

National Register of Citizens (NRC), Assam
(20 September, 2021)

Background of Assam NRC issue

- Assam is a state in northeastern India, south of the eastern Himalayas along the Brahmaputra and Barak River valleys.

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- The state is bordered by Bhutan and Arunachal Pradesh to the north; Nagaland and Manipur to the east; Meghalaya, Tripura, Mizoram and Bangladesh to the south; and West Bengal to the west via the Siliguri Corridor, a 22 kilometres wide strip of land that connects the state to the rest of India.
- Assamese is the official and most commonly spoken language of the state, followed by Bengali, which is official in the Barak Valley and Bodo which is official in Bodoland Territorial Region.
- Assam has had unique problems of illegal immigration, and that's why it created a Register of Citizens in 1951 based on 1951 Census data. However

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it was not maintained afterwards.

- For decades, the presence of migrants, often called “**bahiragat**” or outsiders, has been a loaded issue here. Assam saw waves of migration, first as a colonial province, then as a border state in independent India and then after East Pakistan and Bangladesh in 1971.

What is National Register of Citizen?

- The National Register of Citizens (NRC) is a register of all Indian citizens whose creation is **mandated by the 2003 amendment of the Citizenship Act, 1955**.
- Its purpose is to **document all the legal citizens of India** so that the illegal immigrants can be identified and deported.
- The National Register of Citizens (NRC) is a register containing names of all genuine Indian citizens.
- **At present, only Assam has such a register.** It has been implemented for the state of Assam starting in **2013–2014**. The Government of India plans to implement it for the rest of the country in 2021.
- It was **prepared after the conduct of the Census of 1951** in respect of each village, showing the houses or holdings in a serial order and indicating against each house or holding the number and names of persons staying therein.
- NRC for Indian citizens in Assam was first created in 1951. The list comprised of those who lived in India on January 26, 1950, or were born in India or had parents who were born in India or had been living in India for at least five years before the January 26, 1950 cut-off.



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NRC in other States of India

- Manipur and Tripura were also granted permission to create their own NRCs, but it never materialised. The reason behind the move was to identify Indian citizens in Assam amid "unabated" migration from East Pakistan (now Bangladesh).
- The exercise may be extended to other states as well. Nagaland is already creating a similar database known as the **Register of Indigenous Inhabitants (RIIN)**. The Centre is planning to create a **National Population Register (NPR)**, which will contain demographic and biometric details of citizens.

Who is a Citizen of India?

As per the Citizenship Act, 1955, every person born in India:

- a. on or after the 26th day of January 1950, but before the 1st day of July 1987;
- b. on or after the 1st day of July 1987, but before the commencement of the Citizenship (Amendment) Act, 2003 and either of whose parents is a citizen of India at the time of his birth;
- c. on or after the commencement of the Citizenship (Amendment) Act, 2003, where-
 1. both of his parents are citizens of India; or
 2. one of whose parents is a citizen of India and the other is not an illegal migrant at the time of his birth, shall be a citizen of India by birth.

- The issue of its update assumed importance as Assam witnessed large-scale illegal migration from erstwhile East Pakistan and, after 1971, from present-day Bangladesh.
- This led to the **six-year-long Assam movement from 1979 to 1985**, for deporting illegal migrants. The **All-Assam Students' Union (AASU)** led the movement that **demanded the updating of the NRC and the deportation of all illegal migrants** who had entered Assam after 1951.
- The movement culminated in the signing of the **Assam Accord in 1985**. It set **March 25, 1971, as the cut-off date** for the deportation of illegal migrants.

What is the Assam Accord?

- Responding to this, the Assam Accord (1985) was signed by the

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Centre and the **All Assam Students' Union (AASU)**.

- Accordingly, those **foreigners who had entered Assam between 1951 and 1961** were to be given full citizenship, including the right to vote.
- Under this accord, those who entered the state between 1966 and 1971 would be deleted from the electoral rolls and lose their voting rights for 10 years, after which their names would be restored to the rolls. Those who entered on or after March 25, 1971, the eve of the Bangladesh War, would be declared foreigners and deported.
- The **entrants between 1961 and 1971 were to be denied voting rights for ten years** but would enjoy all other rights of citizenship.
- Anyone who entered the state **without documents after March 24, 1971** will be declared a foreigner and were to be deported.
- Besides, the Accord had a **package for the economic development of Assam**.
- It also had assurance to provide safeguards to protect the cultural, social, and linguistic identity and heritage of the Assamese people.

- Since the cut-off date prescribed **under Articles 5 and 6** of the Constitution was July 19, 1949 - to give force to the new date, an amendment was made to the Citizenship Act, 1955, and a new section was introduced. **It was made applicable only to Assam**.
- In 1983, Illegal Migrants (Determination by Tribunal) Act was passed by the Parliament which created a Separate Tribunal process for identifying illegal migrants in Assam. Supreme Court struck it down in 2005 after which Government of India agreed to update the Assam NRC.
- There had been intermittent demands from AASU and other organisations in Assam for updating the NRC, an Assam based NGO filed a petition at the Supreme Court.
- In December 2014, a division bench of the apex court ordered that the NRC be updated in a time-bound manner.
- The **NRC of 1951 and the Electoral Roll of 1971** (up to midnight of 24 March 1971) are together called **Legacy Data**. Persons and their descendants whose names appeared in these documents are certified as Indian citizens.
- The process to update the register began following a Supreme Court order in 2013, with the state's nearly 33 million people having to prove that they were Indian nationals prior to March 24, 1971.
- **The updated final NRC was released on August 31, with over 1.9 million** applicants failing to make it to the list.

Why was NRC updated for Assam?

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- In 2013, Assam Public Works and Assam Sanmilita Mahasangha & Ors filed a writ petition before the Supreme Court demanding the deletion of illegal migrants' names from voter lists in Assam.
- **In 2014, the SC ordered the updation of the of NRC**, in accordance with Citizenship Act, 1955 and Citizenship Rules, 2003 in all parts of Assam.
- The process officially started in 2015 and the updated final NRC was released on August 31, with over 1.9 million applicants failing to make it to the NRC list.
- After protests of the exclusion of many Hindus from the list, the home ministry declared that the NRC will be carried out again in Assam.

How does one prove citizenship in Assam?

- In Assam, one of the basic criteria was that the names of applicant's family members should either be in the first NRC prepared in 1951 or in the electoral rolls up to March 24, 1971.
- Other than that, applicants also had the option to present documents such as refugee registration certificate, birth certificate, LIC policy, land and tenancy records, citizenship certificate, passport, government issued licence or certificate, bank/post office accounts, permanent residential certificate, government employment certificate, educational certificate and court records.
- The mammoth counting process went through several phases. First, there was data collection. Most individuals applying for inclusion into the NRC had to prove not only that their ancestors had lived in Assam pre-1971 but also their relationship with the ancestor.
- Then came the verification process. Documents were sent to the original issuing authorities while NRC officials conducted field verification. Once the data was submitted, the applicant's blood relations were plotted on a family tree.

Why is the process so contentious?

- **Bengali Muslims**, the community most often branded as illegal Bangladeshi immigrants, **felt they were put under greater scrutiny** than other groups. These fears were deepened with the sudden appearance of an "original inhabitants" category in 2017.
- **Prateek Hajela, state coordinator of the National Register of Citizens**, admitted that people internally classified as original inhabitants faced less scrutiny. It was rumoured that no Muslims had been included in this category.
- Then in March 2017, the Gauhati High Court ruled that residency certificates issued by gram panchayats could not be used as a link document connecting people born after 1971 with their ancestors.
- This measure hit married women the hardest. The Supreme Court later overturned this decision and panchayat certificates were allowed, provided

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they were verified and submitted with additional documentary proof. But only those women categorised as “original inhabitants” and relying on such certificates made it to the first draft of the register, published on December 31, 2017.

- The second draft was published on July 30, 2018. It excluded 2.48 lakh “D” voters and their descendants. D voters or doubtful voters are people who had their voting rights suspended by the Election Commission because their citizenship was suddenly in doubt. The letter “D” was placed next to their names in the electoral rolls. It was reported that even “D” voters who had fought cases and got their names cleared in Foreigners’ Tribunals have not been able to shed the tag because the Election Commission’s software is not sophisticated enough.

How many people have made it to the NRC so far?

- Of the 3.29 crore people who applied, 2.89 crore people made it to the draft published on July 30, 2018. But over 40.07 lakh were excluded, including army veterans, government employees, families of former presidents and Assam’s only woman chief minister. There is no official community-wise or district-wise data. But anecdotal evidence suggests Bengali-origin communities were overwhelmingly affected. All those left out of the draft were told to make fresh claims to citizenship.
- Over the past year, the NRC officials also accepted objection forms which allowed people to flag the inclusion of “ineligible persons” in the register. On June 26, 1.02 lakh applicants who had made it to the first draft were told they had been included erroneously. They also have to prove citizenship all over again.
- The final list will decide the fate of more than 41 lakh people – a population larger than any of the other North Eastern states, nearly as large as Kolkata and roughly half the size of Switzerland.

What happens to the people left out of the final list?

- Those who do not make it to the final list will have to appear before the Foreigners’ Tribunals of Assam. These quasi-judicial bodies were originally set up under the Illegal Migrants (Determination by Tribunal) Act of 1983.
- The law has since been struck down by the court but the tribunals persist, tasked with determining whether individuals being tried are foreigners and should be deported.
- "Non-inclusion of a person's name in the NRC does not by itself amount to him/her being declared a foreigner," govt has said.
- Such individuals will have the option to present their case before foreigners'

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tribunals.

- If one loses the case in the tribunal, the person can move the high court and, then, the Supreme Court.
- In the case of Assam, the state government has clarified it will not detain any individual until he/she is declared a foreigner by the foreigners' tribunal.

What can people do if they cannot find legacy data?

- The government has set up NRC Seva Kendras in every district of Assam, which assist people in searching for Legacy Data, issuing of Legacy Data Code, and in receipt of NRC Application forms.

Foreigners Tribunals in Assam

- Under the provisions of Foreigners Act 1946 and Foreigners (Tribunals) Order 1964, **only Foreigners Tribunals are empowered to declare a person as a foreigner.**
- Tribunals are **quasi-judicial** bodies, to determine if a person staying illegally is a “foreigner” or not.
- Every individual whose name does not figure in NRC can go to appellate authority: Foreigners Tribunals.
- A member can be a retired judicial officer of the Assam Judicial Service, a retired civil servant not below the rank of secretary and additional secretary with judicial experience, or a practicing advocate not below the age of 35 years and with at least seven years of practice.

What happens to those who lose cases at the Foreigners Tribunals?

- Neither the state nor the Centre has clarified what happens to those who lose their cases in the Foreigners' Tribunals, whether they will be detained, deported or allowed to stay on without the rights and privileges of citizenship.
- In the past, those deemed to be foreigners have been transferred to detention centres in the state. Till date, there are six across Assam, carved out of local prisons. So-called foreigners have languished here for years in a legal limbo. While the Indian state has declared them foreigners, there is no repatriation treaty under which they can be deported to Bangladesh.
- Last year, Assam also got sanction from the Centre to build the first standalone detention camp in the state, capable of housing 3,000 inmates.

What is the significance?

- Assam is the only State that had prepared an NRC in 1951. It has also now become the **first State to get the first draft** of its own updated NRC.
- The Register is meant to establish the **credentials of a bona fide citizen as**

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distinguished from a foreigner.

- This is to **detect Bangladeshi migrants** who may have illegally entered Assam after the midnight of March 24, 1971.
- This cut-off date was originally agreed to in the 1985 Assam Accord.

Is a nationwide NRC different from the Assam one?

- So far, the government has not officially called for the updation of the NRC for all of India, hence how this process will be carried is not clear.
- While in Assam, citizens were asked to submit the proof of citizenship themselves to NRC Seva Kendras set across the state, it is not sure how the same model will be implemented across the entire country.
- Also, the Assam NRC was mandated through a special exception for the state in the Citizenship Act, 2003 and the process was overseen by the Supreme Court. At present, no such guidelines exist for a countrywide updation of the list. If a nationwide NRC is carried out, it will be under the direction of the Union government.
- However, the processes similar to the NRC have begun in many states such as the Register of Indigenous Inhabitants in Nagaland as well as the Centre announced National Population Register (NPR) which will contain demographic as well biometric information of citizens.

Challenges in NRC Assam

- **Flawed Process** - People who found themselves on the first list that was released on January 1, 2018, didn't find their names in the second. Even the family of a former President of India did not mention on the list.
- The parallel processes of NRC, the voters list of the Election Commission, and the Foreigners' Tribunals with the help of the Assam Border Police, have led to utter chaos, as none of these agencies are sharing information with each other.
- Though the draft provides a window for re-verification, due to large number of people being excluded from the list, it will be very difficult to physically verify all of them.
- Since such 'non citizens' can resort to judicial relief to substantiate their citizenship claim, it can lead to overburdening of judiciary which already reels under large number of pending cases.
- There is uncertainty about the future of those left out from the list.
- Expelling them to Bangladesh is not an option since Dhaka has never accepted that they are its citizens or that there is a problem of illegal immigration. In the absence of a formal agreement, India cannot forcibly push the illegal migrants back into Bangladesh.
- Moreover, raising this issue can also jeopardise relations with Dhaka. Such an attempt would not only damage bilateral relations but also sully the

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country's image internationally.

Way Forward

- India, as a country which follows the ideology of 'Vasudhaiva Kutumbakam', should not be hasty in taking decisions that can disenfranchise her citizens – contradicting its centuries-followed values.
- The need of the hour is that Union Government should clearly chart out the course of action regarding the fate of excluded people from final NRC data and political parties should refrain from coloring the entire NRC process through electoral prospects that may snowball in to communal violence.

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