



## Land Boundary Agreement between India and Bangladesh

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# 1 Background

- Attempts have been made to arrive at a comprehensive settlement of the land boundary between India and Bangladesh (the erstwhile East Pakistan) since 1947. The Nehru-Noon Agreement of 1958 and the Agreement Concerning the Demarcation of the Land Boundary between India and Bangladesh and Related Matters of 1974 (referred to as 1974 LBA) sought to find a solution to the complex nature of the border demarcation involved.
- The flawed nature of the Partition left 111 Indian enclaves in Bangladesh (17,160.63 acres) and 51 Bangladesh enclaves in India (7,110.02 acres). Their inhabitants did not enjoy full legal rights as citizens of either country or proper facilities such as electricity, schools and health services. The Adverse Possessions issue remained unresolved after the partition leading to hardships to the people residing in such areas.
- The Land Boundary Agreement (LBA) signed on May 16, 1974, soon after the independence of Bangladesh, to find a solution to the complex nature of border demarcation. While Bangladesh ratified the agreement, India didn't as it involved seceding territory and indicating these precise areas on the ground.
- The 2011 protocol to original LBA signed between two countries departed from the 1974 LBA in seeking to maintain the status quo of adverse possessions instead of exchange of territories in deference to the wishes of the people to remain in their land.

# 2 Proposal of the Agreement

- **Land Boundary Agreement of 1974:**

- The Land Boundary Agreement was signed on May 16, 1974 to solve the problems in the complex border demarcation. Bangladesh ratified the agreement, but India didn't, because it involved seceding territory, and indicating those areas on the ground.
- Under the 1974 agreement, India would retain half of Berubari Union No. 12, and Bangladesh would keep the Dahagram and Angarpota enclaves. India would lease in perpetuity to Bangladesh the so-called "Tin Bigha Corridor" to connect Dahagram and Angarpota to the Bangla mainland.
- The 1974 LBA was implemented in full — even though India did not ratify it — except for three issues related to un-demarcated land boundary of approximately 6.1 km in three sectors: Daikhata-56 (West Bengal), Muhuri River-Belonja (Tripura) and Lathitila-Dumabari (Assam); exchange of enclaves; and adverse possessions.
- India did not ratify this agreement for last three decades. This agreement proposed transfer of possessions and enclaves.

**Adverse Possessions-:**

'An adverse possession' is territory that is contiguous to India's border and within Indian control, but which is legally part of Bangladesh. Residents of these adverse possessions are Indian citizens. The same applies to Bangladeshi adverse possessions.

**Enclaves-:**

A part of a country that is surrounded by another country, or a group of people who are different from the people living in the surrounding area.

- **Consultation in 2007:**

- In planning the agreement, an elaborate process of consultation with people in the areas involved was carried out, including through the visit of an India-Bangladesh delegation to some of the enclaves and adverse possessions in 2007.
- The feedback received indicated that the people residing in the areas involved did not want to leave their land and would rather remain in the country where they had lived all their lives.
- The views of the concerned State governments in favour of realigning the boundary to maintain status quo in respect of territories in adverse possession were also taken into account.
- This was contrary to the 1974 LBA which stipulated the exchange of territories in adverse possession, both sides decided that to avoid large scale uprooting and displacement of populations against their wishes, it would be necessary to preserve the status quo and retain the adverse possessions as would be determined through joint surveys.

- **The Protocol of 2011 to 1974 Agreement:-**
  - The protocol addressed only unresolved issues in the 1974 agreement. It considered the surveys conducted in 2007 to arrive at a decision.
  - The 2011 protocol addresses the unresolved issues pertaining to the un-demarcated land boundary of approximately 6.1 km; exchange of enclaves; and adverse possessions.
  - The protocol stipulates transfer of 111 Indian enclaves in with a total area of 17,160.63 acres to Bangladesh, while Bangladesh would transfer 51 enclaves with an area of 7,110.02 acres to India.
  - While on paper, the exchange of enclaves between India and Bangladesh may seem like a loss of Indian land to Bangladesh, the actual scenario is quite different. The enclaves are located deep inside the territory of both countries and there has been no physical access to them from either country. In reality, the exchange of enclaves denotes only a notional exchange of land as the protocol converts a de facto reality into a de jure situation.
  - In respect of adverse possessions, India is to receive 2,777.038 acres of land and to transfer 2267.682 acres to Bangladesh. However, the reality is that the area to be transferred is already in the possession of Bangladesh and its handing over to Bangladesh is merely a procedural acceptance of the de facto situation on the ground.
- **India Parliament ratifies the bill:**
  - No constitutional amendment is required for a resolution of the un-demarcated segments of the land boundary by an agreement as this is within the competence of the Executive wing of government. However, the issue of exchange of enclaves and redrawing of boundaries to maintain status quo in areas of adverse possessions involves the transfer of territories from one State to another and therefore requires a constitutional amendment.
  - In light of this situation, Indian Parliament passed the bill in May, 2015 to ratify the proposals agreed in 1974 LBA along with the understanding reached in protocol of 2011.

#### **Timeline of the Agreement Process-**

- **1974 -:** India and Bangladesh enter a pact called Land Boundary Agreement (LBA) to swap the enclaves and cede control of the APLs. India also agrees to grant Bangladesh the right to use a 178-meter long and 85-meter wide corridor - Teen Bigha Corridor. This gives Bangladesh access to its South Berubari enclave in Cooch Behar.
- **1992:-** Indian government in grants Dhaka the right to use the Teen Bigha Corridor. Initially Bangladesh is given the access for limited hours during the day. From 2011, Bangladesh gets complete access.
- **2011:-** India signs the protocol to the 1974 pact, paving the way for LBA's implementation. As per the protocol, the enclave residents can accept nationality of either of the countries and stay on 'as-is-where-is' basis.
- **2013:-** As the agreement will alter national territories, Indian government introduces a Bill in the Parliament. But not cleared due to opposition.
- **2015:-** Bill is ratified by the Parliament with consent from concerned states. Decks cleared for implementation.

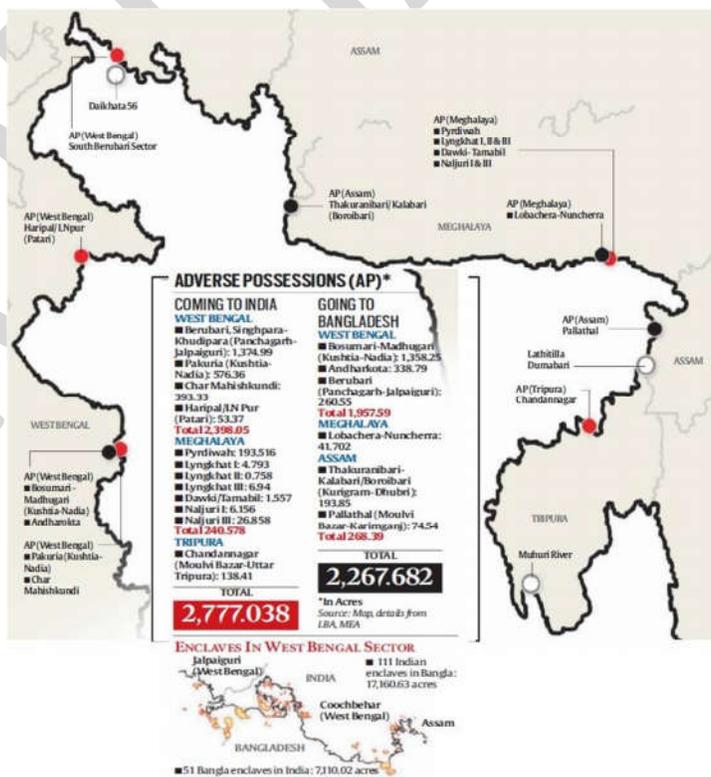
### **3 Execution of the Agreement**

- Bangladesh and India will implement the LBA of 1974 and the enabling Protocol in a phased manner over the 11 months from date of ratification by Indian Parliament.
- According to an estimate, around 37,000 people are living in Indian enclaves in Bangladesh while 14,000 people are staying in Bangladeshi enclaves in India.
- India and Bangladesh have already completed an exercise in July to ascertain the views of the residents in the enclaves whether they would like to take Indian or Bangladeshi citizenship.
- None living in Bangladeshi enclaves in India wants to shift to that country, as per a joint survey. However, an estimated 600 people want to migrate to India.
- The Centre has already sanctioned a Rs. 3,048 crore- package for rehabilitation of the people affected by the exchange of enclaves under the LBA implementation.

- Between July 31, 2015 and June 30, 2016, the entire process, including physical exchange of enclaves and land parcels in adverse possession along with boundary demarcation, is expected to be completed.
- India and Bangladesh will print, sign at plenipotentiary level and exchange the strip maps of un-demarcated sectors.
- Both governments will facilitate "orderly, safe and secure passage" to the enclave dwellers along with their "personal belongings and movable property" to Bangladesh or India through proper "travel documents", according to a letter exchanged by the two countries. The passage "will be arranged by the respective governments by November 30, 2015".
- India and Bangladesh have also outlined the modalities of a complex process of settlement of immovable property. The dwellers, who are hoping to move from one enclave to another country as proper citizen for the first time since Independence, will have to provide "details of the records and specifications of immovable property" to the local district administration.
- The details will be posted in the public domain by the administrations and the governments will "facilitate remittance of sales proceeds" of the property.

## 4 Future Impact

- The effective management of our borders is the first essential step to creating a defined and peaceful boundary that will provide a stable and tranquil environment for cross-border cooperation with Bangladesh.
- Implementation of LBA through the exchange of enclaves will mitigate a major humanitarian issue as the residents of the enclaves have had to endure the absence of basic amenities and facilities for many decades in the absence of any such settlement.
- The ratification of LBA would be a historic step culminating in the demarcation of the land boundary between India and Bangladesh, a task that has remained unresolved for decades, and not replicated elsewhere along our borders in recent times. It adds strength to India's 'Neighborhood First' policy aimed at integration of the Sub-Continent by resolving protracted territorial disputes.
- Both sides have arrived at this agreement in a spirit of friendship, mutual understanding and a desire to put these issues behind us. The agreement has been welcomed by the people of both countries and will lead to easier management of the international border by the border guarding forces.
- The conclusion of this agreement has huge impact on resolution of other long standing border disputes with China and Pakistan.
- The South Asian region is one the most conflict affected and disturbed region. By unveiling an expansive action plan in Dhaka for economic integration and trans-border connectivity, India can end the widespread negative narrative on the subcontinent's prospects and extend the positive dynamic in the east to the north and the west.



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