

Q. Is Bangladesh in illegal occupation of Indian land?

- A. There is no illegal occupation of Indian land by Bangladesh. Since independence, there have been pockets along the India-Bangladesh border that have traditionally been under the possession of people of one country in the territory of another country. These are known as Adverse Possessions. During the visit of the Prime Minister to Bangladesh in September 2011, a Protocol to the 1974 Land Boundary Agreement between India and Bangladesh was signed. The Protocol addresses outstanding land boundary issues, including the issue of adverse possessions, between the two countries.

Q. We understand that an Agreement on land boundary issues has been signed between India and Bangladesh during the visit of the Prime Minister to Bangladesh in September 2011. What are the main elements of this agreement?

- A. India and Bangladesh concluded a Land Boundary Agreement in 1974, soon after the independence of Bangladesh, to find a solution to the complex nature of border demarcation. The agreement was implemented in its entirety with the exception of three issues pertaining to (i) un-demarcated land boundary of approximately 6.1 km in three sectors, viz. Daikhata-56 (West Bengal), Muhuri River-Belonia (Tripura) and Lathitila-Dumabari (Assam); (ii) exchange of enclaves; and (iii) adverse possessions. Although the Agreement was not ratified by India, its implementation, except for the outstanding issues mentioned above, represented significant progress, given the fact that the two countries share an approximately 4,096.7 km long land boundary.

The outstanding issues, however, contributed to tension and instability along the border and adversely impacted on the lives of people living in the areas involved. Those living in the enclaves could not enjoy full legal rights as citizens of either country and infrastructure facilities such as electricity, schools and health services were deficient. For those in adverse possessions, it meant an unsettled existence between two countries without the certainty of being able to cultivate their lands or lead normal lives. The need for a settlement of the outstanding land boundary issues between India and Bangladesh was, therefore, acutely felt and articulated by the people involved, the concerned state governments and others. Several attempts have been made to address the outstanding land boundary issues. It was, however, only with the signing of the Protocol to the 1974 LBA during the visit of the Prime Minister to Bangladesh on 6th September 2011 that a settlement to the outstanding land boundary issues between the two countries was achieved. The 2011 Protocol will result in a fixed demarcated boundary in all the un-demarcated segments, exchange of Indian enclaves in Bangladesh with Bangladesh enclaves in India and a resolution of all adversely possessed areas. This historic agreement will remove a major irritant in relations between the two neighbouring countries. It will contribute to a stable and peaceful boundary and create an environment conducive to enhanced bilateral cooperation. It will result in better management and coordination of the border and strengthen our ability to deal with smuggling, illegal activities and other trans-border crimes.

In concluding the Protocol, the two sides (India and Bangladesh) have taken into account the situation on the ground, the wishes of the people residing in the areas involved and the views of the concerned State Governments. As such, the Protocol does not envisage the dislocation of populations and ensures that all areas of economic activity relevant to the homestead have been preserved. The Protocol has been prepared with the full support and concurrence of the concerned State Governments (Assam, Meghalaya, Tripura and West Bengal).

Q. Will signing of the Protocol to the 1974 Land Boundary Agreement lead to surrender of Indian land to Bangladesh?

A. The implementation of the Protocol will result in the exchange of 111 Indian enclaves in Bangladesh with 51 Bangladesh enclaves in India and preservation of the status quo on territories in adverse possession. In implementing the Protocol, 111 Indian enclaves with a total area of 17,160.63 acres in Bangladesh are to be transferred to Bangladesh, while 51 Bangladesh enclaves with an area of 7,110.02 acres in India are to be transferred to India. Moreover, with the adjustment of adverse possessions in the implementation of the Protocol, India will receive 2777.038 acres of land and transfer 2267.682 acres of land to Bangladesh.

In reality, however the exchange of enclaves and adverse possessions denotes only a notional exchange of land. The actual situation on the ground is that the enclaves are located deep inside the territory of both countries and there has been

no physical access to them from either country. Thus the exchange of enclaves will legalise a situation which already exists de facto. Similarly, in the case of adverse possessions, the reality is that the area to be transferred was already in the possession of Bangladesh and the handing over of this area to Bangladesh and India respectively. The exchange of adverse possessions confirms that each country will legally possess the territories it is already holding.

Q. How will the three un-demarcated segments be demarcated?

A. With the signing of the Protocol, the un-demarcated land boundary in three sectors, viz. Daikhata-56 (West Bengal), Muhuri River-Belonia (Tripura) and Dumabari (Assam) have been demarcated. The demarcation of boundary in Daikhata-56 is based on status quo; in Belonia, demarcation has taken place along the Muhuri River charland while retaining the traditional cremation grounds on the Indian side of the boundary; and in Lathitila-Dumabari, demarcation has followed a mutually acceptable line. Joint survey of the boundary demarcation in the three un-demarcated segments was carried out by the Survey Departments of the respective State Governments. The demarcation has been carried out keeping in view the situation on the ground and the wishes of the people involved.

Q. How was the area of land involved in exchange of Enclaves determined?

A. An agreed list of 111 Indian enclaves in Bangladesh and 51 Bangladesh enclaves in India was jointly prepared and signed at the level of Director General, Land Records & Surveys, Bangladesh and Director, Land Records and Survey, West Bengal (India) in April 1997. All Bangladesh enclaves in India are located in the state of West Bengal.

Q. How were the areas in Adverse Possession determined?

A. The concerned State Governments were closely associated with the process of determination of Adverse Possessions. Land records were scrutinized, the wishes of the people in possession of the lands were ascertained and land survey and index maps of the adversely held areas prepared by State Government surveyors. Joint surveys of the adverse possessions were carried out by the State Survey Departments in their respective areas of the boundary with Bangladesh. There was close coordination between the Central and State authorities.

Q. Has the Protocol deviated from the Land Boundary Agreement (LBA), 1974, and, if so, why?

A. Article 2 of the LBA 1974 states that the two countries are expected to exchange territories in Adverse Possession in already demarcated areas. The 2011 Protocol provides for redrawing of boundaries so that the adverse possessions do not have to be exchanged; it has dealt with them on an 'as is where is' basis by converting de facto control into de jure

recognition. People living in territories in adverse possession are technically in occupation and possession of land beyond the boundary pillars, but they are administered by the laws of the country of which they are citizens and where they enjoy all legal rights, including the right to vote. They have deep-rooted ties to their land, which go back decades and are categorically unwilling to be uprooted. Many local communities have sentimental or religious attachments to the land in which they live. Over time, it became extremely difficult to implement the terms of 1974 LBA as it meant uprooting people living in the adverse possessions from the land in which they had lived all their lives and to which they had developed sentimental and religious attachments. Both India and Bangladesh, therefore, agreed to maintain the status quo in addressing the issue of adverse possessions instead of exchanging them as was earlier required for in the LBA, 1974.

Q. How will signing of Protocol help settle the boundary issue?

A. With the signing of the Protocol, the outstanding and long pending land boundary issues between India and Bangladesh stand settled. The un-demarcated boundary in all three segments, viz. Daikhata-56 (West Bengal), Muhuri River-Belonia (Tripura) and Dumabari (Assam) has been demarcated. The status of the 111 Indian enclaves in Bangladesh with a population of 37,334 and 51 Bangladesh enclaves in India with a population of 14,215 has been addressed. The issue of Adversely Possessed lands along the India-Bangladesh border in West Bengal, Tripura, Meghalaya and Assam has also been

resolved. The implementation of the Protocol is expected to result in better management and coordination of the border and strengthening of our ability to deal with smuggling, illegal activities and other trans-border crimes.

Q. What will happen to people living in the areas involved once land is exchanged?

- A. In building this agreement, the two sides have taken into account the situation on the ground and the wishes of the people residing in the areas involved. In territories in adverse possession, status quo will be maintained so that there is no change for the people where they are located. The territories in adverse possession, will now become legally part of the State holding them. In respect of enclaves, the LBA 1974 states that the people in these area shall be given the right of staying where they are as nationals of the State to which the areas are transferred. Feedback from a visit jointly undertaken by an India–Bangladesh delegation to some of the enclaves and adverse possessions in May 2007 revealed that the people residing in Indian enclaves in Bangladesh and Bangladesh enclaves in India did not want to leave their land and would rather be in the country where they had lived all their lives. As such, the Protocol does not envisage the displacement of populations and ensures that all areas of economic activity relevant to the homestead are preserved.

Q. Does the Protocol take into account the wishes of the people?

- A. The Protocol has been prepared in keeping with the wishes of the people living in the areas involved and in close consultation with the concerned State Governments. A joint visit by an India–Bangladesh delegation to some of the enclaves and Adverse Possessions in May 2007 revealed that the people residing in the areas involved did not want to leave their land and would rather be in the country where they had lived all their lives. These and other inputs from the people involved made it evident to both sides that retention of status quo of adverse possessions seemed the only option. With regard to enclaves, a number of Parliament questions and representations were received from Members of Parliament, inhabitants of the enclaves, NGO’s and political parties urging that the exchange of enclaves be expedited. In any democracy, the will of the people must remain significant, and the 2011 Protocol has accorded highest priority to it. In implementing the Protocol, every effort has been made to preserve all areas of economic activity relevant to the homestead and in ensuring that people living in the border areas are not dislocated.

Q. What does the Protocol envisage for enclaves?

- A. The Protocol envisages that 111 Indian Enclaves in Bangladesh and 51 Bangladesh Enclaves in India, as per the jointly verified cadastral enclave maps and signed at the level of Director General Land Records & Surveys, Bangladesh and Director Land Records & Surveys, West Bengal (India) in April 1997, shall be exchanged.

Q. Why was the exchange of enclaves not undertaken earlier as stipulated in the LBA?

A. India was keen to exchange enclaves in accordance with the LBA. There were, however, procedural issues that first needed to be addressed, including determination of the number of people living in enclaves in both sides.

Q. How have people living in the enclaves on both sides been identified? Do we have any indication of number of people living in the enclaves?

A. A headcount was conducted jointly by both countries from 14-17 July, 2011, and this revealed that the total population in the enclaves was 51,549 (37,334 in Indian enclaves within Bangladesh and 14,215 in Bangladesh enclaves within India).

Q. What will be the citizenship status of inhabitants of enclaves once they are exchanged?

A. As per Article 3 of the LBA 1974, when the enclaves are transferred, people living in these areas shall be given the right of staying on where they are as nationals of the State to which the areas are transferred.

Q. Do we expect a large scale transfer of people between the enclaves on either side following implementation of the Protocol

A. A joint headcount conducted from 14-17 July, 2011 determined the total population in the enclaves to be around 51,549 (37,334 in Indian enclaves within Bangladesh and 14,215 in

Bangladesh enclaves within India). In respect of enclaves, the 1974 LBA states that the people in these areas shall be given the right of staying where they are as nationals of the State to which the areas are transferred. Feedback from a visit jointly undertaken by an India–Bangladesh delegation to some of the enclaves and adverse possessions in May 2007 revealed that the people residing in Indian enclaves in Bangladesh and Bangladesh enclaves in India did not want to leave their land and would rather be in the country where they had lived all their lives.

Q. How would people in the enclaves benefit from the exchange of enclaves?

A. In the exchange of enclaves, India will transfer 111 enclaves 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. The Protocol converts a de facto reality into a de jure situation. The inhabitants of the enclaves have not been able to enjoy full legal rights as citizens of either India or Bangladesh and proper facilities with regard to electricity, schools and health services since 1947. These facilities will accrue to them once the issue of enclaves is resolved with the ratification of the Protocol and its implementation. As such, implementation of the Protocol by way of the exchange of enclaves will have fulfilled a major humanitarian need to mitigate the hardships that the residents of the enclaves have had to endure for over six decades.

Q. What is the timeline for implementation of the Protocol?

- A. The Protocol was signed on September 06, 2011 to address the outstanding land boundary issues between India and Bangladesh. The Protocol shall be subject to ratification by the Government of the two countries and shall enter into force on the date of exchange of Instruments of Ratification. The Government of India proposes to introduce a Constitution Amendment Bill in Parliament as the issue of exchange of enclaves and redrawing of boundaries to maintain status quo in territories in adverse possessions involves the transfer of territories from one State to another necessitates a constitutional amendment. The adoption of the Constitution Amendment Bill is expected to lead to ratification of the Protocol and exchange of instruments of ratification followed immediately by implementation of the Protocol.

Q. What are the advantages of signing the 2011 Protocol?

- A. The 2011 Protocol paves the way for settlement of the long pending land boundary issue by taking into consideration the situation on the ground and the wishes of the people involved. Its implementation, 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 settlement of Adverse Possessions will lead to tranquillity and peace along the border. A settled boundary would pave the way the way for a closer engagement and mutually beneficial relationship between India and Bangladesh.

Q. Why did H.E. Sheikh Hasina, Prime Minister of Bangladesh visit Tin Bigha on October 19, 2011?

- A. During the visit of the Prime Minister to Bangladesh in September 2011, India announced 24-hour access for Bangladesh nationals through the Tin Bigha corridor with immediate effect, thereby fulfilling a longstanding request of Bangladesh. Prime Minister Sheikh Hasina visited the Dahagram and Angarpota enclaves that are connected to the Bangladesh mainland by the Tin Bigha corridor. She personally witnessed access through the corridor and turned on the electricity connection to the enclaves facilitated by India.
