

INTRODUCTION

The National Register of Citizens (NRC) is a register of all Indian citizens established by *The Citizenship Act 1955* (hereinafter referred to as “*the Act*”) as amended in 2003–2004. It has not yet been enforced except for the state of Assam. Assam, being a border state with unique problems of illegal immigration, was established in 1951 and NRC for the state based on data from the 1951 census. In layman’s term NRC is considered to be an official record for those who are considered legal Indian citizens, the NRC includes demographic information about individuals who qualify as Indian citizens in accordance with *the Citizenship Amendment Act, 1955*. However on 20th November 2019 Home Minister Amit Shah declared that NRC (that was previously only applicable to Assam as it being a border state) will be applicable to whole of India.

In 1983, *The Illegal Migrants Act (Determination by Tribunal) 1983*, was passed by the Parliament, which established a separate tribunal for the identification of illegal migrants in Assam. It was ruled unconstitutional by the Supreme Court of India in 2005, after which the Government of India agreed to update the Assam NRC. Amid insufficient progress over a decade in the process of updating, the Supreme Court began implementing and tracking the process in 2013. The final update of the Assam NRC, released on 31 August 2019, included 31 million names out of a population of 33 million, leaving around 2 million applicants out. The ruling party Bharatiya Janata has vowed to introduce the NRC for all of India. BJP did not find the results of the Assam NRC to meet its standards.

Legal Provisions Regarding the Acts:

The Citizenship (Amendment) Act, 2003 (numbered "Act 6 of 2004") added the following provision to the Citizenship Act, 1955: the Citizenship (Registration of Citizens and Issue of National Identity Cards) Regulations, 2003, as enacted under the Act, specify:

14A. Issue of national identity cards.

- (1) The Central Government may compulsively register every citizen of India and issue a National Identity Card for identification.*
- (2) The Central Government maintains a National Register of Indian Citizens and creates a National Registration Authority for that purpose.*
- (3) The Registrar General of India, named pursuant to subsection (1) of section 3 of the Registration of Births and Deaths Act, 1969 (18 of 1969), shall act as the National*



Registration Authority and shall act as the Registrar General of Citizen Registration on and after the date of the commencement of the Citizenship (Amendment) Act, 2003.

(4) The Central Government may appoint such other officers and personnel as may be necessary to assist the Registrar General of the Citizen Registration in the execution of its duties and responsibilities.

(5) The process to be followed for the compulsory registration of people of India shall be as may be prescribed.

Citizenship Act and NRC

Protesters believe that the exclusion of Muslims and the national NRC are the result of the same school of thought. The paranoia against "outsiders" and "infiltrators" is strong in both narratives, although the government estimates that the Act will help a little more than 31,000 people.

In view of the exclusionary rights, the protesters believe that the new law will only be used to polarize Indian communities, particularly Hindus, against Muslims. On Dec. 11, just before The Citizenship Amendment Bill (hereinafter referred to as ("the bill)) (CAB) was approved, more than 700 activists, scholars and filmmakers wrote a letter to the Government of India expressing serious concern over these two proposed laws. "For the first time ever,

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Why NRC conducted and what was the need of it?

NRC was conducted under the supervisory provisions of Supreme Court of India; it was conducted as a response of a writ petition by a non-governmental organization based in Assam, *Assam Public Works (APW)*. Assam being a border state, this organization aimed to protect the rights of indigenous people.

The idea behind the concept of NRC was to identify illegal immigrants who migrated across from Bangladesh. The widespread anger from the Assamese people was there because they believed the illegal immigrants have invaded their land and also were infringing upon their rights and resources.

How did Assam do it?



Exercise required and supervised by the Supreme Court in Assam has caused widespread disruption. In the state, the first documentary evidence submitted before 24 March 1971—such as *The NRC of 1951* or the electoral rolls before 24 March 1971—had to be produced to prove that one's ancestors had lived in India before that date. The next step was to produce documents for oneself in order to establish a relationship with these ancestors. One of them had to apply for inclusion in Assam. It is not yet clear whether or not there will be a comparable option for a national exercise. There is also no clarity as to how documents will be treated for residents of different states and what these documents will be, or whether there will be a common set of guidelines for all of India. *The NRC* update was a mammoth exercise involving over 52,000 state Government officials working for a prolonged period.

1. 1951 NRC
2. Electoral roll(s) up to 24 March (midnight), 1971
3. Land and tenancy records
4. Citizenship certificate
5. Permanent residential certificate
6. Refugee registration certificate
7. Any government issued license/certificate
8. Government service/employment certificate
9. Bank or post office accounts
10. Birth certificate
11. State educational board or university educational certificate
12. Court records/processes
13. Passport
14. Any LIC policy

The documents referred to above could not have been taken from a date later than the cut-off date of 24 March 1971 (Midnight). Those who did not have any 1971 documents mentioning their name that would show any of the documents mentioned in this list if they mention their parents / grandparents along with one more document from List B (with 8 options) to make a connection. Included in category B:

1. Birth certificate
2. Land document
3. Board/university certificate
4. Bank/LIC/post office records
5. Circle officer/gaon panchayat secretary certificate in case of married women
6. Electoral roll
7. Ration card



8. Any other legally acceptable document

For women married to other locations and without any documents to be selected from list B for the establishment of a family relationship,

(a) a Circle Officer or gaon Panchayat Secretary Certificate not required to be issued on or before 1971

(b) a ration card issued on or before 1971.

What happens if your name is not in the list?

In Assam, those left out of the final list of the NRC had to contact the Foreigners ' Tribunals. Over 200 new FTs have been set up across the state for this reason. If a person is dissatisfied with the decision of the FT, he / she can appeal against it. Detention camps have been set up across the state to house disenfranchised people. There are presently six detention centers in Assam, Goalpara, Dibrugarh,

The only exception to this was Assam, where as per the 1985 Assam Accord foreign nationals who had entered the state before 24 March 1971 had to be regularized as Indian citizens. Seen in this sense, only Assam was allowed to travel to foreign countries until 24 March 1971. For the rest of the country, those born outside the country after 26 January 1950 and living in India without proper documents are foreign nationals.

Taking the Assam model to the entire nation would be similar to asking 125 Crore Indians to reapply for citizenship.

NRC a success or a Failure?

As the final list was released, it excluded 1.9 million people, assuming that 3.29 crore applied in the first place less than 6% have been declassified as “Genuine” Indians.

The whole process of NRC turned out to be a failure which exposed its own inherent flaws. NRC involved massive manpower, crucial logistical planning and huge back-end support. The outcome however did not reflect the same.

Essentially the NRC exercise has achieved little to none of its objectives and it further created:

- 1) A sense of mass panic within the state
- 2) Caused unnecessary confusion and huge discomfort to the residents of Assam.’
- 3) Ate a lot of precious time of the apex court.
- 4) The whole process incurred a massive cost of 1100crore and also involved almost 62000 workers as human resource during the conduct.



It was concluded that NRC did not achieve its desired objectives but unfortunately gave BJP a potent tool to further spread its *hindutva politics* which caused a mass polarization in the state.

In the case of NRC, a lot rested with the bureaucrat/judge that was appointed and in some cases their biases and whim affected people at the receiving end.

RECOMMENDATIONS

Recommendations for Central Government

Establish a clear legal regime in compliance with *Article 21* and International Law conditions in detention centers are regulated by both the Constitution of India and international law. The due process referred to in *Article 21* is directly applicable to the care of designated foreigners, since the clause is agnostic to the nationality status of the detainees.

As a consequence, the whole set of freedoms is both explicit and implied in the clause. The State referred to in *Article 21* must provide for a transparent procedure and respect the right to life and liberty of detainees. A right to integrity, even in custody, cannot be violated. Therefore, it can be argued that the imprisonment of prisoners as common criminals inside prison compounds without proper facilities, such as legal representation or contact with their families, is a breach of their right to live with dignity and the right to due process.

International law specifically states that the incarceration of immigrants cannot be carried out in jails. Immigrant status is not that of offenders. According to the UNHRC Regulations, '*detention can only take place in officially recognized places of detention. Prisons and jails should be avoided for this reason*'. States are obliged to put asylum-seekers or refugees in premises different from those kept under criminal law. Custody must be carried out in a public establishment specifically intended for this purpose; if, for practical reasons, this is not the case, the asylum seeker or the refugee must be held in different premises from those for individuals detained under criminal law.

CONCLUSION

India is at this stage considered to be a developing country and is having a lot of core issues to address such as Unemployment, poverty, illiteracy initially a process like *The NRC* would involve huge cost and also at the same time if not done with due care and diligence may cause public outrage at the national level like it did in Assam.

While it was conducted in Assam it incurred a cost of 1100 crore and if we talk about conducting it on a national level (considering Assam only accounts for 2.4 % of total geographical area and 2.6 % of the total population) the cost incurred will be a massive one and the result can also not be guaranteed to be an effective one. Today, a feeling of despair is prevailing amongst the people because claims are made about the inclusion of foreigners in the list, while genuine Indian citizens have been excluded.

The people who finally made it to the list are thanking their fate, but it does not mean that they are not suffering as many of their friends and family did not make the cut. Many questions were raised regarding the fairness of *The NRC* regime. Though the government promised that excluded persons would also enjoy the rights of a citizen but people had a fear in their mind that how the excluded people will be treated in the detention centers spread across.