

Exploring the Legal and Humanitarian Dimensions of Illegal Immigration in India: “A Critical Analysis Through the Lens of Article 21 Of the Indian Constitution”

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Abstract- The refugee crisis around the world is a complex humanitarian problem. Globally, more than 100 million people have been forced to flee due to persecution, conflict, human rights violations, and alarming public order. Illegal migration is a universal phenomenon, but in India it is largely from its neighbouring countries. Over the years, India has been consistent in differentiating illegal migrants from refugees or asylum seekers. It has also been in the forefront of forming customary rules and principles to regulate illegal migration, either independently or in mutual agreement. But there is a dearth of legal literature on the subject. Though illegal migration has wide-ranging legal, political, and economic implications, this article propose to focus on the human rights and humanitarian aspects of the issue. Indian courts have shown considerable awareness of the rights of refugees and asylum seekers both under international law and under the Indian Constitution. But there is very little judicial interpretation on the rights of illegal migrants and the various administrative and policy measures to remove them from the country. This study is an attempt to fill that gap. This article engages in a comprehensive analysis of the legal and humanitarian aspects of illegal immigration, considering its implications on fundamental rights and societal welfare. Through the lens of Article 21, which guarantees the right to life and personal liberty, the discourse navigates through the intricate intersections of law, human rights, and socio-political realities.

Keywords- *refugee, human rights, Indian constitution, Article 21, Illegal immigrants*

INTRODUCTION TO ILLEGAL IMMIGRATION IN INDIA

Illegal immigration is a multifaceted and complex issue that significantly impacts India's socio-political

and economic landscape. As one of the most populous and diverse countries in the world, India has long been a destination for migrants seeking better economic opportunities, refuge from conflict, or escape from persecution. However, the influx of illegal immigrants presents a series of challenges, including strain on resources, national security concerns, and human rights issues.

OVERVIEW OF ILLEGAL IMMIGRATION IN INDIA

Illegal immigration in India primarily involves individuals entering the country without proper documentation or overstaying their visas. The most significant sources of illegal immigrants are neighbouring countries such as Bangladesh, Myanmar, and Nepal. Other groups include those fleeing persecution or conflict from regions such as Afghanistan, Sri Lanka, and, more recently, Rohingya Muslims from Myanmar.

The motivations for illegal immigration to India are diverse, ranging from economic hardship and lack of opportunities in their home countries to political instability and violence. While many illegal immigrants seek better livelihoods and safety, their undocumented status often places them in precarious situations, vulnerable to exploitation and deprived of basic rights.

HISTORICAL CONTEXT AND MAJOR WAVES OF IMMIGRATION

The history of immigration in India is marked by several major waves, each influenced by distinct socio-political factors:

Partition of India (1947):

The partition of British India into India and Pakistan triggered one of the largest mass migrations in human history. Millions of Hindus, Sikhs, and Muslims crossed the newly drawn borders to join their chosen nation, leading to significant demographic changes and longstanding communal tensions.

Bangladesh Liberation War (1971):

The war for Bangladesh's independence from Pakistan led to a massive influx of refugees into India, particularly in the eastern states of West Bengal, Assam, and Tripura. Although many returned after Bangladesh became an independent nation, a substantial number stayed, leading to long-term demographic shifts.

Sri Lankan Civil War (1983-2009):

The protracted civil war in Sri Lanka between the Sinhalese-dominated government and Tamil separatists caused many Tamils to flee to India, especially to the southern state of Tamil Nadu. This wave of immigration has had a lasting impact on the regional socio-political dynamics.

Rohingya Crisis (2012-present):

On-going persecution of Rohingya Muslims in Myanmar has forced many to seek refuge in neighbouring countries, including India. Despite India's non-signatory status to the 1951 Refugee Convention, it has hosted a number of Rohingya refugees, albeit in challenging and often contentious conditions.

India has been dealing with a significant influx of migrants from Bangladesh for an extended period. This large-scale migration has primarily been facilitated by the porous 4,096-kilometer India-Bangladesh border, which remains incompletely fenced. Among the various Indian states, Assam, located in the north eastern region, is the most affected by this influx. The mass migration, which began during British colonial rule, has progressively increased over the years. Currently, this exodus has not only altered Assam's demographic landscape but has also significantly impacted the state's social, economic, and political conditions.

These historical waves of immigration highlight the complex interplay between geopolitical events and migratory patterns. Each wave has contributed to the rich tapestry of India's demographic composition, while also posing significant challenges in terms of integration, resource allocation, and policy formulation.

Understanding the historical and contemporary dimensions of illegal immigration in India is crucial for developing informed and humane policies that address both national security concerns and the humanitarian needs of immigrants. Through a detailed analysis of these aspects, particularly under the purview of Article 21 of the Indian Constitution, this article seeks to shed light on the intricate legal and humanitarian dimensions of illegal immigration in India.

WHO IS ILLEGAL MIGRAINT?

Unlike a refugee, an illegal migrant is an individual who crosses an international border and enters another country without valid documentation, often with the intent of engaging in illegal or anti-social activities, or for other economic or political reasons. According to Section 2(b) of The Citizenship Act, 1955, an "illegal migrant" refers to a foreigner who has entered India-

- a) Without a valid passport or other travel documents, and any additional documentation or authorization required by relevant laws.
- b) With a valid passport or other travel documents, and any additional documentation or authorization required by relevant laws, but stays beyond the allowed duration.

In addition to these provisions, several other aspects must be discussed to better understand the definition of illegal migrants in Assam. First, it is important to note that until 1947, Bangladesh (then East Bengal) was part of British India, allowing people to move freely across different parts of the country. However, after the partition of India and Pakistan, the Muslim-majority regions of East Bengal and the Sylhet district of Assam became part of Pakistan, leading to a significant migration of Hindu refugees to India. The Indian Constitution made special provisions for granting citizenship to these refugees from Pakistan for a limited period, specifically until January 1, 1966.

Although refugees who entered India during that period were supposed to undergo a naturalization process, many did not adhere to the legal procedures, thus becoming illegal immigrants. Secondly, under the 'Indo-Bangladesh Treaty of Friendship, Cooperation and Peace,' also known as the 'Indira-Mujib Treaty,' signed by Indian Prime Minister Indira Gandhi and Bangladeshi Prime Minister Sheikh Mujibur Rahman in 1971, India agreed to take responsibility for all migrants who entered India on or before March 24, 1971. According to this treaty, any migrant, regardless of religion, who entered Assam before the cut-off date of March 24, 1971, would not be considered an illegal migrant in India.

Thirdly, the historic Assam Accord, signed after the six-year-long Assam Agitation (1979-1985, one of the largest student-organized movements in the world), between the All Assam Students Union (AASU), All Assam Gana Sangram Parishad (AAGSP), and the Government of India, declared that anyone who entered Assam from Bangladesh on or after March 25, 1971, is not an Indian citizen but an illegal migrant. The Accord also stipulated that those who arrived in Assam between January 1, 1966, and March 24, 1971, could apply for Indian citizenship only after a ten-year period. Thus, those who crossed the international border and entered Assam before March 25, 1971, became Indian citizens through a legal process akin to naturalization.

ARTICLE 21 OF THE INDIAN CONSTITUTION: AN OVERVIEW

Article 21 of the Indian Constitution is one of the most significant and broadly interpreted provisions in the realm of fundamental rights. It ensures the protection of life and personal liberty, serving as a cornerstone for various judicial pronouncements that have expanded its scope over the years.

Article 21: Right to Life and Personal Liberty

Article 21 states: "No person shall be deprived of his life or personal liberty except according to the procedure established by law."

This succinct provision guarantees two essential rights:

1. **Right to Life:** This encompasses not just physical existence but also the right to live with human dignity, access to basic necessities like food, water, shelter, and healthcare, and the right to a clean environment.
2. **Right to Personal Liberty:** This protects the freedom of an individual from unlawful detention and arbitrary actions by the state. It includes various facets of personal freedom, including the right to privacy, freedom of movement, and freedom from torture and inhumane treatment.

The phrase "procedure established by law" ensures that any deprivation of these rights must follow a fair, just, and reasonable legal procedure, thus providing a safeguard against arbitrary state actions.

JUDICIAL INTERPRETATIONS AND KEY CASES RELATED TO ARTICLE 21

Over the years, the judiciary has played a pivotal role in interpreting Article 21, significantly broadening its scope and implications through various landmark judgments:

A.K. Gopalan v. State of Madras (1950):

Initially, the Supreme Court adopted a narrow interpretation of Article 21, emphasizing that deprivation of life and personal liberty should adhere strictly to the procedure established by law, without questioning the reasonableness of such procedures.

Maneka Gandhi v. Union of India (1978):

This landmark case revolutionized the interpretation of Article 21. The Supreme Court held that the procedure established by law must be fair, just, and reasonable, thereby introducing the concept of substantive due process. This case expanded the understanding of personal liberty and connected Article 21 with Articles 14 (Right to Equality) and 19 (Freedom of Speech and Expression), forming a golden triangle of fundamental rights.

Francis Coralie Mullin v. The Administrator, Union Territory of Delhi (1981):

The Court held that the right to life includes the right to live with human dignity and all that goes along with

it, such as adequate nutrition, clothing, and shelter, facilities for reading, writing, and expressing oneself in diverse forms, freely moving about, and mixing and mingling with fellow human beings.

Bandhua Mukti Morcha v. Union of India (1984):

This case emphasized that the right to life under Article 21 includes the right to live with human dignity, free from exploitation. It led to the reinforcement of labor rights and the abolition of bonded labor.

Olga Tellis v. Bombay Municipal Corporation (1985):

Known as the "Pavement Dwellers Case," the Supreme Court ruled that the right to livelihood is an integral part of the right to life. Evicting pavement dwellers without providing them an alternative means of livelihood would violate Article 21.

Vishakha v. State of Rajasthan (1997):

The Court laid down guidelines to prevent sexual harassment at the workplace, recognizing that the right to a safe working environment is part of the right to life and personal liberty.

Justice K.S. Puttaswamy (Retd.) v. Union of India (2017):

This landmark judgment declared the right to privacy as a fundamental right under Article 21. The Court stated that privacy is intrinsic to life and personal liberty and includes the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home, and sexual orientation.

These cases illustrate the dynamic nature of judicial interpretations of Article 21, transforming it into a robust guarantee of not just physical survival, but also a life of dignity, freedom, and personal autonomy. The evolving jurisprudence under Article 21 underscores its critical role in protecting and promoting human rights in India.

HUMANITARIAN CONCERNS AND RIGHTS OF ILLEGAL IMMIGRANTS

Illegal immigrants often face numerous humanitarian challenges and have limited access to basic rights and services. These issues are complex and multifaceted, encompassing various aspects of their daily lives and overall well-being.

Humanitarian Issues Faced by Illegal Immigrants-

1. Legal Vulnerability and Lack of Protection:

Illegal immigrants live under constant fear of detection, detention, and deportation. Their undocumented status makes them highly vulnerable to exploitation, abuse, and human trafficking, with limited legal recourse or protection from authorities.

2. Economic Exploitation:

Many illegal immigrants are forced to work in informal sectors where they are often subjected to poor working conditions, low wages, and lack of job security. They have little to no bargaining power and are frequently exploited by employers who take advantage of their precarious situation.

3. Social Exclusion and Discrimination:

Illegal immigrants face significant social stigma and discrimination, leading to isolation from local communities. This exclusion can result in mental health issues, such as anxiety and depression, due to the constant stress of living in hiding and the lack of social support networks.

4. Lack of Identity and Documentation:

Without valid identification or legal documentation, illegal immigrants are unable to access various essential services, register births or marriages, or even travel freely within the country. This lack of documentation further entrenches their marginalized status.

5. Family Separation: The threat of detention and deportation can lead to family separations, with parents being forcibly removed from their children. This has profound psychological impacts on both the parents and the children, causing trauma and disrupting family structures.

Access to Basic Rights and Services

1. **Healthcare:** Access to healthcare for illegal immigrants is severely limited. They often cannot afford private healthcare services and are hesitant to seek medical help from public institutions due to fear of exposure and deportation. This results in untreated medical conditions and poor overall health. In some regions, NGOs and humanitarian organizations provide limited healthcare services, but these are often insufficient to meet the needs.
2. **Education:** While some countries and states have policies allowing illegal immigrant children to access basic education, these children still face numerous barriers, including language difficulties, cultural differences, and fear of discrimination. Additionally, higher education opportunities are often inaccessible due to legal and financial barriers.
3. **Housing:** Illegal immigrants frequently live in substandard housing conditions, often in overcrowded and unsanitary environments. Their undocumented status makes it difficult to secure formal housing, leading many to reside in informal settlements or slums, which lack basic amenities like clean water and sanitation.
4. **Legal Aid:** Access to legal assistance is crucial for illegal immigrants to navigate their complex legal situations, yet they often lack awareness of their rights and the means to obtain legal help. Some NGOs and legal aid organizations offer support, but resources are limited, and many illegal immigrants remain uninformed and unrepresented.
5. **Basic Social Services:** Illegal immigrants struggle to access social services such as food aid, social security, and public assistance programs. Their lack of legal status prevents them from benefiting from government welfare schemes, exacerbating their economic and social vulnerabilities.

Case Studies and Real-life Examples

1. **Rohingya Refugees in India:** The Rohingya Muslims from Myanmar & Bangladesh, who fled

persecution and violence, face significant humanitarian challenges in India. Many live in refugee camps with inadequate facilities and face difficulties accessing healthcare, education, and employment. Despite their dire situation, their status as illegal immigrants leaves them with limited protection and support.

2. **Bangladeshi Migrants in Assam:** In Assam, the influx of illegal immigrants from Bangladesh has led to social and economic tensions. Many of these migrants live in fear of being identified and deported, and struggle to access basic services. The state's focus on identifying and expelling illegal immigrants has resulted in a precarious existence for many, with limited access to legal rights and social services.

MIGRATION AS SECURITY CONCERN FOR INDIA-

Migration is increasingly seen as a security threat by many nations, particularly in India, where the issue of illegal migration from Bangladesh is widespread. In India, the security threat primarily stems from the significant number of illegal Bangladeshi migrants, many of whom are involved in unlawful and antisocial activities, consistently causing disturbances within the country.

It wasn't until the Chinese aggression in 1962 that the Congress Governments at both the Central and State levels recognized the potential dangers posed by the on-going migration of Muslims from East Pakistan to Assam. During the conflict, the Indian Army withdrew from the frontier without engaging in combat, prompting a farewell message from Prime Minister Jawaharlal Nehru to the people of Assam broadcasted via All India Radio, expressing empathy towards their situation. In areas like Darrang and Nagaon districts of Assam, where Bangladeshi migrants constituted a significant portion of the population, measures such as the flying of Pakistani and white flags were observed to deter potential Chinese air attacks.

This incident served as a wake-up call for Indian leaders, prompting them to seriously address the perilous situation caused by illegal migrants in Assam. As a result, the Indian Government introduced a plan for identifying and repatriating infiltrators from

Assam. Initially named the Pakistani Infiltration Prevention (PIP) Scheme, it was later renamed the Prevention of Infiltration of Foreigners (PIF) Scheme following the creation of Bangladesh in 1971. This initiative was expanded to include the states of Meghalaya, Tripura, and West Bengal. Under this scheme, a Border Organization was established to identify and deport illegal migrants from Bangladesh.

Subsequently, numerous Muslim militant and fundamentalist organizations emerged in Assam, finding it conducive for their planned operations. These groups established training camps near the Bangladesh border, where their members underwent training in handling various weapons. Upon completing their training, these skilled individuals infiltrate India disguised as illegal migrants, intending to foment disturbances and engage in violent activities within the country.

Their strategy, known as the "Internal Encirclement of India," aims to Islamize the border regions with India, facilitating the infiltration of terrorists into the country's interior. Additionally, there has been a notable increase in the number of madrasas and mosques, particularly along the Bangladesh border areas, notably in West Bengal and Assam. Reports suggest that these educational and religious institutions are utilized to indoctrinate Muslim youths with fundamentalist ideologies. The stated objectives of Muslim fundamentalists include ensuring security, protecting the collective interests of Muslims, and striving for the establishment of a separate Islamic nation.

Islamic fundamentalist groups have consistently pursued the goal of isolating the entire North-east region from the rest of India by targeting the "chicken neck" area, which is the narrow corridor between North Bengal and Assam (spanning from Sri Rampur in Assam to Jalpaiguri in North Bengal). This strategic maneuver echoes China's threat during the 1965 Indo-Pak war, where China aimed to sever this vital link. However, the Soviet Union's firm warning about the repercussions dissuaded China from acting on its threat. Given that the chicken neck area protrudes into the Brahmaputra Valley and serves as a crucial connection between the North-east and the mainland, Islamic fundamentalist organizations have devised

plans to gain control over this territory. Their aim is to exploit this control to potentially isolate the entire North-east region from the rest of the country.

In recent times, there has been a significant rise in clandestine Islamic organizations, posing a challenge to government authorities. These groups often accumulate substantial funds, primarily sourced from affluent Muslim businessmen in their respective regions. Moreover, there are suspicions of connections between fundamentalist groups and underground elements, adding to the concerns within government circles.

Islamic terrorist organizations based in Bangladesh continually strive to disrupt India through various means, ranging from arms smuggling to disseminating anti-Indian propaganda under the guise of religious outreach in the North-east region. For instance, in 2001, calendars featuring photographs of Osama bin Laden were circulated in the Karimganj district of Assam, and police seized CDs and cassettes containing Laden's material in Tezpur in the same year. Additionally, in November 2002, Karimganj police discovered a substantial quantity of audio cassettes containing inflammatory and provocative anti-Indian speeches, recorded in Bangladesh and intended for distribution among Muslims in the North-east region.

Indian terrorist groups also utilize the facilities of fundamentalist organizations in Bangladesh for sheltering their top leaders, facilitating the transportation of weapons, and engaging in various illegal activities such as forging passports, visas, and air tickets. Typically, arms and ammunition are brought to Cox Bazar in Bangladesh before being transported to terrorist camps in India and Bhutan. The significant seizure of arms and ammunition at Chittagong port in Bangladesh on April 2, 2004, clearly indicated that anti-Indian insurgent groups had intentions of launching a severe attack on the Indian Armed Forces and disrupting law and order within India.

Indian terrorist groups residing in Bangladesh are reportedly known to the Bangladesh Government and its various agencies, including the Bangladesh Rifles (BDR) and Directorate General of Forces Intelligence (DGFI). Interrogations of surrendered or arrested

terrorists have yielded valuable information regarding the activities of these Indian terrorist groups in Bangladesh, including the locations of their camps and the support they receive from Bangladeshi government agencies.

However, in recent years, there have been reports of the Bangladesh Government taking steps to eradicate Indian terrorist camps from its territory in order to bolster friendly relations with India. Bangladeshi troops have successfully apprehended several top leaders of Indian terrorist organizations residing in Bangladesh, who were subsequently handed over to India. Consequently, some leaders of these organizations have been forced to flee Bangladesh and seek refuge in other countries such as China and Myanmar.

Despite these efforts by the Bangladesh Government to build trust with India, it has continued to deny the existence of a large-scale influx of Bangladeshi migrants into India.

According to Assam government sources, Bangladesh has declined to repatriate over 29,000 individuals identified as illegal migrants by India's Foreigners' Tribunals since 1985. This refusal stems from Bangladesh's non-recognition of the verdicts issued by these tribunals. Bangladesh insists on the involvement of an international neutral body to verify the citizenship of these individuals. Only if this neutral body confirms them as Bangladeshi citizens, Bangladesh is willing to accept them back.

In response to Bangladesh's refusal to repatriate its citizens, the Assam government established detention camps in Goalpara, Kokrajhar, and Silchar in 2010. These camps serve as holding facilities for individuals declared as illegal migrants by Foreigners' Tribunals until they can be repatriated.

ILLEGAL MIGRANTS AND INDIAN LAW-

Over the years, a variety of refugee groups have established their primary settlements across different regions of the country. This includes Hindu and Sikh migrants who settled in Delhi, Rajasthan, and Jammu & Kashmir following the Partition, as well as Bangladeshis, who form the largest immigrant group in West Bengal and Assam. Additionally, Buddhist

Chakmas and Hindu Hajongs from Bangladesh have concentrated in Arunachal Pradesh, while Tamil Nadu hosts Sri Lankan Tamil refugees and Buddhist Tibetan settlements are found in Dharamshala, Delhi, and Odisha. The Ministry of Home Affairs has developed 'standard operating procedures' for various refugee groups, although the rights and facilities afforded to them vary and are determined on a case-by-case basis. e.g.-

- Certain refugee groups, such as Tibetans, have been provided with land, Aadhaar and PAN cards, permission to open bank accounts, and the right to work in India. Additionally, their children born between 1950 and 1987 are eligible to claim citizenship.
- Since 2015, Pakistani and Afghan nationals belonging to six minority communities, residing in India on long-term visas, are entitled to obtain driving licenses, access education and healthcare services, and purchase small residential units for personal or entrepreneurial purposes.

MIGRANTS AND INDIAN CONSTITUTION

In India, the first entry of List I of the Seventh Schedule pertains to the "Defence of India and every part thereof," encompassing preparations for defense and actions conducive to its execution during wartime and effective demobilization afterward. Entries 1 to 4 of List I primarily address matters related to the armed forces. Article 355 of the Indian Constitution mandates the Union to safeguard each state against both external aggression and internal disturbances, ensuring that state governance adheres to constitutional provisions. The term "aggression" carries broad significance, encompassing definitions such as assault, invasion, offensive actions, encroachments, violations of territorial rights, overt destruction, and covert hostile activities, as described in various dictionaries.

RIGHT TO FOOD UNDER ARTICLE- 21 OF THE INDIAN CONSTITUTION-

The interpretation of Article 21 by Indian courts has evolved beyond the traditional approach, which concentrated on refining due process in the criminal justice system. In an activist state committed to social

justice for all, 'protection' encompasses more than just guarding against overt deprivation. Human beings, with their physical, emotional, mental, and moral attributes and developmental potential, can only truly function with assurance of the basic necessities of life. As the understanding of the State has shifted beyond the concept of negative rights, it is recognized that fostering human development requires more than limiting state intervention. Instead, it necessitates active engagement, facilitation, and a significant role in promoting positive rights through public action.

The era of positive rights began with the Francis Coralie Mulin case, where Justice P.N. Bhagwati ruled that *"the right to life encompasses the right to live with human dignity, including basic necessities such as adequate nutrition, clothing, shelter, and facilities for reading, writing, and self-expression. From a social justice perspective, the State's failure to act in these areas is equivalent to its overt actions that infringe on the rights guaranteed by Article 21."*

This reasoning was applied in Paschim Benga Khet Mazdoor Samity and others v. State of West Bengal, where the Supreme Court held that Article 21 imposes a duty on the State to protect the right to life of every individual, and failing to provide timely medical treatment constitutes a violation of this right.

The Directive Principles also seek to ensure adequate means of livelihood for both men and women, protection from undue hardship, and securing living wages. Policies have taken a multifaceted approach to developing a fair food policy. The constitutional basis for the right to subsistence was articulated in Kishan Patnayak v. State of Orissa, a PIL concerning starvation deaths, where Justice P.N. Bhagwati emphasized that it is the State's duty to provide everyone with the basic essentials of life.

The right to food encompasses freedom from hunger. This can be interpreted narrowly as simply ensuring two square meals a day, or more broadly as encompassing a range of entitlements, including not only food but also other necessities for good nutrition, such as clean water, healthcare, and even basic education.

The recent campaign for the right to food has adopted the broader interpretation of this right. The filing of the

Right to Food petition and subsequent interim orders has significantly altered its understanding. The Supreme Court's first major interim order, issued on November 28, 2001, addressed eight major food-related schemes, transforming the benefits of these schemes into legal entitlements.

ILLEGAL MIGRATION AND ISSUES OF CITIZENSHIP

Citizenship entails being protected by the law rather than participating in its creation or enforcement. The "political community" is perhaps the closest we can get to a world of shared meanings. Denying political communities the right to manage membership undermines their ability to maintain their integrity, reducing them to mere neighborhoods or random associations without enforceable admissions policies. Citizenship is addressed under Entry 17 of the Union List in the Seventh Schedule of the Constitution, and the Government of India has amended the Citizenship Act of 1955 several times to relax the norms. Indian citizenship can be acquired in the following ways:

- (1) Citizenship at the commencement of the Constitution,
- (2) Citizenship by birth,
- (3) Citizenship by descent,
- (4) Citizenship by registration,
- (5) Citizenship by naturalization, and through the incorporation of territory.

Amendments to the legislation include the Citizenship (Amendment) Acts of 1986, 1992, 2003, 2005, and 2019. It is essential to note that the primary duty of the Government is to defend the country's borders, prevent trespassing, and ensure the safety and security of its citizens.

CONCLUSION

In summary, the state is constitutionally obligated to prioritize the protection of its citizens. Foreign nationals must obtain permission from the destination country before entering and staying. Violating immigration laws classifies them as illegal migrants, and the state is not required to prioritize their interests equally with those of its citizens. Obligations towards migrants and asylum-seekers suggest either an open borders policy or deny the state's sole right to determine who and how many can enter its territory.

The Citizenship Amendment Act (CAA) of 2019 uniquely recognizes a large number of illegal migrants, specifically those belonging to religious minorities facing persecution in neighboring countries, as Indian citizens. This amendment coexists with the existing provisions for obtaining citizenship.

The issue of illegal immigration from Bangladesh should be addressed as a national concern rather than a regional one. The warnings issued by the Supreme Court of India in February 2001 and the observations made by the Group of Ministers (GoM) on internal security must be taken seriously. The government should promptly intensify efforts to identify and deport illegal migrants. Completing the fencing along the entire India-Bangladesh border as soon as possible and maintaining a high-security alert along the border is essential. Public awareness about the negative impacts of illegal migration should be raised to achieve a national consensus. Multi-purpose Photo Identity Cards should be issued to all Indian citizens, and steps should be taken to remove illegal migrants from the Voter's List. The National Register of Citizens (NRC) of 1951 should be reviewed, computerized, updated regularly, and made compulsory by law. Most importantly, there must be a strong political will from the Union Government, State Governments, and all political parties to protect the country from the threat of illegal migration, or it will jeopardize the political, economic, and social stability of not only the Northeast but the entire country.

SUMMARY OF KEY FINDINGS

The critical analysis of illegal immigration in India through the lens of Article 21 of the Indian Constitution reveals several significant insights:

1. Humanitarian Challenges: Illegal immigrants in India face profound humanitarian challenges, including legal vulnerability, economic exploitation, social exclusion, lack of documentation, and family separation. Their undocumented status severely limits their access to essential services such as healthcare, education, housing, and legal aid.

2. Legal Protections under Article 21: Article 21 guarantees the right to life and personal liberty, which has been expansively interpreted by the judiciary to include the right to live with dignity, access to basic

necessities, and protection from arbitrary state actions. Landmark cases have established that these rights extend to all individuals, including illegal immigrants, within Indian territory.

3. Judicial Interventions: The judiciary has played a crucial role in expanding the scope of Article 21 to cover a wide range of rights and protections. Through key rulings, the courts have underscored that any deprivation of life or liberty must follow a fair, just, and reasonable legal procedure, thereby providing a safeguard against arbitrary state actions.

4. Policy and Legal Framework: The legal and policy framework governing immigration in India is complex and often lacks clarity, particularly concerning the status and rights of illegal immigrants. Historical treaties and accords, such as the Indira-Mujib Treaty and the Assam Accord, have attempted to address specific migration issues but have also contributed to ongoing legal and social challenges.

FINAL THOUGHTS ON THE INTERPLAY BETWEEN ARTICLE 21 AND ILLEGAL IMMIGRATION

The significant immigration from Bangladesh, coupled with internal politics concerning cut off dates and electoral issues, does not negate the fact that basic rights, such as the right to food, transcend state boundaries. The state is obligated to provide these rights to all its residents, regardless of their nationality.

Therefore, acknowledging the evolving constitutional theory and the interpretation of Article 21 as encompassing positive rights, or interpreting international basic minimum standards as a pathway towards universalizing basic rights, undocumented workers are entitled to the right to food.

The interplay between Article 21 and illegal immigration in India highlights a delicate balance between upholding human rights and addressing national security and demographic concerns. Article 21, with its broad interpretation, serves as a vital safeguard for the dignity and basic rights of all individuals, including illegal immigrants. However, the challenges faced by illegal immigrants, compounded by their undocumented status, require a

nuanced approach that considers both legal imperatives and humanitarian obligations.

The judicial interpretation of Article 21 emphasizes that the right to life and personal liberty cannot be compromised, even for those without legal status. This principle is essential in ensuring that illegal immigrants are not subjected to inhumane treatment or deprived of basic rights. However, the enforcement of immigration laws and policies must also consider the socioeconomic and political implications of large-scale illegal migration.

FUTURE OUTLOOK IN IMMIGRATION POLICIES IN INDIA

Looking ahead, India's immigration policies must evolve to address the multifaceted nature of illegal immigration while upholding constitutional principles and human rights. The following recommendations are crucial for a balanced and effective approach:

1. **Comprehensive Policy Reform:** There is a need for a comprehensive immigration policy that clearly defines the status, rights, and obligations of illegal immigrants. This policy should integrate humanitarian considerations with national security concerns.
2. **Strengthening Legal Frameworks:** Enhancing the legal frameworks governing immigration and naturalization processes can provide clarity and consistency in handling illegal immigration cases. Streamlining these processes can help reduce exploitation and improve the protection of illegal immigrants' rights.
3. **Access to Basic Services:** Ensuring access to essential services such as healthcare, education, and legal aid for illegal immigrants is crucial. Policies should aim to provide these services without compromising national security or public order.
4. **Collaborative Approaches:** Collaboration between government agencies, non-governmental organizations, and international bodies is vital for addressing the complex issues of illegal immigration. Joint efforts can help in the effective implementation of policies and protection of human rights.
5. **Public Awareness and Education:** Increasing public awareness about the rights and challenges of illegal

immigrants can foster a more inclusive and empathetic society. Education and advocacy can play significant roles in reducing discrimination and promoting social integration.

6. **Regional Cooperation:** Strengthening regional cooperation with neighbouring countries, particularly Bangladesh, is essential for managing cross-border migration effectively. Bilateral agreements and joint initiatives can help address the root causes of illegal immigration and enhance border management.

In conclusion, addressing the issue of illegal immigration in India requires a balanced approach that respects the fundamental rights enshrined in Article 21 while ensuring national security and socio-economic stability. Future immigration policies should aim to create a fair, humane, and effective framework that protects the dignity and rights of all individuals, regardless of their legal status.

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