



punjab geographer

A JOURNAL OF THE ASSOCIATION OF
PUNJAB GEOGRAPHERS, INDIA

VOLUME 5

OCTOBER 2009



INDO-BANGLA ENCLAVES: A CHRONOLOGICAL AND CHOROLOGICAL STUDY

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Abstract

There are Indian enclaves in Bangladesh and Bangladeshi enclaves in India and then enclaves within enclaves (counter-enclave) and again an enclave within an enclave that is in turn within another enclave (counter-counter-enclave). There are Indian enclaves within Bangladeshi enclave attached to Indian territories and vice-versa. Enclaves that have roots to 1712 AD survived during the Mughal period and existed through British Empire. Real problem of enclaves started with partition of India. From 1958 to 1982 several attempts have been made to solve the problem but the sufferings of enclave dwellers have rather aggravated. To trace a long journey, from where these 'encaged' territories, have arrived with their sons of soil is the primary concern of this study.

Introduction

The word 'enclave' and 'exclave' are very commonly used words in many European languages as for example in French (enclave and exclave), German (enklave and exklave) and even in Swedish enclave and exclave is used. The word is used in many disciplines in figurative uses e.g. ethnic enclave, colonial enclave, economic enclave, geologic enclave and also enclave economies. It is, therefore, quite natural that geographic literature devotes much space for its definition.

The concept of enclave in academic sphere is a very old one. While the first mention of the word 'enclave' in an European document is the "Franco- Spanish Treaty of Madrid of 1526" (Catudal, 1979), thus the concept dates back to the earliest history, when the Twelve Tribes of Israel reached the Promised Land, the half-tribes of Ephraim and Manasseh, descendants of Joseph, were allotted intermingled territories some thing like

enclaves.

According to the Oxford English Dictionary (1989, V-5, 211 & 508), the first mention of the word enclave in English appeared in 1868, while the word exclave first appeared in 1888, though it seems incredible that the words did not appear in English versions of treaties from the Napoleonic wars. According to the Oxford English Dictionary, an enclave is "A portion of territory entirely surrounded by foreign dominions". On the other hand an exclave is "a portion of territory separated from the country to which it politically belongs and entirely surrounded by alien dominions seen from the viewpoint of the 'home' country (as opposed) to an enclave, the same portion of territory as viewed by the surrounding dominions".

Rao (1995) defines enclaves as "an outlying territory belonging to one country that lies wholly within the territory of another country." Melamid (1966) made some

observations on the origin of the enclaves. He mentions that the widespread existence of enclaves in the Middle Ages can also be explained economically through the high transportation cost and the self-sufficiency of small domains. "Since there was no trade, there was no need for feudal territories to be contiguous". Melamid (1968) opines, while explaining enclaves and exclaves, "enclaves and exclaves are discontinuous territories of states that are located within the territories of other states". He excludes discontinuous territories surrounded by water forgetting the political status of territorial waters. About the importance of the enclaves he observes, "except for the unique case of East Pakistan and West Berlin, enclaves are today relatively unimportant economically and cover only small area," and "----- their political and military value is probably very limited (Melamid, 1965).

The difference, while useful, can also be ambiguous. The Bangladeshi village of *Chhit Kuchlibari* in Mekhliganj subdivision of Coochbehar¹ district is a Bangladeshi exclave, but an Indian enclave. India is said to enclave it, being the enclaving state. However, the phrase 'an Indian enclave' can mean both a non-Indian fragment inside India from the Indian viewpoint, and an Indian fragment inside Bangladesh from the viewpoint of that other or a third state.

While this could lead to ambiguity, context makes most cases clear. In the present work, where there is no need for distinction between them, enclave will be used as a general term.

In political geography, an enclave may be defined as a piece of land that is totally surrounded by a foreign territory, and an exclave is one that is politically attached to a larger piece of land but not actually contiguous with it. Many entities are both enclaves and

Enclave, Counter-Enclave and Counter-Counter- Enclave

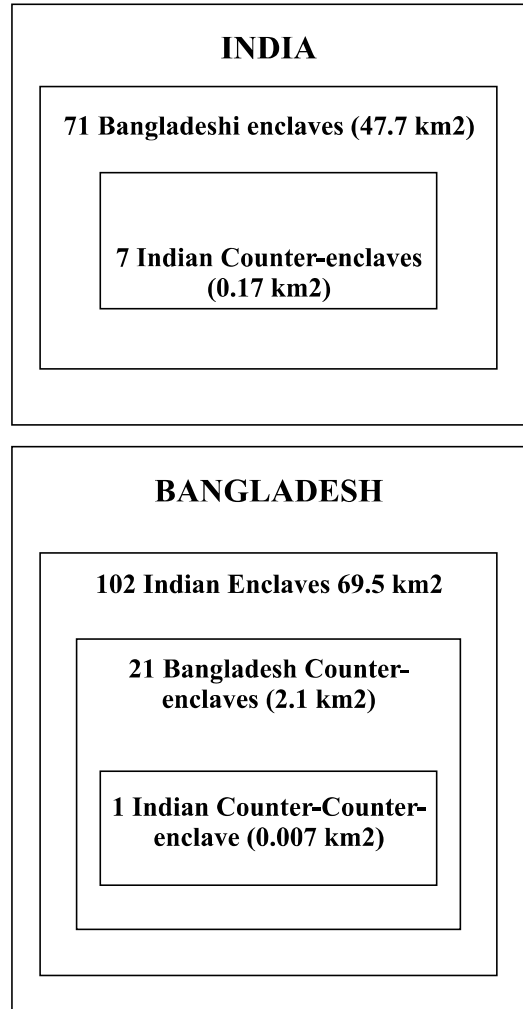


Fig. 1

exclaves, but there are examples of areas being one but not the other.

Enclave may be within country between provinces such as in India. The Union Territory of Daman and Diu consists of two coastal enclaves in the state of Gujarat. Pondicherry is a Union Territory composed of Pondicherry City, Karaikal (coastal enclaves of Tamil Nadu), Yanam (coastal enclave of Andhra Pradesh) and Mahe (coastal enclave of Kerala). Thus, an enclave is a geographical territory that is completely surrounded by foreign territory (including foreign territorial waters). Such a

territory is called an enclave in respect to the surrounding foreign territory and an exclave in respect to the territory to which it is politically attached.

Why to Study Enclaves?

Indian and Bangladeshis residing in their own land (enclaves) as Islanders far away from their main land faces severe difficulties because of their adverse location. The plight of the citizens of these enclaves has been visualized quite well by Sri Amar Roy Prodhan², the then member of Indian Parliament and social activist. While addressing during Finance (No. 2) Bill, 1977 he addressed the lawmakers “Madam chairman ---- we are talking loud about democracy, freedom and amity and before long, the finance bill will be passed by the house sanctioning huge amounts of money to the government for running the administration but may I ask the Hon'ble Finance Minister whether he is really aware of the fact this finance bill has not made any provision even one *Naya Paisa*³ for the people of an area which is part of India? If he is surprised, let me tell him that the area is in the far eastern part of India, a part of West Bengal – it is the *Seet-mahal* enclave. While we discuss the problem of the nation in this chamber in comfort and ease, a reign of chaos and terror prevails in this part of India about which many of us are not fully aware of. *Loot*, arson and robbery are the common feature of the day-to-day life of the people of this area. There is no rule of law nor there is an administration, which can ensure the welfare of the people. It is an area, which is virtually ruled by the *goondas*. It is a land-locked area of Bangladesh. There is no government, no police post, and in fact no visible signs of an orderly administration are traceable here. The people are at the mercy of the Government of Bangladesh or at the mercy of the people of Bangladesh. The Indian people

have no right of citizenship. They are not living in the truest sense of the term but they are merely surviving rather struggling for their existence”. He further added “ While Government spokesmen speak hoarse about democracy, socialism and freedom, it is cruel irony and a strange farce that the citizens of this country should suffer untold atrocities and the Government of India should remain silent observer” (Roy Prodhan, 1995).

The sufferings of the enclave residents may be illustrated in a classic example of a vicious circle, residents of enclaves need visa to cross the other country's territory towards the 'mainland', but since there is no consulate in the enclaves, they should go to one in the 'mainland' - which they can't because they don't have a visa. Illegal border crossings are frequent, but dangerous – border guards have shot a number of transgressors. Furthermore, the enclaves remain a haven for criminals who are thus immune from the justice system of the country surrounding the enclave – exactly as it was back in 1814. These and other problems have rendered the enclaves pockets of lawlessness and poverty compared to their already relatively poor motherlands.

Significance of the Study

The significance of the study of Indo-Bangla enclaves may be highlighted from the perspectives of: i) safety, security, right, honour, welfare and prosperity and even fulfilling bare necessities of residents of the enclaves; ii) establishing rule of law in the enclaves; iii) providing basic infrastructure and services such as health services, education, water supply and sanitation, legal aid and transportation and communication services; iv) granting citizenship and establishing voting rights of the residents; v) conduct of census and other enumeration and survey that form baseline information for any planning and

development; vi) conducting rescue operation and providing relief at time of emergency due to disastrous situation such as flood, cyclone and earthquake; vii) right to visit mainland by enclave dwellers; viii) permission to visit foreign nation by the residents of the enclaves; ix) improving relation with Bangladesh; x) checking infiltration in the pretext of enclave dwellers and xi) final demarcation of Indo-Bangla land and maritime boundary and thus settling border disputes which is related to exchange of enclaves.

Methodology

Field study method has been adopted to the study of the problem of enclave dwellers. Bangladeshi enclaves attached to Indian Territory are accessible from Indian mainland. Similarly the counter-enclaves i.e. Indian territories within Bangladeshi enclaves attached to India are also accessible. Both Bangladeshi and Indian citizens residing in enclaves and counter-enclaves attached to mainland India have been interviewed. It was impossible to interview Indian citizens residing in Indian enclaves attached to mainland Bangladesh and hence the Indians who have deserted enclaves and settled in mainland India have been interviewed. Mr. Amar Roy Pradhan, ex-MP, social worker and also social activist and who worked for the protection of right of the enclave dwellers have also been interviewed for information related to the problems. Historical documents have been consulted for the purpose.

How the Enclaves Came into Existence?

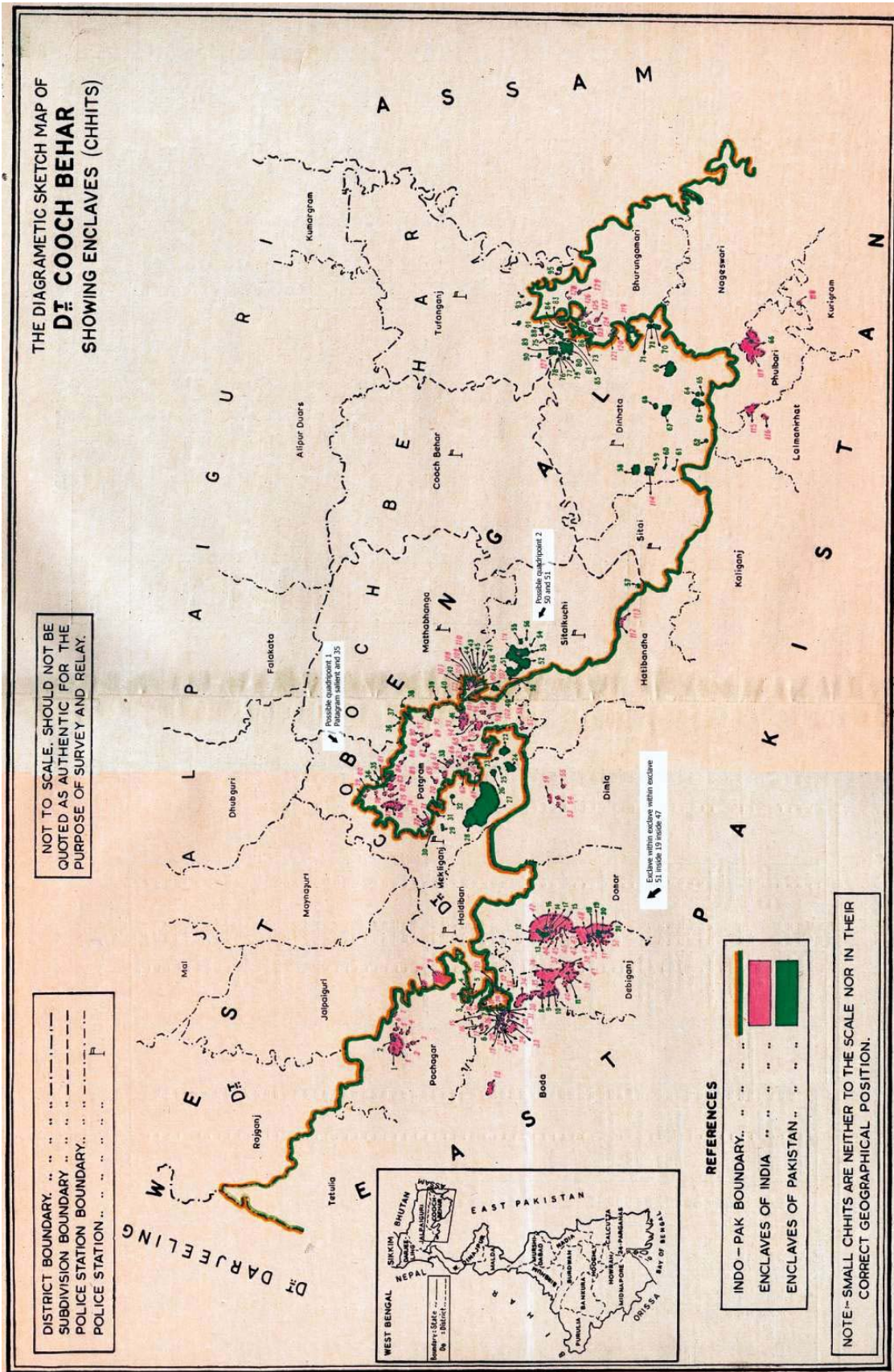
Though the evolution of Indo-Bangla enclaves is surrounded by mysteries and fully satisfactory explanation is not yet available. However, some theories regarding the origin of enclaves are as under:

“The fact that two states of Coochbehar

and Rangpur chose not to join India and East Pakistan at the time of Independence also played a role in the *chhitmahals* falling in both India and East Pakistan (Bangladesh). In 1952 Coochbehar joined India and Rangpur (East Pakistan). What posed a problem was the fact that over time they had been conquering each other's territories. The result was that there were enclaves of India in Bangladesh and vice-versa. The Governments of India and Bangladesh had to decide which portion belonged to which country” (Kaur Naunidhi, 2002).

Secondly, “India and Bangladesh: Enclave Disputes” submitted to Institute of Peace and Conflict Studies available in the internet traces the origin of enclaves “The problem of enclaves is a legacy of the dissipated life styles of the rulers of two former princely state of Coochbehar in North Bengal and Rangpur in South Bengal (present day Bangladesh). The *Rajas* (rulers) of the two princely states routinely staked pieces of their states over a game of cards, and thus came to acquire pockets of land in each other's territory. The lands were pledged on a piece of paper known as '*Chits*' and hence these lands are still called '*Chits*'. The ownership of these enclaves devolved upon India and East Pakistan (Bangladesh) after partition in 1947. Sir Cyril Radcliff drew the dividing line as the parties involved failed to any agreed border. He was concerned with not disturbing the railway communications and river system rather than the issue of enclaves” (Gupta and Chanda, 2001).

Thirdly, the most authentic theory of evolution of enclaves is based on the relation of Mughals with the *Rajas* of *Kamtapur*⁴ (Coochbehar) accounted by several historians. Moghul invasion of *Kamtapur* started as early as 1687. Since then there have been several raids and invasions. Each time there were some treaties signed by the rulers. Generally every



treaty between Mughal and Kamtapuri king led shrinking of Kamtapuri territory. In this process some of the powerful chieftains whom Mughals could not dislodge during the Mughal-Cooch confrontation continued to owe allegiance to the *Maharaja* of Coochbehar and these lands did not, therefore, form part of 'Zamindari' which continued to remain part of Coochbehar though detached from it. Similarly, during these raids some Mughal soldiers occupied some portions of land of Coochbehar state that continued to owe allegiance to Mughal Emperor through *Nazims*. It seems that *Maharaja* of Coochbehar could not or did not enforce his authority on these lands. These areas became part of *Suba-e-Bengal* and later on part of British Indian district of Rangpur.

From the above discussion on the theories explaining origin of the Coochbehar enclave, the last one seemed to be more acceptable. The existence of patch of land within the neighbour's territories is common and somewhat acceptable fact all over the world. The development of enclave takes place even during the modern period not only in medieval period when such things were more common.

History of Evolution of Enclaves

Though origin of enclaves is not very clear yet generally it is related to Mughal invasions between 1668 and 1699. Some of the powerful chieftains retained lands in their possession in the *Chaklas*⁵ of Boda, Patgram and Purbabhag (presently in Bangladesh). The Mughal forces failed to dislodge these chieftains. By 1712 Khan Jehan Khan, the Nazim of Bengal was able to recover these *Chaklas* and subsequently a treaty was signed between the Nazim of Bengal and the *Maharaja* of Coochbehar whereby these three *Chaklas* were leased out to the *Maharaja* of Coochbehar. The powerful chieftains whom the Mughals

failed to dislodge owe their allegiance to Coochbehar and thus form part of Coochbehar.

In an article posted in the website <http://geosite.jankrogh.com> under the heading "strange maps" traces the history of development of Coochbehar enclave complex in the following way, "For the origins of most enclaves, we have to go back to 1713, when a treaty between the Mughal Empire and the Cooch Behar Kingdom reduced the latter's territory by one third. The Mughals didn't manage to dislodge all Cooch Behar chieftains from the territory thus gained; at the same time, some Mughal soldiers retained lands within Cooch Behar proper while remaining loyal to the Mughal Empire. This territorial 'splintering' was not so remarkable in the context of that time: the subcontinent was extremely fragmented (comparisons with pre-1871 Germany spring to mind), most enclaves were economically self-sufficient and the fragmentation caused no significant border issues, as Cooch Behar was nominally tributary to the Mughals anyway".

- In 1765, the British seized control of the Mughal territory by way of the East India Company, which in 1814 was surprised to discover extraterritorial dots of Cooch Behar within its territory, "by some unaccountable accident". "Public offenders" fleeing the police sometimes used those enclaves as sanctuaries.
- The great Koch kingdom started shrinking in size and the outlying areas were not under firm control of the *Maharajas*. Finally *Maharajas* were bound to accept the dominance of Mughals and accepted the Mughals as their overlords.
- "Early eighteenth century the *Bhotias*⁶ began to interfere, and by 1772 they had taken possession of the *Raja* and of his

- capital. British aid was then sought, and in consideration of the cession in perpetuity half of the revenue was then ascertained and the *Bhotias* were driven out” (Gait, 1984).
- Meanwhile in the year 1868 two new districts Dinajpur and Jalpaiguri were carved out of Rangpur district (presently in Bangladesh) and hence enclaves may be seen in Rangpur, Dinajpur and Jalpaiguri districts. This may be pointed here that a lone enclave of Kochbehar could also be located in Goalpara district in Assam.
 - In 1947, the formerly Mughal territories became part of the eastern part of Pakistan.
 - “The Radcliff Award⁷ of August, 1947 placed the larger enclaves formerly in the thanas (police stations) of Tetulia, Pachagarh, Boda, Debiganj, and Patgram, now gone to the East Pakistan of Pakistan, besides those which before 1947 were embedded in the districts of Rangpur and Dinajpur” (Majumdar, 1977).
 - Coochbehar acceded to India only in 1949, as one of the last of the 600-odd pre-independence Princely States to do so. Consequently the entire territory of the erstwhile Coochbehar became an integral part of India on the 12th September 1949.
 - Remarkably, the Coochbehar enclave complex survived all these changes of sovereignty on both sides of the border—although the enclave complex used to be even more complex before India's independence. 50-something Coochbehar exclaves in Assam and West Bengal were rationalized away after all three entities i.e Coochbehar, Assam and West Bengal became parts of

India.

- Seventeen enclaves of Haldibari police station in Coochbehar district were transferred to the Jalpaiguri police station of Jalpaiguri district by notification No. 2427-PL, date: 27/06/1952 of Government of West Bengal Home (Police).

Geographical Distribution of Enclaves

Originally Coochbehar (princely state) had some 158 enclaves of which one was in the Goalpara district of Assam and 44 others were in pre-partition Jalpaiguri and rest 113 in Coochbehar. But Durgadas Majumdar, IAS in a report published in the Gazette of India (West Bengal, Coochbehar, 1977:5-6) states, “At the time of merger of the Indian state of Coochbehar with West Bengal there were 130 enclaves measuring more or less 20957.07 acres. There were correspondingly 95 enclaves of Bangladesh situated within the district of Coochbehar. Another intriguing part is that there were enclaves within the enclaves. It so happens that while the parent enclave belongs to the Coochbehar district, the enclaves inset within these enclaves belong to Bangladesh” (Majumdar, 1977).

R. Banarjee, IAS in his book Banarjee's History of Enclaves, 1966 accounts for 130 enclaves of Coochbehar measuring 84.81 km² (20957.04 acres) of these 8 enclaves serial No. 8-14 and 130 were amalgamated with partitioned district of Jalpaiguri by the notification No. 2427-PL/PIJ-4/52 dated the 27th June 1952. However, enclaves of serial No 111, 114 and 127 measuring about 42.77 acres are Indian enclaves inside Bangladeshi enclaves in India.

Out of 95 Bangladeshi (East Pakistani) enclaves measuring 49.73 km² (12289.37 acres), 3 enclaves cease to be enclave following the notification mentioned above. The area of

these three enclaves is 52.00 acres. Out of the enclaves, serial No 1-2, 6-21, 33, 41 and 66 measuring 511.67 acres or 2.05 km² are Bangladeshi (East Pakistani) enclave inside Indian enclave in Bangladesh (East Pakistani) and hence not exchangeable.

Evgeny Vinokurov, a Russian scholar observes, “The Coochbehar state of India possesses 106 exclaves in Bangladesh, including three counter enclaves and one counter-counter enclave. On the other side, Bangladesh possesses 92 exclaves in India, including 21 counter enclaves. On the total, the Bangladeshi exclaves comprise 49.7 sq. km, where as the Indian exclaves cover 69.6 sq. km (Fig.1). The largest Indian exclave is Balapara-Khagrabari with 25.95 sq. km, although this figure includes six small enclaves of unknown size. The largest Bangladeshi exclave is Dahagram-Angrapota⁸ with 18.7 sq. km, or 38 per cent of the total Bangladesh exclaves. The smallest Indian exclave Panisala measures 1,093 sq. metres, while smallest Bangladeshi exclave, the counter enclave Upan Chowki Bahini, measures only 53 sq. metres. This is also the smallest international enclave in the world” (Vinokurov, 2005).

On behalf of the Government of India, Ministry of External Affairs while answering an unstarred question raised by Mr. Tarini Kanta Roy, the member of Upper House of India's Parliament furnished a list of 111⁹ exchangeable Indian enclave in Bangladesh and 51¹⁰ Bangladeshi enclaves in India measuring 17,160.23 acres and 7110.02 acres respectively. This has been jointly verified during the Indo-Bangla Boundary Conference in Kolkata, 9th –12th October 1996 and also during field inspection at Jalpaiguri (West Bengal) and Pachagarh (Bangladesh) sector, 21st–24th November 1996.

Efforts to Solve the Problem of Enclaves

The first agreement concerning access to the enclaves was reached in 1950 but it concerned only official and totally devoid of interest of the residents. As per this agreement district officials of either state could visit the enclave once after serving a 15-days notice to the host country of their enclaves in the neighbouring country. A list of goods that could be imported to the enclaves once in a month that were agreed upon.

- Indo-Pak Passport Conference Agreement 1953, made a provision of issuing category 'A' visa to use for unlimited number of journeys within the *thana* or *thanas* contiguous to the enclave, and also for unlimited journeys in transition between the enclave and mainland. But “clearly, two-step policy devised India and Pakistan in the early 1950s turned out to be a complete failure. An early agreement on the right of passage fell into disuse after it was overtaken by new passport and visa rules in 1952. The agreement was never renewed and all traffic between the enclave and the outside world therefore become illegal. Several high level agreements were made to exchange the enclaves, but none of them could be implemented” (Schendel, 2002).
- Trade Agreement, 1957 made a provision of crossing of the border through authorized routes for small trade, of specified scheduled of goods, only once a day, two days in a week (Whyte, 2002a).
- Nehru-Noon agreement¹¹, retrieved from http://untreaty.un.org/unts/1_60000/10/39/0001992.pdf between India and Pakistan on border disputes signed at New Delhi on 10th September, 1958 highlights that “(3) Berubari¹² Union No. 12: This will be

- divided as to give half of the area to Pakistan, the other half adjacent to India being retained by India. The division of Berubari Union No. 12 will be horizontal starting from the north-east corner of Debiganj *thana* (earstwhile East Pakistan) . The division should be made in such a manner that the Coochbehar enclaves between Pachagarh *thana* of East Pakistan and Berubari Union No. 12 of Jalpaiguri *thana* of West Bengal will remain connected as present with Indian territory and will remain with India. The Coochbehar enclaves lower down between Boda *thana* of East Pakistan and Berubari Union No. 12 will be exchanged along with the general exchange of enclaves and will go to Pakistan”. This agreement further adds in the subsequent article “(10) Enclaves: Exchange of old Coochbehar enclaves in Pakistan and Pakistani enclaves in India without claim to compensation for extra area going to Pakistan, agreed to.”
- The Berubari Pratiraksha (protection) Committee¹³ stiffly opposed the short-cut-method of solving the problem. Mass agitation started. Shri Nirmal Bose, a professor from Calcutta, filed a petition in the Calcutta High Court challenging Nehru-Noon Agreement. In their judgment Calcutta High Court and subsequently Hon'ble Supreme Court held that no part of India can be parted away or transferred without amendment of the constitution.
 - 9th Amendment of Constitution¹⁴ took place in 1960 in view of challenge of transfer of part of Berubari to Pakistan with the objectives “Agreements between the Governments of India and Pakistan dated 10th September, 1958,

23rd October, 1959, and 11th January, 1960, settled certain boundary disputes between the Governments of India and Pakistan relating to the borders of the States of Assam, Punjab and West Bengal, and the Union territory of Tripura” (The Constitution [Ninth Amendment] Act, 1960).

- In 1971, East Pakistan gained independence as Bangladesh, which happened to be friendly towards India.
- Indo-Bangladesh Trade Agreement, 1972 that replaced the one of 1957 specified a 16 km 'border belt', the residents of which were allowed to carry border trade, also once in a day and two days in a week, on the specified schedule.
- In 1974 Indira-Mujib Agreement¹⁵ was signed between the Government of the Republic of India and Government of the People's Republic of Bangladesh concerning the demarcation of the land boundary between India and Bangladesh and related matters at New Delhi on May 16, 1974 (<http://www.hcidhaka.org>).

Under the Indira-Mujib Agreement (1974) Schedule no. 12, article 1 relates to exchange of enclaves. It goes like this “The Indian enclaves in Bangladesh and the Bangladeshi enclaves in India should be exchanged expeditiously, excepting the enclaves mentioned in paragraph 14 without claim to compensation for the additional area going to Bangladesh” (<http://www.hcidhaka.org>).

Similarly schedule No.14, article 1 (Indira-Mujib Agreement, 1974) relates to Berubari Union No. 12, which states, “India will retain the southern half of South Berubari Union No.12 and the adjacent enclaves, measuring an area of 6.84 km² approximately,

and in exchange Bangladesh will retain the Dahagram and Angrapota enclaves. India will lease in perpetuity to Bangladesh an area of 178 metres X 85 metres area 'Tin Bigha'¹⁶ to connect Dahagram with Panbari Mouza (Patgram police station) of Nilphamari district of Bangladesh.”

Attempts in 1958 and 1974 to exchange enclaves across the international border proved more elusive – even though the international aspect of these enclaves made administering them extremely unworkable, and thus such an exchange more useful than that of the aforementioned all-Indian enclaves. Landlocked location of the enclaves (see map) has often made it impossible for people living in the enclaves to legally go to school, to hospital or to market (as they are surrounded by foreign territory). Severities of life compel the enclave residents to depend on the wide discretion of local police and border guards. Obvious result is wide spread corruption. Complicated agreements for policing and supplying in the enclaves had to be drawn up between India and Bangladesh. As per one such trade agreement, signed 28th March 1972, a list of products that could be imported into the enclaves contained such items as matches, cloths and mustard oil etc. was finalized.

As part of the programme of exchange of enclaves the Government of Bangladesh ratified the Indira-Mujib Agreement in November 1974. Subsequently, protracted negotiations were held between the two countries to finalise the terms of the lease of the Tin Bigha corridor following the two-day summit between Indian Prime Minister Mrs. Indira Gandhi and Bangladesh President H. M. Ershad. The terms of the lease in perpetuity of the Tin Bigha corridor were eventually agreed upon through an exchange of letters on October 7, 1982 between Shri P. V. Narasimha Rao, the then Foreign Minister of India and Mr. A. R.

Shams-ud-Doha, the then Foreign Minister of Bangladesh. The modalities for the implementation of the 1982 Lease Terms Agreement¹⁷ have been worked out after discussions with the Government of Bangladesh. These were formalized through an exchange of Letters between the Governments of India and Bangladesh in New Delhi on 26th March 1992. Finally 'Tin Bigha Corridor' came into existence overcoming several hurdles. Slowly and slowly many of the agreements, particularly trade agreements have become defunct. Border fencing along the Indo-Bangla border has been proved to be last nail in the hope of enclave residents.

Enclaves and Border Disputes

Problems of enclaves are intertwined with the border problem. To begin with Radcliff Award, Bagge Award¹⁸, Berubari Union No. 12, Tin Bigha Corridor, New Moore / Purbasha / Talpatty Island are some of the disputes or sources of disputes between India and Bangladesh that act as impediment in the path of exchange of enclaves. Some other issues such as infiltration, border disputes are also related to the exchange of enclaves. All the agreements related to exchange of enclaves i.e. the 1958 Nehru-Noon Agreement and the 1974 Indira-Mujib Agreement have been timely ratified by the respective Government of Pakistan and Bangladesh. It is on the part of Government of India that the agreements could not be ratified even after clearance of the Supreme Court and Amendment of the Constitution. Evgeny Vinukorov observes “The burden of the 50 years procrastination on the regulation of the enclave problem lies primarily on Indian side as both the 1958 and the 1974 accords were duly ratified by Bangladesh but not by India. The full implementation of the Indira-Mujib agreement still awaits Indian ratification. The constitution

had to be amended for that purpose, and this in turn demands for the full demarcation of the boundary with Bangladesh” (Vinukorov, 2005). Where as Momen (2007) observes, “Bangladesh on her part in good faith ratified the Indira-Mujib Treaty of 1974 and physically handed over Berubari enclave to India but till writing this article, India is yet to reciprocate”.

While talking about the different aspects of exchange of enclaves Whyte argues, “the sad irony is that while on paper India does lose territory, what she appears to lose, she has never had administrative control over. Therefore, India like Bangladesh, would be giving up land she really never had, in return for sovereignty and control over the enclaves she hosts, whose foreign sovereignty she recognizes, and which creates administrative inconvenience on a daily basis. The '*Chhitmahalis*' may lose a theoretical citizenship, but they would gain access to education, medical facilities, and development aids and police protection. Looked at this manner, each side loses nothing but gains much” (Whyte, 2002b).

Conclusion

Unsettled border problems as well as the question of enclave have given unlimited discretionary power vested on the local police as well as border guards, which has led to untold sufferings of the enclave dwellers. “Naturally enough, a fertile ground for corruption was created. On the other hand, it is exactly corruption that allowed the enclave's residents to survive. In other words, it mitigated the severities of life implied by the formally existing border regime. In the condition when it is legally impossible to go to school, to a nearest hospital, or to market, enclave dwellers do not have a choice but to break the law” (Vinukorov, 2005). The problem of enclaves along with other problems of Indo-Bangladesh persisted because it figures in less priority list of the

Government of India. “Nobody seems serious about taking up the issue. Once the Government of India takes positive initiative to resolve the issue, Bangladesh would have to fall in line” (Kumar, 2006). It is, therefore, in the greater interest of the nation that Government of India takes positive step and expedite it to implement the exchange of the enclave, which would be in greater interest of the nation. Any further delay and going ahead with border fencing means approximately 40.5 sq. km Indian territory gifted to Bangladesh and putting around 1.5 lakh of Indian citizen at stake. Non-implementation of Indira-Mujib Agreement means losing territory, losing population and also not honouring international commitment. It is, therefore, essential that India should pay more and serious attention to the problems associated with enclaves before it gets too late.

End Notes

1. Coochbehar is presently a district of West Bengal. Till 1949 Coochbehar was princely state ruled by Koch king. From 12th September 1949 to 1st January 1950 Coochbehar was category 'C' state. On 1st January it became a district of West Bengal.
2. Sri Amar Roy Prodhon is a social activist, politician and several time member in the Indian parliament elected from Coochbehar constituency. He spearheaded the mass agitation against implementation of Nehru-Noon Agreement, 1958.
3. Literal meaning of Naya Paisa is hundredth part of one rupee. But the term as used in Bengal among traditional Bengali people is very negligible amount.
4. Kamtapur is the erstwhile name for Coochbehar.

5. Small territory ruled by local chieftains who were semi-independent.
6. Rulers of Bhutan who invaded Coochbehar in 1772.
7. Radcliff Award was to decide Indo-Pakistan boundary in the eastern sector between East Bengal and West Bengal.
8. Largest Bangladeshi enclave got connected with mainland Bangladesh (Patgram Police Station) through 'Tin Bigha Corridor'.
9. Exchangeable enclaves in Bangladesh excluding counter enclaves and counter-counter enclaves.
10. Exchangeable enclaves in India excluding counter enclaves and counter-counter enclaves.
11. Agreement between India and Pakistan on border disputes, signed at New Delhi on 10th September 1958. It's popularly known as Nehru-Noon Agreement (1958).
12. The Berubari dispute was one arising from an omission in the written text of the Radcliff Award and erroneous depiction on the map annexed therewith. Radcliff had divided the district of Jalpaiguri between India and Pakistan by awarding some thanas to one country and others to the other country. The boundary line was determined on the basis of the boundaries of the thanas. In describing this boundary, Radcliff omitted to mention one thana. Berubari Union No. 12 lies within Jalpaiguri thana which was awarded to India. However, the omission of the thana Boda and the erroneous depiction on the map referred to above, enabled Pakistan to claim that a part of Berubari belonged to it. The dispute of Berubari was resolved by the Nehru-Noon Agreement of 1958 whereby half of Berubari Union No. 12 was to be given to Pakistan and the other half adjacent to India was to be retained by India. In addition, four Coochbehar enclaves contiguous of this part would also have gone to Pakistan. The total area of South Berubari Union No. 12 is 22.58 km² of which 11.29 km² was to go to Bangladesh. The area of the four Coochbehar enclaves which would also have to go to Bangladesh was 6.84 km² making the total area to be transferred 18.13 km². The population of the area including the four enclaves to be transferred, as per 1967 data, was 90% Hindu. The Bangladeshi enclaves, Dahagram and Angrapota, were to be transferred to India. Their total area was 18.68 km² and as per 1967 data more than 80% of their population was Muslim. If this exchange had gone through, it would have meant a change of nationality for the population or migration of the population from Dahagram and Angrapota and South Berubari Union No. 12 and consequent serious rehabilitation problems. There were major agitations by the people of Berubari protesting against the transfer.
13. Organization of local people opposing Nehru-Noon Agreement. Sri Amar Royprodhon was one of the key persons of the committee.
14. To implement Nehru-Noon Agreement, the Constitution 9th Amendment Act and Acquired Territories (Merger) Act were adopted in 1960. This legislation was challenged in the courts by a series of writ petitions, which prevented the implementation of the Agreement. The Supreme Court decision on March 29, 1971, finally cleared the way for the implementation of the Agreement. This,

however, could not be done because of the Pakistani Army crackdown in East Pakistan and the subsequent events, which led to the emergence of Bangladesh as an independent country.

15. After 1971, India proposed to Bangladesh that India may continue to retain the southern half of South Berubari Union No. 12 and the adjacent enclaves and, in exchange, Dahagram and Angrapota may be retained by Bangladesh. As part of the package a strip of land would be leased in perpetuity by India to Bangladesh, giving her access to Dahagram & Angrapota in order to enable her to exercise sovereignty on these two enclaves. This was accepted by Bangladesh as part of a carefully constructed Land Boundary Agreement signed by Prime Minister Indira Gandhi and Prime Minister Sheikh Mujibur Rahman in May 1974. The Berubari dispute was thus finally resolved by Article 1.14 of the Agreement which stated:
"India will retain the southern half of South Berubari Union No. 12 and the adjacent enclaves, measuring an area of 2.64 square miles approximately, and in exchange Bangladesh will retain Dahagram and Angrapota enclaves. India will lease in perpetuity to Bangladesh an area of 178 metres x 85 metres near 'Tin Bigha' to connect Dahagram with Panbari Mouza (P.S. Patgram) of Bangladesh."
16. Tin Bigha is a corridor measuring 178m X 85m leased out to Bangladesh in perpetuity by India as per provision of Indira-Mujib Agreement, 1974.
17. The Government of Bangladesh ratified the Agreement in November 1974.

Subsequently, protracted negotiations were held between the two countries to finalise the terms of the lease of the Tin Bigha corridor. The terms of the lease in perpetuity of the Tin Bigha corridor were eventually agreed upon through an Exchange of Letters on October 7, 1982 between Shri P. V. Narasimha Rao, the then Foreign Minister of India and Mr. A. R. Shams-ud-Doha, the then Foreign Minister of Bangladesh.

18. 'Bagge Award' was to decide the boundary line between India and Pakistan in the disputed region after solving the dispute over Berubari Union No. 12 where there was claim and counter claim by both India and Pakistan over an area known as Berubari Union No. 12.

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