

NATIONAL REGISTER OF CITIZENS IN  
ASSAM

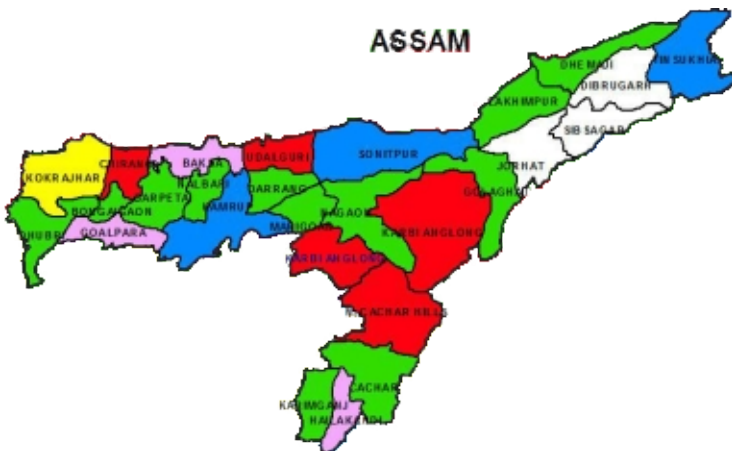
A Spectre of Mass  
Statelessness in India

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## ASSAM



### ***What is National Register of Citizens (NRC)?***

The National Register of Citizens (NRC) is an administrative-legal process initiated by the Indian government in the state of Assam to identify genuine citizens and irregular migrants from Bangladesh who possibly migrated to the state at various points over the last five decades. Residents of the state are required to apply for inclusion in the NRC lists along with their own documents and that of an ancestor, as applicable, to prove their residence in the state prior to 24 March 1971. The process of NRC is being monitored by the Supreme Court of India. A first list was published on 31 December 2017 that included 19 million persons out of 32.9 million who had applied for inclusion in the list. A second and final draft list was published on 30 July 2018 that left out more than 4 million applicants. Those left out have the option of filing claims. A person can also file objection to the inclusion of anyone else. The entire process is planned to be finalised by end of 2018 and a 'final' list published. It is not clear what will be the status of those who will be denied inclusion in the final list.

### ***When did it begin?***

The NRC list was prepared in 1951 after the conduct of the Census of 1951 in Assam. The present process of updation of the NRC began in 2015. It's a voluntary application process that aims at "enlisting the names of those persons (or their descendants) whose names appear in any of the Electoral Rolls upto 1971, 1951 NRC or any of the admissible documents stipulated" (Gov of Assam).

NRC is being updated as per the provisions of The Citizenship Act, 1955 and The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 and an order issued by the Ministry of Home Affairs (Office of Registrar General, India) on 16 March 2010. It aims at creating a list of citizens of India living in Assam and thereby identify the 'illegal migrants from Bangladesh'.

### ***What are the documents required to apply for NRC?***

Persons applying for inclusion in the list have to fill up a four-page

application form and provide proof of their own or their ancestors' inclusion in the Electoral Rolls upto 1971 or in NRC, 1951. If names are not found in both these documents then the applicant has to provide any of the 12 type of documents including land & tenancy records, citizenship certificate, permanent residential certificate, refugee registration certificate, Indian Passport, certificates issued by Life Insurance Corporation of India, Bank/Post Office Accounts, Birth Certificate etc. These documents, however, will be those issued prior to 24 March 1971. The Government of Assam has set up 2500 NRC Seva Kendra (NSK) – Help Desks – in each district to assist applicants with obtaining their documents. Each NSK serves 2500 households. An applicant can obtain her/ his documents from any of the NSKs in the state but she/ he has to submit application only at a designated NSK that covers the present address of the applicant. The process leading to inclusion of a person's name in the NRC list includes verification of documents submitted by matching with documents available with the government and through field verification.

### ***Assam's diversity and the question of genuine citizens***

Assam is an Indian state in the north east of the country that shares a 262 kilo meters long border with Bangladesh. Its other neighbouring states of India – West Bengal, Meghalaya, Tripura and Mizoram too share border with Bangladesh. India shares a total of more than 4000 kilo meter border with Bangladesh. Bangladesh was a part of Pakistan prior to 1971 and part of British India before independence in 1947.

Assam presents highly diverse demographic canvas inhabited by people of different linguistic, ethnic and religious backgrounds. These communities have different customs, traditions and behavioural patterns including different social practices pertaining to marriage, education, health, gender and economic status.

The state has a population of 31.2 million as per the 2011 census. Hindus constitutes 61.47%, Muslims 34.22%, others 4.31% of the population.

Indigenous tribal communities constitute 12.4% of the total population. 17% of the total population are engaged in the tea industry and most of them are 'tea tribes' – persons and their descendants who migrated in successive phases, beginning in 1860, from states like West Bengal, Jharkhand, Chhattisgarh and Orissa. Their estimated population is about 7 million. In terms of language the state is highly diverse with Assamese being spoken by half the population followed by Bengali, Hindi, Bodo and other tribal languages. On the whole people of Assam speak in 200 different languages. Most of these languages do not have a script of their own. (50th Report of the Commissioner for Linguistic Minorities in India, 2014).

### ***Why is citizenship contested in Assam?***

Suspected large scale irregular migration from Bangladesh has been a major issue in Assam. During colonial times, migration of agriculturists from Bengal into Assam, primarily to the fertile river basins of the Brahmaputra and its tributaries, was encouraged by the British to augment revenue collection. Partition of India in 1947 and war for the independence of Bangladesh from Pakistan in 1971 also led to large scale migration of Bengalis into Assam. India hosted more than 10 million refugees fleeing the 1971 war. Half of them were repatriated to the newly independent Bangladesh but many stayed back and the rest stayed in India.

Assam has also been a site of ethnic conflicts and massive human rights violations by the security forces. Ethnic conflicts in Assam in the past more than four decades have led to successive phases of forced displacement of populations in different parts of the state. Bodo-Muslim conflict, Bodo-Adivasi conflict, Karbi-Dimasa conflicts are the most prominent ones leading to large population displacements. According to a report there were 300,000 internally displaced persons in Assam in 2014.

### ***What is existing legal framework on foreigners or illegal immigrants?***

The detection and eviction of foreigners in India is governed by the Foreigners Act 1946, which gives excessive powers to the authorities to

designate and deport those suspected of being foreigners. In this Act, the burden of proof is on the person to prove that he is not a foreigner. It is hard to prove citizenship on paper in a country where people still do not have birth certificates or land records.

### ***Illegal Migrants (determination by Tribunals) Act***

In 1983, Parliament enacted the Illegal Migrants (determination by Tribunals) Act (IMDT Act), initially made applicable only to Assam and applicable to other parts of the country as per the government notifications. It provided judicial tribunals to determine disputes regarding citizenship which might arise under the Foreigners Act. Unlike the Foreigners Act, 1946, the burden of proof was on the authorities to prove that the alleged foreigner is not a citizen of India.

The government's statistics showed that in the 20 years of the operation of the IMDT Act, about 80 per cent of the complaints were rejected by the screening committee, itself. Out of the remaining 76,228 cases referred to the Tribunals during these years, only 21,169 were disposal off by the Tribunal till 2003. Out of these, 11,636 persons were declared as illegal migrants, but only 1517 could be physically expelled.

In 2005 the IMDT Act was struck down as unconstitutional by the Supreme Court of India and the Foreigners Act, 1946, was made applicable to detect, detain and deport foreigners.

### ***The 'D' Voter and Foreigners Tribunals***

In addition to using other means to detect suspected foreigners the government also uses two other mechanisms. A mechanism to mark 'D' (for 'doubtful') against suspected names in the electoral lists is used to disenfranchise them. The Assam police also books suspected persons as 'illegal migrants' and refers their cases to Foreigners Tribunals (FTs). These FTs examine the documents and can pronounce a person 'illegal foreigner' and the person is sent to one of the currently used six detention centres in Assam. There are at present 100 FTs in the state and an estimated 1000

persons are in detention; some of them have spent extended periods in detention. Several cases of persons declared foreigners by the FTs have been annulled by the High Courts and Supreme Court.

### ***India- Bangladesh dialogue on cross border issues***

Bangladesh and India have been holding dialogues on resolving a number of issues. Both have come to mutual understanding on land borders and signed land border agreement. They have been collaborating with each other on development issues, securities and cultural exchange. The focus has also been on stopping human trafficking. However, very limited interaction took place on the issue of irregular migration.

The issue of illegal movement is now addressed within the larger framework of human trafficking. The Ministry of Home Affairs of Bangladesh in the 2012 Annual report defines trafficking as, “the end-object of this crime is commercial sexual work, forced labour, prostitution, or other forms of exploitation. As such, unsafe/irregular migration always runs the risk of human trafficking”. However, the moot issue is Bangladesh does not accept that Bangladeshis are voluntarily migrating to India under forced circumstances. Nevertheless, the bilateral Task Force of Bangladesh and India on Rescue, Recovery, Repatriation and Integration of Trafficked victims/survivors to discuss human trafficking at least provides a political space to deal with the sensitive subject of people who have migrated 'involuntarily'.

As per the MHA annual report of 2016-17, India-Bangladesh has so far discussed on A Task force on Human Trafficking between India and Bangladesh has been constituted. Five meetings of the Task force have been held so far. A Memorandum of Understanding on Bilateral Cooperation for Prevention of Human Trafficking, especially Trafficking in Women and Children, Rescue, Recovery, Repatriation and Reintegration of Victims of Trafficking was signed between India and Bangladesh on 06.06.2015.

While issues such as terrorism, smuggling, drug and human trafficking are routinely discussed, and the two governments have agreed on the modalities of cooperation on those matters. Irregular migration has never featured in official discussions between the two governments.

### ***Spectre of mass statelessness***

Though the Supreme Court is yet to clarify on the legal status of the those denied inclusion in the NRC lists, it is clear that, denied citizenship, they will be rendered stateless. They may lose all basic rights including voting rights.

### ***Timeline***

<b>Date</b>	<b>Event</b>	<b>Particulars</b>
<b>1957</b>	Amendment to the Foreigner's Act 1946	Foreigner defined as a person who is not a citizen of India. This brought Pakistanis in its purview, who had previously been excluded.
<b>1964</b>	Four tribunals set up by the State Government	These were set up through an executive order to cover cases of suspected infiltrators who claimed to be Indians. During 1961-1966 approx. 1,78,952 infiltrators were either deported/ voluntarily left the country.
	Foreigners (Tribunal) Order (Sept)	Four tribunals were set up. The appointment of member with a judicial background made mandatory. As many as 35,080 persons were referred to these Tribunals till the end of August 1965. By 1968 there were 9 Foreigners Tribunals, Illegal Migrant Determination Tribunal (IDMT)
<b>1969</b>	Govt. decided that categories of foreigners were to be deported.	(1) Pakistani nationals who held Pakistani passports, (2) Re-infiltrators who were once deported, (3) Fresh infiltrators, caught at the border.



<b>1976</b>	Notification made against Bangladeshis	Ministry of Home Affairs issued a notification entrusting the Superintendents of Police and the Deputy Commissioners (in charge of police) with powers of Central Government in making orders against Bangladeshi nationals under Foreigners' Act, 1946. While enclosing the notification, the Government of India instructed the State Government that 'persons who had come to India from erstwhile East Pakistan/ Bangladesh prior to March 1971 are not to be sent back to Bangladesh.
<b>1979</b>	All Assam Student's Union sponsored a 12hour general strike (8 June)	They demanded the 'detection, disenfranchisement and deportation' of foreigners. This turned out to be the first of such state-wide protests against infiltration. The Assam Agitation (1979-1985) was a mass movement against illegal immigrants in Assam led by All Assam Students' Union (AASU) and All Assam Gana Sangram Parishad (AAGSP) to compel the Government to identify and expel illegal immigrants.
<b>1983</b>	Violent communal agitations	The Nellie Massacre
<b>1985</b>	Assam Accord	This agreement between All Assam Students Union (AASU), Government of India & Government of Assam contains some important clauses relating to the foreigner's issue, border fencing, construction of border roads, setting up of border out posts etc. Article 6 was added to the 1955 Citizenship Act.
<b>1985-2003</b>	Reviewed cases under IMDT Act	In 20 years of the operation of the IMDT Act, about 80 per cent of the complaints were rejected by the screening committee, itself. Out of the remaining 76,228 cases referred to the Tribunals during these years, only 21,169 were disposal off by the Tribunal till 2003. Out of these, 11,636 persons were declared as illegal migrants.

<b>2005</b>	Supreme Court ruling against the IDMT	IDMT law ruled unconstitutional. 'The quasi-judicial process was made available to a particular class of people with disputed citizenship status in Assam – not others in that position in the rest of the country' (Baruah, 2009).
<b>2008</b>	Ruling of the Guwahati High court (July)	In Assam, 'a large number of Bangladeshis play a major role in electing the representatives both to the Legislative Assembly and Parliament and consequently, in the decision-making process toward building the nation'.
	Bandh (general strike), September	Convened to protest the harassment of Indian citizens by vigilante groups suspecting them of being “illegals”
<b>2014-2016</b>	National Register of Citizens	Up-dation of NRC began in Assam
	Citizenship Amendment Bill	Protested in Assam by groups who oppose the inclusion of Bengali Hindus as Indian citizens – they constitute a sizeable part of the population in parts of Assam.
<b>2016</b>	BJP Chief Minister elected	Sarbananda Sonowal takes over from Congress' Tarun Gogoi, who held office for a record 3 terms.
<b>2018</b>	Final NRC draft published (July)	4 lakh people are “left out”

The Development And Justice Initiative (DAJI) is an organisation in India working for the rights, access to justice and public services of refugees, displaced populations, migrant workers and the stateless in India. In the last seven years of its existence it has worked with more than 12,000 Rohingya refugees to strengthen their protection. It works with India's international migrant workers and returnees and assists them in safe migration, return and reintegration.

DAJI is working with persons left out of the National Register of Citizens (NRC) in Assam state of India. These individuals and families may be denied citizenship and be rendered stateless.

In its work, DAJI engages in research, community mobilisation, training, advocacy and networking. It works in partnership with national, regional and international networks. DAJI is an organisational member of Asia Pacific Refugee Rights Network (APRRN), Statelessness Network Asia Pacific (SNAP) and International Detention Coalition (IDC). It works in partnership with Netherlands based Institute on Statelessness and Inclusion (ISI) and United Nations High Commissioner for Refugees (UNHCR), India.

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