugees. These laws identifies refugees as "foreigners," without distinction from other types of immigrants such as infiltrators. Refugees are often exposed to detention and deportation under these laws, as observed in the case of Rohingya refugees, who were ordered to be deported to home country despite fears of persecution.

Moreover, the absence of a legal framework leaves refugees without defined rights such as work, education, or healthcare. India has occasionally provided asylum and support, as with Tibetan refugees who benefit from selective measures, but these

are exceptions rather than systemic guarantees. The lack of legal framework also impacts India's reputation internationally

7.4.2. Differential Treatment of Refugees

It is found in the research that India's refugee policy is having disparities or variances in treatment depending on refugees' ethnic, religious, or political affiliations. This variedness arises from the lack of a general framework, leaving refugee policy vulnerable to political and geopolitical considerations. For example, Tibetan refugees who arrived in India in 1959 following China's occupation of Tibet have been granted considerable privileges, including special settlements, freedom to practice their religion, and access to education. Similarly, Tamil refugees from Sri Lanka, fleeing civil war in the 1980s and 1990s, were accommodated in camps and received governmental assistance, albeit limited.

On the opposite, Rohingya refugees from Myanmar, a predominantly Muslim group, faced systemic discrimination in their homeland, which forced them to leave their homeland and seek shelter elsewhere. In this case, Indian authorities have refused to recognize them as refugees and classified them as illegal immigrants. Most of the Rohingyas live without legal recognition and some are in the camps without access to basic amenities or the right to work legally. In some instances, Rohingyas have faced deportation to Myanmar despite having threats of violence and persecution, draws criticism from international human rights organizations. The Citizenship Amendment Act (CAA) of 2019 further proceed with this differential treatment legally. The CAA provides a pathway to citizenship for non-Muslim refugees from Afghanistan, Pakistan, and Bangladesh, excluding Muslim refugees such as Rohingyas. This selective policy reflects India's discretionary means to address the refugee issues, prioritizing religious and cultural affiliations over universal principles of protection.

7.4.3. Centre-State Disagreement Over Refugee Protection

The lack of a universal refugee policy in India has led to conflict of interest between the central government and states in many instances. It is observed in the case of Chin refugees from Myanmar in Mizoram. The political unrest and military coups in Myanmar resulted in an influx of refugees, predominantly ethnic Chins who share cultural and linguistic ties with Mizos in India. The Mizoram government offered humanitarian aid, including shelter, food, and medical care. However, this stance clashed with the central government's position, often prioritising security concerns. The Union government directed states to tighten border controls and deport illegal migrants, including Chin refugees, under the Foreigners Act. This directive created friction, as the Mizoram government argued that deporting Chins violated their humanitarian duty. Mizoram Chief Minister back at the time, Zoramthanga openly criticized the Centre's policies, stating that Mizoram would not comply with orders to deny or deport refugees.

7.4.4. Creation of Statelessness by Citizenship Laws

India's citizenship laws might contribute to the creation of statelessness, mainly through certain amendments to the Citizenship Act of 1955. The 2003 amendment inserted certain provisions and conditions for acquiring citizenship by birth. Which states a child born in India after December 3, 2004, is eligible for Indian citizenship only if both parents are Indian citizens, or if one parent is an Indian citizen and the other is not an illegal migrant. This amendment had narrowed the scope of birthright citizenship and introduced vulnerabilities for children whose parent(s) might be classified as illegal immigrants. This provision has created situations where children born on Indian soil are rendered stateless due to the uncertain legal status of their parents. For instance, in Assam, where the National Register of Citizens (NRC) was updated, individuals excluded from the NRC are being doubted as alleged illegal immigrants, and need to prove their citizenship in the FTs. If either parent is deemed a "foreigner," their children could be denied

citizenship, despite their birth in India, which would lead to statelessness of hundred of thousands individuals.

7.4.5. Lack of Judicial Independence in Foreigners Tribunals

In addressing the issue of illegal immigrants in India, Foreigners Tribunals (FTs) play the most important role by determining the citizenship status of individuals suspected of being illegal immigrants. However, these tribunals are found in the realm of non-independents, as they operate under the purview of government oversight, raising concerns about impartiality in their functioning. The government appoints retired judicial officers, lawyers, and ex-administrative servicemen as members of FTs. Their recruitment, tenure, and performance evaluations are subject to governmental control, compromising the autonomy of these quasi-judicial bodies. The performance of FT members is often reviewed based on the number of cases they resolve, leading to allegations of bias and undue pressure to declare individuals as illegal immigrants. For example, in Assam, where FTs are primary body in deciding citizenship status of referred cases, reports emerged of members facing termination or non-renewal of contracts if their performance did not meet with government expectations. Such practices create an environment where tribunal members may prioritize expediency or perceived compliance with government directives over fair and unbiased adjudication.

The lack of judicial independence has profound implications for those appearing before FTs. Many of the accused are poor and uneducated individuals who lack the resources to navigate complex legal procedures or provide documentation dating back decades. Errors in judgments can have catastrophic outcomes, including loss of citizenship and detention in poorly maintained detention centers. This undermines the credibility of the justice system and erodes public trust. Ensuring independence in the functioning of FTs is vital for upholding principles of justice and human rights. Reforms such as insulating FTs from executive influence, providing fixed tenures for members, and instituting transparent oversight mechanisms are urgently needed to address these concerns.

7.4.6. Complexities in Deportation

Deportation is the last and final stage in terms of getting rid of an illegal immigrant. It is relatively easy to deport individuals apprehended crossing the border illegally or overstaying their visa. However, deporting individuals living as citizens for years and then their citizenship is questioned and their case is referred to FTs for opinion. If they are declared foreigners, they are ordered for deportation poses significant challenges. The alleged person is given chance to prove himself with the burden of proof on himself/herself. The accused often lacks proper maintenance of documentation, as well as possession because of the factors like, illiteracy and unawareness. Moreover, the declared foreigners are found to be declared Indian in the Higher Courts after appeal or Higher Courts order for remand and re-evaluation. This shows a probability of deporting genuine citizens in due process.

Deportation is further complicated by the absence of bilateral agreements or memoranda of understanding (MoUs) with neighboring countries like Bangladesh. India has no formal mechanism to ensure Bangladesh accepts individuals deported as illegal immigrants. The Bangladeshi government often denies the citizenship of such individuals, especially if they lack evidence of having migrated from Bangladesh. Without cooperation from Bangladesh, deportees may face indefinite detention in India, as the government cannot forcibly expel them. Moreover, the deportation will disrupt familial and community structures, as individuals declared illegal immigrants may belong to families with valid citizenship. Removing one family member can lead to legal and emotional complications, including splitting families and stigmatizing extended networks.

7.4.7. Desire for a Homogeneous Cultural Identity-Based State

After a systemic analysis of the historical events and evolution of Assam as a state in the Indian Union, the Assamese people have historically expressed a strong desire to establish a culturally homogeneous state based on Assamese identity. This aspiration can be traced back to the colonial era. It was when Bengali migrants first emerged in Upper Assam. Many Assamese people viewed the Bengali-speaking population as a threat to their cultural and linguistic existence. Fearing subjugation of the Assamese language, customs, and traditional practices, movements have been launched in containing such policies of British. An example is the exclusion of Sylhet, a Bengali-majority region, from Assam during the 1947 Partition. Sylhet, once part of Assam, was wished to be merged with East Pakistan (now Bangladesh) primarily due to Assam's desire to maintain an Assamese-majority state.

Historical tensions grew as Assamese nationalist movements, including the Assam Movement of the 1980s, opposed the growing population of Bengali migrants, both Hindu and Muslim. The perception was that a homogenous cultural identity was crucial for preserving Assam's unique heritage, which had been threatened by various waves of immigration and cultural integration since the colonial period. The demands for the deportation of undocumented immigrants coming to Assam have persisted for decades. Overall, the desire for a homogeneous Assamese identity-based state reflects the community's attempts to safeguard their cultural, linguistic, and political legacy against external influences.

7.4 .8 The Question of Assamese Supremacy and Its Link to Bengali Presence

Assamese nationalism and identity have been directly linked to the demographic and cultural dynamics between the Assamese and Bengali-speaking communities. This relationship has often been strained, especially since the pre-independence period. The dominance of the Bengali-speaking populace in some areas of Assam raised fears among Assamese leaders and activists. Who perceived this demographic shift as a potential path to political marginalization. Given the political and economic influence of Bengalis within the region, Assamese

nationalists feared that a Bengali-dominated population in the state could result in a transfer of political power to the Bengali community. This has led to various movements aiming to reduce Bengali influence in Assam. Which advocate for policies that prioritize Assamese culture, language, and identity over other cultural groups within the state.

Throughout history, instances of Assamese-Bengali conflict have taken place out of discussed notions. Multiple efforts were made to restrict the Bengali domination in political and cultural arenas. Such actions were fueled by cultural preservation and a perceived threat to Assamese political autonomy. The emergence of strong Assamese nationalist sentiments further polarized relations between the two groups, fostering a legacy of competitive nationalism that remains contentious in Assam today. Consequently, Assamese supremacy as a socio-political phenomenon is tightly linked to the perception of a demographic threat posed by the Bengali-speaking community in Assam.

7.4.9 Anti-Immigrant Movements as Expressions of Assamese Nationalism and Cultural Domination

The movements against illegal immigrants in Assam have historically revolved around a larger narrative of Assamese nationalism and cultural domination. Since colonial times, Assamese nationalist leaders have sought to preserve their cultural identity. Fearing that an influx of immigrants could dilute their unique traditions, language, and cultural practices. The influx of Bengali migrants and other immigrant groups was perceived as a threat to the Assamese way of life. Which lead to various protests and uprisings, notably the Assam Movement (1979-1985). This movement demanded strict policies against illegal immigration, specifically targeting Bengali-speaking migrants from neighboring regions like Bangladesh. The fear of an “outsider” takeover has continued to shape the socio-political discourse in Assam, where the term “illegal immigrant” is often loaded with ethnic and cultural connotations.

The Assamese movement against illegal immigrants represents not just a resistance to population changes but a broader assertion of Assamese identity as dominant within the state. The opposition to Bengali migrants, for example, was not solely based on legal status but also on cultural preservation. As Assamese leaders sought to prevent what they saw as a demographic and cultural invasion. As a result, Assamese nationalism has often taken a defensive posture, aiming to secure Assamese culture and identity against perceived encroachments by migrant communities. Whose presence is seen as a potential disruption to the Assamese cultural continuum.

7.4.10 Shift from Cultural Nationalism to Communal Politics

Assamese nationalism was historically rooted in cultural identity. Recent political shifts have transformed it into a more religiously divisive form of nationalism. Originally, Assamese nationalism was about preserving linguistic and cultural uniqueness without religious distinctions. However, this sentiment has taken on a communal dimension since the rise of the Bharatiya Janata Party (BJP) in Assam. The BJP, through its rhetoric and policies, has increasingly framed Assamese identity through a religious lens. Particularly by juxtaposing Hindu Assamese identity against Muslim identity. By often targeting Bengali-speaking Muslims as “illegal immigrants” from Bangladesh and they are a significant threat to the Assamese identity.

This communal redefinition of Assamese nationalism has polarized Assam's society, fostering a Hindu-Muslim divide that previously was not central to Assamese identity. The traditional notion of Assamese sub-nationalism has been transformed into a religiously charged form of nationalism, often aligned with the BJP's broader national agenda of Hindu unity. This shift has significantly altered the socio-political landscape of Assam, where cultural concerns are now enmeshed with religious identities, complicating the historical narrative of Assamese cultural preservation.

7.4.11 Transition from “Save Assam from Bengali Supremacy” to “Save Assam from Muslim Supremacy”

The slogan of “Save Assam” has undergone a significant transformation over the years. Originally, Assamese nationalism sought to preserve the cultural and political dominance of the Assamese people against perceived Bengali supremacy, especially in terms of population and language. This movement focused on ensuring that the influx of Bengali migrants did not overshadow Assamese culture and language. However, in recent years, this focus has shifted from resisting Bengali cultural dominance to countering what is perceived as a “Muslim threat.” As Assamese nationalism has increasingly become entwined with communal sentiments, often targeting the Muslim community, particularly Bengali-speaking Muslims.

This transition mirrors broader political narratives in India. Where Muslim identity is often portrayed as incompatible with nationalistic ideals. In Assam, this shift has deepened communal divisions. Reframing Assamese nationalism from a purely cultural struggle to one based on religious identity. Consequently, the “Save Assam” movement now operates as a platform for both cultural and religious assertion, shifting socio-political concerns within Assam in response to demographic and ideological changes.

7.4.12 Modern Assam as a Colonial Construct

The contemporary boundaries of Assam are largely a legacy of British colonial policies. Prior to British intervention, Assam was not a unified political entity. But a collection of regions governed by various local dynasties. The British consolidated these regions under a single administrative unit, including the Brahmaputra Valley, the Cachar region, and parts of the Barak Valley, such as Karimganj. For instance, the Barak Valley was previously divided, with Cachar under the Kachari kingdom and Karimganj part of the Sylhet district in Bengal. When the British annexed Assam in the 19th century, they redrew borders to serve administrative purposes, disregarding historical boundaries and ethnic compositions.

The British administrative decisions that shaped modern Assam had lasting implications. As various ethnic groups with distinct identities were brought together under one state. This colonial legacy continues to influence Assam's political landscape. Where regional and cultural identities compete within a framework established by colonial rulers. The geographical contours of Assam today reflect not just historical boundaries but also the socio-political aspirations and tensions that have developed within these borders. Creating a complex legacy that continues to impact Assam's regional dynamics and its relationship with neighboring regions.

7.5 Suggestions

The present research would like to extend the following suggestions based on a careful review of the literature, Field study, government policies, notification, etc. and their analysis.

7.5.1 Establishing a Legal Framework for Refugee Protection: Recognition, Rights, and Non- refoulement.

India must create a comprehensive legislative framework for refugee protection to address the complexity of refugee rights and citizenship. This framework should prioritize acknowledging and safeguarding persons escaping persecution, ensuring they have legal status and rights in the nation. The concept of non-refoulement, which prevents the forcible return of refugees to countries where their lives or freedoms are threatened, should be central to this framework. Currently, India lacks a defined legislative framework for handling refugees, resulting in uneven treatment and a lack of legal protection for distinct refugee groups. By setting explicit parameters, the framework would assist in distinguishing between refugees and other migrants, providing special safeguards for people escaping persecution because of their race, religion, nationality, or political beliefs.

Implementing this legislative framework would not only bring India in line with international standards, but it would also encourage humane treatment for refugees. If repatriation is not possible, refugees would be granted protected status, which would provide them with access to basic services, legal counsel, and the

ability to assimilate into society. The framework might include best practices from other countries while also reflecting India's unique socio-political situation, resulting in a more systematic and humane approach to refugee management. Such a mechanism will assist to resolve human rights organisations' concerns and promote India's image as a country that promotes humanitarian principles while maintaining border control.

7.5.2 Amendment in the Citizenship (Amendment) Act, 2019: Recognising all refugee groups equally.

The Citizenship (Amendment) Act (CAA) of 2019 principally provides a road to citizenship for non-Muslim refugees from Afghanistan, Pakistan, and Bangladesh who have experienced religious persecution. However, this selective method has created issues about exclusion and religious bias because it does not include all groups who may be seeking asylum in India owing to persecution, such as Muslims and refugees from other conflict-affected countries. An amendment to the CAA might address these concerns by extending its protections to all refugees, regardless of faith, who suffer persecution in their native countries.

This amendment will improve India's commitment to human rights while also aligning with the Indian Constitution's ideals of equality and nondiscrimination. Recognising all persecuted groups as entitled to protection and a route to citizenship would be a fair and compassionate approach to citizenship that is inclusive and just. An modified CAA might also provide a clear mechanism for examining each applicant's situation, allowing officials to review claims on an individual basis and make judgements based on humanitarian and legal principles rather than religious or political bias. Expanding the scope of the CAA would also help to decrease social and political tensions, highlighting India's commitment to equitable treatment and its position as a compassionate shelter for the needy.

7.5.3 Grounds for Referral to Foreigners Tribunals: Ensuring Transparency and Justification.

In Assam, referrals to Foreigners Tribunals (FTs) are made to assess citizenship status, although often without specific grounds or proof. A transparent approach in which the particular grounds for each referral are documented is critical to avoiding incorrect situations of persons being classified as aliens based on arbitrary or inadequate criteria. This paperwork would be especially useful in circumstances when suspicions of foreign origin are made simply by election or border authorities without supporting proof. By demanding substantial grounds for referrals, India would prevent individuals from being exposed to protracted court fights or the danger of statelessness.

Implementing a required obligation to explain explicit grounds for referrals will aid in the prevention of administrative abuse and shield innocent people from unwarranted legal ramifications. Furthermore, demanding proof and written explanations would boost the credibility of the FTs while streamlining the decision-making process and lowering the backlog of cases. Transparent referrals would help boost public trust in the system by ensuring that people's citizenship statuses would not be arbitrarily questioned. This strategy would eventually result in a more equitable procedure, preserving justice while eliminating the emotional and social hardship that sometimes accompany baseless charges against legal persons.

7.5.4 Relaxing Documentation Requirements for Illiterate Individuals in Foreigners Tribunal Cases.

Many of those brought before Foreigners Tribunals come from low or rural origins, and a large proportion are illiterate. Due to their inability to obtain legal documentation establishing ancestry or citizenship, these people are frequently subjected to unfavourable verdicts. Relaxing documentation requirements for illiterate individuals would ensure that a lack of papers would not jeopardise their citizenship status. In circumstances when individuals are unable to offer official paperwork, the government might set a standard that accepts secondary forms of

proof, such as signed statements from local authorities, community leaders, or village elders.

This approach will acknowledge the socioeconomic and educational limitations that prohibit many people from keeping lengthy records. Such a change would not only safeguard the rights of persons who are unable to demonstrate parental connection owing to illiteracy or a lack of records, but would also make the process more fair. Foreigners Tribunals might establish standardised methods for authenticating alternative forms of identity, ensuring that worthy people are not wrongly labelled as foreigners. This leniency would respect human dignity and avoid the erroneous exclusion of persons due to factors beyond their control, encouraging fairness and compassion within the judicial system.

7.5.5 Amending the Citizenship Act to Address Citizenship by Birth

According to the current Citizenship Act modifications, children born in India after 2003 do not immediately gain citizenship if one of their parents is considered a "illegal immigrant." This clause has resulted in circumstances where persons born and reared in India have become stateless because of one parent's legal status. An modification to the Act might ensure that persons born in India to at least one Indian parent, regardless of the other parent's status, get citizenship. This approach would not only preserve the rights of individuals who have spent their whole lives in India, but it would also assist to prevent the population from becoming stateless.

Revising the Act to address these citizenship difficulties would be a significant step towards preserving the rights of those who are Indian by birth but may lose recognition owing to their parents' status. Such an amendment will uphold the Indian Constitution's core right to equality while also protecting against discrimination. By granting citizenship to children born in India, the government eliminates the possibility of producing a generation of stateless people, promoting societal stability and integration. This move would also represent a more compassionate approach to citizenship, minimising needless legal difficulties and promoting inclusive national progress.

7.5.6 Bringing Foreigners Tribunals Under the Right to Information (RTI) Act

Foreigners Tribunals currently have little openness since they are not subject to the Right to Information (RTI) Act. By incorporating FTs into the RTI framework, the government might increase accountability and public monitoring in citizenship judgements. The RTI Act allows individuals to obtain information about the decision-making process, ensuring that financial institutions operate publicly and ethically. Making FTs accountable under RTI would allow anyone to obtain case-related information, clarifying tribunal procedures and conclusions.

Incorporating FTs into the RTI framework will increase faith in the legal system by allowing impacted persons and the public to scrutinise FT procedures. Increased openness may also dissuade arbitrary or biased choices, since FT members will be aware that their acts are open to public scrutiny. Furthermore, this approach would link FTs with other government organisations, providing consistency in how public information is shared and accessible. This strategy would strengthen democratic ideals, increase institutional openness, and provide individuals with a means to seek justice and responsibility in citizenship-related matters.

7.5.7 Improving Border Management to Prevent Illegal Immigration

Efficient and effective border management is critical for limiting illegal immigration while not impeding legitimate travel and trade. Implementing modern technology, such as biometric identification, surveillance systems, and electronic tracking of those entering and leaving the nation, will improve India's border security. Furthermore, continuous training for border guards in recognising possible security threats while protecting human rights is critical for establishing a fair and effective border management system.

Better border management necessitates bilateral collaboration with neighbouring nations. India may engage with its neighbours to strengthen information sharing, repatriation processes, and border control. Streamlining border security will allow India to better monitor migrant flows, decreasing the need for internal inspections that contribute to social and political conflicts. Enhanced border management not

only prevents illegal immigration but also secures the country's borders, which contributes to national security and stability.

7.5.8 Developing a Research Database and Implementation Mechanism for Immigration Issues

A comprehensive study repository on illegal immigration would be an invaluable resource for politicians, scholars, and law enforcement. This repository might contain data on immigration trends, socioeconomic implications, and case studies, offering insight into the underlying reasons and consequences of illegal immigration. By establishing such a storehouse, India would have a centralised source of knowledge that may guide future immigration policy and advise the execution of effective measures.

Furthermore, an implementation method based on the findings of this repository would allow for real-time policy changes, providing a more responsive approach to immigration control. This evidence-based technique might result in the creation of focused initiatives to address specific issues such as community integration, border security, and refugee protection. Overall, a research repository with an active implementation arm would give a proactive, educated approach to immigration management, decreasing the need for reactive measures and improving India's ability to control immigration effectively and compassionately.

7.5.9 Dropping Pending Foreigners Tribunal Cases Due to Elections or Border Office Referrals

Many cases pending before Foreigners Tribunals (FTs) are referrals from election or border agencies, which are frequently based on suspicion rather than real proof. To solve this issue, these claims should be evaluated and dismissed if they lack sufficient evidence. Furthermore, applicants' names that were removed from the National Register of Citizens (NRC) due to outstanding FT cases should be reconsidered, and names that were eliminated without proof should be reinstated. This strategy will avoid undue hardship for persons suffering unjust exclusion and reduce the strain on FTs, allowing them to focus on valid cases.

This policy reform would minimise the backlog of cases in FTs, resulting in a more efficient procedure of deciding citizenship. Dropping unfounded cases will also safeguard individuals from being falsely accused of unlawful residence, which has caused significant social and economic suffering for many. By prioritising evidence-based referrals, the government would increase the credibility of the NRC and the FT process, resulting in a more equitable and accurate citizenship decision system.

7.6 Conclusion

The present study has provided an in-depth examination of migration, refugee protection, and the socio-political dynamics surrounding illegal immigration, particularly in the context of Assam and India at large. The findings emphasize the complex interrelation between historical, legal, and cultural factors that shape refugee and immigration policies, revealing critical gaps and inconsistencies in the existing frameworks.

In the present study, a notable finding is India's lack of a comprehensive legal framework for refugee protection. Despite its history of hosting diverse refugee groups, the absence of formalized mechanisms results in ad-hoc and discretionary decision-making. This inconsistency underscores the urgent need for a legislative framework that guarantees fundamental rights and adheres to principles of non-refoulement. The study highlights that existing statutes like the Foreigners Act of 1946 are inadequate for addressing the unique vulnerabilities faced by refugees, often treating them as illegal immigrants, as evidenced in cases involving the Rohingya community. These deficiencies not only lead to unequal treatment but also expose refugees to risks such as detention and deportation.

Another significant finding is the differential treatment of refugees based on religious, ethnic, and geopolitical considerations. The Citizenship Amendment Act (CAA) of 2019 exemplifies this disparity by selectively granting citizenship to specific religious groups while excluding others, such as Muslim Rohingyas, Ahmadians, Hazaras, etc., who face severe persecution. This selective approach contradicts the principles of universal human rights and exacerbates divisions within

Indian society. Such policies have led to criticisms of religious bias and have undermined India's secular commitments. The study argues that a more inclusive policy recognizing all persecuted groups, irrespective of religion or ethnicity, would align better with India's constitutional and humanitarian values.

The challenges surrounding illegal immigration in Assam present a particularly nuanced case. The research explores how historical migration patterns, initiated during British colonial rule, laid the foundation for demographic shifts and cultural tensions. Assamese nationalism, deeply rooted in the fear of losing cultural and political identity, has been a driving force behind anti-immigrant movements. However, these movements often conflate genuine refugees and legal citizens with illegal immigrants, fostering mistrust and communal divisions. The study critically assesses mechanisms like the National Register of Citizens (NRC) and Foreigners Tribunals (FTs), revealing their susceptibility to errors, biases, and political manipulation. The lack of judicial independence in FTs and the burdensome requirements for proving citizenship disproportionately affect marginalized communities, further complicating the issue.

The findings also highlight how the politicization of Assamese identity has shifted from a focus on cultural preservation to communal divisions, particularly targeting Bengali-speaking Muslims. This transition reflects broader political narratives, where religion increasingly influences citizenship and identity debates. Such shifts have deepened societal polarization, transforming a cultural movement into one marked by exclusionary practices and discriminatory policies.

Moreover, the present study brings attention to the operational challenges of addressing illegal immigration, such as the hindrances in deportation. The absence of bilateral agreements with neighboring countries like Bangladesh creates logistical and ethical dilemmas, often leaving deportees in legal limbo. This situation underscores the need for diplomatic engagement and collaborative solutions to ensure humane and effective border management.

In light of these findings, the present study advocates for a multi-faceted approach to reform. Establishing a comprehensive legal framework for refugee protection, amending discriminatory provisions in citizenship laws, and ensuring transparency and fairness in FTs are critical steps. Addressing historical grievances through dialogue and fostering inclusive policies can help bridge the divides created by decades of mistrust and prejudice. Ultimately, the study emphasizes that a humane and just approach to refugee and immigration issues is a moral imperative and vital for India's social cohesion and international standing. By learning from past shortcomings and adopting inclusive policies, India can uphold its constitutional principles and reaffirm its commitment to human rights and justice.

7.7 Limitations

For the present study, obtaining data on declared foreigners in Assam has been difficult, with government officials repeatedly refusing to release essential information. Also, Departments that handle sensitive data on declared foreigners and detention proceedings, such as the Border Branch, are excluded from the Right to Information (RTI) Act, making it nearly hard to get needed information through legitimate methods. The RTI exemption creates an accountability gap, as the public cannot scrutinize the state's handling of citizenship cases or ensure fair treatment for those under investigation. Moreover, attempts to visit the Matia Detention Centre, which is the only detention center in function at present, were met with strict denials, further limiting the scope of this research.

Efforts to obtain permission to conduct interviews with officials responsible for managing border security and foreign tribunals, specifically the SP Border, were also declined. This refusal to permit interviews with responsible authorities limits the availability of primary data, such as insights into operational procedures, common challenges, and policy justifications. One of the most challenging limitations have experienced in carrying out the present study has been the lack of documented rejections from government authorities. A significant limitation in studying Assam's immigration issues is the scarcity of scholarly

literature, particularly in the context of the socio-political complexities of citizenship, foreigner declarations, and detention processes

An additional limitation was the difficulty in identifying and interviewing declared foreigners, even those who had not been detained. Many of these individuals are understandably hesitant to participate due to fears of negative repercussions. Interviews concerning the present study with advocates who are involved in Foreigners Tribunal cases revealed an additional challenge: hesitancy in discussing shortcomings on record. Their hesitation to share observations on record diminishes the potential for exposing irregularities and gaps also advocating for reforms based on insider perspectives. This limitation restricts the present study's ability to provide a fully transparent, documented account of the discrepancies within Foreigners Tribunals, putting a gap in the case for recommendations and reforms.

Appendix- I

Interview-Schedule for Declared Foreigners

This Interview -schedule has been prepared in connection with data collection for the award of the degree of Doctor of Philosophy under the Department of Public Administration, School of Social Science, Mizoram University. The data and information collected will be treated as confidential and used for academic purposes,

Please answer the following questions (Tick):

- 1. Gender**
a) Male () b) Female () c) Other:
 - 2. Age category**
a)18-25 b)26-35
c)35-45 d)45-60
 - 3. Educational Qualifications**
a) Primary b) Class X
c) Class XII and Above d) No Education
 - 4. Case Status**
a)Pending b)Disposed off
 - 5. How did you get involved in the proceedings of FT?**
a) Self
b) Court Notice
c) Any Other Ways
 - 6. Do you have any idea when your case was referred to FT for opinion?**
a) Yes
b) No
 - 7. Do you know when your citizenship was suspected and investigated?**
a) Yes
b) No
 - 8. Have you requested an inquiry report from the Border Police on your case?**
a) Yes
b) No
 - 9. Do you believe that you are genuinely an Indian citizen?**
a) Yes
b) No
 - 10. How do you perceive the Foreigners Tribunal's decision? (If opinion already given by FT)**
a) Fair
b) Unfair
- * FT Name & No.-
- 11. How do you see the fairness of the legal process you've gone through?**

- a) Fair
 - b) Unfair
12. Do you feel adequately prepared for court hearings and proceedings?
- a) Yes
 - b) No
13. Do you believe you have been able to access adequate legal assistance and advice throughout your legal battle?
- a) Yes
 - b) No
14. Have you had difficulty acquiring official documents from appropriate agencies to support your case??
- a) Yes
 - b) No
15. Have you encountered language barriers during the proceedings?
- a) Yes
 - b) No
16. Do you have your name on the Voter List?
- a) Yes
 - b) No
17. Is your name marked 'D' (Doubtful) on the voter list?
- a) Yes
 - b) No
18. Do You have a Birth Certificate?
- a) Yes
 - b) No
19. Do you feel well-informed about the latest developments in your case and the relevant legislation?
- a) Yes
 - b) No
20. Have you experienced difficulty getting legal help for your case?
- a) Yes
 - b) No
21. Have you encountered any financial difficulties in pursuing your court case?
- a) Yes
 - b) No
22. Have you faced any instances of discrimination or bias during the legal process?
- a) Yes
 - b) No
23. Have you received any threats or intimidation as a result of your legal battle?
- a) Yes

- b) No
- 24. If so, from who?
 - a) Society
 - b) Husband/Wife
 - c) In-laws
 - d) Any other
- 25. Have you encountered any cultural or social barriers in interacting with legal professionals or authorities?
 - a) Yes
 - b) No
- 26. Do you believe your case has received adequate attention from your family?
 - a) Yes
 - b) No
- 27. Have you received help or support from legal aid organizations or non-governmental organizations (NGOs) during your legal battle?
 - a) Yes
 - b) No
- 28. Have you experienced any societal stigma as a result of your legal battle?
 - a) Yes
 - b) No
- 29. 43. Have you experienced any physical threats or violence as a result of your legal battle?
 - a) Yes
 - b) No
- 30. Do you feel adequately supported by your community during the legal process?
 - a) Yes
 - b) No
- 31. How do you maintain hope and resilience in the face of prolonged legal proceedings and uncertainty?
 - a) Family support
 - b) Faith in the legal system
 - c) Personal resilience
 - d) Other (please specify)
- 32. How do you cope with the stress and emotional toll of the legal battle?
 - a) Seeking support from family and friends
 - b) Engaging in relaxation techniques
 - c) Seeking professional counselling
 - d) Other (please specify)
- 33. Have you faced difficulties in gathering evidence to support your citizenship claim?

- a) Yes
 - b) No
34. Have you encountered challenges in providing documents to prove your linkage with your father or another relative?
- a) Yes
 - b) No
35. Have you encountered any difficulties in accessing court hearings or legal proceedings?
- a) Yes
 - b) No
36. Do you believe you have faced difficulties in understanding the laws and procedures relevant to your case?
- a) Yes
 - b) No
37. Have you encountered any difficulties in communicating with your counsel?
- a) Yes
 - b) No
38. How do you assess the level of professionalism exhibited by your counsel handling your case?
- a) Excellent
 - b) Satisfactory
 - c) Poor
 - d) No interaction with legal professionals
39. How do you assess the level of cooperation and assistance provided by your counsel?
- a) Excellent
 - b) Satisfactory
 - c) Poor
 - d) No assistance received
40. Do you feel you were adequately represented and advocated by your counsel in handling your case?
- a) Yes
 - b) No
41. How do you assess the effectiveness of legal aid and support services available to individuals in situations similar to yours?
- a) Very effective
 - b) Somewhat effective
 - c) Not very effective
 - d) Not at all effective
42. How do you assess the level of transparency in the legal process you've been through?

- a) High
 - b) Moderate
 - c) Low
43. Have you encountered any instances of corruption or misconduct within the legal system?
- a) Yes
 - b) No
44. Do you believe your lack of documentation has significantly impacted your case?
- a) Yes
 - b) No
45. Do you believe there are biases or prejudices within the legal system that have affected your case?
- a) Yes
 - b) No
46. How do you perceive the overall transparency of the legal process regarding your citizenship status?
- a) Transparent
 - b) Somewhat transparent
 - c) Not very transparent
 - d) Not at all transparent
47. Do You Have Children born After 2004?
- a) Yes
 - b) No
48. If Yes, How many?
49. Is there another family member whose citizenship has been questioned?
- a) Yes
 - b) No
50. Do You have any Relatives in Bangladesh?
- a) Yes
 - b) No
51. Have You filed a petition for review in FT?
- a) Yes
 - b) No
52. Have you filed a review petition with the High Court challenging the Foreigners Tribunal's decision?
- 53. a) Yes
 - 54. b) No
55. What is the Status of the Case?
- a) Pending

- b)Disposed off
56. What's the Judgement?
- a) Upheld the Opinion
 - b) Quashed the Opinion
 - c) Remand back
 - d) Petition Dismissed
57. If the High Court upheld the FT decision, have you filed an appeal before the Supreme Court?
- a) Yes
 - b) No
58. If not, do you have plans to do so?

Appendix- II

Interview-Schedule for the Border Branch, Police Department

This Interview -schedule has been prepared in connection with data collection for the award of the degree of Doctor of Philosophy under the Department of Public Administration, School of Social Science, Mizoram University. The data and information collected will be treated as confidential and used for academic purpose,

Gender : M/F

Age Category: 18-25, 26-25,
 36-45, 46-60

Tenure in Border Branch:

Please Tick the answer:

1. What are the primary responsibility of Border Branch in addressing the issue of illegal immigrants in Assam?
 - a) Law enforcement and border control as 2nd Line of Defence.
 - b) Detection of Illegal Immigrants
 - c) Citizenship determination and documentation
 - d) All of the Above
 - e) Other (please specify)
2. How acquainted are you with the legal framework governing citizenship and immigration in Assam?
 - a) Very acquainted
 - b) Somewhat acquainted
 - c) Not very acquainted
 - d) Not at all acquainted
3. What are the major challenges Border Branch faces in identifying and addressing cases of illegal immigration in Assam?
 - a) Limited human resources
 - b) Lack of cooperation from other agencies
 - c) Legal complexities
 - d) Other (please specify)
4. Does Border Branch have adequate human resources to carry out the said job?

- a) adequate
 - b) somewhat adequate
 - c) not adequate
 - d) neutral
5. Does Border Branch get adequate financial resources to do the job?
- a) adequate
 - b) somewhat adequate
 - c) not adequate
 - d) neutral
6. How does Border Branch collaborate with other government agencies and law enforcement entities to tackle the issue of illegal immigration?
- a) Joint task forces
 - b) Information-sharing mechanisms
 - c) Coordinated operations
 - d) Other (please specify)
7. What procedures does Border Branch follow to verify citizenship claims in Assam?
- a) Document verification
 - b) Interview and investigation
 - c) Community surveys
 - d) Other (please specify)
8. How do you handle cases where individuals dispute allegations of illegal immigration and claim to be genuine citizens of Assam?
- a) Refer to Foreigners Tribunals
 - b) Conduct independent inquiries
 - c) Provide avenues for legal representation
 - d) Other (please specify)
9. What measures does Border Branch take to prevent the entry of illegal immigrants into Assam?
- a) Border surveillance
 - b) Checkpoints and inspections
 - c) Visa controls

- d) Other (please specify)
10. How do you address challenges related to the documentation and registration of residents in Assam, especially in rural areas?
- a) Outreach and awareness campaigns
 - b) Mobile registration units
 - c) Community engagement initiatives
 - d) Other (please specify)
11. How does Border Branch ensure transparency and fairness in the enquiry process in the determination of cases for referring to FT?
- a) Public hearings and inquiries
 - b) Provision of legal assistance to applicants
 - c) Regular audits and reviews
 - d) Other (please specify)
12. What are the key indicators used by Border Branch to identify individuals suspected of illegal immigration?
- a) Lack of valid documentation
 - b) Suspicious behaviour or activities
 - c) Tips from informants
 - d) Other (please specify)
13. How do you address concerns regarding the human rights and welfare of individuals suspected of illegal immigration during enforcement actions?
- a) Provision of humanitarian assistance
 - b) Legal representation
 - c) Protection from abuse or exploitation
 - d) Other (please specify)
14. Does Border Branch provide legal aid to financially challenged people?
- a) yes
 - b) no
 - c) other
15. Does Border Branch have any SOP for the whole process?
- a) yes
 - b) no
 - c) other:

16. Does it consider the human rights aspect?

- a) yes
- b) no
- c) other

17. Which is the most difficult aspect in the entire process of dealing with the illegal immigration?

- a) Detection
- b) Detention
- c) Deportation
- d) Any other

18. Does Border Branch faces any challenges while deporting the illegal Immigrants after detection and due process?

- a) Yes
- b) No
- c) Some cases
- d) Other

19. What challenges does Border Branch face in deporting individuals found to be illegally residing in Assam?

- a) Legal barriers
- b) Diplomatic negotiations
- c) Lack of cooperation from home countries
- d) Other (please specify)

20. Do you have any mechanism to have a check on your own departmental functioning for transparency and accountability?

- a) yes
- b) no
- c) other

21. How do you ensure accountability and integrity within Border Branch regarding handling cases of illegal immigration?

- a) Internal oversight mechanisms
- b) Anti-corruption measures
- c) Whistleblower protection

- d) Other (please specify)
22. What strategies does Border Branch employ to address the root causes of illegal immigration in Assam?
- a) Socioeconomic development initiatives
 - b) Border security enhancements
 - c) Bilateral agreements with neighbouring countries
 - d) Other (please specify)
23. Does Border Branch engage with the local communities through capacity-building programs, awareness campaigns and others:
- a) yes
 - b) no
 - c) other
24. What strategies does Border Branch employ to build trust and cooperation with local communities in combating illegal immigration?
- a) Community outreach programs
 - b) Establishing community liaison officers
 - c) Engaging community leaders and influencers
 - d) Other (please specify)
25. How does Border Branch engage with local communities and stakeholders in addressing the issue of illegal immigration?
- a) Consultative forums
 - b) Community policing programs
 - c) Grievance redressal mechanisms
 - d) Other (please specify)
26. What measures does Border Branch take to combat human trafficking and smuggling networks operating in Assam?
- a) Law enforcement operations
 - b) Public awareness campaigns
 - c) Victim support services
 - d) Other (please specify)
27. How do you address concerns related to discrimination and profiling in enforcement actions against suspected illegal immigrants?

- a) Training and awareness programs for staff
 - b) Oversight by independent bodies
 - c) Complaint mechanisms for affected individuals
 - d) Other (please specify)
28. How does Border Branch handle cases of statelessness or individuals with undetermined nationality?
- a) Provide legal assistance
 - b) Refer to relevant international agencies
 - c) Pursue diplomatic solutions
 - d) Other (please specify)
29. How does Border Branch address concerns raised by human rights organizations and advocacy groups regarding its approach to illegal immigration?
- a) Dialogue and engagement
 - b) Transparency measures
 - c) Policy reforms
 - d) Other (please specify)
30. How do you assess the effectiveness of government initiatives and programs aimed at addressing illegal immigration in Assam?
- a) Effective
 - b) Very Effective
 - c) Somewhat Effective
 - d) Neutral
31. What changes or improvements do you believe are necessary in current policies and procedures to better address the issue of illegal immigration?
- a) Legislative reforms
 - b) administrative enhancements
 - c) Capacity-building initiatives
 - d) Other (please specify)
32. What responsibility does technology play in enhancing Border Branch's capabilities to address illegal immigration?
- a) Data analytics for intelligence gathering
 - b) Biometric identification systems

- c) Digital documentation and record-keeping
- d) Other (please specify)

33. How do you address challenges related to corruption and malpractice within Border Branch in the context of illegal immigration?

- a) Internal investigations
- b) Anti-corruption measures
- c) Collaboration with oversight bodies
- d) Other (please specify)

34. How does Border Branch protect human rights and dignity during enforcement actions against suspected illegal immigrants?

- a) Training on human rights standards
- b) Monitoring and supervision of operations
- c) Complaint mechanisms for victims
- d) Other (please specify)

35. What responsibility does international cooperation play in addressing the issue of illegal immigration in Assam?

- a) Information sharing with other countries
- b) Bilateral agreements on border management
- c) Collaboration with international organizations
- d) Other (please specify)

36. How does Border Branch address the socioeconomic integration of legal immigrants and refugees in Assam?

- a) Support programs for employment and education
- b) Access to healthcare and social services
- c) Community integration initiatives
- d) Other (please specify)

37. What challenges do you face in maintaining accurate and up-to-date records of residents in Assam, particularly in remote or underserved areas?

- a) Limited infrastructure
- b) Data management systems
- c) Staffing constraints

d) Other (please specify)

38. How do you ensure the protection of vulnerable populations, such as ethnic minorities, in the context of illegal immigration enforcement?

- a) Sensitivity training for personnel
- b) Establishing special procedures for vulnerable groups
- c) Collaboration with community organizations
- d) Other (please specify)

39. How do you balance the need for security measures with respect for individual rights and freedoms in the context of illegal immigration enforcement?

- a) Regular review of policies and procedures
- b) Judicial oversight of enforcement actions
- c) Public accountability mechanisms
- d) Other (please specify)

40. Do you think the existing policies on Illegal Immigrants are adequate for dealing with the problem of illegal immigration?

- a) Adequate
- b) Not Adequate
- c) Need changes

41. How does Border Branch engage with civil society organizations and non-governmental actors in addressing the challenges of illegal immigration in Assam?

- a) Partnership agreements
- b) Consultative mechanisms
- c) Funding support for initiatives
- d) Other (please specify)

42. How does Border Branch engage with academic and research institutions to better understand the drivers and dynamics of illegal immigration in Assam?

- a) Research partnerships
- b) Data-sharing agreements
- c) Expert consultations
- d) Other (please specify)

Appendix- III

Interview-Schedule for Advocates

This interview schedule has been prepared for Advocates representing FT Cases and concerned individuals in connection with data collection for the Doctor of Philosophy degree award under the Department of Public Administration, School of Social Science, Mizoram University. The data and information collected will be treated as confidential and used for academic purposes.

Name:

Gender:

Name Of Bar Association:

Practicing Tenure:

1. What is your role in representing a case of an alleged Illegal Immigrant/'D' Voter to the Foreigners' Tribunal in Assam?

- a) Advocate
- b) Legal consultant
- c) Paralegal
- d) Other (please specify)

2. How acquainted are you with the citizenship laws and procedures specific to Assam?

- a) Very familiar
- b) Somewhat familiar
- c) Not very familiar
- d) Not at all familiar

3. Have you previously represented clients in cases related to proving citizenship in Assam?

- a) Yes
- b) No

4. Do you take FT pro-bono cases?

- a) Yes
- b) No
- c) sometime

- d) other (please specify)
5. What are your clients' most common challenges in proving their citizenship?
- a) Lack of documentation
 - b) Legal complexities
 - c) Lack of Interest in the case
 - d) Other (please specify)
6. How do you typically gather evidence to support your clients' citizenship claims?
- a) Official documents
 - b) Witness testimonies
 - c) Community affidavits
 - d) Other (please specify)
7. How do you differentiate between a genuine citizen and illegal immigrant before representing them?
- a) Document verification
 - b) Legal analysis
 - c) Interviews and investigations
 - d) Other (please specify)
8. Which government agencies or departments do you most frequently interact with during these cases?
- a) Foreigner's Tribunals
 - b) Registrar General of India
 - c) State Police (Border Branch)
 - d) Other (please specify)
9. How do you address issues of language and communication barriers with your clients?
- a) Provide translators/interpreters
 - b) Utilize local community resources
 - c) Use multilingual documentation
 - d) Other (please specify)
10. How do you ensure the safety and security of your clients during legal proceedings?
- a) Legal protection measures

- b) Coordination with local authorities
 - c) Advocacy for human rights
 - d) Other (please specify)
11. What legal strategies do you employ to challenge citizenship denials or allegations?
- a) Trial in FT
 - b) Seeking review on Inquiry Report
 - c)
 - d) Other (please specify)
12. How do you manage the emotional and psychological impact on your clients throughout the legal process?
- a) Provide counselling services
 - b) Offer support groups
 - c) Do Not consider this aspect
 - d) Other (please specify)
13. Do your clients face any kind of discrimination or bias within the legal system? If Yes, how do you address instances?
- *Yes
- *No
- a) Legal advocacy
 - b) Community outreach
 - c) Media Engagement
 - d) Other (please specify)
14. What is the typical timeframes in resolving citizenship cases in FT (As per your cases concern)?
- a) Less than 1 year
 - b) 1-3 years
 - c) 3-5 years
 - d) More than 5 years
15. How do you stay updated on changes to citizenship laws and regulations in Assam?

- a) Legal publications
 - b) Government Notifications
 - c) Professional associations
 - d) Other (please specify)
16. How do you access the financial resources needed to pursue citizenship cases for your clients?
- a) Charging Fees
 - b) Pro Bono services
 - c) Access to legal aid funds
 - d) Other (please specify)
17. What are the most significant procedural hurdles you encounter in citizenship cases?
- a) Burden of proof
 - b) Lack of transparency
 - c) Delays in hearings
 - d) Other (please specify)
18. What is the most common reason that leads to losing a case in FT, according to you?
- a) Lack of Supporting Documents establishing Linkage with the parents
 - b) Abnormality in Oral Testimony
 - c) Abnormality in Written Statement
 - d) Abnormality in Documents
 - e) Any Other
19. How do you ensure confidentiality and data security for your clients' sensitive information?
- a) Secure data storage systems
 - b) Confidentiality agreements
 - c) Limited access protocols
 - d) Other (please specify)
20. How do you ensure that you are giving adequate importance to a case related to FT?
- a) Proper study and formulation of Case

- b) Not treating it at par civil cases
- c) Regular Communication with the client
- d) Any Other

21. What are the influential factors that helps you arguing your cases?

- a) Case law from the Supreme Court
- b) International human rights jurisprudence
- c) Previous rulings from High Courts
- d) Other (please specify)

22. Do you collaborate with non-legal professionals (e.g., social workers, activists) in supporting your clients? If Yes, how?

- a) Referrals for additional support services
- b) Joint advocacy campaigns
- c) Coordinated case management
- d) Other (please specify)

23. Do you think public opinion and media coverage play any role in shaping the outcomes of citizenship cases in Assam? If yes, What role does public opinion and media coverage play in shaping the outcomes of citizenship cases in Assam?

- a) Influential factor
- b) Limited impact
- c) Irrelevant
- d) Other (please specify)

24. How do you address concerns related to corruption or malpractice within the legal system?

- a) Whistleblower mechanisms
- b) Legal complaints and grievances
- c) Public awareness campaigns
- d) Other (please specify)

25. How do you adapt your advocacy strategies to address the unique needs of marginalized or vulnerable clients?

- a) Tailored legal representation
- b) Community empowerment initiatives

- c) Collaborative partnerships
 - d) Other (please specify)
26. How do you perceive success in a citizenship case?
- a) Obtaining legal recognition
 - b) Protection from deportation
 - c) Restoration of rights and privileges
 - d) Other (please specify)
27. Do You feel any policy reforms or systemic changes required to improve the citizenship determination process? If yes, how do you advocate for?
- a) Legislative lobbying
 - b) Policy research and analysis
 - c) Public advocacy campaigns
 - d) Other (please specify)
28. How do you manage conflicts of interest or ethical dilemmas that may arise in citizenship cases?
- a) Adherence to professional codes of conduct
 - b) Disclosure and recusal procedures
 - c) Independent oversight mechanisms
 - d) Other (please specify)
30. How do you envision the future of citizenship advocacy in Assam, considering current challenges and developments?
- a) Greater legal recognition and protection
 - b) Continued struggle against systemic injustices
 - c) Improved access to justice and resources
 - d) Other (please specify)

Appendix IV



Interview of SP, Border Branch Official, Karimganj, Dated: 04/01/2024

Appendix V



Interview of Assistant Public Prosecutor, Cachar, Dated: 13/08/2024



Interview of Advocates, Karimganj Bar Association, Dated 07/08/2024

Appendix VI

To,
The Secretary
Home & Political
Govt. of Assam

Sub- Prayer for Permission to visit Malia Transit Camp
and meeting inmates for Research Purpose (Ph.D.).
Dated: 18/08/2023

Respected Sir,

With due respect and high regards, I, Saleh Ahmed, would like to state you that I am an P.H.D. Scholar at Mizoram University. The topic of my research is "Integrating Refugee Protection and Movement against Illegal Immigration in Assam".

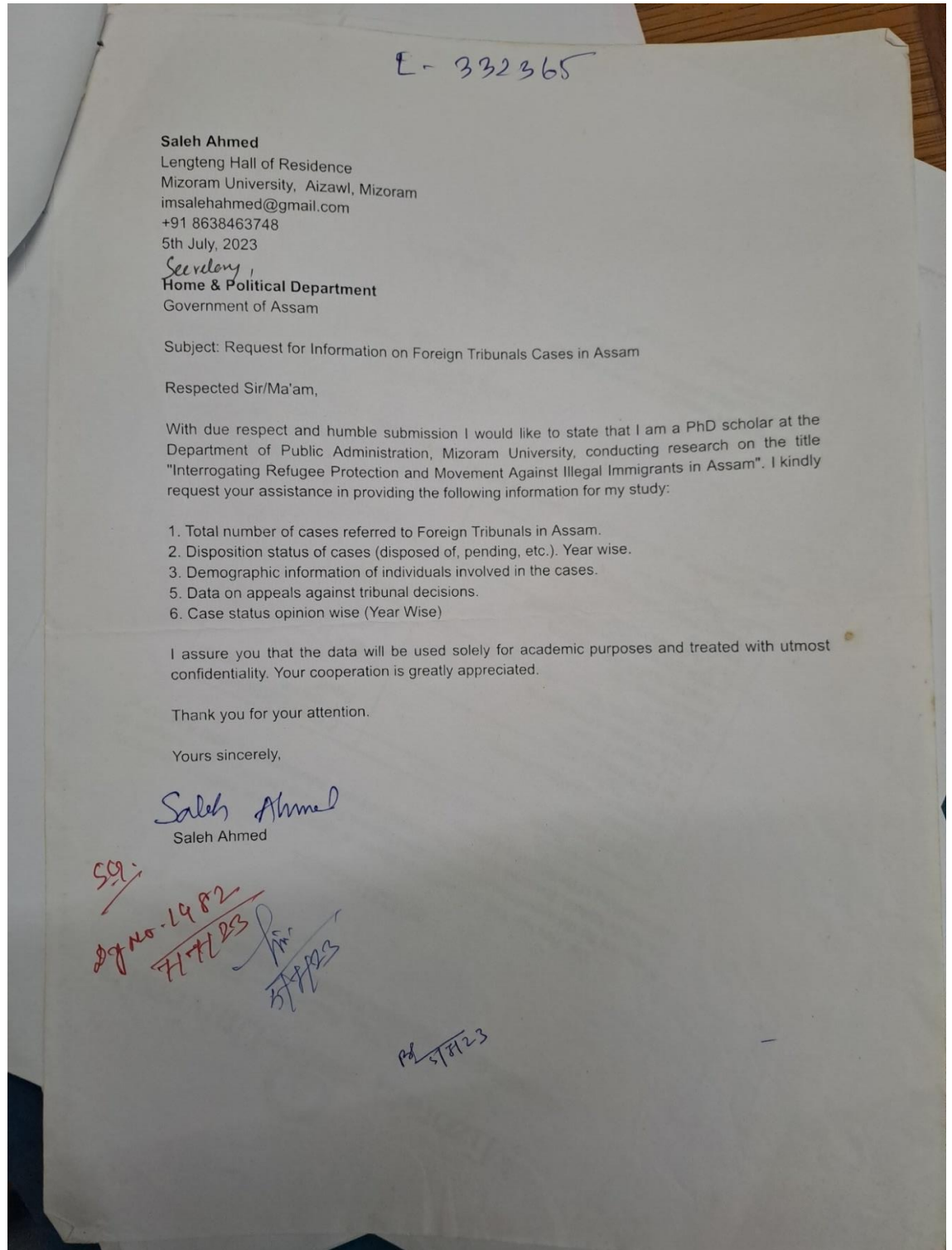
Sir, visiting Malia Transit camp is the only camp where the declared foreigners are kept. Hence, it is very much part of my research to visit the camp.

I would request your esteemed office to kindly grant me the permission. I would be very grateful to you.

Thanking you.
Saleh Ahmed.
Ph.D. Scholar, MZU.
8638463148.

JS (PB)
22/8/23
18/8/23

Appendix VII



Appendix VIII

अहस्तांतरणीय Non-Transferable
प्रवेश 217011247566

लोक सभा सचिवालय, संसदीय ज्ञानपीठ, नई दिल्ली
LOK SABHA SECRETARIAT, PARLIAMENT LIBRARY, NEW DELHI

नैमित्तिक प्रवेश पत्र CASUAL ENTRY PERMIT

03/Oct/23

दिनांक Date 12:42 18:00

समय Time SALEH AHMED

आगन्तुक का नाम Visitor's Name

को निम्नवत जाने की अनुमति दी जाती है is permitted to proceed to

कमरा सं. R. No. - तल सं. Floor No.

लिफ्ट सं. Lift No. OFFICIAL द्वार सं. Gate No.

VISITORS ARE REQUESTED NOT TO INTERACT WITH MEDIA

आगन्तुक के हस्ताक्षर
Signature of Visitor

उस व्यक्ति के हस्ताक्षर जिससे आगन्तुक को मुलाकात करने की अनुमति दी गई
Signature of the person whom the visitor was permitted to see

हस्ताक्षर
Signature of Receptionist

(यहाँ लिखित प्रवेश पढ़िये)
(See Instructions Overleaf)

Government of Assam
Assam Secretariat, Dispur - 781006

Serial No. EP/55390/2023
Date and Time : 05/07/2023 14:33
Block to Visit : CM

Department/Officers

Name of the Visitor : SALEH AHMED Contact No. : 8638463748

Address : KARMIGANJ Department to Visit : Home

Purpose of Visit : Official

Apply online <http://assam.gov.in> or <http://103.8.249.88/applyonline>

Dated : 12th June, 2023

Government of Assam
Assam Secretariat, Dispur - 781006

Serial No. EP/82759/2023
Date and Time : 18/09/2023 11:00
Block to Visit : CM

Department/Officers

Name of the Visitor : SALEH AHMED Contact No. : 8638463748

Address : KARIMGANJ, ASSAM Department to Visit : Political

Purpose of Visit : Official

Apply online <http://assam.gov.in> or <http://103.8.249.88/applyonline>

Government of Assam
Assam Secretariat, Dispur - 781006

Serial No. EP/70508/2023
Date and Time : 18/08/2023 10:58
Block to Visit : CM

Department/Officers

Name of the Visitor : Saleh Ahmed Contact No. : 8638463748

Address : Karimganj, Assam Department to Visit : Political

Purpose of Visit : Official

Apply online <http://assam.gov.in> or <http://103.8.249.88/applyonline>

Appendix IX

THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

NO.HC.XXXV - 14/2023-24/188 /RTI

Dated Guwahati, 11/01/2024

From : Sri S. Dhar
Registrar (Judicial) & PIO
Gauhati High Court-781001

To : State Public Information Officer
Political (B) Department,
Assam Secretariat, Dispur -06

Sub: Request for information under Right to Information Act, 2005.

Ref: RTI application by Mr. Saleh Ahmed, Regd. Vide 140/2023-24
Dated 15/12/2023.

Sir,

With reference to the subject cited above, I am forwarding herewith a RTI application by Mr. Saleh Ahmed, for taking necessary action in respect of Q No- 6 & 7, from your end as the subject matter seems to fall under your jurisdiction. Reply, if any, may directly be sent to the applicant.

Yours faithfully,

Encl: As stated above.

 11-01-2024
Registrar (Judicial) & PIO
Gauhati High Court, Guwahati

Memo No. HC.XXXV -14/2023-24/188 / RTI, dated the 11/01/2024
Copy to:

Mr. Saleh Ahmed, Gandharvakhani, Mullaganj, Karimganj-788719. He is requested to approach the abovementioned PIO for getting the information in respect of his queries.

 11-01-2024
Registrar (Judicial) & PIO
Gauhati High Court, Guwahati

FORM "A"
Form of application for seeking information
(See Rule 3)

Application SI No: OL-83/2023

To,
Registrar (Judicial),
Gauhati High Court (Principal Seat),
Mahatma Gandhi Road, Guwahati – 781001, Assam.



1. Name of the Applicant: **Saleh Ahmed**
2. Address: **GandharvakhaniMullaganj Bazar Karimganj Assam 788719, Karimganj, Assam, Pin: 788719**
3. Particulars of information:
 1. Name of the concerned department: **Gauhati High Court (Principal Seat)**
 2. Details of Information required: **I would like to seek following information under RTI Act for my Ph.D. research- 1. Total Number of FT Cases Appealed in Gauhati High Court since it's inception. 2. Number of FT Cases Appealed in Gauhati High Court since it's inception, Year Wise. 3. Total Number of Cases referred back to respective FTs for re-evaluation/reconsideration of judgements after re-hearing, FT wise. 4. Total Number of FT Cases Appeal which were rejected by Gauhati High Court. 5. Total Number of Cases in which Gauhati High Court set aside the Opinion of FTs and gave it's opinion. 6. Total Number of cases in which Opinion were changed after referring back to FTs. 7. Total Number of FT Cases filed till date across the FTs and present status of those case. Pending and Opinion given.**
 3. Period for which information asked for: **Since inception**
 4. Other Details
4. I state that the information sought does not fall within the restrictions contained in Section 8 of the Act and to the best of my knowledge it pertains to your office.
5. A fee of Rs. 10/- has been deposited through online. Transaction ID [GRN]: **AS006296071202324Y** dated **15-12-2023 14:19:44**
6. Application Submitted on **2023-12-15 14:16:54**
7. Application Fee **Paid**

Appendix X

HMA/44/2024-POLITICAL(B)-H and P-Home & Political Department
RTI
URGENT

416011/2024


GOVERNMENT OF ASSAM
POLITICAL (B) DEPARTMENT
C.M. Block, 2nd Floor, Janata Bhawan, Dispur, Guwahati-6, email: political.b.department@gmail.com
No. PLB.437981/10

From : The Deputy Secretary to the Govt. of Assam
Political (B) Department, Janata Bhawan, Dispur, Assam

To : The Under Secretary to the Govt. of Assam & SPIO,
Political Department.

Subject: RTI application of Saleh Ahmed dated 15.12.2023 forwarded by Registrar
(Judicial) & PIO, Gauhati High Court.

Sir,

In inviting a reference to the above, I am directed to inform you that the Registrar (Judicial) & PIO, Gauhati High Court has forwarded a RTI application submitted by Mr. Saleh Ahmed Regd. Vide 140/2023-24 dated 15.12.2023, wherein it has requested to

- furnish the information on the following points directly to the applicant (copy enclosed).

Point No. 6: Total Number of cases in which Opinion were changed after referring back to FTs.

Point No. 7: Total Number of FT Cases filed till date across the FTs and present status of those case. Pending and opinion given.

- In this regard, it may be stated that the detailed record of the FT Cases is maintained by the Assam State Police Border Organisations, which is exempted from the purview of Right to Information Act, 2005 as per the Notification No. PLA.384/2005/54 dated 08.03.2006 (copy enclosed). Therefore, the information as sought for by the applicant cannot be disclosed.

- In view of the above, you are requested to take necessary action to intimate about the same to the applicant with a copy to the Registrar (Judicial) & PIO, Gauhati High Court.

Yours faithfully,

Signed by
Nibedita Goswami
Date: 22-01-2024 15:54:56
Deputy Secretary to the Govt. of Assam
Political (B) Department

Enclosed: As stated above

*Recd (H/Turn)
Smt. Nibedita Goswami*

GOVERNMENT OF ASSAM
POLITICAL (A) DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 8th March, 2006.

NO. PLA. 384/2005/54 : The Governor of Assam is pleased to notify the exemption of the following intelligence and security organisations from the purview of Right to Information Act, 2005 of Government of India as per Section 24 (4) of the Act. The names of the organisations established by the State Government are as follows :-

1. Special Branch, Assam Police.
2. Criminal Investigation Department.
3. Bureau of Investigation of Economic Offences (BIEO)
4. Assam Police Battalions.
5. Assam Police Task Force.
6. Indian Reserve Battalions.
7. Commando Battalions.
8. Assam Home Guard Battalions.
9. Assam State Police Border Organisations.

Sd/- Rajiv Kumar Bora,
Commissioner & Secy. to the Govt. of Assam,
Home and Political Department.

Memo No. PLA. 384/2005/54-A, Dated Dispur, the 8th March, 2006.
Copy to :-

- 1) The Joint Secretary to the Governor of Assam, Raj Bhawan, Guwahati for favour of information of Hon'ble Governor.
- 2) P.P.S. to Chief Minister, Assam, Dispur, Guwahati-6 for kind information of the Hon'ble Chief Minister, Assam.
- 3) All P.S. to Minister/ Minister of State, Assam, Dispur, Guwahati.
- 4) The Staff Officer to the Chief Secretary, Assam, Dispur, Guwahati-6 for kind information of the Hon'ble Chief Secretary, Assam.
- 5) All P.S. to Additional Chief Secretaries/ All P.S. to Principal Secretaries, Assam, Dispur, Guwahati-6.
- 6) P.S. to Chief Information Officer, Assam, Dispur, Guwahati-6.
- 7) P.S. to State Information Officer, Assam, Dispur, Guwahati-6.
- 8) P.S. to Commissioner & Secretary and Co-ordinator of the Chief Secretary, Assam, Dispur, Guwahati-6 for kind information of the Chief Secretary.
- 9) All P.S. to Commissioner & Secretaries, Assam, Dispur, Guwahati-6.
- 10) The Director General of Police, Assam, Ulubari, Guwahati-7.
- 11) The Secretary, Assam Legislative Assembly, Dispur, Guwahati-6.
- 12) All Administrative Department, Dispur, Guwahati-6.
- 13) All Heads of Department.
- 14) All Divisional Commissioners.
- 15) All Deputy Commissioners.

By order etc.,

Joint Secretary to the Govt. of Assam,
Political (A) Department.
.....

Appendix XI

**Government of India
Ministry of External Affairs
(BM Division)**

Dated: 03/10/2024

To,

Mr. Saleh Ahmed,
Village Gandharvkhani,
P.O. Mullaganj Bazar,
P.S. Patharkandi
Assam, PIN-788719
Email ID: imsalehahmed@gmail.com

Subject: Online RTI Application of Mr. Saleh Ahmed seeking information, under the RTI Act, 2005.

Sir,

Please refer to your RTI application bearing registration No. MHOME/R/E/24/04365 dated 04.09.2024 seeking information, under the RTI Act, 2005. The copy of RTI application was forwarded by Ministry of Home Affairs to BM Division, Ministry of External Affairs with request to provide information on point No. 5 of RTI application.

2. Reply to point No. 5 of the aforesaid RTI application as below:-

Point No. 5 of RTI: Does India have any MoU or agreement with Bangladesh for deporting Illegal Immigrants expressly who are declared foreigners by FTs.

Reply: India **does not** have any MoU or agreement with Bangladesh for deporting Illegal Immigrants expressly who are declared foreigners by FTs. Deportation of illegal immigrants declared foreigners by FTs comes under the purview of Ministry of Home Affairs and has been administered under Foreigners Act, 1946.

3. In case, you want to go for an appeal in connection with the information provided, you may appeal to the Appellate Authority indicated below within **thirty days** from the date of receipt of this letter.

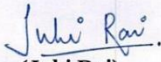
Director (BM)

FAA & Director (BM)

Address: Room No. 67E, South Block, New Delhi

Phone No: 011-23086778

Yours faithfully


(Juhi Rai)

CPIO & US (Bangladesh)

Phone No. 23011809

Email: dsbd@mea.gov.in

Appendix XII

RTI Matter/by Speed Post

No. 18051/46/2024-F.VI

भारत सरकार / Government of India
गृह मंत्रालय / Ministry of Home Affairs
(Foreigners Division)

Major Dhyan Chand National Stadium, 1st floor,
New Delhi, dated 26 September, 2024

To,

Mr. Saleh Ahmed,
Village Gandharvkhani, P.O. Mullaganj Bazar,
P.S. Patharkandi
Assam, Pin-788719.
Email ID: imsalehahmed@gmail.com

Subject:-Online RTI Application of Mr. Saleh Ahmed seeking information, under the RTI Act, 2005.

Sir,

Please refer to your online RTI application bearing registration No.MHOME/R/E/24/04365 dated 04.09.2024 seeking information, under the RTI Act, 2005. Reply to the aforesaid RTI application is as below:-

Information sought	Reply
1) The total number of Foreigner Tribunals under The Foreigners (Tribunals) Order, 1964 under Section 3 of The Foreigners Act, 1946, exists across the country and state-wise data. 2) Total number of Cases Handled by the respective FTs till date, Number of Disposed and pending cases FT-wise and verdict -wise data. 3) Total Number of Declared Foreigners till date by the FTs. 4) Total Number of Deported Individuals expressly declared Foreigners by the FTs	The sought information is not available with the undersigned CPIO. The sought information may be available with State Govts./UT Admns. and NE Division, Ministry of Home Affairs. Therefore, your RTI application is transferred to CPIO, NE Division, Ministry of Home Affairs under section 6(3) of the RTI Act, 2005 to provide available information. You are advised to obtain the information directly from the State Govts./UT Admns.in terms of para 3(iv) of the Guidelines contained in DOPTs OM.No. 10/2/2008-IR dated 12.06.2008.
5) Does India have any MoU or agreement with Bangladesh for deporting Illegal Immigrants expressly who are declared foreigners by FTs.	The sought information is not available with the undersigned CPIO. The sought information may be available with BM Division, Ministry of External Affairs, New Delhi. Hence, your RTI application is transferred to BM Division, Ministry of External Affairs under section 6(3) of the RTI Act, 2005 to provide available information.

Page 1 of 2

6) Total Number of Cases handled by the foreign tribunals in the state of Assam and the status of the cases disposed of as well as pending also total Declared foreigners and Indians by the FTs in Assam.	The sought information is not available with the undersigned CPIO. The sought information may be available with Government of Assam. You are advised to obtain the information directly from the State Government of Assam in terms of para 3(iv) of the Guidelines contained in DOPTs OM No. 10/2/2008-IR dated 12.06.2008.

2. If you are not satisfied with this reply, the first Appeal, if any, may be preferred within the time period stipulated under the RTI Act, 2005 to the first Appellate Authority Shri Prashant Lokhande, Joint Secretary (F.I), Ministry of Home Affairs, Room No.109(C), North Block, New Delhi-110001.

3. In case you are not satisfied with the reply received from the BM Division, Ministry of External Affairs/NE Division, MHA, first appeal, if any, may be filed to first Appellate Authority of BM Division, Ministry of External Affairs/NE Division, MHA.

Yours sincerely,


26/9/14

(Surender Kumar)
Director (F) & CPIO
Tel.No.011-23077508

Copy for necessary action to:

1. Shri B. Shyam, Joint Secretary (BM), BM Division, Ministry of External Affairs, Room No.78, South Block, New Delhi, along with the copy of RTI application with the request to provide information on point No.5 of RTI application directly to the applicant.
2. Shri N.R. Minz, Deputy Secretary (NE-IV), NE Division, MHA, Room No.205, North Block, New Delhi, along with the copy of RTI application with the request to provide information on points No.1-4 of RTI application directly to the applicant

Copy for information to:-

1. RTI Section, M/o Home Affairs, North Block New Delhi.
2. ✓ PPS to CPIO, Visa Wing, Foreigners Division, MHA, MDCNS, New Delhi.

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LIST OF PUBLICATIONS

Journal Publication

1. **Saleh Ahmed**, Dr. Babu G. and Prof. A. Muthulakshmi. (2024). A Critical Appraisal of Cross-border Migration into India using the Push-Pull Theory. *Social Science Journal for Advance Research*, 4(6), 66-66.
2. **Saleh Ahmed**, Dr. Babu G. and Prof. A. Muthulakshmi. (2024). Critical Analysis of CAA (2019) as a Refugee Framework in India. *International Journal of Research and Analytic Reviews*, 11(4), 680-684.
3. Saleh Ahmed and Dr. Babu G. (2022). Movement Against Illegal Migrants in Assam: Genesis, Government Interventions and Challenges. *Central European Management Journal* , 30 (3), 635-651.

Book Chapter

1. **Saleh Ahmed**. (2022). Afghan Refugee Crisis: India's response. *CONTEMPORARY INDIA: Society, Economy and Polity*, 37. Authors Press, Kolkata

Conference/ Seminar/ Workshop

1. Presented a paper “**Vaccine Hesitancy and Policy Initiatives in India**”. In *Many Facets of Covid-19 Pandemic*, organised by Council; for Social Development, Hyderabad during March 1-2 2022 at CSD, Southern Region, Hyderabad.
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ABSTRACT

INTERROGATING REFUGEE PROTECTION AND MOVEMENT AGAINST ILLEGAL IMMIGRANTS IN ASSAM

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**INTERROGATING REFUGEE PROTECTION AND MOVEMENT AGAINST
ILLEGAL IMMIGRANTS IN ASSAM**

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Introduction

Factors like war, political unrest or instability, selective persecution, ethnic conflict, natural disasters, and economic crises often force people to leave their home countries to seek shelter in foreign lands. The forced displaced individuals are recognized and protected under international law and categorized as refugees. The countries across the globe are responsible for protecting these individuals and their rights and safety. As per the (UNHCR, 2024) data, there are 122.6 million people forcibly displaced in the world, which includes asylum seekers, irregular migrants, returnees and internally displaced persons at present. The total figure contains 37.9 million refugees and 8 million asylum seekers as of mid-2024. The majority of them are under the UNHCR's mandate, and a few million Palestinian refugees are under UNRWA's mandate. The main reason for displacement is found in related research to be war. The war compels people to leave their homes and seek shelter elsewhere. This war-based displacement in the modern age started during World War II, which has caused displacement in the highest number to date. Since then, there have been many wars fought across the globe, which have continued to result in displacement.

Apart from the full-fledged war, internal turmoil and a change in power regime have been identified as key reasons to displacement. This was noticed in both Myanmar and Afghanistan. Millions of people have been displaced from Myanmar and are seeking refuge in Bangladesh as a result of the transition from a democratic to an army-led administration. This is a classic example of institutionalised ethnic persecution. The individuals being persecuted are known as Rohingya, and they are predominantly Muslims from Myanmar's Rakhine province. They were compelled to flee their homes, leaving everything behind. They had departed and searched for shelter, primarily by the maritime way. Many countries have denied entry of them while some countries have welcomed them for humanitarian reasons. However, the majority of the exiled people had arrived in Bangladesh and were still living in refugee camps, with no hope of resettlement. On the other hand Afghan refugee issue is little complex in nature, as it is mixture of various factors. However, the main reason is internal turmoil and war which resulted in multiple waves of displacement.

Another concern related to refugees is that millions of refugees remain unregistered and do not fall within the UNHCR's mandate, and sometimes they are protected by few nations across the world on humanitarian grounds without being under the mandate of UNHCR. India belongs to one of those nations. In India, there is no provision that allows someone to be labelled as a refugee upon admission. Whoever enters India with the intention of becoming a refugee is considered an alien and if undocumented, Illegal Immigrant. The term alien is defined in the Indian Constitution in Article 22, Paragraph 3 and Entry 17, List I, Schedule 7. In addition, it is stated in Section 83 of the Indian Civil Procedure Code, Section 3(2) (b) of the Indian Citizenship Act, 1955, and various other legislation. The Foreigners Act of 1946 empowers the Central government to regulate aliens' admission into India, presence, and departure. The Act defines a 'foreigner' as someone who is not a citizen of India. Foreigners are monitored through registration, stay, and expulsion as required by the Registration Act of 1939. The government handles the passport issue and imposes its mandate on foreigners who enter India. Furthermore, the government grants passports to its people for travel overseas. The Passport Act of 1920 and the Passport Act of 1967 provide the basis for all of the government's functions.

India has used administrative tools to regulate the status and protection of refugees, yet there is still some ambiguity about the system. In the lack of particular regulation, the danger of biased and discriminatory treatment of migrants cannot be ignored. Without particular legislation, the rules governing the control of foreigners are applied to refugees in India, with no distinction made between foreigners and refugees as separate classes. The Foreigner's Act of 1946 is the first Indian law relevant to foreigners, which gave the power to monitor the entry, presence, and departure of foreigners to the Central Government of India. The Indian government's executive branch determines refugee status, monitors, and protects refugees. If India intends to provide sanctuary to any individual or group of individuals, it issues a circular or notification exempting them from the Foreigner Acts. At various points in time, the Indian government has opened its borders to various groups of refugees, and it has issued notifications and circulars to that effect. In the following

paragraphs, we will look at all of the circulars and government notifications on refugee protection.

In 1972, the Indian government issued an edict concerning foreigners from Uganda. The order was created to protect those of Indian descent living in Uganda who were being persecuted by Idi Amin's dictatorship (Foreigners from Uganda Order, 1972). Ugandan citizens were advised to register with the registration office and specify how long they expected to remain in India. Through this, the Government of India exempted Ugandan people from requirements of other laws that apply to foreigners. In the first quarter, the Government of India issued a notice; the notification delegated some authorities to the state governments/union territories involved to decide visa problems. (Delegation of Powers to State Governments/UT Administrations/FRROs/FROs in Visa Matters, 2010). This notice specifies the requirements, including the terms, conditions, and eligibility of Pakistani and Bangladeshi nationals for the L.T.V. in India to get Indian citizenship. According to this announcement, four groups of people are eligible for the L.T.V., three of which are based on marriage and the fourth on 'cases exhibiting great compassion'. However, the term's meaning is uncertain, as it is not included in the announcement.

There is a provision for foreigners to apply for a long-term visa, which allows them to stay in India for longer than six months; this visa is often known as L.T.V. The Government of India has issued a notification on the situation involving Pakistani and Bangladeshi people who are residing in India on L.T.Vs. This notice permits them to make a living in India by working in the private sector, barring government, semi-government, and cooperative occupations. The Election Commission of India issues a statement about Tibetan refugee children. Election Commission declared that the children of Tibetan refugees born in India between January 26, 1950, and July 1, 1987, can finally register for enlisting in the electoral roll to vote in India. This announcement was based on a judicial decision by the Delhi High Court in 2010 (Namgyal Dolkar vs. Govt. of India, Ministry of External Affairs, W.P.(C) 12179/2009 (Delhi High Court), 2010).

However, The same kind consideration has not been extended to children from other refugee groups. In other cases, the difference in how refugees are treated has been fairly evident. One example is the administration's efforts to provide residency cards to Tibetan and Sri Lankan refugees, as well as those registered with the UNHCR in New Delhi. The lack of a national refugee legislation has resulted in disparities and biases towards different refugee groups. Refugee concerns are handled at the executive and administrative levels, therefore the refugee monitoring procedure reflects political philosophy and objectives. The current strategy that the government is utilising to handle the refugee issue is neither based on the idea of equality nor any legal foundation.. It is quite evident that domestic political opinion and shifting necessities in foreign policy dominate the process.

The administrative decisions regarding refugee protection have not been in the same direction. The government of India had passed an act which is known as Passport (Entry into India) Amendment Rules, 2015. Through this act, the government has exempted the persons who are the minority in Bangladesh and Pakistan. The minority communities in Bangladesh and Pakistan are namely, Hindus, Sikhs, Buddhists, Jains, Persis and Christians. If a person from these minority communities who are forced to flee the country and seek shelter in India due to religious persecution or fear of religious persecution and entered into India on or before the 31st December 2014 will be exempted from the Foreigners Act 1946 (Passport (Entry into India) Amendment Rules, 2015. Despite the fact that India is not a signatory to any international refugee agreements or conventions, it does not have specific legislation to deal with the refugees. Despite all of that, India has been a regular host of refugees since its foundation. People have come to the country from around the world- from Afghanistan, Bangladesh, and Myanmar to Tibet, Iran and Iraq. It has treated people who are coming to India on humanitarian ground and attempt to accommodate everyone even after having a population of more than a billion of its own.

Today, India is a host of extra-regional and intra-regional refugees in a quest for safety and sanctuary from Afghanistan, Bangladesh, Iran, Iraq, Myanmar,

Palestine, Somalia, Sudan, Syria, Sri Lanka, Tibet, etc. (Ahmad, 2017). The migration into India from neighboring states started taking place immediately after the independence of India. Since 1947, periodic and large influxes of the population from East Pakistan (subsequently Bangladesh) kept coming into Assam, West Bengal, and adjoining Bihar. Assam and other northeastern states, being the least populated, became the most promising destinations (Singh, 1984). The frequency and volume had increased in the early 1970s because of the violence in Bangladesh erstwhile East Pakistan. The influx of migrants into India was in considerable numbers in that period. The migrants were primarily settled in the Northeastern states of India and West Bengal. The Indian state of Assam had issues with the changing demographic nature and the potential changes brought by the demographic change. It had experience related to the changes brought by the migration.

The Indian state of Assam is a multicultural and heterogeneous society having indigenous people as inhabitants of the land. The illegal entry into the Indian state of Assam from the neighboring country Bangladesh (erstwhile East Pakistan) has threatened indigenous people's very existence. It poses a threat to language, culture, land, economy as well as the political controls in the society of the natives. To address the issue, one needs to identify who is an illegal immigrant. There is a fragile line between illegal immigrants and refugees. The migrants who came before 24th march midnight have been considered refugees; post this date, entry is regarded as illegal immigrants. Based on the timeline, which was agreed by the Assam movement representatives and government of India, millions of people have been entered India as illegal immigrants, which poses a threat to the natives. The debate of identifying illegal immigrants and deporting them, and parallel protecting refugees get stuck in the identifying process and guidelines or the terms and conditions.

Assam had experienced a significant number of migrations in the colonial period. Those migrations had changed the demographic structure in some regions of Assam. Therefore, Post-Colonial migration from an alien place was not affordable for the people of Assam. There was a rapid migration of people on the eve of the liberation of India Pakistan in 1947. The migration of people did not stop there; there

were waves of migration into Assam. The most grievous migration after the independence settlement was the Bangladesh liberation refugees. The number of people in Bangladesh's liberation entered India to become refugees' ambition was huge. This migration did not stop after the independence of Bangladesh. The flow of migration into India remains constant, it might be different in size, but it continues. It led to a demographic change in Assam and started posing a threat to the indigenous Assamese population. In the early 1980s, the literate middle-class Assamese native who was conscious about the outcome of the migrant issue started a movement against the migrants who are supposedly illegal as per India's constitution. Hence, pressures were building on the Centre to look upon the matter and take suitable measures and settle the issue.

The citizenship, refugees are the subjects vested in the center's hand to make laws upon and administer it. However, the flow of illegal immigrants or refugees into India has gone unchecked or unnoticed by the central government. The issue had started gaining popularity among Assamese native people, and after that, several movements took place; also, violence started taking place, which compelled the central government to give attention to this grievous issue. As the result of the Assam agitation, the central government has signed an accord named the Assam accord. Which took the resolution to solve the illegal immigrant's issue by adopting several policies and measures. The IMDT Act was one such measure that was enforced to identify the illegal immigrant and terminate his/her name from the voter list and deport him/her. Further, this Act applied only to migrants who sneaked into the state and settled thereon after March 25, 1971. Thus, those who came in and settled there before or on March 24, 1971, did not come in the purview of this (Ragi, 2013). It can be observed that the central government is the supreme authority in dealing with the refugees as well as addressing the illegal immigrant's issue in Assam. Hence, it has become very important to have a very close look at the administrative mechanism in dealing with both the issues, the protection of refugees as well as the response to the movement against illegal immigrants and the judicial response. Moreover, it is essential to look into the administrative challenges that are coming in addressing

issue of illegal immigration. In line with these areas the present study has been carried out.

Review of Literature and Research Gap

A total of 42 pieces of literature were reviewed for the present study, out of which a total of 22 articles and 20 Books were reviewed. The literature covers all the themes related to the Study Such as Theories related to refugees, Refugee Protection and International Framework, Refugee Protection in India, Issue of Illegal Immigrants in Assam, History of Assam from Ancient to Modern, History of migration in Assam, and Administrative and Judicial initiatives in the Protection of Refugees in India, etc.

The mentioned literature has been referred to gain a deep understanding of the historical background of the refugee problem and their protection, along with an understanding of the phenomena of illegal immigrants in Assam. By reviewing the listed literature, it was possible to identify the gap in the area that administrative challenges in protecting refugees and identifying refugees and illegal immigrants in Assam through the administrative mechanism have been least explored. Hence, the present study has been carried out to bridge that gap.

However, the issue of Illegal Immigrants in Assam and its related administrative and Judicial challenges; and challenges faced by the alleged Illegal Immigrants are least explored. Therefore, to bridge the gap and heuristic purpose, the present study has been carried out.

Statement of the Problem

It is essential to understand the theoretical background of refugees in order to understand the realm of refugee protection in India. Without understanding the theoretical background, it is not possible to understand and explain the other aspects of the said domain. India has not ratified the 1951 UN refugee Convention and its 1967 protocol. Therefore, it is speculated that India's refugee protection policy does

not meet the international norms of refugee protection and regulations. Hence, it is important to look into India's refugee policies in light of international standards.

The systematic study of the policy initiatives to address the illegal immigrants' issues as well as protecting the refugees in Assam has been merely done. Since there is no designated legislation regarding the distinction between refugees and illegal immigrants hence it is important to investigate the administrative mechanism and the role of the judiciary in refugee protection and deporting illegal immigrants, but it has not been given much priority. Also, the administrative challenges in protecting refugees and identifying refugees and illegal immigrants through the administrative mechanism has been least explored. At last, it is very essential to have suggestions which incorporate all the qualities of a good policy and maintain the international standards; hence the present study attempts to suggest measures for refugee protection mechanism and to solve the illegal immigrant issue.

Scope and Significance of the Study

The present study centrally focuses on the Refugee Protection and Illegal Immigration in the state of Assam. The study delves into theoretical background of Refugee, Refugee Protection and Illegal Immigration. The present study examines the policies of refugee protection in India in light of international standards. The present study also analyzes the historical background of the illegal immigrant crisis in Assam and the policy initiatives in this regard. Further, the study also focuses on administrative mechanisms and the role of the Judiciary in refugee protection and deporting Illegal Immigrants. Furthermore, the study identified administrative challenges in protecting Refugees and addressing the issue of Illegal Immigrants in Assam. Finally, the present study suggests certain measures, mechanisms and policy initiatives for refugee protection and address the issue of illegal immigrant issue in Assam.

This study is essential since the focus is on the refugee protection and movement against illegal immigrants. The need for a comprehensive study in this domain is very high in contemporary time. The outcome of the study is more useful

in reviewing the literature of the refugee protection mechanism or framework and ascertain the type of approach that is more useful in bringing a framework that is refugee friendly as well as having a mass acceptance among the natives. Because the crisis has been a significant challenge for India since its independence; and a viable solution has not been found yet. There are also challenges at the administrative and judicial level, hence it is important to explore the administrative mechanism and role of judiciary dealing with refugees.

Objectives of the Study

Keeping the focus mentioned above in mind, the objectives of the research are,

1. To study the theoretical background of Refugee, Refugee Protection and Illegal Immigration
2. To examine the policies of refugee protection in India in light of International Standards
3. To delve into historical background of the illegal immigrant crisis in Assam and the policy initiatives in this regard
4. To analyze the administrative mechanism and the role of the judiciary in refugee protection and addressing the issue of illegal immigrants in Assam
5. To find out the challenges in protecting refugees and identifying illegal immigrants and deporting them from Assam

Research Questions

1. What is the theoretical background of Refugee, Refugee Protection and Illegal Migration?
2. What are the policies of refugee protection in India in light of International Standards?

3. What is the historical background of the illegal immigrant crisis in Assam and are there any policy initiatives in this regard?
4. What is the administrative mechanism and role of Judiciary in the protection of refugees and addressing the issue of illegal immigrants in Assam?
5. What are the challenges in protecting refugees and identifying illegal immigrants and deporting them from Assam?

Methodology

To attain the objectives mentioned above, the present study is descriptive in design. Both primary and secondary data were used for the study. Primary data was collected with the help of semi-structured interview- schedule tool from stake holders such as Declared Foreigners, Advocates, and Police Border Official.

Purposive sampling method was adopted to select the sample from Alleged Illegal Immigrants who are declared foreigners by the **Foreigners Tribunals**: i. A sample of 64 individuals identified as Foreigners who have experienced legal proceedings in Foreigners Tribunals. **ii. Advocates**: A sample of 50 legal advocates representing these individuals in tribunals. **iii. SP Border Official**: 1, who is involved in referral, detention and deportation process. Participants were selected based on their willingness to provide input and their relevant experiences. Therefore, total sample size is 115.

Apart from this, document analysis also were used such as 1. **Parliamentary Debates and Discussions**: Transcripts from parliamentary debates were examined to contextualize the legal and political landscape surrounding immigration and Foreigners Tribunals. 2. **Court Judgments**: Significant legal judgments were analyzed to understand how laws are interpreted and applied in relation to alleged illegal immigrants. 3. **Government Notifications and Gazettes**: Relevant policies, notifications, and gazettes were reviewed to identify formal procedures and regulations that govern the Foreigners Tribunals.

Secondary data was collected from published and unpublished books, journal articles, PhD theses and dissertations, newspapers, magazines, and internet (Websites, blogs, etc.).

Data Collection Procedures

Prior to conducting interviews, ethical approval was obtained from the relevant research ethics board. An interview guide was prepared, ensuring questions were aligned with the research objectives while allowing flexibility for follow-up questions. Each interview was conducted in a private and confidential setting to encourage open and honest communication. Interviews lasted 30 to 40 minutes, depending on the participant's willingness to share their experiences. The government notifications and court judgments were accessed through concern archives and databases.

Data Analysis Techniques

The data from interviews were analyzed using Statistical Package for the Social Sciences (SPSS) software, which provides robust tools for statistical analysis.

Ethical Considerations

Participants were provided with comprehensive information about the study, including its purpose, procedures, risks, and benefits consent obtained before data collection begins. Participants' identities will be anonymized in all reports and publications. Data will be stored securely and accessible only to the research team.

Chapterisation

Chapter I: Introduction

This chapter introduces the scope, objectives, and relevance of the study. It provides an overview of refugee protection and illegal migration, focusing on India and, in particular, Assam. The chapter also highlights the global importance of addressing refugee rights and managing illegal immigration effectively. It establishes

the context, research questions, and methodology, emphasizing the need for balanced approaches that safeguard refugees' rights while addressing illegal migration challenges.

Chapter II: Theoretical Background of Refugee, Refugee Protection, and Illegal Migration

In this chapter, the theoretical concepts of “refugee,” “refugee protection,” and “illegal migration” are defined and examined. Drawing from international human rights and migration theories, it delves into the legal distinctions between refugees, asylum seekers, and illegal immigrants, along with the obligations of host countries. It explores the legal frameworks governing refugee rights under international law and highlights contrasting perspectives on migration, national security, and human rights, offering a foundation for understanding India's approach to these issues.

Chapter III: Policies of Refugee Protection in India in Light of International Standards

This chapter analyzes India's policies on refugee protection against the backdrop of international standards such as the 1951 Refugee Convention and the 1967 Protocol, which India has not ratified. It examines India's ad hoc approach to refugee protection and its implications for the treatment of different refugee groups, such as those from Tibet, Sri Lanka, and Myanmar. The chapter explores policy gaps and assesses the challenges and opportunities for India to align its practices with global norms, focusing on India's unique stance and its implications for broader refugee rights.

Chapter IV: History of Illegal Immigrant Crisis in Assam and Policy Initiatives

This chapter provides a historical overview of the illegal immigration crisis in Assam, tracing its origins, socio-political ramifications, and the evolution of public sentiment. It examines key events, such as the Assam Accord of 1985, and the establishment of the National Register of Citizens (NRC), designed to address illegal migration concerns. Policy initiatives and government actions in response to public

demand and regional pressures are discussed, with a focus on Assam's unique socio-political and cultural challenges arising from cross-border migration.

Chapter V: Administrative Mechanism and Role of Judiciary in Refugee Protection and Addressing the Issue of Illegal Immigrants

This chapter explores the administrative and judicial frameworks in place for managing refugee protection and illegal immigration issues in Assam. It details the roles of various government agencies, the Assam state administration, and central oversight bodies involved in implementing migration policies and protecting refugee rights. The judiciary's role is also critically assessed, with particular emphasis on landmark judgments, the intervention of the Supreme Court and High Courts, and their influence on policy decisions. The chapter reflects on the interplay between legal safeguards and administrative measures in balancing humanitarian concerns with national security.

Chapter VI: Challenges in Protecting Refugees, Identifying Illegal Immigrants, and Deportation

Here, the study delves into the multifaceted challenges of refugee protection and managing illegal immigration. Issues include identifying genuine refugees versus illegal immigrants, limited resources, administrative bottlenecks, political opposition, and humanitarian concerns regarding deportation. The chapter also addresses community tensions and resistance to policy enforcement, discussing how these factors complicate the balance between ensuring human rights and enforcing immigration law in Assam.

Chapter VII: Conclusion

The concluding chapter summarizes the study's key findings and reflections on India's refugee and immigration policies, particularly in Assam. It synthesizes insights into how India might navigate the dual challenge of protecting refugees while addressing illegal migration concerns, especially within Assam's complex socio-political landscape. Finally, it offers policy recommendations for balancing

humanitarian obligations and national security concerns, suggesting paths forward that could contribute to more robust, rights-based approaches to refugee protection and immigration management in India.

Major Findings

India Does Not Have a Refugee Protection Framework

This research has discovered that India does not have a formal legal framework specifically designed for refugee protection. Despite being a host to millions of refugees over decades—ranging from Tibetans, Bangladeshis, and Sri Lankans to Rohingyas and Afghans—India is neither a signatory to the 1951 United Nations Refugee Convention nor its 1967 Protocol. Consequently, India lacks a comprehensive legal framework which will systematically address refugee rights, leading to ad-hoc and often politically motivated approaches to refugee management. The absence of a refugee-specific framework forces India to rely on the Foreigners Act of 1946 and the Passport (Entry into India) Act, 1920, which were not designed to address the unique vulnerabilities of refugees. These laws identify refugees as "foreigners," without distinction from other types of immigrants such as infiltrators. Refugees are often exposed to detention and deportation under these laws, as observed in the case of Rohingya refugees, who were ordered to be deported to their home country despite fears of persecution.

Moreover, the absence of a legal framework leaves refugees without defined rights such as work, education, or healthcare. India has occasionally provided asylum and support, as with Tibetan refugees who benefit from selective measures, but these are exceptions rather than systemic guarantees. The lack of a legal framework also impacts India's reputation internationally.

Differential Treatment of Refugees

It is found in the research that India's refugee policy is having disparities or variances in treatment depending on refugees' ethnic, religious, or political

affiliations. This variedness arises from the lack of a general framework, leaving refugee policy vulnerable to political and geopolitical considerations. For example, Tibetan refugees who arrived in India in 1959 following China's occupation of Tibet have been granted considerable privileges, including special settlements, freedom to practice their religion, and access to education. Similarly, Tamil refugees from Sri Lanka, fleeing civil war in the 1980s and 1990s, were accommodated in camps and received governmental assistance, albeit limited.

On the opposite, Rohingya refugees from Myanmar, a predominantly Muslim group, faced systemic discrimination in their homeland, which forced them to leave their homeland and seek shelter elsewhere. In this case, Indian authorities have refused to recognize them as refugees and classified them as illegal immigrants. Most of the Rohingyas live without legal recognition and some are in the camps without access to basic amenities or the right to work legally. In some instances, Rohingyas have faced deportation to Myanmar despite having threats of violence and persecution, draws criticism from international human rights organizations. The Citizenship Amendment Act (CAA) of 2019 further proceed with this differential treatment legally. The CAA provides a pathway to citizenship for non-Muslim refugees from Afghanistan, Pakistan, and Bangladesh, excluding Muslim refugees such as Rohingyas. This selective policy reflects India's discretionary means to address the refugee issues, prioritizing religious and cultural affiliations over universal principles of protection.

Centre-State Disagreement Over Refugee Protection

The lack of a universal refugee policy in India has led to conflict of interest between the central government and states in many instances. It is observed in the case of Chin refugees from Myanmar in Mizoram. The political unrest and military coups in Myanmar resulted in an influx of refugees, predominantly ethnic Chins who share cultural and linguistic ties with Mizos in India. The Mizoram government offered humanitarian aid, including shelter, food, and medical care. However, this stance clashed with the central government's position, often prioritising security concerns. The Union government directed states to tighten border controls and deport illegal migrants, including Chin refugees, under the Foreigners Act. This directive created friction, as the Mizoram government argued that deporting Chins violated their humanitarian duty. Mizoram Chief Minister back at the time, Zoramthanga openly criticized the Centre's policies, stating that Mizoram would not comply with orders to deny or deport refugees.

Creation of Statelessness by Citizenship Laws

India's citizenship laws might contribute to the creation of statelessness, mainly through certain amendments to the Citizenship Act of 1955. The 2003 amendment inserted certain provisions and conditions for acquiring citizenship by birth. Which states a child born in India after December 3, 2004, is eligible for Indian citizenship only if both parents are Indian citizens, or if one parent is an Indian citizen and the other is not an illegal migrant. This amendment had narrowed the scope of birthright citizenship and introduced vulnerabilities for children whose parent(s) might be classified as illegal immigrants. This provision has created situations where children born on Indian soil are rendered stateless due to the uncertain legal status of their parents. For instance, in Assam, where the National Register of Citizens (NRC) was updated, individuals excluded from the NRC are being doubted as alleged illegal immigrants, and need to prove their citizenship in the FTs. If either parent is deemed a "foreigner," their children could be denied citizenship, despite their birth in India, which would lead to statelessness of hundred of thousands individuals.

Lack of Judicial Independence in Foreigners Tribunals

In addressing the issue of illegal immigrants in India, Foreigners Tribunals (FTs) play the most important role by determining the citizenship status of individuals suspected of being illegal immigrants. However, these tribunals are found in the realm of non-independents, as they operate under the purview of government oversight, raising concerns about impartiality in their functioning. The government appoints retired judicial officers, lawyers, and ex-administrative servicemen as members of FTs. Their recruitment, tenure, and performance evaluations are subject to governmental control, compromising the autonomy of these quasi-judicial bodies. The performance of FT members is often reviewed based on the number of cases they resolve, leading to allegations of bias and undue pressure to declare individuals as illegal immigrants. For example, in Assam, where FTs are the primary body in deciding citizenship status of referred cases, reports emerged of members facing termination or non-renewal of contracts if their performance did not meet with government expectations. Such practices create an environment where tribunal members may prioritize expediency or perceived compliance with government directives over fair and unbiased adjudication.

The lack of judicial independence has profound implications for those appearing before FTs. Many of the accused are poor and uneducated individuals who lack the resources to navigate complex legal procedures or provide documentation dating back decades. Errors in judgments can have catastrophic outcomes, including loss of citizenship and detention in poorly maintained detention centers. This undermines the credibility of the justice system and erodes public trust. Ensuring independence in the functioning of FTs is vital for upholding principles of justice and human rights. Reforms such as insulating FTs from executive influence, providing fixed tenures for members, and instituting transparent oversight mechanisms are urgently needed to address these concerns.

Complexities in Deportation

Deportation is the last and final stage in terms of getting rid of an illegal immigrant. It is relatively easy to deport individuals apprehended crossing the border illegally or overstaying their visa. However, deporting individuals living as citizens for years and then their citizenship is questioned and their case is referred to FTs for opinion. If they are declared foreigners, they are ordered for deportation poses significant challenges. The alleged person is given chance to prove himself with the burden of proof on himself/herself. The accused often lacks proper maintenance of documentation, as well as possession because of the factors like, illiteracy and unawareness. Moreover, the declared foreigners are found to be declared Indian in the Higher Courts after appeal or Higher Courts order for remand and re-evaluation. This shows a probability of deporting genuine citizens in due process.

Deportation is further complicated by the absence of bilateral agreements or memoranda of understanding (MoUs) with neighboring countries like Bangladesh. India has no formal mechanism to ensure Bangladesh accepts individuals deported as illegal immigrants. The Bangladeshi government often denies the citizenship of such individuals, especially if they lack evidence of having migrated from Bangladesh. Without cooperation from Bangladesh, deportees may face indefinite detention in India, as the government cannot forcibly expel them. Moreover, the deportation will disrupt familial and community structures, as individuals declared illegal immigrants may belong to families with valid citizenship. Removing one family member can lead to legal and emotional complications, including splitting families and stigmatizing extended networks.

Desire for a Homogeneous Cultural Identity-Based State

After a systemic analysis of the historical events and evolution of Assam as a state in the Indian Union, the Assamese people have historically expressed a strong desire to establish a culturally homogeneous state based on Assamese identity. This aspiration can be traced back to the colonial era. It was when Bengali migrants first emerged in Upper Assam. Many Assamese people viewed the Bengali-speaking population as a threat to their cultural and linguistic existence. Fearing subjugation of the Assamese language, customs, and traditional practices, movements have been launched in containing such policies of British. An example is the exclusion of Sylhet, a Bengali-majority region, from Assam during the 1947 Partition. Sylhet, once part of Assam, was wished to be merged with East Pakistan (now Bangladesh) primarily due to Assam's desire to maintain an Assamese-majority state.

Historical tensions grew as Assamese nationalist movements, including the Assam Movement of the 1980s, opposed the growing population of Bengali migrants, both Hindu and Muslim. The perception was that a homogenous cultural identity was crucial for preserving Assam's unique heritage, which had been threatened by various waves of immigration and cultural integration since the colonial period. The demands for the deportation of undocumented immigrants coming to Assam have persisted for decades. Overall, the desire for a homogeneous Assamese identity-based state reflects the community's attempts to safeguard their cultural, linguistic, and political legacy against external influences.

The Question of Assamese Supremacy and Its Link to Bengali Presence

Assamese nationalism and identity have been directly linked to the demographic and cultural dynamics between the Assamese and Bengali-speaking communities. This relationship has often been strained, especially since the pre-independence period. The dominance of the Bengali-speaking populace in some areas of Assam raised fears among Assamese leaders and activists. Who perceived this demographic shift as a potential path to political marginalization. Given the political and economic influence of Bengalis within the region, Assamese

nationalists feared that a Bengali-dominated population in the state could result in a transfer of political power to the Bengali community. This has led to various movements aiming to reduce Bengali influence in Assam. Which advocate for policies that prioritize Assamese culture, language, and identity over other cultural groups within the state.

Throughout history, instances of Assamese-Bengali conflict have taken place out of discussed notions. Multiple efforts were made to restrict the Bengali domination in political and cultural arenas. Such actions were fueled by cultural preservation and a perceived threat to Assamese political autonomy. The emergence of strong Assamese nationalist sentiments further polarized relations between the two groups, fostering a legacy of competitive nationalism that remains contentious in Assam today. Consequently, Assamese supremacy as a socio-political phenomenon is tightly linked to the perception of a demographic threat posed by the Bengali-speaking community in Assam.

Anti-Immigrant Movements as Expressions of Assamese Nationalism and Cultural Domination

The movements against illegal immigrants in Assam have historically revolved around a larger narrative of Assamese nationalism and cultural domination. Since colonial times, Assamese nationalist leaders have sought to preserve their cultural identity. Fearing that an influx of immigrants could dilute their unique traditions, language, and cultural practices. The influx of Bengali migrants and other immigrant groups was perceived as a threat to the Assamese way of life. Which lead to various protests and uprisings, notably the Assam Movement (1979-1985). This movement demanded strict policies against illegal immigration, specifically targeting Bengali-speaking migrants from neighboring regions like Bangladesh. The fear of an “outsider” takeover has continued to shape the socio-political discourse in Assam, where the term “illegal immigrant” is often loaded with ethnic and cultural connotations.

The Assamese movement against illegal immigrants represents not just a resistance to population changes but a broader assertion of Assamese identity as dominant within the state. The opposition to Bengali migrants, for example, was not solely based on legal status but also on cultural preservation. As Assamese leaders sought to prevent what they saw as a demographic and cultural invasion. As a result, Assamese nationalism has often taken a defensive posture, aiming to secure Assamese culture and identity against perceived encroachments by migrant communities. Whose presence is seen as a potential disruption to the Assamese cultural continuum.

Shift from Cultural Nationalism to Communal Politics

Assamese nationalism was historically rooted in cultural identity. Recent political shifts have transformed it into a more religiously divisive form of nationalism. Originally, Assamese nationalism was about preserving linguistic and cultural uniqueness without religious distinctions. However, this sentiment has taken on a communal dimension since the rise of the Bharatiya Janata Party (BJP) in Assam. The BJP, through its rhetoric and policies, has increasingly framed Assamese identity through a religious lens. Particularly by juxtaposing Hindu Assamese identity against Muslim identity. By often targeting Bengali-speaking Muslims as “illegal immigrants” from Bangladesh and they are a significant threat to the Assamese identity.

This communal redefinition of Assamese nationalism has polarized Assam’s society, fostering a Hindu-Muslim divide that previously was not central to Assamese identity. The traditional notion of Assamese sub-nationalism has been transformed into a religiously charged form of nationalism, often aligned with the BJP’s broader national agenda of Hindu unity. This shift has significantly altered the socio-political landscape of Assam, where cultural concerns are now enmeshed with religious identities, complicating the historical narrative of Assamese cultural preservation.

Transition from “Save Assam from Bengali Supremacy” to “Save Assam from Muslim Supremacy”

The slogan of “Save Assam” has undergone a significant transformation over the years. Originally, Assamese nationalism sought to preserve the cultural and political dominance of the Assamese people against perceived Bengali supremacy, especially in terms of population and language. This movement focused on ensuring that the influx of Bengali migrants did not overshadow Assamese culture and language. However, in recent years, this focus has shifted from resisting Bengali cultural dominance to countering what is perceived as a “Muslim threat.” As Assamese nationalism has increasingly become entwined with communal sentiments, often targeting the Muslim community, particularly Bengali-speaking Muslims.

This transition mirrors broader political narratives in India. Where Muslim identity is often portrayed as incompatible with nationalistic ideals. In Assam, this shift has deepened communal divisions. Reframing Assamese nationalism from a purely cultural struggle to one based on religious identity. Consequently, the “Save Assam” movement now operates as a platform for both cultural and religious assertion, shifting socio-political concerns within Assam in response to demographic and ideological changes.

Modern Assam as a Colonial Construct

The contemporary boundaries of Assam are largely a legacy of British colonial policies. Prior to British intervention, Assam was not a unified political entity. But a collection of regions governed by various local dynasties. The British consolidated these regions under a single administrative unit, including the Brahmaputra Valley, the Cachar region, and parts of the Barak Valley, such as Karimganj. For instance, the Barak Valley was previously divided, with Cachar under the Kachari kingdom and Karimganj part of the Sylhet district in Bengal. When the British annexed Assam in the 19th century, they redrew borders to serve administrative purposes, disregarding historical boundaries and ethnic compositions.

The British administrative decisions that shaped modern Assam had lasting implications. Various ethnic groups with distinct identities were brought together under one state. This colonial legacy continues to influence Assam's political landscape. Where regional and cultural identities compete within a framework established by colonial rulers. The geographical contours of Assam today reflect not just historical boundaries but also the socio-political aspirations and tensions that have developed within these borders. Creating a complex legacy that continues to impact Assam's regional dynamics and its relationship with neighboring regions.

Suggestions

Establishing a Legal Framework for Refugee Protection: Recognition, Rights, and Non- refoulement.

India must create a comprehensive legislative framework for refugee protection to address the complexity of refugee rights and citizenship. This framework should prioritize acknowledging and safeguarding persons escaping persecution, ensuring they have legal status and rights in the nation. The concept of non-refoulement, which prevents the forcible return of refugees to countries where their lives or freedoms are threatened, should be central to this framework. Currently, India lacks a defined legislative framework for handling refugees, resulting in uneven treatment and a lack of legal protection for distinct refugee groups. By setting explicit parameters, the framework would assist in distinguishing between refugees and other migrants, providing special safeguards for people escaping persecution because of their race, religion, nationality, or political beliefs.

Amendment in the Citizenship (Amendment) Act, 2019: Recognising all refugee groups equally.

The Citizenship (Amendment) Act (CAA) of 2019 principally provides a road to citizenship for non-Muslim refugees from Afghanistan, Pakistan, and Bangladesh who have experienced religious persecution. However, this selective method has created issues about exclusion and religious bias because it does not include all groups who may be seeking asylum in India owing to persecution, such as

Muslims and refugees from other conflict-affected countries. An amendment to the CAA might address these concerns by extending its protections to all refugees, regardless of faith, who suffer persecution in their native countries.

Grounds for Referral to Foreigners Tribunals: Ensuring Transparency and Justification.

In Assam, referrals to Foreigners Tribunals (FTs) are made to assess citizenship status, although often without specific grounds or proof. A transparent approach in which the particular grounds for each referral are documented is critical to avoiding incorrect situations of persons being classified as aliens based on arbitrary or inadequate criteria. This paperwork would be especially useful in circumstances when suspicions of foreign origin are made simply by election or border authorities without supporting proof. By demanding substantial grounds for referrals, India would prevent individuals from being exposed to protracted court fights or the danger of statelessness.

Relaxing Documentation Requirements for Illiterate Individuals in Foreigners Tribunal Cases.

Many of those brought before Foreigners Tribunals come from low or rural origins, and a large proportion are illiterate. Due to their inability to obtain legal documentation establishing ancestry or citizenship, these people are frequently subjected to unfavourable verdicts. Relaxing documentation requirements for illiterate individuals would ensure that a lack of papers would not jeopardise their citizenship status. In circumstances when individuals are unable to offer official paperwork, the government might set a standard that accepts secondary forms of proof, such as signed statements from local authorities, community leaders, or village elders.

Amending the Citizenship Act to Address Citizenship by Birth

According to the current Citizenship Act amendment, children born in India after 2004 do not immediately gain citizenship if one of their parents is considered a

"illegal immigrant." This clause has resulted in circumstances where persons born and reared in India have become stateless because of one parent's legal status. An modification to the Act might ensure that persons born in India to at least one Indian parent, regardless of the other parent's status, get citizenship. This approach would not only preserve the rights of individuals who have spent their whole lives in India, but it would also assist to prevent the population from becoming stateless.

Bringing Foreigners Tribunals Under the Right to Information (RTI) Act, 2005

Foreigners Tribunals currently have little openness since they are not subject to the Right to Information (RTI) Act. By incorporating FTs into the RTI framework, the government might increase accountability and public monitoring in citizenship judgements. The RTI Act allows individuals to obtain information about the decision-making process, ensuring that financial institutions operate publicly and ethically. Making FTs accountable under RTI would allow anyone to obtain case-related information, clarifying tribunal procedures and conclusions.

Improving Border Management to Prevent Illegal Immigration

Efficient and effective border management is critical for limiting illegal immigration while not impeding legitimate travel and trade. Implementing modern technology, such as biometric identification, surveillance systems, and electronic tracking of those entering and leaving the nation, will improve India's border security. Furthermore, continuous training for border guards in recognising possible security threats while protecting human rights is critical for establishing a fair and effective border management system.

Developing a Research Database and Implementation Mechanism for Immigration Issues

A comprehensive study repository on illegal immigration would be an invaluable resource for politicians, scholars, and law enforcement. This repository might contain data on immigration trends, socioeconomic implications, and case studies, offering insight into the underlying reasons and consequences of illegal immigration. By

establishing such a storehouse, India would have a centralised source of knowledge that may guide future immigration policy and advise the execution of effective measures.

Dropping Pending Foreigners Tribunal Cases Due to Elections or Border Office Referrals

Many cases pending before Foreigners Tribunals (FTs) are referrals from election or border agencies, which are frequently based on suspicion rather than real proof. To solve this issue, these claims should be evaluated and dismissed if they lack sufficient evidence. Furthermore, applicants' names that were removed from the National Register of Citizens (NRC) due to outstanding FT cases should be reconsidered, and names that were eliminated without proof should be reinstated. This strategy will avoid undue hardship for persons suffering unjust exclusion and reduce the strain on FTs, allowing them to focus on valid cases.

Conclusion

The present study has provided an in-depth examination of migration, refugee protection, and the socio-political dynamics surrounding illegal immigration, particularly in the context of Assam and India at large. The findings emphasize the complex interrelation between historical, legal, and cultural factors that shape refugee and immigration policies, revealing critical gaps and inconsistencies in the existing frameworks.

In the present study, a notable finding is India's lack of a comprehensive legal framework for refugee protection. Despite its history of hosting diverse refugee groups, the absence of formalized mechanisms results in ad-hoc and discretionary decision-making. This inconsistency underscores the urgent need for a legislative framework that guarantees fundamental rights and adheres to principles of non-refoulement. The study highlights that existing statutes like the Foreigners Act of 1946 are inadequate for addressing the unique vulnerabilities faced by refugees, often treating them as illegal immigrants, as evidenced in cases involving the

Rohingya community. These deficiencies not only lead to unequal treatment but also expose refugees to risks such as detention and deportation.

Another significant finding is the differential treatment of refugees based on religious, ethnic, and geopolitical considerations. The Citizenship Amendment Act (CAA) of 2019 exemplifies this disparity by selectively granting citizenship to specific religious groups while excluding others, such as Muslim Rohingyas, Ahmadians, Hazaras, etc., who face severe persecution. This selective approach contradicts the principles of universal human rights and exacerbates divisions within Indian society. Such policies have led to criticisms of religious bias and have undermined India's secular commitments. The study argues that a more inclusive policy recognizing all persecuted groups, irrespective of religion or ethnicity, would align better with India's constitutional and humanitarian values.

The challenges surrounding illegal immigration in Assam present a particularly nuanced case. The research explores how historical migration patterns, initiated during British colonial rule, laid the foundation for demographic shifts and cultural tensions. Assamese nationalism, deeply rooted in the fear of losing cultural and political identity, has been a driving force behind anti-immigrant movements. However, these movements often conflate genuine refugees and legal citizens with illegal immigrants, fostering mistrust and communal divisions. The study critically assesses mechanisms like the National Register of Citizens (NRC) and Foreigners Tribunals (FTs), revealing their susceptibility to errors, biases, and political manipulation. The lack of judicial independence in FTs and the burdensome requirements for proving citizenship disproportionately affect marginalized communities, further complicating the issue.

The findings also highlight how the politicization of Assamese identity has shifted from a focus on cultural preservation to communal divisions, particularly targeting Bengali-speaking Muslims. This transition reflects broader political narratives, where religion increasingly influences citizenship and identity debates. Such shifts have deepened societal polarization, transforming a cultural movement into one marked by exclusionary practices and discriminatory policies.

Moreover, the present study brings attention to the operational challenges of addressing illegal immigration, such as the hindrances in deportation. The absence of bilateral agreements with neighboring countries like Bangladesh creates logistical and ethical dilemmas, often leaving deportees in legal limbo. This situation underscores the need for diplomatic engagement and collaborative solutions to ensure humane and effective border management.

In light of these findings, the present study advocates for a multi-faceted approach to reform. Establishing a comprehensive legal framework for refugee protection, amending discriminatory provisions in citizenship laws, and ensuring transparency and fairness in FTs are critical steps. Addressing historical grievances through dialogue and fostering inclusive policies can help bridge the divides created by decades of mistrust and prejudice. Ultimately, the study emphasizes that a humane and just approach to refugee and immigration issues is a moral imperative and vital for India's social cohesion and international standing. By learning from past shortcomings and adopting inclusive policies, India can uphold its constitutional principles and reaffirm its commitment to human rights and justice.

Limitations

For the present study, obtaining data on declared foreigners in Assam has been difficult, with government officials repeatedly refusing to release essential information. Also, Departments that handle sensitive data on declared foreigners and detention proceedings, such as the Border Branch, are excluded from the Right to Information (RTI) Act, making it nearly hard to get needed information through legitimate methods. The RTI exemption creates an accountability gap, as the public cannot scrutinize the state's handling of citizenship cases or ensure fair treatment for those under investigation. Moreover, attempts to visit the Matia Detention Centre, which is the only detention center in function at present, were met with strict denials, further limiting the scope of this research.

Efforts to obtain permission to conduct interviews with officials responsible for managing border security and foreign tribunals, specifically the SP

Border, were also declined. This refusal to permit interviews with responsible authorities limits the availability of primary data, such as insights into operational procedures, common challenges, and policy justifications. One of the most challenging limitations have experienced in carrying out the present study has been the lack of documented rejections from government authorities. A significant limitation in studying Assam's immigration issues is the scarcity of scholarly literature, particularly in the context of the socio-political complexities of citizenship, foreigner declarations, and detention processes

An additional limitation was the difficulty in identifying and interviewing declared foreigners, even those who had not been detained. Many of these individuals are understandably hesitant to participate due to fears of negative repercussions. Interviews concerning the present study with advocates who are involved in Foreigners Tribunal cases revealed an additional challenge: hesitancy in discussing shortcomings on record. Their hesitation to share observations on record

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