



# THE NATIONAL REGISTER OF CITIZENS (NRC): NAVIGATING THE COMPLEXITIES OF POLITICO-LEGAL CHALLENGES AND NATIONAL SECURITY

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## ABSTRACT

*The National Register of Citizens (NRC) is indeed a critical and highly debated issue in India, especially in Assam. As you've outlined, the NRC was first prepared in 1951, but it was not updated until recently. The current update process in Assam is being closely monitored by the Supreme Court of India, aimed at identifying illegal immigrants and protecting the rights of genuine Indian citizens. The problem of illegal immigration, particularly from Bangladesh, has been a long-standing concern in Assam, leading to significant demographic changes and social tensions. The porous borders between India and Bangladesh have made it easier for illegal immigrants to enter and blend in with the local population due to shared cultural, linguistic, and religious ties. This has exacerbated issues such as loss of jobs and land for the genuine citizens of Assam, and has also impacted electoral outcomes, undermining the democratic process in the state. The NRC is intended to address these issues by identifying and documenting genuine Indian citizens, thereby protecting their rights and ensuring that illegal immigrants do not benefit from government schemes or influence electoral outcomes. However, the implementation of the NRC has also sparked fears and concerns about potential wrongful exclusions and human rights violations, particularly for marginalized communities who may lack the necessary documentation. Given these complexities, the NRC remains a contentious issue with significant political, legal, and social implications for Assam and the rest of India.*

**Key words:** NRC, Supreme Court of India, Politico-Legal Challenges, Complexities.

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## I. INTRODUCTION

The National Register of Citizens (NRC) is a crucial and controversial issue in India, particularly in the context of Assam, where it has been implemented to identify illegal immigrants. National Register of Citizens (NRC) is a list of genuine Indian citizens prepared by the Government of India. It was first prepared in the year 1951, after the 1951 census. No updating was done until recently. The first state where the updating of NRC is being done in the North-Eastern state of Assam under the observation of the Supreme Court. It is being taken up to incorporate the names of those people whose names were there in the 1951 NRC<sup>1</sup>, still living and/or their descendants having a lasting occupancy within the state.

Over the years there have been statewide protests by genuine citizens against the loss of jobs and demographic changes caused by illegal migrants. Illegal immigration has snowballed over the years in the state of Assam which is further affecting the genuine citizens of the state. India's permeable borders with Bangladesh which has made illegal migration possible from the states like West Bengal and Assam. Therefore, illegal migration is not only a state problem but a major issue for the whole country. Hostile terrains<sup>2</sup> make it really difficult for the security agencies to ensure zero infiltration. Owing to the common culture, language, and religion these immigrants share with the people of other states, it becomes easier for them to blend in with the locals. The genuine citizens end up losing their jobs, welfare scheme, land, etc. further leading to the election results in these states not showing the genuine will of the locals. The NRC is a significant and necessary step to address concerns around illegal immigration and national security. However, its implementation must be carefully managed to avoid politicization, ensure the protection of human rights, and address legal challenges. A balanced approach that considers the socio-political landscape, legal framework, and humanitarian concerns is essential for the NRC to be effective and just. The debate around NRC has sparked nationwide discussions about its implications, benefits, and challenges.

## NEED OF THE HOUR

**Addressing Illegal Immigration:** The primary goal of NRC is to identify and address illegal immigration, particularly in border states like Assam. Illegal immigration has long been a sensitive issue, leading to demographic changes and social tensions.

**National Security:** Ensuring that the country has a clear record of its citizens is vital for national security. The NRC aims to prevent illegal immigrants from obtaining government benefits and safeguards intended for Indian citizens.

**Social Cohesion:** The NRC could help in maintaining social cohesion by addressing long-standing concerns about illegal immigrants, which often lead to conflicts between different communities.

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<sup>1</sup> The National Register of Citizens (NRC) is the register containing names of Indian CITIZENS. The only time that a National Register of Citizens (NRC) was prepared was in 1951 when after conduct of the Census of 1951, the NRC was prepared by recording particulars of all the persons enumerated during that Census.

<sup>2</sup> a region with lots of mountains, vast stretches of desert, or impenetrable jungles. These are all areas of difficult terrain that are hard to pass. The areas are prone to infiltration but tough to check the menace.

**Legal Clarity:** It provides legal clarity on citizenship, which is essential for implementing various government policies and ensuring that benefits reach the intended recipients.

## II. OBJECTIVE OF NRC

The basic objective of maintaining the National Register of Citizens of Assam is to throw out illegal immigrants<sup>3</sup> coming from Bangladesh and other adjoining countries. As per the Supreme Court order in the year 2013<sup>4</sup>, the process of NRC updating<sup>5</sup> was taken up in the state of Assam. This was carried out under The Citizenship Act, 1955<sup>6</sup>, and the rules framed in the Assam Accord<sup>7</sup>.

## III. THE ASSAM ACCORD

The Assam Accord (1985) was a Memorandum of Settlement<sup>8</sup> underwritten by the Government of India and the representatives of the Assam Movement in New Delhi in

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<sup>3</sup> Illegal immigration refers to the act of entering or living in a country without proper authorization or documentation. It is a highly debated and politically contentious issue, often associated with concerns about social, economic, and security implications. The media plays a significant role in shaping public discourse on illegal immigration, although the extent and consequences of this phenomenon are difficult to quantify due to its undocumented nature.

<sup>4</sup> 3591 E dated 6 December 2013 notified commencing of NRC updation. Since then, the Supreme Court of India has been closely monitoring the process and holding regular hearings on representations made to it by various interested parties and stakeholders.

<sup>5</sup> In 2013, the Supreme Court directed the State of Assam to update the NRC. The process was closely monitored by a 2-Judge Bench, comprising then CJI [Ranjan Gogoi](#) and Justice [Rohinton Nariman](#). They ensured that the NRC exercise complied with the Citizenship Act, 1955, and the Citizenship (Registration of Citizens and the Issue of National Identity Card Rules), 2003.

<sup>6</sup> The Citizenship Act, 1955, which provides for the acquisition of citizenship, after the commencement of the Constitution by birth, descent, registration, naturalisation and incorporation of territory under certain circumstances, and also provides for the termination and deprivation of citizenship

<sup>7</sup> The Assam Accord has been signed on 15<sup>th</sup> August, 1985 amongst Union of India, Govt. of Assam, All Assam Student of Union, All Assam Gana Sangram Parishad. To implement the various Clauses of Assam, accord a new Department has been established in the name of “**Implementation of Assam Accord Department**” during the year 1986.

<sup>8</sup> The Assam Accord was a Memorandum of Settlement (MoS) signed between representatives of the Government of India and the leaders of the Assam Movement. It was signed in the presence of the then-Prime Minister Rajiv Gandhi in New Delhi on 15 August 1985.

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the year 1985<sup>9</sup>. This led to an end of the agitation and made way for a political party that will form a government in the northeastern state<sup>10</sup> of Assam.

The demands that were laid down in this accord were as follows:

- All the migrants who had entered the state of Assam from 1951 to 1961<sup>11</sup> were to be given citizenship with all the rights that come along with it. These migrants/foreigners were given voting rights but were denied a vote for the next ten years.
- The government in the center was supposed to safeguard the heritage, language, and culture of the people of Assam.
- The economic development of the region was also to be looked into.

### **ELIGIBILITY CRITERIA**

The following conditions must be fulfilled-

Names present in the 1951 NRC.

Names of the people that appear on any voter list in Assam up to midnight of 24th March 1971<sup>12</sup>.

Descendants of the above-mentioned people.

All the migrants who came from Bangladesh between 1st January 1966 and 24th March 1971, registered with the Foreigner Regional Registration Office<sup>13</sup> and were declared genuine Indian citizens by the Foreigner Tribunal.

Apart from the above-mentioned criteria if any person's name is not mentioned in then he/she can furnish any of the documents from LIST A issued before midnight of March 24, 1971.

Some of the documents from LIST A are as follows:

## **IV. 1951 NRC**

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<sup>9</sup> It was agreed that “for purposes of defection and deletion of foreigners, 1996 shall be the base data and year “and that “all persons who came to Assam prior to 1.1. 1966, including those amongst them whose names appeared on the electoral rolls used in 1967 elections shall be regularized

<sup>10</sup> The long pending conflict ended in Assam under the leadership of Prafulla Kumar Mahanty during the Prime Minister ship of Rajiv Gandhi

<sup>11</sup> Large scale illegal migration from East Pakistan/Bangladesh over several decades has been altering the demographic complexion of this State. It poses a grave threat both to the identity of the Assamese people and to our national security. Successive Governments at the Centre and in the State have not adequately met this challenge.

<sup>12</sup> The ASM had challenged the Constitutional validity of the midnight of March 24, 1971, as the cut-off date for detecting and deporting foreigners. This date was agreed upon while signing the Assam Accord in August 1985 to end a six-year violent agitation against foreigners in the State.

<sup>13</sup> Persons who came to Assam from Bangladesh between 1st January, 1966 and 25th March, 1971 and registered themselves with the **Foreigner Regional Registration Office**

- Any Assam voter list up to March 24, 1971

- Land and tenancy records
- Citizenship certificate
- Permanent residential certificate
- Refugee registration certificate

In case a person has no document from List A that carries his/her name, then the person can present any List A document which contains the name of an immediate predecessor, with a List B document to prove his/her lineage. Documents in List B are not time-barred.

Some of the documents from LIST B are as follows:

- Birth certificate
- Land document
- Board/university certificate
- Bank or post office records
- Ration card
- Voter list

## V. WHO IS A CITIZEN IN INDIA?

Citizenship can be defined as the status of an individual under the law who is a rightful member of a state or a nation.

Part II (Articles 5-11) of the Constitution of India deals with citizenship.

Article 5 grants citizenship to anyone who was born in India, either of whose parents were born in India or to anyone who resided in India for a minimum of five years before the commencement of the Constitution of India.

Article 6 talks about that whoever relocated back to India before the 19th of July, 1948 after the partition will be granted citizenship if either of their precursors was born in India

Article 7 grants citizenship to those who were settled in Pakistan after the 1st of March, 1947, but came back to India on resettlement permits.

Article 8 talks about granting citizenship to a person of Indian origin residing outside India.

Apart from the Constitution of India gives certain rights also known as fundamental rights to non-citizens –

Article 14- Right to equality

Article 21- Protection of life and personal liberty

Article 25- Right to manage religious affairs

However, certain rights are only available to citizens. Some of these rights are as follows-

Article 15- Prohibition of discrimination on grounds of religion, race, caste, sex or, place of birth

Article 16- Equal opportunity in matters of public employment

Article 19- Protection of certain rights w.r.t. speech, movement, residence, profession, forming unions, etc

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The Indian Parliament ratified The Immigrants (Expulsion from Assam) Act<sup>14</sup> in the year 1950 to safeguard the cultural and social interests of the people of Assam. Under The Immigrants Act, 1950<sup>15</sup> the central government can order the extradition of any person who had come into Assam from outside India. After the partition of India and the birth of Bangladesh, there was a huge influx of immigrants into Assam. This resulted in a huge disturbance in the state which further led to the signing of the Assam Accord on 15th August 1985.

The Citizenship Act of 1955 was amended in the year 1986 under which Section 6A<sup>16</sup> was inserted. Under this section, any person who had entered Assam before 1st January 1966 and been its legal resident was to be considered as Indians. And all those who came after 1st January 1966 but before 25th March 1971 were to be granted citizenship only after registration.

### VI. ARGUMENTS AGAINST NRC

- To prove whether a person has strong roots in a state or to prove one's citizenship is not a simple task. This verification requires people rather than the gazetted officers to extract documents, therefore the government is accused of putting the burden of proof on people.
- It is very uncertain as to what will happen to those who are adjudged as non-Indians<sup>17</sup>. Most of the political campaigns are in favor of the deportation <sup>18</sup>of such people.
- Considering deportation as not an option, some officials are in favor of detention camps<sup>19</sup>. By locking lacs of people in detention camps, India's civilized democracy is under question.
- Some political parties have transformed this into a Hindu-Muslim debate instead of an insider-outsider debate.

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<sup>14</sup> Immigrants (expulsion from Assam) Act was passed in 1950. In 1951, the first National Register of Citizens was prepared in Assam to ascertain illegal immigrants from the then East Pakistan.

<sup>15</sup> the government passed the Immigrant (expulsion from Assam) Act in 1950. This gave the central government the power to detect and deport infiltrators and immigrants from East Bengal (the then East Pakistan, now Bangladesh)

<sup>16</sup> The Assam Accord, signed in 1985, introduced Section 6A into the Citizenship Act, of 1955, exclusively for Assam. This provision addresses the issue of large-scale migration preceding the 1971 Bangladesh Liberation War.

<sup>17</sup> Foreigners who came to Assam on or after March 25, 1971 shall continue to be detected, deleted and expelled in accordance with law. Immediate and practical steps shall be taken to expel such foreigners.

<sup>18</sup> deportation, expulsion by executive agency of an alien whose presence in a country is deemed unlawful or detrimental. Deportation has often had a broader meaning, including exile, banishment, and the transportation of criminals to penal settlements

<sup>19</sup> **Assam Detention Camp** is a group of immigration detention centers for illegal immigrants located in Assam. The first detention centre in the state had come up in 2008 under orders of the Gauhati High Court.<sup>[4]</sup> Currently six immigration detention centres have been set up in Assam, all inside jails, in various districts of the state

- There is a growing fear in Bangladesh with reference to those people who did make it to the final NRC list, to be deported to Bangladesh. Considering this as an option, Bangladesh is already struggling with resources to host Rohingya <sup>20</sup>refugees.

## WHAT ARE THE ARGUMENTS IN FAVOUR OF NRC?

- Many people of Eastern Pakistan and Eastern Bangladesh descent who came to India during the pre-1970s were labeled as foreigners but now will find a place in the National Register of Citizens.
- People who were left out of the final NRC list are assured by the central government that they can still file claims before 28th September 2019 and there are chances that this date could be extended in the future.
- Millions of migrants, both Muslims and Hindus will get the citizenship of India and therefore can live freely without any suspicion.
- The Supreme Court, central and the state government have assured that there won't be any kind of pressing the action against anyone who is excluded from the final NRC list solely based on the list.

## VII. PRESENT SCENARIO

Assam's NRC compilation was completed on 30th September 2019 with the rejection of at least 19 lac people out of 40 lac people who found no place in the draft National Register of Citizens published in the month of July last year.

Total applicants: 3.3 crore people from 68.4 lac families

Excluded in draft NRC (published on 30th July 2018)

Excluded in the additional list (26th June 2019) after re-evaluation: 1 lac (called for hearing without having to file claims)

Total claims filed: 36 lac

Did not file a claim: 4.4 lac

Total rejected: 19 lac

Almost 3.11 crore people have made it to the final list. The ones who did not file a claim, their whereabouts are under scrutiny. These 4 lac people make about 20% of those who failed to make it to the final NRC list. Some officials believe that this group of people would comprise of Indian citizens from other states who migrated to Assam for a living and intended to go back later someday. While the rest are believed to be illegal immigrants who failed to get citizenship in their first attempt.

The Ministry of Home Affairs has assured all the people excluded from the final NRC that they will continue to enjoy all of the rights like any other citizen of the country eg. Right to education, employment, property, etc. All those who did not find a place in the final list have a chance to appeal within 120 days from 31st August to the Foreign Tribunal<sup>21</sup>. At least 200 new tribunals are being set up apart from the existing 100 to facilitate all the

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<sup>20</sup> It is identified that Rohingyas (who are originally from Bangladesh) are using the Assam as corridor to infiltrate into Delhi and other places.

<sup>21</sup> Foreigners who came to Assam after 1.1. 1966 (inclusive) and upto 24<sup>th</sup> March, 1971 shall be detected in accordance with the provisions of the Foreigners Act, 1946 and the Foreigners (Tribunals) Order 1964. 5.4 Names of Foreigners so detected will be deleted from the electoral rolls in force.

claimants. District Legal Services are under the direction of the Central Government to provide legal aid to the ones excluded from the list.

There is a possibility that the Central Government might push for NRC in other states of India as well. There are plans for a National Population Register (NPR)<sup>22</sup> which will carry all the biometric and demographic details of all its citizens. A few years ago the UPA government started the National Population Register project<sup>23</sup> but was left incomplete.

### VIII. LEFT OUTS FROM NRC:

The Register General of India, the nodal agency which was updating the NRC in Assam, under the supervision of the Supreme Court, has not yet notified the NRC list. The NRC process, in fact, has remained stalled as several organizations in Assam filed petitions against the process of listing. Many have questioned the reason for non-inclusion of many families who have been living in Assam since pre Independence time even during British era. Their exclusion saying that they are from Bangladesh is unreasonable and baseless. The CAA allows the non-Muslim "persecuted migrants" from Bangladesh, Pakistan and Afghanistan (till December 2014) to apply for Indian citizenship.<sup>24</sup>

### IX. POLITICO-LEGAL CHALLENGES

1. **Human Rights Concerns:** The process of identifying citizens and non-citizens can lead to significant human rights challenges. There are concerns about the potential for wrongful exclusion of genuine citizens, especially those who may not have adequate documentation.
2. **Political Polarization:** The NRC has become a politically charged issue, leading to polarization. Different political parties have different stances on NRC, which can lead to unrest and division among the population.
3. **Legal Challenges:** The implementation of NRC has led to numerous legal challenges, with many arguing that it violates fundamental rights guaranteed by the Constitution, such as the right to equality and the right to life.
4. **Implementation Issues:** The process of updating the NRC is complex and resource-intensive. The experience in Assam showed that it can be challenging to ensure that the process is fair and free from errors, leading to widespread anxiety and legal disputes.
5. **Impact on Vulnerable Communities:** The NRC disproportionately affects vulnerable communities, including economically disadvantaged groups and minorities, who may lack the necessary documentation to prove their citizenship.
6. **International Relations:** The NRC has implications for India's relations with neighbouring countries, particularly Bangladesh, as the issue of illegal immigration is a sensitive one.

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<sup>22</sup> The National Population Register (NPR) is a Register containing details of persons usually residing in a village or rural area or town or ward or demarcated area within a ward in a town or urban area.

<sup>23</sup> The objective of the NPR was to create a comprehensive identity database of every resident in the country. Further, the Ministry of Home Affairs, Government of India decided to issue microprocessor-based national I-cards under NPR being created by the Census Office.

<sup>24</sup> <https://www.deccanherald.com/india/assam/finish-the-nrc-process-first-nrc-left-outs-in-assam-confused-angry-over-the-caa-rules-2935531>



## X. CONCLUSION

The National Register of Citizens turned out to be more complex and distressing than one could ever think of. It was based on the principle of detect, delete, and deport. Looking at the number of people who challenged the methodology of the whole exercise shows how much we as citizens are concerned for others. Rather a lot of people thought that this effort was bound to fail miserably and not come to any conclusive decision. As of now, the final NRC is out and a little more than 19 lac people have been rejected. Now the question that arises is what can be done with a large group of people. The first thing that can be done is to categorize those who did not any place in the final NRC. In the words of Hannah Arendt<sup>25</sup> “as long as the world is organized around the category of state-system, a person has to belong to one in order to have her/his rights”. It simply means that those excluded from the final NRC need to be categorized else they won’t have any rights.

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<sup>25</sup> **Hannah Arendt** was a German-American historian and philosopher. She was one of the most influential political theorists of the 20th century

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