

# **Study and Analysis on National Register of Citizens of Assam**

**Dr. R. Valarmathi**

**Ms. Parismita Ray**



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**CENTER FOR POST GRADUATE LEGAL STUDIES**

**DISSERTATION:**  
**STUDY AND ANALYSIS ON NRC(full form) OF ASSAM**

**Submitted by-**  
**Parismita Ray**  
**Roll no: 19dmlaw035**  
**Dissertation Guide:**  
**Dr. Valarmathi**  
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## **Chapter I**

### **INTRODUCTION:**

Illegal immigration, particularly from Bangladesh, is a major issue in the society and politics of Assam from the last four decades. The Bangladeshi immigration in Assam started in 19th century itself with direct or indirect patronage of the colonial rulers. If we trace back to the historical facts it can be seen that farmer migrants from Bengal districts of Mymensingh, Pabna, Bogra and Rangpur continued to come in small numbers. But with due course of time this migration took the form of large scale influx into the Brahmaputra Valley. The intensity of the issue can be realized from the government reports like the Report sent by former Assam Governor, Lt. Gen. (Retd.) S.K. Sinha to President K. R. Narayanan in 1998 which created a sense of insecurity in Assam as it firmly stated that- “the influx of illegal migrants is turning the lower Assam districts into a Muslim-majority region. It will only be a matter of time when a demand for their merger with Bangladesh may be made. The loss of lower Assam will sever the entire land mass of the Northeast from the rest of India and the rich natural resources of that region will be lost to the nation.” Census of India data shows the abnormal rise of East Bengal origin Muslim population in various districts of Assam. This population explosion of Bengali speaking Muslims also led to the rapid demographic change in Assam which creates existential threat to the local inhabitants of Assam. For example in 2001, six districts were Muslim dominated but in 2011 it increased to Nine districts. Census data shows the rapid increase of Muslim population from 30.9 % in 2001 to 34.2% in 2011. It is pertinent to view that the Bengal immigrants and their descendant furnish about 77% of Assam’s Muslim population. They were termed as Mymensinghias which later became synonymous with immigrant as 85% of them came from Mymensingh, However Muslims who settled in Assam in the 13th century itself are regarded as Assamese Muslims. Here, we need to mention that this illegal Bangladeshi includes Hindu Bangladeshis also. Here, it is important to note that there is no official statistics on the exact number of illegal Bangladeshis in India in general, although some unofficial estimates put the number at 20 million. Similarly, there is no concrete data on the number of Bangladeshi migrants in Assam specifically, although in 2005, former Assam Governor, Lt. Gen. Ajai Singh reported that almost 6,000 Bangladeshis enter Assam every day. According to the United Nations Department of Economic and Social Affairs (UNDES) Report around 3.2 million (32 lakhs) Bangladeshis entered and settled in India. The

UN termed this phenomenon as a single largest stock of international migrants in the Eastern Hemisphere. Therefore, it is very crucial to identify the number of illegal Bangladeshi immigrants not only to take action against the present illegal Bangladeshi immigrants but also to restrain further infiltration. Hence upgradation of National Register of Citizenship (NRC) is an immediate need. Thus the basic objective of this paper is to study the issue of Bangladeshi immigrants and the NRC upgradation in Assam. This area of study has been chosen because of its significance in the contemporary time.

### **Genesis:**

If we go back to the historical roots of immigration, it is pertinent to mention here that the colonial rulers patronized migration at the earlier stage and they termed it as “farmer migration.” Assam, which had a lot of waste and fallow land, began attracting Muslim peasants and cultivators from the East Bengal districts of the Bengal Presidency as early as 1891. It is noted that despite the long-standing congestion of population and scarcity of land, the mass migration of Bengalis to the Assam valley was first reported in the 1911 Census. Further the number of Muslims in Assam, except Sylhet, was 5, 03,670 in 1901 and it raised up to 18, 46,457 on the eve of partition. Thus the data shows the rapid decadal growth of Muslim population in Assam in fifty years which, of course, included natural growth of population also.

Here it is also necessary to refer to the role of Muslim League in post 1937 in the politics of Assam after the United Muslim Party under the leadership of Saadullah formed a government in Assam. This government pursued a policy of patronizing Muslims immigrants throughout the period between 1939-41. The Saadullah government allotted one lack bighas of land in the Assam Valley for the settlement of East Bengal immigrants to uphold that the immigrants were mostly landless and the only solution was to provide them with available lands. The influx of immigrants didn't stop at that time but further continued even after independence. After 1971 the religious and linguistic profile of Assam underwent a marked change. The Muslim population grew steadily from 24.56% in 1971 to 28.43% in 1991 to 34% in 2011. Number wise from 1951 to 1971 the Muslim population grew by 16 lacks or 80,000 per year; from 1971 to 1991 by 27.81 lacks or 1, 39,000 per year; from 1991 to 2001 by 18.67 lacks or 1, 87,000 per year; from 2001 to 2011 by 26 lacks or 2, 60,000 per year, the highest rate of increase in India<sup>1</sup>. Here it is important to mention that according to a report the 1996

Bangladesh population census report found 8 million (80 lacks) persons missing or unaccounted for in the country.

It is often accused by the people of Assam that politicians in Assam are not taking adequate measures to resolve influx of the illegal migration as some political parties are incline towards such activities for “vote bank” politics.

<sup>1</sup> the hindu (Assam's national register of citizens) (2019)

Here we can cite the examples like the first voter list discrepancy in Assam which was noticed way back in 1979 when 45,000 illegal migrant names were found in the Mangaldoi Assembly election voters list. From 1994 to 1997, 57 out of 126 constituencies in Assam showed an increase of 20% in the number of voters whereas the all India average was 7.4 % for the same period. This rather unnatural increase in the number of voters in Assam is perhaps due to the addition of names to the voters list through dubious means.

### **DEMAND FOR NRC: ( full form)**

The demand for NRC upgradation for the first time came from All Assam Student Union (AASU). Assam movement (1979- 85), the longest student movements in the history of India, led by AASU on the demand of identification and deportation Illegal Immigrants and particularly against the Illegal Immigrants from Bangladesh. AASU and other organization were in favour of deporting the immigrants irrespective of religion (Hindu or Muslim). As an upshot in 1985 Assam Accord was signed between the leaders of Assam movement and the then Prime Minister of India, Rajiv Gandhi. Their key demands were- detection of foreigners and their deportation, NRC upgradation in Assam and sealing the Indo Bangla boarders. The Assam Accord of 1985 stated that anybody settled in Assam from Bangladesh after March 25, 1971 is not a citizen, but an illegal migrant. This provision of the Accord has not been implemented properly and has therefore failed to change the nature of Bangladeshi immigration into Assam. Though after Assam Accord, Asom Gano Parishad was formed under the leadership of AASU leaders and came to power in 1985 Assembly elections, but they failed to tackle the issue of Bangladeshis. It is because of the lack of interest and will of the State as well as Centrale governments. However AASU and other organizations like Asom Jatiyatabadi

Yuva Chatra Parishad (AJYCP) were demanding the full implementation of Assam Accord and the deportation of Illegal Bangladeshi Immigrants and in several times they sat for meeting with respective state and union governments after 1985.

It is also essential to state the central government's decision to set up the Illegal Migration (Determination by Tribunals) Act, 1983 (IMDT) on December 12, 1983 under an act of Parliament in order to tackle the issue of illegal migration into Assam which was applicable only to the state of Assam. According to the IMDT Act anybody settled in Assam before March 25, 1971 was a legal citizen. Whereas, for the rest of India, the cut-off date for acquiring Indian citizenship is July 19, 1948. Apart from that the IMDT Act provided for some discriminatory status for the state of Assam. Such as the Act laid the obligation on the complainant rather than on the accused to prove the latter's citizenship status. In contrary to that the Foreigner's Act, 1946, lays the responsibility on the accused. This let the failure of the IMDT Act to effectively identify and deport illegal migrants.

Later on, a three Judge Bench of the Supreme Court on July 12, 2005, ruled that the IMDT Act "created the biggest hurdle and is the main impediment or barrier in identification and deportation of illegal migrants." The Bench also pointed that despite the fact that out of 310,759 cases under the IMDT Act, only 10,015 persons were declared illegal migrants and among these, only 1,481 were physically expelled as of April 30, 2000. In contrast, under the Foreigners Act, 1946, West Bengal, which also has a huge influx of illegal Bangladeshi migrants, has deported nearly half a million till date. The Bench held the Act unconstitutional and stated that it contravened Article 355 of the Constitution. It can be referred that Article 355 of the Indian Constitution entrusts upon the Union of India the duty to protect every state against "external aggression and internal disturbances". Further the Supreme Court also directed the setting up of fresh tribunals under the Foreigners Act, 1946 and Foreigners (Tribunal Order) 1964.

The effectiveness of these legal mechanisms to deal with the issue is however under suspicion. It has been reported that about 12 lakh Bangladeshi nationals have entered India legally with visas till the date but have subsequently vanished without trace. This reflects the inability on the part of law enforcement agencies to perform the tasks of detecting and deporting these Bangladeshi citizens. In 2005 Assam government announced its decision to update NRC. In the year 2010 pilot project was launched by covering Barpeta and Chhaygaon Assembly constituencies. The project was successfully completed in Chhaygaon, but it

Barpeta it had to be called off after the violent protest of All Assam Minority Student Union<sup>2</sup>. While organizations like AASU were demanding the NRC update at the earliest. Till Supreme Court intervened, the performance of ruling government is always reported to be slow. Only with the involvement of the Honourable Supreme Court the process of NRC upgradation picked up little pace in recent days.

### **RECENT DEVELOPMENT:**

The first draft of NRC was published on 31st December 2017 with the direction of Honourable Supreme Court by covering almost 1.9 crore people of Assam out of 3.29 crore applicants. It is also expected that the next and final draft will also be published within a year. But a sense of fear is seen among the ----?

<sup>2</sup> the Telegraph (online edition)----?

draft will also be published within a year. But a sense of fear is seen among the both Bengali speaking Hindu and Muslim community in Assam regarding NRC. In Barak valley which is a Bengali dominated region, even various political and non-political organizations are protesting against NRC. It may be because of failure of government to convey to the people that legal Indian citizens have nothing to worry about it. So there was a panic among the people. Despite the Supreme Court intervention vested political interest attempts to delay the NRC to protect their respective vote banks continue as evident from the misleading statements of the first draft of NRC on 31st Dec, 2017. There are also false propaganda among Muslims and the Hindu Bengalis that it was a ploy against them.

In this process the role of the West Bengal Chief Minister, Mamata Banerjee is vital to state here as on January 2nd, 2018 she accused the BJP led Central Government of hatching a conspiracy to drive out Bengalis from Assam by excluding their names in the first draft of NRC. She also added that this is a conspiracy of the Central Government to drive out around 1.80 crore people from the state. Through this statement she conveyed deceptive messages to the people as stated by many. Further on 4th Jan, 2018, the MPs of Trinomool Congress in support of Mamata Banerjee's statement, raised protests in both inside and outside the

parliament. As a consequence in Assam also, particularly in Barak Valley, various political and non-political organizations (The Citizens Rights) raised protest against NRC.

In this regard it is also keen to observe the reactions of political leaders of various political parties. On 7th January, Assam Pradesh Congress President Ripun Borah said, the statement of Mamata Benarji on NRC upgradation in Assam is immature, unwanted and not based on fact. He further added that they never support her on this issue. However on 8th Jan, 2018, the Cachar District Committee of INC (Indian National Congress) protested against the absence of 70 percent names of the people of Barak Valley in the first draft of NRC. Further the Silchar Congress MP Sushmita Deb said that the list had around 60-70 percent names of Brahmaputra Valley citizens whereas only 30% - 35% names of Barak Valley citizens which clearly reveals the step motherly attitude of the State government.

Asom Gana Parishad, present ruling coalition party which was formed on the demands of deportation of Bangladeshis, is in favour of NRC update on the basis of 25th March 1971 as a deadline (According to Assam Accord). They even threatened their ruling alliance partner BJP to snap ties with the Government if the Centre pushes for passage of the Citizenship (Amendment) Bill, 2016 which seeks to grant citizenship to Hindu Bangladeshis, who have entered Assam illegally post 1971 period.

Opposing the Citizenship (Amendment) Bill, 2016, former Chief Minister Prafulla Kumar Mahanta has said that Assam will suffer the most if the Bill is passed. Mahanta conveyed this to Prime Minister Narendra Modi and he explained that the root cause of the problem in Assam is non-implementation of the Assam Accord. He opined that updating of the NRC will solve the foreigner's problem to a great extent. For him, steps should be taken to prepare a correct NRC, though he also highlighted the fact that in this regard a major problem is that neighbouring countries refuse to take back those who are declared as illegal migrants. For that reason it is necessary that India should sign bilateral agreements with neighbouring countries to take back those who are identified as their citizens, he stressed. Mahanta also dismissed as insignificant the missing of names from the draft NRC. He also argued that seen in case of voter's list, sometimes names are dropped or misspelt which can be certified.

Apart from political parties it is important to discuss the role of student organizations like AASU who has been fighting for the long standing demand for NRC upgradation. They are always in the forefront of the demand for an error-free NRC. The AASU chief adviser Dr.

Samujjal Kumar Bhattacharya in an interview, clearly stated that no Bangladeshis whether Hindu or Muslim, who came to Assam after 1971 will be allowed to stay in the state. He also showed his disappointment on the Citizenship Amendment Bill and added that they strongly condemn this bill as the Central government is framing for the interest of settlement of Hindu from Bangladesh in the state and it is purely unacceptable to the people of Assam. Instead Dr. Bhattacharya urged the government to deal the ongoing NRC upgradation process sincerely and not to allow anyone to include the names of illegal foreigners in the NRC. Similarly the AASU general secretary, Lurinjyoti Gogoi, commented on the statement of Mamata Benarjee on NRC issue as ‘disrespectful’ and ‘unfortunate’ and said that being the chief minister of a state she should not have made such politically motivated statements to create division between the Assamese and Bengalis of the state.

The statement of Akhil Goigoi, the leader of Krishak Mukti Sangram Samiti (KMSS) is also significant. He is strongly opposing the Citizenship (Amendment) Bill, 2016 which is for giving all the rights of the citizens to Hindu Bangladeshi immigrants,” accordingly Gogoi also announced the launch of a movement for a peaceful completion of a “true” National Register of Citizens (NRC), so that no untoward incident took place after publication of the final list.

Bharatiya Janata Party’s stand on NRC is rather interesting to discuss. Expressing dissatisfaction at Mamata Banerjee’s comment, Irrigation Minister of Assam Ranjit Dutta today said that NRC officials in Assam have put a lot of hard work in making NRC a success. He further added that Mamata Banerjee being an outsider should not comment on NRC as she is not aware of the prevailing situation in Assam. For Bharatiya Janata Party, Mamata Benarjee’s statement is as insult to the Constitution and the Supreme Court. In this regard Kailash Vijayvargiya, the BJP national general secretary in charge of West Bengal said that Mamata’s comment was part of her ‘sinister political motive.

On the other hand Tarun Gogoi, the former Chief Minister of Assam said that instead of installing confidence in people, the first draft of the National Register of Citizens (NRC) has created confusion and doubts and divisions among people of Assam. He also added that unless voters lists are corrected, the NRC update alone cannot solve the problem of illegal immigrants. He called it a part of BJP’s divisive policies. It is important to cite here the views of political parties like All India United Democratic Front (AIUDF) on NRC whose support base is basically dependent on Bengali Muslims. The AIUDF president and Lok Sabha MP from

Dhubri, Badruddin Ajmal, stated that his party wants all the Bangladeshis, who came into India illegally after 1971, to be deported. He urged to all the people to maintain peace as the genuine citizens would definitely find their names in the second list. Ajmal further added that even if some people do not find their names in the second list too, there are other legal recourses available. For that he asked people not to get panic as the entire process is being monitored by the Supreme Court impartially. However, he didn't forget to highlight the fact that if the local officials get biased, it is a different thing. Thus, he requested the apex court to direct the officials concerned to expedite the process for the second list.

Apart from all the above discussion the role of present Assam Government is very crucial. Referring to the issue Assam Chief Minister Sarbananda Sonowal said that all those excluded in the first National Register of Citizens draft should not worry as no one will be discriminated against on the basis of caste, community and will be given opportunities to prove citizenship. In additionally, Sonowal also said that a mechanism has to be devised "humanely" by the central government on what to do with those who are found to be illegal immigrants after finalization of the National Register of Citizens (NRC), a list of the state's citizens. He clearly stated that there is no question of discriminating against anyone whether he or she is a Hindu, Muslim, Bengali or Nepali and no one will be victimized on the basis of caste and community. He also asserted that the government will give opportunities to everyone to prove their citizenship so that their names could be incorporated in the subsequent drafts of the NRC. Instead the chief minister stressed that NRC has given an opportunity to segregate the bona fide citizens from illegal immigrants and it is a "win-win situation" for those who have been living under the stigma of "suspected illegal immigrants" for the last four decades. Therefore, the statement of the chief minister carries significant importance to all the misunderstandings and confusions.

## **LITERATURE REVIEW:**

**Kumar (2005)** title of the book in his article ‘illegal immigration and indiaIndia’ portrays that in West Bengal, there are more than 100 villages located right on the zero lines, and in many villages, there are houses where the front door is in India, and the other rear door opens into Bangladesh.

**Hazarika (2013)** stated that within India, Assam is most impacted by the illegal migration from Bangladesh. Reportedly, the Muslim population has increased in the border districts of Assam. One estimate holds that not less than one-third of Assam's 22.38 million populations are that of immigrants and their descendants.

**Sharma & Bhushan (2014)** mentioned that the share of migrants and their descendants could be at least 7.4 million. Even if the migration of Hindu population from erstwhile East Pakistan and present-day Bangladesh could be counted, understanding the rate of growth of Muslim population in Assam’s southern districts.

**Pushpita, Das (2016)** stated in the article ‘illegalllegal migration from bangladeshBangladesh’ that between 1951 and 2001, in West Bengal while the growth rate of Hindus was 198.54 percent, the Muslims growth rate was about 310.93 percent. The growth rate of the Muslim population of West Bengal has been noticed comparatively higher on especially in the border areas.

**Saikia (2017)** mentioned in his article ‘immigration in Assam’ the major impact of the influx of Bangladeshi nationals is largely on the demography. Allegedly, huge areas of forest land were said to be encroached upon by the migrants. As a result, it is reported that Assam faced declining percent of forest land from 39% in 1951-52 to about 30% in 2015-16.

**Singh (2002)** stated in his article Bangladeshi immigrants who enter India and settle down in the bordering districts are playing a key role in the political outcome and allegedly they 'determine' the outcome of polls in about 52 Constituencies out of the 292 Assembly Constituencies in West Bengal.

**Pushpita, Das (2016)** stated in the article ‘illegalllegal migration from

bangladeshBangladesh' that a very large number of illegal immigrants, the largest numbers of whom are from Bangladesh, live in India. The Task Force on Border Management quoted the figure of 15 million illegal migrants in 2001. In 2004, the United Progressive Alliance (UPA) government stated in Parliament that there were 12 million illegal Bangladeshi migrants in India.

**Slater, Joanna (December 2019)** stated in the article "Why protests are erupting over India's new citizenship law". The Citizenship (Amendment) Act, 2019 was passed by the Parliament of India on 11 December 11<sup>th</sup> December 2019. It amended the Citizenship Act of 1955 by providing a path to Indian citizenship for illegal migrants of Hindu, Sikh, Buddhist, Jain, Parsi, and Christian religious minorities, who had fled persecution from Pakistan, Bangladesh and Afghanistan before December 2014. Muslims from those countries were not given such eligibility.

**Saha, Abhishek (January 2019)** in the article "Explained: Why Assam, Northeast are angry". Under the 2019 amendment, migrants who had entered India by 31 December 2014, and had suffered "religious persecution or fear of religious persecution" in their country of origin were made eligible for citizenship. The amendment also relaxed the residence requirement for naturalisation of these migrants from twelve years to six. According to Intelligence Bureau records, there will be just over 30,000 immediate beneficiaries of the bill.

Write the title of the book

### **OBJECTIVES:**

Objectives of the research are:

To study the NRC process implemented in Assam

To know about the illegal immigration from Bangladesh to Assam

To study the problem faced by the Assamese people for illegal immigration

To study the violations created due to NRC

To know the territorial problems due to illegal immigration

## **RESEARCH HYPOTHESIS:**

The NRC is a great way to verify the citizens of India and the illegal immigrants from Bangladesh, But it affected the citizens of India too due to lack of documents and valid proofs specially the people from poor area.

The illegal immigrants of Bangladeshis after 1971, with no legal document, affected the rights of citizens of Assam and the rights are violated.

The NRC created violation among the Assamese people and it negatively affected the people.  
Specify what type of violation

The NRC was not done very properly and correctly in some areas, the names of many Indian citizens are not included in the final draft of NRC, although they have legal documents and proofs.

## **RESEARCH METHODOLOGY:**

This research was done with help of articles, news, journals etc. there was no text book found on NRC, (neither it took help from any literature book. Not clear )

## **CHAPTERIZATION:**

The study has been classified into five chapters:

**CHAPTER-1:** the very first chapter focuses on the nature of the NRC, it describes the whole background and the system of NRC, when it started and how it started.

**CHAPTER-2:** The second chapter focuses on specially the violation created due to NRC among the people, how NRC affected the people, what are the consequences are discussed in this chapter.

**CHAPTER-3:** Third chapter is about the illegal immigration to Assam, and the territorial problems of these illegal immigrants from Bangladesh after moving to Assam.

**CHAPTER-4:** In this chapter the analysis and the case laws around the Assam are discussed. It analyzes the growth rate of population due to illegal immigrants in Assam.

**CHAPTER-5:** It is the concluding chapters which details the inferences drawn from the present study. This is followed by the suggestions which the researcher considers suitable with respect to the current position of Press.

### **RESEARCH QUESTIONS:**

1. How the citizen is affected by this? Which citizen
2. Evaluation development and historical facts on illegal immigrantsimmigrant's assessments not clear
3. Issues related to illegal immigrants frame as questios
4. Prevailing facts illegal immigrants through empirical data not relevant

Reframe the questions .

Research question should include a issues which you will answer in the end whether it is correct or not by analyzing various facts

## **CHAPTER: 12**

### **NATURE OF NRC ACT**

#### **NRC (full form Act, A Critical Analysis I**

#### **NATURE OF NRC ACT:**

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 migrants can be identified and deported. 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 2020.

Assam, being a border state with unique problems of illegal immigration, had a register of citizens created for it in 1951 based on the 1951 census data. However, it was not maintained afterwards. The Illegal Migrants (Determination by Tribunal) Act, 1983 was then passed by the Parliament, creating a separate tribunal process for identifying illegal migrants in Assam. The Supreme Court of India struck it down as unconstitutional in 2005, after which the Government of India agreed to update the Assam NRC.

Following unsatisfactory progress on the process of updating the Assam NRC for over a decade, the Supreme Court started directing and monitoring the process in 2013. The final updated NRC for Assam, published on 31 August 2019, contained 31 million (3.1 crore) names out of its population of 33 million (3.3 crore), leaving out 1.9 million (19 lakh) applicants, rendering them potentially stateless.(source Foot note) The ruling Bharatiya Janata Party (BJP), which has championed the NRC exercise, did not find the results meeting its expectations. It believes that several legitimate citizens were excluded while many illegal migrants were included.

The BJP has promised to implement the NRC for all of entire India in its election manifesto for the 2019 Indian general election. On 19 November<sup>19<sup>th</sup></sup> November 2019, Home minister Amit Shah declared in the Rajya Sabha of the Indian parliament that the NRC would

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<sup>1</sup>the Hindu (November 2019)

be implemented throughout the country<sup>1</sup>. According to the Citizenship Rules, 2003, the central government can issue an order to prepare the National Population Register (NPR) and create the NRC based on the data gathered in it. The 2003 amendment further states that the local officials would then decide if the person's name will be added to the NRC or not, thereby deciding his citizenship status. No new rules or laws are needed to conduct this exercise in the whole of India. The Assam Accord, signed for the purpose of detection and deletion of foreigners, considered 1on 1st January 1966 as the base date. The issue of the foreign national died down after the Assam Accord, but came up again in the context of the Illegal Migrants (Determination by Tribunal )(IMDT) Act, 1983 which was nullified by the Supreme Court in June 2005. The issue of illegal migrants, however, kept resurfacing as an agenda during assembly elections, previously in 2006 and more recently in 2014. The Bharatiya Janata Party (BJP) came into power in Assam in alliance with the Asom Gana Parishad (AGP) through the declaration that they will "deport all Bangladeshis from Assam." The process of the National Register of Citizens (NRC) was fast-tracked after the BJP regime took over in 2016. Several people have done different calculations to prove that this mass frenzy created among the Assamese people against the Bengalis is untrue and that there has been no exponential increase in illegal migrants after independence .independence.

Intellectuals have also historicised this phenomenon of migration and said that there has been a continued loss of tribal commons that was assisted by the ---

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#### spacing

<sup>1</sup> the Hindu (nov 2019) delete it

movement of many communities by the British. The peasants of East Bengal were brought in with the allyshipally ship of the Hindu Assamese elite both pre and post independencepost-independence and this continued even after the creation of Bangladesh. Assam is a flood-prone area and every year thousands of people lose their homes and possessions, including documents, in floods or other calamities like land erosion and conflicts between communities. As a result, the possession of documents and legacy data is a luxury available to only the privileged. The postal system is not the most efficient or reliable and neither is access to the internet. There are several instances of people not receiving notices for hearings by the

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Foreigners Tribunal in time. They write that the need for paperwork was generated by the colonisers for everything including land, people, and communities. These legal structures were alien to the local peasants and tribal communities. Many people still may not be able to understand or access the NRC process. The districts of Nagaon, Bongaigaon, Darrang and Kamrup Metro that are most affected by the NRC are dominated by Bengali-speaking people, a majority of who are Namashudras, a Scheduled Caste (SC) community who were originally the inhabitants of East Bengal.<sup>22</sup> The community was first brought into Assam to clear the dense forest and cultivate the land. The main influx of people occurred during partition and before the Bangladesh War in 1971 when about 10 million people came to India from Bangladesh to escape persecution. Further, the NRC has also been exclusionary of women. Women were allowed to submit a panchayat certificate in the absence of birth or education certificates to establish linkage with the legacy holder.<sup>3</sup><sup>3</sup>In some areas, child marriage is highly

<sup>3</sup>the wire (online-2018)

prevalent and hence, women do not have the required documents. While communities that have been given the status of original inhabitants have not had to undergo stringent verification of their panchayat certificate, Muslim women and Bengali Hindu women who provided the same were put through a stringent verification process. At the same time, the transgender community remains almost entirely unlisted in the NRC. As per the All Assam Transgender Association (AATA), there are about 20,000 transgender persons in the state. At least 2,000 transgender women had applied to be enlisted, but their status is unknown. A large number of transgender women could not apply because they did not have the required documents to do so. Most hijras leave their biological families when they are young and are left with no contacts and it is hence practically impossible for them to get access to legacy data establishing their link. Some transgender people whose names have appeared on the list are mostly enlisted with their dead

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<sup>2</sup> give the details

<sup>3</sup>the wire (online-2018)

names and they do not know the repercussion of this . this. The Assam Movement has historically been exclusionary in character. This has been pointed out time and again by various ethnic groups; hence a consensus amongst all communities of Assam as claimed by the Assam Accord is questionable. The new political will has to be shaped by conflict and disagreements between the many voices that stand against this prevailing consensus. They further write that the NRC initiative does not actually draw its lineage from the Assam Movement but from the paradigm of de-politicisationpoliticization adopted by the state throughout the 1990s and 2000s. For this purpose, it becomes extremely important to understand the political motivation behind the NRC process being reinstated by the current government. The “language movement” overshadowed the problem of illegal immigration in Assam and the Bengali Muslims were politically allied with the Assamese against Bengali Hindus. The issue of illegal immigration gained prominence as it was re-appropriated by “political entrepreneurs.” If one is to understand how the “language movement” was appropriated by “political entrepreneurs,” understanding the NRC with the Citizenship (Amendment) Bill (2016) is important. The proposal was to amend the Citizenship Act, 1955 to provide citizenship to “illegal migrants” from Bangladesh, Afghanistan and Pakistan who are of Hindu, Sikh, Parsi, Buddhist, Jain or Christian origins. It, however, denied citizenship to Muslims from these countries. While the government claims that this has been done on humanitarian grounds because they are persecuted minorities, the same humanity has not been inclusive for other persecuted minorities such as the Rohingyas in Myanmar or Shias of Pakistan.

The Citizenship (Amendment) Act, 2019 was passed by the Parliament of India on 11<sup>th</sup> December 2019. It amended the Citizenship Act of 1955 by providing a path to Indian citizenship for illegal migrants of Hindu, Sikh, Buddhist, Jain, Parsi, and Christian religious minorities, who had fled persecution from Pakistan, Bangladesh and Afghanistan before December 2014. Muslims from those countries were not given such eligibility. This act was the first time religion had been overtly used as a criterion for citizenship under Indian law. Bharatiya Janata Party (BJP), which leads the Indian government, had promised in previous election manifestos to offer Indian citizenship to members of persecuted religious minorities who had migrated from neighbouring countries. Under the 2019 amendment, migrants who had entered India by 31 December 2014, and had suffered "religious persecution or fear of religious persecution" in their country of origin were made eligible for citizenship. The amendment also relaxed the residence requirement for naturalisation of these migrants

from twelve years to six. According to Intelligence Bureau records, there will be just over 30,000 immediate beneficiaries of the bill. The amendment has been widely criticised as discriminating on the basis of religion, particularly for excluding Muslims. The Office of the United Nations High Commissioner for Human Rights (OHCHR) called it "fundamentally discriminatory", adding that while India's "goal of protecting persecuted groups is welcome", this should be accomplished through a non-discriminatory "robust national asylum system". Critics express concerns that the bill would be used, along with the National Register of Citizens (NRC), to render many Muslim citizens stateless, as they may be unable to meet stringent birth or identity proof requirements. Commentators also question the exclusion of persecuted religious minorities from other regions such as Tibet, Sri Lanka and Myanmar. The Indian government says that Pakistan, Afghanistan and Bangladesh have Islam as their state religion and therefore Muslims are "unlikely to face religious persecution" there. However, certain Muslim groups, such as Hazaras and Ahmadis, have historically faced persecution in these countries. The passage of the legislation caused large-scale protests in India. Assam and other northeastern states have seen violent demonstrations against the bill over fears that granting Indian citizenship to refugees and immigrants will cause a loss of their "political rights, culture and land rights" and motivate further migration from Bangladesh. In other parts of India, protesters said the bill discriminated against Muslims and demanded that Indian citizenship to be granted to Muslim refugees and immigrants. Major protests against the Act were held at universities in India. Students at Aligarh Muslim University and Jamia Millia Islamia alleged brutal suppression by the police. The protests have led to the deaths of several protesters, injuries to protesters and police personnel, damage to public and private property, the detention of hundreds of people, and suspensions of local internet mobile phone connectivity in certain areas. Some states have announced they will not implement the Act. The Union Home Ministry has said that states lack the legal power to stop the implementation of the CAA.

The Citizenship (Amendment) Act, 2003 (numbered "Act 6 of 2004") added the following clause to the Citizenship Act, 1955

### **Issue of national identity cards.**

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- (1) The Central Government may compulsorily register every citizen of India and issue national identity card to him.
- (2) The Central Government may maintain a National Register of Indian Citizens and for that purpose establish a National Registration Authority.
- (3) On and from the date of commencement of the Citizenship (Amendment) Act, 2003, the Registrar General, India, appointed under sub-section (1) of section 3 of the Registration of Births and Deaths Act, 1969 (18 of 1969) shall act as the National Registration Authority and he shall function as the Registrar General of Citizen Registration.
- (4) The Central Government may appoint such other officers and staff as may be required to assist the Registrar General of Citizen Registration in discharging his functions and responsibilities.
- (5) The procedure to be followed in compulsory registration of the citizens of India shall be such as may be prescribed.

The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003, formulated under the Act specify

### **Preparation of the National Register of Indian Citizens.**

- (1) The Central Government shall, for the purpose of National Register of Indian Citizens, cause to carry throughout the country a house-to-house enumeration for collection of specified particulars relating to each family and individual, residing in a local area including the Citizenship status.
- (2) The Registrar General of Citizen Registration shall notify the period and duration of the enumeration in the Official Gazette.
- (3) For the purposes of preparation and inclusion in the Local Register of Indian Citizens, the particulars collected of every family and individual in the Population Register shall be verified

and scrutinized by the Local Registrar, who may be assisted by one or more persons as specified by the Registrar General of Citizen Registration.

(4) During the verification process, particulars of such individuals, whose Citizenship is doubtful, shall be entered by the Local Registrar with appropriate remark in the Population Register for further enquiry and in case of doubtful Citizenship, the individual or the family shall be informed in a specified pro forma immediately after the verification process is over.

(5) (a) Every person or family specified in sub-rule (4), shall be given an opportunity of being heard by the Sub-district or Taluk Registrar of Citizen Registration, before a final decision is taken to include or to exclude their particulars in the National Register of Indian Citizens.

(5) (b) The Sub-district or Taluk Registrar shall finalize his findings within a period of ninety days of the entry being made, or within such reasonable extended time for which he shall record the reasons in writing.

The Indian Constitution that was implemented in 1950 guaranteed citizenship to all of the country's residents at the commencement of the Constitution, and made no distinction on the basis of religion. The Indian government passed the Citizenship Act in 1955. The Act provided two means for foreigners to acquire Indian citizenship. People from "undivided India" were given a means of registration after seven years of residency in India. Those from other countries were given a means of naturalisation after twelve years of residency in India. Political developments in the 1980s, particularly those related to the violent Assam movement against all migrants from Bangladesh, triggered revisions to the Citizenship Act of 1955. The Citizenship Act was first amended in 1985 after the Assam Accord was signed, wherein the Indian government of Prime Minister Rajiv Gandhi agreed to identify foreign citizens, remove them from the electoral roles, and expel them from the country.<sup>44</sup> The Citizenship Act was further amended in 1992, 2003, 2005 and 2015. In December 2003, the National Democratic Alliance government, led by the Hindu nationalist Bharatiya Janata Party (BJP), passed the Citizenship (Amendment) Act, 2003 with far-reaching revisions of the Citizenship Act. It added the notion of "illegal immigrants" to the Act, making them ineligible to apply for citizenship (by registration or naturalisation), and declaring their children also as illegal immigrants. Illegal

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<sup>4</sup>. Times of India (online edition)-2018 date ?

immigrants were defined as citizens of other countries who entered India without valid travel documents, or who remained in the country beyond the period permitted by their travel documents. They can be deported or jailed. The 2003 amendment also mandated the Government of India to create and maintain a National Register of Citizens. The bill was supported by the Indian National Congress, as well as the Left parties, such as the Communist Party of India. During the parliamentary debate on the amendment, the leader of opposition, Manmohan Singh, stated that refugees belonging to minority communities in Bangladesh and other countries had faced persecution, and requested that the governments approach to granting them

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<sup>4</sup> times of India (online edition)-2018

citizenship be made more liberal. According to M.K. Venu, the formulation of the 2003 amendment discussed by Advani and Singh was based on the idea that Muslim groups in Pakistan and Afghanistan that had experienced persecution also needed to be treated with compassion.

As explained by the Ministry of Home Affairs in December 2018, "The Citizenship Act of 1955 provides for compulsory registration of every citizen of India and issuance of National Identity Card to him. The Citizenship Rules of 2003, framed under the Citizenship Act of 1955, prescribe the manner of preparation of the National Register of Citizens. There is a special provision under the Rules to prepare the National Register of Citizens (NRC) in Assam which is application-based and distinct from the rest of India where the process is enumeration-based.

The contentious Citizenship Amendment Act, 2019 hereinafter referred as CAA recently passed by the Indian Parliament not merely poisonous, discriminatory, divisionary but also against the foundational philosophy of Constitution of India. The CAA fundamentally discriminatory and has been enacted aiming to target India's largest minority community i.e. Muslims. It is to be noted that the principle Act i.e. The Citizenship Act, 1955 provides five

ways of acquiring Indian citizenship, viz-Birth, Descent, Registration, Naturalisation and Incorporation of some territory into India. Shockingly the latest CAA seeks to grant citizenry rights to religious minorities of neighbouring countries on the basis of religion, which is fundamentally impractical and also against the Article 14 of the Indian Constitution. The “reasonable classification” defence taken by the government not tenable under the eyes of law. Rather it is not “reasonable classification” but “class legislation” hence fundamentally wrong and unconstitutional. Moreover, the CAA also hits Preamble, Article 15, 25, 29 and 30 of the Indian Constitution besides Article 51C and Article 253 that makes an obligation to India to respect international law in its true spirit. If unpinning the very motive of CAA, it is nothing but face saver for the government, as first test of NRC exercise in Assam has been failed brazenly, now government want to impose CAA which is also against the Assam Accord of 1985. The certain provisions of the CAA are direct onslaught on cultural and ethnic identity of Assam people. In India under the Assam Accord, only those Bangladeshis who came into Assam before March 1971 would be granted citizenship under the Citizenship Act. But CAA will make people of six religions – Hindus, Sikhs, Christians, Parsis, Buddhists and Jains – who came from Pakistan, Afghanistan and Bangladesh Indian citizens, provided they have lived in India since before 2014. The BJP government justifies this discrimination by saying that Muslims did not come into India due to persecution, whereas people of other religions did. But this is only a pretext. The real reason is that the BJP knows that Muslims will vote against them in elections, and so wishes to deny them citizenship.

Also, what is overlooked is that many Muslims in Pakistan – Shias, Ahmadiyyas, etc. – are also persecuted there, and may come to India to avoid persecution. While by a constitutional amendment Pakistan has declared Ahmadiyas to be non-Muslims, the Kerala high Court has declared them Muslims, and Ahmadiyas regard themselves Muslims. However, they are treated horrifically in Pakistan. Many Assamese are protesting because they do not want any immigrants in Assam, whether Muslim or non-Muslim, and object to citizenship being given to any immigrant. Others are objecting to the CAB for other reasons. The whole of Assam is in flames, and in many places the army has been called. The truth is that many Bangladeshi Muslims have been living in Assam for decades, though they may not have come here legally. Many were even born in Assam. They have no roots now in Bangladesh. Where are they to go if deported? Bangladesh has said it will not accept them. This is a humanitarian problem, not just a legal one. It may be noted that under the Indian Constitution while certain rights, like

those mentioned in Article 19, are available only to citizens, others like the right to equality mentioned in Article 14 and the right to life and liberty mentioned in Article 21 (which has been interpreted by the Supreme Court to mean the right to live with dignity) are available to all persons. A non-citizen is certainly a person, and hence is also entitled to those rights. In National Human Rights Commission vs State of Arunachal Pradesh, 1996, the question was about Chakma refugees, who were undocumented immigrants from Bangladesh. The court observed that the fundamental right to life and liberty guaranteed by Article 21 of the Constitution is also available to Chakmas, though they were not Indian citizens. In light of that, the CAB is unconstitutional as it violates both Articles 14 and 21 of the constitution. Since Independence, India has maintained its global position as world leader to protect human rights, crime of apartheid, minorities rights and social justice. Shockingly, the CAA provisions purely contrary to India's consistent global position with respect to human rights and minorities rights, hence India has lost its global image as leader of third world nations and champion of human rights after promulgation of draconian CAA. The impugned law also hit severely many provisos of international law, where India has given its ratification and obtained its glorious image as leader of third world nations. The current form of CAA if implemented would definitely push India into darkness, anarchy and extreme form of lawlessness. The CAA is extremely dangerous for the India's unity, diversity and its secular identity and also hitting the doctrine of Basic Structure as propounded by Supreme Court in Keshvanand Bharti (1973) case, hence it is ultra-vires ab-initio. This CAA is also against the constitutional ethos of establishing an egalitarian society and it will definitely push the country towards majoritarian state. In nutshell-CAA has potential threat to change the basic and primary character of Indian state-Democratic, Secular Republic of India. The main drawback of CAA is that this Act primarily exclusionary in nature and has been enacted aiming to target Muslims, further it also violates the secular principles enshrined in the Constitution of India as Religion can't be ground of granting citizenship. The Constitution of India explicitly prohibits religious based discrimination (under Article 14, 15 and 25) against its citizens, and guarantees all persons equality before the law and equal protection of the law. But whatever mentioned in the Bill is highly deplorable and implausible being a scholar in law.

The Citizen Amendment Act, 2019 of India is an outrightly out rightly sectarian Bill, which will change the definition of illegal immigrants.<sup>55</sup> The government seeks to amend it in

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<sup>55</sup>The Hindu (online edition) date details ?

order to facilitate to grant citizenry rights to non-Muslims immigrants from Pakistan, Bangladesh and Afghanistan who are of Hindu, Sikh, Jain, Parsi, Buddhist and Christian extraction and who had migrated to India without valid travel documents or the validity period of whose documents had expired during their stay in India. These people were compelled to seek refuge in India owing to religious persecution or fear of religious persecution in their countries of origin. The CAA has its own peculiar contradictions and can't stand under the intense legal scrutiny. For eg. CAA classification not reasonable as mandated to qualify Article 14 of the Indian Constitution. The government has no answer why religious minorities in Muslim sects such as Shias, Baloch and Ahmediya, whose members had been facing utmost religious persecution in Pakistan, Bangladesh and Afghanistan had been excluded. Further, the government has no answer why persecuted groups from other neighbouring countries like Rohingyas from Mynamar, Madhesis from Nepal, Tamil Elam from Sri Lanka and Muslims from China conspicuously ignored from idea of "secularity, progressiveness and inclusivity" from the current Citizenship Amendment Act 2019 which violates

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<sup>5</sup> The hindu (online edition)

the Article 3 of Convention on Torture, 1984 that prohibits parties from returning, extraditing, or refouling any person to a state where there are substantial grounds for believing that he would be in danger of being subjected to torture" which India has signed on 14 Oct 1997 and are bound by Article 51(c) of the Indian Constitution. Although it is not ratified but it come under the customary law, hence should be followed and if not followed by the signatory parities then it will violates the principle of International law.

In Article 2(1) of ICCPR, 1966 it is clearly mentioned that each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status and hence through Article 26, it is to be ensured that the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground which India has ratified on 10 April 1979 and caome into force from 10 July 1979 onwards. The above-mentioned Directive Principles of State Policy (DPSP) in Article 51 (c) protects the rights of the citizens and are fundamental in the governance of the

country. It is hereby necessary to say that the basic feature of the constitution is to maintain harmony between fundamental rights such as (Article 14 (The state shall not deny to any person equality before the law and equal protection of laws within the territory of India), Article 21 “No person shall be deprived of his life” and DPSP Article 51 (c) which state that the State shall endeavour to foster respect international law read with Article 253. Write the definition in your own words or it will be added to plagarism list) Both Fundamental Rights and DPSP as per the Supreme Court judgment in *Minerva Mill case*, are complementary and supplementary to each other and are the basic structure of the Indian constitution which if violates through any amendment, law will automatically violates the founding principles of constitution and make that law unconstitutional and void under the present context of legal jurisprudence. Indian Constitution is based on the pillars of Natural Justice, which is a revised version of natural law. Starting from the Preamble, the words Justice is inclusive of social, economic and political and equality of status and thoughts, etc. prove that natural law theory and principles are there in the Indian Constitution and followed by the Indian Judiciary in their Judgment which can be evident from *Menaka Gandhi Case* in which the court applies the natural law theory of jurisprudence. It is very necessary to examine jurisprudential approach regarding the legality of the said bill. In this respect, Rudolf Stammler the main thinker of the revival of natural law theory in the contemporary world, rightly said that “the purpose of law is not to protect the will of one but to unify the purpose of all” According to him the law of nature means “Just Law” which harmonies the purpose in society. For him, a just law was the highest expression of man social life and aims at preservation of freedom of individuals. According to him, the two fundamental principles necessary for a just law were: a) Principles of respect b) The principles of community participation The contentious CAA also attenuates the norm of international human rights law and refugee law. Though India has neither ratified the Refugee Convention (1951) nor its 1967 Additional Protocol, nevertheless, it has extended constitutional protection to refugees without any religious discrimination. India became a member of the Executive Committee of the High Commissioner's Programme (EXCOM) in 1995 which supervises the material assistance programme of United Nations High Commissioner for Refugee (UNHCR). Membership of the EXCOM indicates greater commitment to refugee jurisprudence. Apart from this, India voted affirmatively to adopt the UN Declaration of Territorial Asylum in 1967 and accepted the principle of non-refoulment as envisaged in the Bangkok Principles 1966, and acknowledged as jus cogens which is binding on all nation-states irrespective of fact whether state has signed the refugee convention or not.

Being a signatory to ICCPR, ICESCR, CEDAW and most significantly the Convention against Torture (CAT) 1984, India is under an obligation to provide asylum to a person who has any fear of persecution irrespective of religion of the person. The present form of CAA also strikes on International Convention on the Elimination of All Forms of Racial Discrimination which was signed in 1965 and entered into force in 1969. Basic premises of the ICERD 1965 is to build a world order that nullifying or impairing the any form of citizenry discrimination, denial of religious and cultural freedom and ensure recognition human rights of all religious and linguistic groups.

CAA is against the national security primarily on three main reasons-firstly, the CAA (where is firstly) has assured to refuge illegal migrants from Bangladesh, Pakistan and Afghanistan who are Hindu, Sikh, Buddhist, Jain, Parsi or Christian, but omits Muslims. I believe that government has not undertaken the assessment what would be the situation of religious minorities in these countries after passing of this prickly legislation? There is very likelihood that onslaught against religious minorities in these countries may further intensify after passing of CAA. The potential threats of deteriorating relations with bordering countries can't be ruled out after promulgation of CAA. India's relation has always been strained with Pakistan and Sri Lanka but Bangladesh should not be slipped away from trusted partner of India in SAARC region. The CAA would affect business ties, trade and medical tourism sector and diplomatic relations would also suffer badly with neighboring countries. *Secondly*, the major concern of CAA is that Pakistan's ISI may exploits the legal framework provided under the CAA to push their "own people" into India. This biggest national security threat arising out of CAA can't be ignored as RAW has already placed its concern before the Joint Committee of Parliament which scrutinized the lapsed Citizenship Amendment Bill, 2016. The concern of India's premier intelligence agency are quite legitimate and valid, there is a great probability that India's neighboring countries may push their spies in the name of "persecuted minorities" to India aiming to wider the intelligence tent of ISI network in Indian sub-continent. *Thirdly*, the CAA forcing the Indian citizens to submit a false declaration if they wanted to acquire Indian citizenship. These are the people who were left out in the Assam NRC and majority of these people are Bengali Hindus. Many of those who have had difficulty to proving their citizenship in Assam are Muslims who emigrated from Bangladesh and have been living in India for multiple generations. Don't forget that Assam geographical situation and its close pores border with Bangladesh has provideds the opportunity to settle as economic emigrants

in Assam region before independence and after the independence majority of emigrants who settled in Assam are Bengali Hindus. The excluded applicants of NRC are Indian but they are not possessing documents, hence to give citizenship to a large number of excluded persons the CAA stress on first the citizenship seekers declare himself a member of religious minority group either from Bangladesh, Pakistan or Afghanistan and also proved that he has been a victim of religious persecution in these countries. Till recently, all excluded people were asserting that they are Indian but their name was missing ed in the NRC does not make them all are foreigners. To add their name in NRC and to acquire Indian citizenship they have to declare themselves as foreigner first, it is really bizarre. This forced falsification by the State may create another peculiar problem as why excluded people should submit false affidavit/documents to show that they are foreigners in order to obtain Indian Citizenship when they are very much Indian like others. The apprehension of deportation, denial of citizenry rights, harassment at detention centre and state sponsored discrimination may lead to another problem of alienation, separatism and radicalisation of North East region. Hence, it can be safely stated that current form of Citizen Amendment Act 2019, which has been passed by both the Houses of Parliament on 12 Dec 2019 is extremely dangerous for the nation's secular identity since this bill is against the Constitution philosophy of pluralism, diversity, minorities rights and freedom of religion type core principles India's international humiliation continues since moving the contentious Citizenship Law from parliament. Since the Lok Sabha endorsed the Bill, United States has staunchly opposed this discriminatory, divisionary and anti-Muslim Act. A federal panel on religion has urged the United States to weigh sanctions against India's Minister of Home Affairs Amit Shah if India adopts legislation that excludes Muslims from a path to citizenship for religious minorities from its neighbours. In the meantime, Japanese Prime Minister Shinzo Abe's has cancelled his visit to India which was scheduled to be held in Guwahati, amid violent protests in the northeast over the Citizenship (Amendment) Act. A Japanese media report had said he may consider canceling the visit amid violent protests. Protesters pulled down hoardings erected in central Guwahati to welcome Mr Abe. After Japan, Bangladesh Foreign Minister AK Abdul Momen and the country's Home Minister called off their visits to India in the midst of the agitations in the northeast. Bangladesh Home Minister Asaduzzaman Khan, who cancelled his visit, was scheduled to visit Meghalaya for an event. After US, now United Nations has condemned this draconian Citizenship Amendment Act 2019 and asked for its review immediately. The United Nations Human Rights (UNHR) office has termed the India's Citizenship Amendment Act 2019 as "fundamentally discriminatory in

nature” for leaving out Muslims and called for an immediate review. “We are concerned that India’s new Citizenship (Amendment) Act 2019 is fundamentally discriminatory in nature,” UNHCR spokesperson Jeremy Laurence said in Geneva. The Office of the UNHCR hopes that new law will be reviewed by the Supreme Court of India and hope it will consider carefully the compatibility of the law with India’s international human rights obligations.

## **CHAPTER: 2**

### **How the violation has been done to citizens Human Rights issues of the Immigrants to India**

#### **Introduction**

The multi-ethnic and multi-cultural setting of India and India's struggle to define its nationhood since the nationalist movement provided a fertile soil for the development of different forms of identity-quest. Assam has always been a multi-ethnic, and multi-lingual state. The histories of immigration and migration of outsiders to Assam is not a recent phenomenon. It is very difficult to say, who actually constitute the indigenous population. Almost all groups living here seem to have come to the region, from different places at different points of time. Historically speaking, Assam's inclusion into British India gave a new direction to the process of migration. A line of demarcation was drawn between the '*indigenous*' and '*outsiders*' and a cry for the protection of '*Assamese identity*' began to germinate. Identity formation among the Assamese community did not take place as a result of mere self-discovery, but was propelled by a fear of being overwhelmed by demographic change. When they were threatened on economic and cultural front, the Assamese evoked their identity of language and culture, to feel distinct. This feeling of distinctiveness gave way to the political expression of Jatiyotabadi or '*sub-nationalism*'. Spread of popular sub-nationalism is a deliberate process. Politics plays a two-way role in ethnicity and rise of sub-nationalism. Firstly, politics of recognition and representation has encouraged the growth of the ethnic groups demand for a distinct administrative set up which resulted in the formation of sub-nationalism or a nation within a nation. At this stage, it is important to recognize the distinctness of these groups. However, when it is perceived as a favour granted or a right acquired through a political struggle, the state policy of recognition of traditional institutions and representation of the ethnic groups in the decision-making bodies may nourish stronger sentiments and emotions of ethnicity among other groups. Its outcome is noticed at various levels. At the institutional level, the ensuing politics of 'recognition' employed by the federal state have fashioned a multiplicity of institutions which contest with similar institutions of other groups and also with the

structures of the state and autonomous institutions. Ethnic sentiments, emotions related to their culture, language, symbols and politics of recognition or representation come together to give birth to an image of their communion or nationhood which can also be described as sub-nationalism. The history of sub-nationalism in Assam allows to situate the category of sub-nationalism and its meanings. While migration into Assam from Bangladesh has a long history, it was in 1971, in the course of the liberation war in Bangladesh, that several lakhs of Hindu and Muslim refugees fled to Assam.<sup>1</sup> On 8 February 1972, the Prime Ministers of India and Bangladesh issued a joint declaration in which the Government of India assured “all possible assistance to the Government of Bangladesh in the unprecedented task of resettling the refugees and displaced persons in Bangladesh”. Not all refugees returned, and Bangladeshi migrants continued to cross the border into Assam and other parts of India in search of livelihood. Within Assam, the presence of large numbers of “outsiders” instilled a sense of unease at the change in demography, language and culture, and pressure over resources. A powerful popular movement erupted in the 1980s, led and steered by the All Assam Students Union (AASU) demanding the ouster of outsiders. The movement laid claim to a distinctive Assamese identity and based on this, a differentiated citizenship. Grounded in the principle of “different yet equal,” difference was articulated in the initial years of the movement in terms of the linguistic/cultural identity of Assamese people, and later with the United Liberation Front of Asom (ULFA) taking over ---

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<sup>1</sup>Jef Huysmans, “The European Union and the Securitization of Migration”, *Journal of Common Market Studies*, Vol. 38, No. 5, December 2000

the struggle, in terms of unequal development and discrimination. At the root of both was a powerful sentiment of crisis in citizenship in Assam. Yet the model of citizenship that the Assam movement invoked replicated the universal form that it was seeking to roll back in its

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<sup>6</sup>Jef Huysmans, “The European Union and the Securitization of Migration”, *Journal of Common Market Studies*, Vol. 38, No. 5, December 2000

own relationship with the Indian state. These contradictions played out in the articulation of citizenship at the national and state levels and within the state between the “ethnic” Assamese and the Bodos, the Assamese and the Bengalis, the Assamese and the tribals among others. The accord reached between the leaders of the movement and the Indian Government in 1985, and the amendment in the Citizenship Act, 1955 following the accord in 1986, put in place a template of graded citizenship in Assam, and shifted the chronological boundary of citizenship for the state to 25<sup>th</sup> March 1971, from 19<sup>th</sup> July 1948, which was the constitutional deadline for the rest of the country. The Assam Accord, signed on 15 August 1985, included the promise by the Central Government that it would ensure “constitutional, legislative and administrative safeguards to protect, preserve and promote the cultural, social, linguistic identity and heritage of the Assamese people” and the “all round economic development of Assam.” On the question of “outsiders” in Assam, the accord evolved a graded/differentiated system, categorizing “the outsiders” on the basis of the date of their entry into Assam. It legitimized the citizenship status of those who had entered Assam from the East Pakistan before 1st January, 1966. Those who had entered the state between 1st January 1966 and 24th March 1971 were to be legitimized in phases, that is, they were to be disenfranchised for a period of 10 years from the date of identification, while others who had come after 24<sup>th</sup> March 1971 were to be deported as illegal aliens.<sup>2</sup> In understanding citizenship in Assam, it is important to understand that -----

<sup>2</sup>srinath Raghavan, *War and Peace in Modern India: A Strategic History of the Nehru Years*, Ranikhet: Permanent Black(2010)  
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reinforcing dominant norms, the legal responses to the migrant expose how the excess that which does not fall within the dominant norms and boundaries of citizenship is regarded as justifiable subject to restrain, persecution, censorship, social stigma, incarceration and even annihilation. The migration of different communities to Assam led to strife between the Assamese and foreigner/or non-Assamese over access to resources. The immigrant

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<sup>7</sup>Srinath Raghavan, *War and Peace in Modern India: A Strategic History of the Nehru Years*Ranikhet:  
Permanent Black(2010)

communities came to be associated with two terms outsider and foreigner. These two terms were used simultaneously and many times interchangeably. The Assam movement was a call of the people of Assam to save it from the domination from the immigrants. The residence of Assam were dispersed into various identity groups like the Assamese, plain tribal, hill tribal, Hindu Bengali, and Muslim Bengali among others during the contestation on the question of citizenship.

### **The Assam Movement:**

The Assam Movement (1979-1985) popularly known as the Assam Agitation is the primary episode in the history of Assam. Its main focus was on expelling illegal immigrants from the territory of the state through a constitutional process. The Assam Movement started in 1979 and was led by the All Assam Students Union (AASU) and the All Assam Gana Sangram Parishad (AAGSP) and it lasted for a period of around 5 years. The agitation and the order of its chronological events can be broadly classified into the following phases:

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- Festival of Protests (from June 1979 to Nov 1980)
- Series of conflicts with the administration (from Dec 1980 to Jan 1983)
- Breakdown of Law and Order (Feb 1983)
- Conflicts between the State and the Movement (from Mar 1983 to May 1984) and accommodation (from June 1984 to Dec 1985)

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The movement was set off as an outcome of a strong feeling of insecurity amongst the indigenous people of Assam. The feeling was of a serious threat being posed by the silent invasion of foreign nationals specifically the Bangladeshis and Nepalis. There was an ever-growing fear amongst the Assamese people of losing their jobs to the foreign nationals and also losing their lands. As such the movement was directed against illegal immigrants and demanded for their expulsion from the state. Another aspect of the movement is the fight to safeguard Assamese language and culture, hence promoting cultural preservation too.

However, just like any other social movement, the Assam movement too did not start all of a sudden. The event that triggered the agitation is in no doubt, the Mongoldoi (a constituency in Assam) bye-elections, seeing the death of Hiralal Patgiri, the sitting member of the parliamentary constituency. During the initial revision of electoral rolls, a surprising 70,000 complaints were lodged against names of foreign nationals being included in the list. Following several protests by various sections of the Assamese people, the movement succeeded in disturbing the functioning of the State Government, including the 1980 parliamentary elections and 1983 State Assembly elections.<sup>83</sup> The activities of the movement were mainly intended to be Gandhian i.e. non-violent, peaceful and secular. However, it eventually turned violent leading to a heavy loss and damage to human life and property. Violence experienced in the state on -----

<sup>3</sup> Avtar Singh Bhasin, *India–Bangladesh Relations, Vol. I*, New Delhi: Geetika Publishers, 2003 delete it

18th February, 1983, where more than 1200 people were massacred. Another massacre of people belonging to the same community was witnessed in Chaulkhowa chapor in Darrang district. Similar incidents followed at Silapathar in Lakhimpur district and Gohpur in Daring district of Assam. By the time Mr. Jogen Hazarika became the Chief Minister of Assam, the movement had already reached heights. AASU started organising mass squatting and picketing of government offices throughout the entire state during September 1979. The movement was further aggravated when the Election Commission declared revision of the electoral rolls for the 1980 mid-term polls. The leaders of the Assam movement were completely opposed to holding of the elections without removal of names of foreigners from the voter's lists. This eventually led to Presidential Rule being imposed in Assam. The movement leadled to blockade of crude oil in Assam, which experienced sort of a massacre in Duliajan (a town in Assam hosting the Head quartersHeadquarters of Oil India Limited). Soon after in January 1980, Mrs. Indira Gandhi, the then Prime Minister of India decided to hold formal talks with the leaders

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<sup>8</sup> Avtar Singh Bhasin, *India–Bangladesh Relations, Vol. I*, New Delhi: Geetika Publishers, 2003

of the movement. The AASU submitted a written memorandum to the Prime Minister on the various issues faced and demands of the Assam Movement.

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The demands being presented in the Memorandum on 2nd February 1980 can be broadly classified into the following heads:

- a) Detection and Deporting of illegally migrated foreign nationals,
- b) Removal of existing names of foreign nationals from electoral rolls and undertaking of preventive measures in the future,
- c) International borders of the state to be adequately safeguarded to check infiltration and
- d) Citizenship certificates issuance to be controlled by the centre instead of respective state governments.

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The initial round of talks between Mrs. Indira Gandhi and AASU failed. However, with the presenting of the memorandum the stage had been set for future talks for resolution of the issues. The Assam Movement was officially declared concluded on 15th August 1985 with the signing of the historic Assam Accord ‘document by the then Prime Minister of India Mr. Rajiv Gandhi and leaders of the Assam Movement from AASU/AAGSP.<sup>9</sup> <sup>4</sup> The year 1966 was accepted as the cut-off year for detection of foreigners and 1971 was decided as the cut-off year for deporting foreign nationals from Assam. It was decided that those foreign nationals who entered in to Assam between 1st January 1966 and 24<sup>th</sup> March 1971 would be allowed to continue their stay in Assam.<sup>105</sup> However, they would be de-franchised for 10 years and their voting rights would have to be renewed post completion of 10 years. It was also agreed that the foreign nationals who flowed into the state post 24th March 1971 would be deported back. Apart from these primary issues and resolutions, the Government also promised to safeguard the cultural, social, linguistic identity and heritage of the Assamese people. However, despite

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<sup>9</sup>. Agreement between the Governments of India and Pakistan Regarding Security and Rights of Minorities (*Nehru–Liaquat Agreement*), April 8, 1950, New Delhi, available at <http://>

<sup>10</sup> Avtar Singh Bhasin, *India–Bangladesh Relations*, Vol. 1, incomplete citation

the Assam Accord, it seems the detection and deporting in line with the agreement was not executed. There is still a-----?

<sup>4</sup> Agreement between the Governments of India and Pakistan Regarding Security and Rights of Minorities (*Nehru–Liaquat Agreement*), April 8, 1950, New Delhi, available at <http://www.commonlii.org/in/other/treaties/INTSer/1950/9.html>, accessed on December 23, 2015

<sup>5</sup> Avtar Singh Bhasin, *India–Bangladesh Relations, Vol. I*,

continuous flow of illegal immigrants into the border districts like Goalpara, Dhubri and Kokrajhar. This raises a concern on what had actually been achieved since the issues posed by illegal immigration of Bangladeshi nationals still persist within the state boundaries.

### **Politics of citizenship in India:**

The citizenship question in Assam has a long post colonialpost-colonial history fraught with conflicts, and is reflected in the manner in which the citizenship law in India has responded to the contests over citizenship in Assam. It will also show the centrality of migration in enframing the lived experience of citizenship and reveal how the category of migrants has been integral to these amendments. The word migration enters the Constitution of India in the chapter on Citizenship in the specific context of Partition, which incidentally is also the primary context in which citizenship is enframed in the Indian Republic. It is seen that migration after partition, the process of state formation and emergence of twin nation states of India and Pakistan, provides the context to define Indian citizenship as is enshrined in Citizenship Act of 1955. The Citizenship Act of 1955 followed an inclusive and generous approach in defining who is a citizen of India after the experiences of partition qualifying the territorial location and laying on associational belonging. Migrant as a category enters the Citizenship Act through an amendment in 1986, following Assam Accord and again in 2003 and 2005 resulting in the insertion of the category of Overseas Citizen of India. Unlike the Citizenship Act of 1955, in

the latter two amendments of Citizenship Acts, the word migration was explicitly associated with illegality, where migrants were seen as threat, as others. The Citizenship Act of 1955 identified five types of citizen or in other words, Indian Citizenship can be granted on the basis of birth, descent, registration, naturalization and incorporation of territory. In the wake of Assam Movement, sixth type of citizenship emerged as a result of signing of memorandum of understanding between the Ccentral Ggovernment with leaders of All Assam Students' Union (AASU) and the All Assam Gana Sangram Parishad (AAGSP) (which is known as the Assam Accord) leading to amendment of the Citizenship Act in 1985 and adding article Article 6A according to which birth came to be emphatically qualified by ethnic belonging. According to amendment in 2004, a person born in India is a citizen of India, if one parent is a citizen of India and the other parent is not an illegal migrant at the time of birth. The amendment in Citizenship Act of 1986 brought to light how the illegality of migrant became the node around which the Assamese identity and citizenship was constructed during 1980s. The inclusion of section 3(1) (a) through amendment to Citizenship Act in 1986 gave citizenship rights to the children of illegal migrants which was a step to destroy the Assamese 'jati'. It is also from this period that constriction on citizenship by birth began, which found consummation in the amendment in Citizenship Act of 2003 & 2005 which reinforced the association of citizenship with blood ties and descent. There is deception in Citizenship Act of 2003, as it says that any person born after 3rd December, 2004 shall be an Indian citizen in case either of her or his mother or father is an Indian citizen. All Assam Students Union (AASU) points out that the amendment in the Citizenship Act allows children of illegal migrants born post-1971 to become citizens of India (AASU publication 2012). Thus, we have seen that legal citizenship in India is an exclusive category which is deeply embedded in the principles of governmentality to demarcate between the citizen and the outsiders, who falls outside the boundaries of citizenship and are subjected to harassment, restrain, stereotyping/ labeling, imprisonment and even annihilation as happened during Nellie massacre in 1983. Apart from the legal or formal dimension of citizenship, it also has a substantive angle to it through the way rights are being realised or exercised by the people or have sense of belonging to a community. One must be accepted as a member of a community to enjoy citizenship rights and the community draws the boundary as who should enjoy rights or may withhold recognition. But what happens to a community if it is socially constructed as outsiders/illegal migrants and debarred from enjoying citizenship rights which will be explored through the study focusing specifically on Muslim women socially constructed as 'Bangladeshi'. Wherever women continue to serve as boundary

markers between different national, ethnic and religious collectivities, their emergence as full-fledged citizens will be jeopardised, and whatever rights they may have achieved during one stage of nation-building may be sacrificed on the altar of identity politics during another. Most of times in India settlement of illegal immigrants are taken up as an issue by political parties to gain support from the indigenous people and play the card of indigenous identity politics. In fact, the issue of migration and citizenship has become the pivot around which the entire politics of Assam has come to revolve- an issue on which elections to the State Legislative Assembly can be lost or won. These sentiments of identity and ethnic belonging is embedded in a larger politics that prevails across the North East, especially Assam where regional identities have often spawned sub-nationalisms, where citizenship is often imagined as belonging to a particular state rather than the entire country. The belongingness to a tribal state is often decided by the question of who is indigenous to it. The outsiders question that festered in Assam in the 1980s endures even today. However, its resolution is no longer sought in the violent elimination of the non-Assamese-speaking outsiders or solely through the legal mechanisms of the Foreigners Act, but through bureaucratic intervention, pushed by a political consensus on identifying those who belong. In recent years, the sub-nationalist movements have been replaced by projects of citizenship or proto-citizenship reaching deep into history in its search for the indigenous identification.

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#### **NRC: Politics and Problems in Assam: Move the heading to next page**

The National Register of Citizens (NRC) has occupied a prominent position in political discourse and mobilization in Assam for the 2014 and 2019 parliamentary elections. The process can be seen as the culmination of years of political unrest and negotiations between civil society organizations and the government. In 2013, the Supreme Court of India took cognizance of two writ petitions filed by non-governmental organizations from Assam and ordered the state and central governments to update the NRC adhering to the Citizenship Act of 1955 and the (amended) Citizenship Rules of 2003.<sup>116</sup> After two rounds of publication of

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<sup>116</sup>“Modi: Bangladeshi Immigrants must Pack”, *Dhaka Tribune*, April 28, 2014, available at <http://archive.dhakatribune.com/south-asia/2014/apr/28/narendra-modi-come-may-16-bangladeshi-immigrants-must-pack>, accessed on June 16, 2016.

drafts of the register, a partial one on December 31, 2017 and a final draft on July 30, 2018, the final list was published on August 31, 2019. The NRC has polarized public opinion, at least among those who question the norms and rules of citizenship. Many commentators and advocacy groups in Assam see it as a much-needed solution for a long-drawn issue of immigration from different parts of the subcontinent but with a greater public focus on migrants from neighbouring Bangladesh. Yet others raise caution about the excesses and shortcomings of the process, where bureaucratic overreach, advocacy overdrive and technological failures have led to tragic consequences for thousands of women and men in the state. The fact that senior representatives of the recently elected government (in 2019) have called for NRC to be extended to all states of the country has made the issue more deserving of sociological inquiry and attention.

<sup>6</sup> “Modi: Bangladeshi Immigrants must Pack”, *Dhaka Tribune*, April 28, 2014, available at <http://archive.dhakatribune.com/south-asia/2014/apr/28/narendra-modi-come-may-16-bangladeshi-immigrants-must-pack>, accessed on June 16, 2016.

For many political commentators in Assam, the NRC was seen to be the legal and political way to address the two issues that have influenced political mobilization in Assam since the mid-20th century: (a) autonomy and (b) social justice. Autonomy demands have been central to political mobilization in Assam after 1947. Starting from the Naga and Mizo insurgencies in 1950s and 1960s, the province also saw the assertion for separate statehood in Meghalaya in the 1970s. These movements reflect the desire for territorial control over land, as well as political aspirations of indigenous communities who were part of the ‘light-touch’ administrative set up under British colonial rule. Movements for social justice centred around demands of social justice reflect an insistence on citizenship and equality under constitutional law, especially among socially marginalized groups like the tea workers and immigrant communities who had come from various parts of colonial India. Both issues –autonomy and social justice – have had a very tense relationship with one another. They have led to decades of violent conflicts, where the state has used a combination of military subjugation and co-

optation of voices of dissent to deal with the situation. Even after the Assam Accord was put in place and signed, the process of detecting and deporting immigrants never took place officially. The only attempt at detecting foreigners by updating the National Register in Assam was through a pilot project which was started in two circles (referred to as Tehsil in some states), one in Kamrup district and another in Barpeta district in June 2010, which ended abruptly within four weeks amidst a huge law and order problem involving a mob attack on the Office of the Deputy Commissioner, Barpeta, that resulted in police firing killing of four persons. Considering the volatile nature of the issue, for a long time, particularly after the experience of the pilot project, NRC update was considered almost an impossible task. The Supreme Court in December 2014 had set a time-frame to update the NRC, the pilot project of which was stalled in 2010. The Supreme Court has been continuously monitoring the process of NRC and has been giving directions from time to time.

### **The NRC Process:**

Though the NRC process started in 2013, the actual work on the ground commenced in February 2015 with the process of setting up of the NRC Seva Kendras and more than 3.29 crore people applied for inclusion of names in the NRC along with more than 6.6 crore documents. The first draft containing names of 1.90 crore applicants was published on 31 December 2017 followed by the process of verification of family trees or the legacy data and the certificates issued to married women by Panchayat secretaries. Many bogus and forged documents were detected in the process of verification and the family tree verification was considered to be the game-changer as in a large number of cases mismatches in family trees were detected.

Second, the complete draft was published 31 July 2018 and names of more than 40 lakh applicants were not included as they were not found to be eligible. The final list of Assam NRC has been released and over 19 lakh people have been left out of the final NRC list.<sup>127</sup> There has been a change of position by the major political parties as the time passed. When the updation

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<sup>12</sup>. Uddipana Goswami, “Miya or Axamiya? Migration and Politics of Assimilation in Assam”, *Journal of Social and Policy Sciences*, Vol. 1 year ?

of the NRC began in 2015 the Tarun Gogoi-led Congress Party was in power in the State. The political scenario had changed by the time its first draft was published on January 1, 2018 as the Bharatiya Janata Party (BJP) under Sarbananda Sonowal -----?

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<sup>7</sup> Uddipana Goswami, “Miya or Axamiya? Migration and Politics of Assimilation in Assam”, *Journal of Social and Policy Sciences*, Vol. 1

had come to power in Assam in 2016. During the publication of the second draft on 31 July 2018, the AASU had described the publication of the complete draft of the NRC as a “historic event” for Assam and extended much-needed protection to the indigenous people of the State. The AASU had also demanded that the electoral rolls of the State should be revised based on it and photo identity cards should be provided to the Indian citizens living in the State. AASU chief adviser Samujjal Bhattacharya had stated that the students’ body would extend full support to any Indian citizen if his or her name does not appear in the NRC during the process of filing of claims and objections and cautioned that no one should try to give communal or linguistic colour to the process of updating the NRC. However, after the publication of the third and final draft on 31 August 2019, there was widespread anger and sense of betrayal among the political parties and the stakeholders. There has been demand for 20 percent re-verification (bordering districts) and 10 percent re-verification (remaining districts) for a correct and a fair NRC. As a way forward, 200 Foreigners Tribunals will be set up to hear the appeal of those who failed to make in final NRC list. The Foreign Tribunals have the authority to either declare a person foreigner or overrule the NRC Findings and declare him or her an Indian. However, several stakeholders like Assam Public Works and All Assam Students’ Union feel that the outcome of the updation exercise failed in its objective to identify the foreigners. The low percentage of exclusion of Bengali-speaking Muslims migrant majority districts particularly districts bordering Bangladesh has given a belief to those calling NRC as flawed that most illegal migrants have made it into the NRC. Whereas it is also alleged that names of many Indian Citizens who migrated from Bangladesh as refugees prior to 1971 have not been included in the NRC because the authority refused to accept their refugee certificate. There have been also reports of manipulation of legacy data. Hence, though the final list has been published, anomalies still persist. The final list of the updated NRC in Assam left out over 19 lakh people, almost half of the 40 lakh people excluded in the final draft published last year. Out of 3.3 crore applicants, a total of 3,11,21,004 persons were found eligible for inclusion in

the final NRC. The complete list of 3,11,21,004 people, who have been found eligible for inclusion in the NRC has been put in the public domain in September 2019. However, those rejected will have to wait to get their certificate of rejection. It is mandatory for the rejected persons who have to appeal in the Foreigners Tribunal to submit a certified copy of the NRC citing the reasons for their exclusion to the tribunal along with the documents in support of their inclusion.

### **Status of those who are Excluded:**

A total of 31.1 million people were included in the National Register of Citizens (NRC), leaving out 1.9 million people, according to a statement from the Assam Government. Those who do not find their names on the final list will be allowed to prove their citizenship first in quasi-judicial courts — known as Foreigner Tribunals (FT) — and subsequently in higher courts. Those excluded would not be considered foreigners until they exhaust all their legal options. The Government announced in Aug 2019 that People will get 120 days to appeal. Up to 200 more FTs are expected to be set up on top of the existing 100. There are apprehensions that the people who do not find their names on the list might face possible jail term or deportation, and their voting and other civil rights will be snatched away. Nearly 1,000 people are currently lodged in six detention centers located in the existing district jails. The Government has already announced its plan to build 10 more detention centers. India has not raised the issue of deportation with Bangladesh and activists fear people might be held ‘indefinitely’ in detention centers.

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### **Re-Verification:** move it up

The Government in Assam had earlier reiterated its demand for a sample re-verification to ascertain the credibility of the complete draft NRC, citing flaws in the design of the process and possible misuse of documents by illegal immigrants. A similar demand for a complete re-verification has been made by the Assam Public Works in a case in the Supreme Court. Abhijeet Sarma of the Assam Public Works, the main petitioner in the case, said they are going to demand a complete re-verification in 22 districts. In his report, the state coordinator has raised certain apprehensions of probable misuse of some documents like ration cards, refugee registration and citizenship certificates, which can be forged. Now with the final list having

been published, there are again demands of selected re-verification of the districts bordering Bangladesh.

### **Question on Change of Legacy:**

Earlier, the Supreme Court had asked the Union Government whether it was giving the over 40 lakh people, excluded from the NRC in Assam, a second chance to gain citizenship by allowing them to produce fresh documents to prove their Indian legacy. The Court was referring to the Standard Operating Procedure (SOP) proposed by the Government, which allows a claimant for Indian citizenship to change his legacy by submitting additional documents at the ‘claims and objections’ stage. The Court asked whether this would amount to ‘re-doing the claims’ of those left out from the draft NRC published on July 30, 2018. A Bench consisting of Justice Ranjan Gogoi and Justice Rohinton Nariman said that allowing a claimant to change his legacy would amount to “tinkering with the family tree” and re-doing the verification process. Besides, the Bench pointed out, the Government, in the beginning, had specified that documents on legacy would be allowed to be filed only once. Now, it has changed track to permit additional documents to be filed. This is after Mr. Hajela placed before the Bench a district-wise data of the percentage of the population who have been excluded from the final draft NRC. With the final list of NRC having been published, there are demands for re-verification. The issue of legacy data will again come to limelight and questions will be raised on its change.

### **The Reaction of the North Eastern States:**

The issue has resurfaced, even after the reassurance of the Union Home Minister Amit Shah during the fourth conclave of the North East Democratic Alliance (NEDA) that the North Eastern Regions have nothing to fear about the CAB and it would not dilute the existing laws and regulations, including state laws, for protecting the cultural, linguistic and other rights of local people. The North East Forum for Indigenous People (NEFIP), a conglomerate of different organisations from the eight North Eastern States, while welcoming Shah’s assurances, also termed such efforts as “empty and misleading” and exhibiting “double standard”. The very concept of CAB was an attempt to naturalise the citizenship of illegal immigrants in the region. “We strongly oppose the proposed bill in its present form that seeks to make drastic changes in the citizenship and immigration norms of the country by relaxing

the criteria to become an Indian citizen,” said NEFIP leader Khuraijam Athouba. The AASU, while criticising the silent stance adopted by Assam Chief Minister Sarbananda Sonowal and the AGP leadership at the NEDA meet, reiterated its commitment to oppose the Bill and continue its agitation. Speaking at the NEDA conclave, Meghalaya Chief Minister Conrad Sangma said the Northeast had fears regarding the Citizenship Bill and urged the Home Minister to take all the states of the region into confidence before re-introducing the legislation. It was then assured that the CAB will not override the existing provisions of the Sixth Schedule of the Constitution or the provisions of the Inner Line Permit.

### **Categories of People:**

After settling of all complaints and the publication of the updated NRC of Assam, there will be three categories of people. These categories are: (1) the people who were domiciled in India at the time of the Constitution; (2) the migrants who came to India after the enactment of the Constitution till March 24, 1971 by whatever means and continued to stay here thereafter; and (3) the migrants who came to India from March 25, 1971 till date. Migrants who came to India on and after 1971 are foreign nationals and liable for appropriate action for expulsion (except the children born in India till 2014 as defined in the Citizenship Act). The critical question will be of the people who are finally declared as illegal migrants as indicated in the third category. As discussed earlier, Bangladesh is unlikely to accept them. Then they become India’s liability and there is a need to follow international human rights requirements, i.e to give them opportunities to earn a livelihood for survival, the dignity of existence and opportunities for their children’s future career. In such circumstances, the Government of India will have to treat them as a special category of foreigners and ensure their human rights. The second category, i.e. those who are in the stream of migrants entering India after India adopted the Constitution till March 24, 1971 and continued thereafter, all of them will be citizens of India in terms of the Assam Accord, and will be entitled to all the rights of citizens.

### **India Bangladesh Relations:**

The biggest fallout of NRC update could be India’s relation with Bangladesh. whichWhich has been on the upswing since Sheikh Hasina took over since January 2009. She has addressed all of India’s security concerns like connectivity, driving out North Eastern rebels, providing transit facilities, etc. However, the stated aim of the NRC exercise is to detect all non-citizens, defined by the provisions of the Assam Accord of 1985. According to the accord, anyone who

cannot prove that they or their ancestors had entered the state before the midnight of March 24, 1971, will be counted as an illegal migrant. The cut-off date coincides with the start of the Bangladesh war, which triggered a wave of migration into Assam.<sup>138</sup> These illegal migrants will not be acceptable to Bangladesh and would lead to strained relation with Bangladesh. Information Minister of Bangladesh was quick to react on publication of second NRC update in 2018, and stated that NRC is India's internal problem, which means all those have not found a place in NRC are not Bangladeshi.<sup>149</sup> Bangladesh affirms that there has been no large-scale migration to Assam in the last 30 years. In bilateral engagements between the two countries, India has not officially approached Bangladesh; it does not want to upset ties with the current dispensation in Bangladesh.

India will endeavour to deport illegal migrants as per the international law. If that become difficult then an old proposal of granting work permits to non-citizens may be a viable option. Meghalaya' Chief Minister, Conrad K Sangma, suggested work permits for migrants during a meeting in Delhi with the then External Affairs Minister, Late Sushma Swaraj, insisting that it was an idea that ought to be discussed by all North Eastern states grappling with so-called illegal immigration. Many of Assam's neighbouring states, such as Meghalaya and Manipur, have in the past expressed apprehensions that NRC-rejects from the state may flock to other parts of the North East. The All Assam Minority Students' Union' had earlier stated that while it ideally wanted illegal migrants -----?

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<sup>8</sup> Chandan Nandy, "Illegal Migration from Bangladesh to India: The Emerging Conflicts", Mellon-MIT Foundation on NGOs and Forced Migration

<sup>9</sup> B.B. Kumar (ed.), *Illegal Migration from Bangladesh*, Delhi: Astha Bharati, 2006

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<sup>13</sup>Chandan Nandy, "Illegal Migration from Bangladesh to India: The Emerging Conflicts", Mellon-MIT Foundation on NGOs and Forced Migration, year?

<sup>14</sup>B.B. Kumar (ed.), *Illegal Migration from Bangladesh*, Delhi: Astha Bharati, 2006

to be deported, it did not object to a work permit-based resolution to the problem as long as it was within the ambit of the Indian Constitution. He felt that it was a better approach than putting people in detention camps. It is becoming clear that Bangladesh is not in a position to take back people who will be declared illegal migrants/foreigners, granting work permit to these people may be an option.

With the final list of NRC has been published questions are being raised about CAB, 2016. The Citizenship (Amendment) Bill, 2016, which aimed to provide citizenship to people forced to seek shelter in India because of religious persecution or fear of persecution in their home countries, has led to incidents of violence in the North East. The Bill was supposed to help Hindus, Sikhs, Jains, Buddhists, Parsis and Christians from Afghanistan, Pakistan and Bangladesh. Critics feel that this bill goes against the Indian Constitution as the very idea of India citizenship is being defined in religious terms which is against Article 15 of our Constitution that there cannot be discrimination on the basis of religion. Whereas, the proponent of the Bill feel that this Bill need to be introduced to give justice to the religiously persecuted people. The move followed the news of that the National Register of Citizens does not have names of 1,906,657 people, a majority of whom are believed to be Hindus. A large number of Hindus and other local communities have been excluded from NRC. The supporter of the Bill insists that the Centre should reintroduce the CAB by December, immediately after the appeal at the foreigners' tribunal is completed. The enactment of CAB for the protection of individuals of religious minority communities from neighbouring countries escaping persecution is also important to complete the process of NRC. North Eastern states have their apprehension about CAB, their concerns need to be taken care of. The matter is complex and sensitive; therefore, need a deliberated comprehensive, collaborated approach for larger peace and Justice in the North Eastern Region. Nearly 32 years after the Assam Accord was signed, the final draft of NRC has come out in which total of 31.1 million people were included in the NRC leaving out 1.9 million people. There was a mixed reaction by the various stakeholders and political parties. The government in Assam has reiterated its demand for a sample re-verification to ascertain the credibility of the complete draft NRC, citing flaws in the design of the process and possible misuse of documents by illegal immigrants. The questions are also being raised about the change of legacy by submitting additional documents at the 'claims and objections' stage. Even illegal migrants need to be given opportunities to earn a livelihood for survival, the dignity of existence and opportunities for their children's future career. The

demands are also being raised for the introduction of CAB and it is being advocated that without it the NRC would not be complete. The biggest challenge will remain as regards the future of illegal migrants. The migrants who came to India on or after 1971 are foreign nationals and liable for appropriate action for expulsion (except the children born in India till 2014 as defined in the Citizenship Act). Bangladesh is unlikely to accept these illegal migrants quoting that this is India's internal problem. Then they become India's liability and India has to follow international human rights requirements. With deportation being off the table, at least for the time being, an old proposal of granting work permits to non-citizens is gaining currency yet again in Assam and neighbouring states of the North East. Any new step invites appreciation or challenges. NRC in Assam was also an experimental device to curb the menace of the illegal influx of population from the neighbouring countries. Taking a cue from this, many States in India is also expressing the desire to implement NRC to check on the flow of illegal immigrants from other countries.

## **CHAPTER:3**

### **Territorial problems of illegal immigrants**

#### 3.1 Introduction

#### **3.2 Illegal immigration:**

The history of the world is the history of migration. Migration has taken place since time immemorial and will continue in future. People have migrated to distant lands in search of food, shelter, freedom, security and better lifestyle, and in the process have made an impact on the socio-economic, cultural as well as the political fabric of their destinations. While on the one hand this impact on the receiving country has been positive, on the other hand it has sown the seeds of discontent among the locals. In other words, although migrants have enriched the cultural, social and economic aspects of their “new homes” with their skills, industry and dedication, their relative prosperity has fuelled resentment among the locals. This resentment has led to intense competition between the migrants and the natives for resources; but whenever this competition has been politicised, it has led to demands for preservation of local identity and power, which in turn has fuelled violence and political disturbance and jeopardised the internal security of the country. Consequently, migration has come to be increasingly regarded by the elites of the receiving country as a threat to the greater political and societal integration, and therefore a security risk. As countries try to restrict the influx of people into their territory, migration gets closely linked with border control, terrorism and criminality, resulting in its securitisation.

India is often described as a land of migrants, which over centuries has attracted streams of immigrants from different races and cultures and assimilated them to build a composite civilisation. Paradoxically, immigration, while enriching the land with modern innovations and industries, has also been a source of conflict. India too has experienced intermittent conflict arising out of competition over resources between local population and immigrants. In contemporary times, the country has witnessed large-scale immigration from its neighbouring countries. While some of these immigrants are refugees fleeing political and religious repressions back home, others are economic migrants escaping gruelling poverty and

a bleak future. India has been a generous host to all these immigrants but large-scale, undocumented immigration from Bangladesh has become a source of conflict and tensions in the receiving states. The magnitude of immigration has been too huge and protest against it too violent, making infiltration, as illegal migration is termed officially, one of the most politically contentious issues in India since independence.

The Bangladeshi immigration in India is one of the persistent problems that have emerged time and again as a major national security issue in terms of inland security and also to a large extent a demographic problem.<sup>151</sup> Even if the crisis has loomed over for decades, India has not been very effective in curbing the menace of illegal entries or migration into the Indian Territory. Apparently, the successive Indian governments in the past have overlooked the issue and the entire issue was viewed from the point of political dividends. But with local conflicts in Northeast linking “illegal” Bangladeshi migrants, particularly in Assam that paved way for public outrage, in turn, dragged the issue to the apex court, Supreme Court and the issue eventually acquired international dimension. On the other hand, the poor rural Bangladeshis who face poverty and whose existence is in question, don’t bother the border and the implications of crossing over to another sovereign country as immigration is the only known safe option for their problem. However, Bangladeshi immigration to India’s north-eastern states has created significant implications, particularly in the realm of demography, socio-political environment, and economy.

<sup>1</sup> Anand Kumar, “Illegal Bangladeshi Migration to India: Impact on Internal Security”, *Strategic Analysis*, Vol. 35, No. 1

It is estimated that the number of international migrants is 214 million according to the International Organization for Migration, 2010, in which irregular or illegal migrants are estimated about 30-50 million worldwide. Further, it has been estimated that at the end of the 20th century some 150 million people were living outside the country of their birth and it is

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<sup>15</sup> Anand Kumar, “Illegal Bangladeshi Migration to India: Impact on Internal Security”, *Strategic Analysis*, Vol. 35, No. 1 Year ?

predicted it will increase to about 405 million by 2050. As per the Indian Census 2001, the data on migration in India shows that the total number of migrants has been 314 million. Out of these, Bangladeshi migrants who form around 10-20 million are considered to be the largest one from outside country category. Whereas the World Migration Report 2010 reports state that 17 million undocumented Bangladeshi are in India. Other smaller numbers of migrants are (a few thousand) are from Sri Lanka, Myanmar, Pakistan, Afghanistan, Africa, and Tibet. Clearly, migration is a global phenomenon that is driven by various factors such as socio-economic disparities, environmental and climate change issues, and domestic political dynamics, etc. which plays an important part in the movement of people globally. Mainly, people leave their habitation in search of opportunities for work, education, reunification with family members, or for other reasons apart from the fear of persecution by other ethnic and political groups. People move sometime voluntarily and in other cases, forced by certain factors. Interestingly, in the case of Bangladesh, people don't essentially move too far off places; they prefer to move to areas close to them which are accustomed to their geography and cultures. In some cases, after the initial crossing over to geographical neighbourhood, they tend to migrate to other far off places. Potential migrants are motivated by the "push" and "pull" factors. The push factors are generally the conditions that exist in his place of residence, whereas pull factors are destination areas that are perceived as the best place for earning, education and a decent livelihood. The presence of a network of their own people or predecessors from their neighbourhood too acts as a catalyst. For the people of Bangladesh, usually India has been a preferred destination, particularly; West Bengal and Assam due to the linguistic, cultural and religious linkages. Migration contributes to both positive as well as negative impacts on the receiving/host country. One can positively contribute to the economic growth at the same time it can create demographic and socio-political problems. The unrelenting flow of illegal or undocumented migration to India has posed a serious threat to national security and has challenged the social harmony and economic well-being of the respective societies. The political and communal tensions in Assam and tensions in the Indo-Bangladesh border are a few cases in point. Besides, today there is a cause of concern with the reported linkage of the illegal migrants and the extremist group that has profound implications towards the regional security and bilateral relations among the states.

### **3.3 Methods Adopted:**

The three general methods that a potential migrant adopts to cross the border are:

- a) Border crossing** – crossing the border at the vulnerable porous border spots in the dark of the night. Sometimes, even in the day time, migrants venture into other parts of the country by bribing the border guards in the name of going to nearby places for shopping or purchase of local items.
- b) Overstaying beyond the visa period** – some migrants come through legal channels with a valid visa, however, by the end of the visa period instead of returning back to their country of origin, they overstay with concealed identity in some other parts of India.
- c) Sham marriages** – the third method adopted by some migrants is through a marriage alliance with an Indian girl or boy to settle permanently in the country.

### **Why People Cross?**

Following are the main reasons why people cross the international border:

Structural demand in developed states

Poverty

Overpopulation

Family reunification

Environmental degradation

Political persecution

Wars and asylum

### **3.4 India-Bangladesh Border: Territorial De-construction:**

India shares 4096 km of its land border with Bangladesh. West Bengal (2217 km), Assam (262 km), Meghalaya (443 km), Tripura (856) and Mizoram (318) are the states which share their border with Bangladesh. Interestingly, people on both sides live closer to the border and as the border runs through the jungle, hills, riverine villages, and paddy and jute fields making it trouble-free to cross. Indeed, a substantial portion of the border forms the river line; about 790 km and thus, river border posts have posed a very complex problem since the shifting

river course, frequent floods and erosion alters demarcated borders. In addition, the stretch is heavily populated, and interestingly at many places, the farming is carried out till the last inch of the border. Till recently, the presence of several enclaves along the Indo-Bangladesh border created stronger complications. Also, in some cases the border runs through the middle of several villages, while one section of a house is in one country, another is in the other. For instance, in West Bengal, there are more than 100 villages located right on the zero lines, and in many villages, there are houses where the front door is in India, and the other rear door opens into Bangladesh. This complicates policing Indo-Bangladesh border.<sup>162</sup> The Government of India has taken up the task of wire fencing the entire border and the work is in progress. Meanwhile, Border Security Force (BSF) of India is manning the borderline. The border was drawn by Sir Cyril Radcliffe, who headed the Bengal Boundary Commission using old district maps as a basis instead of natural barriers such as rivers, etc. in a random way (of demarcating the boundary) in fact, instigated continuous strife between the two countries. The migration of Bangladeshi -----?

<sup>2</sup> Josy Joseph, “Securitization of Illegal Migration of Bangladeshis to India”,

nationals into the Indian Territory goes back to undivided India under the British rule. When the British decided to divide India into two countries based on ‘two-nation’ theory in August 1947, the present-day Bangladesh predominant with a Bengali Muslim population became part of Pakistan as ‘East Pakistan’. The entire migration issue has its roots in the liberation of Bangladesh in 1971 from Pakistan controlled territory to an independent one. The persecution of Bengali Muslims by the Pakistan army apparently created pandemonium with large scale migration into Indian Territory. While the Indian government sympathized with the fleeing Bangladeshi initially during the 1971 war, New Delhi was more concerned about the increasing migrants to West Bengal and Assam which in fact forced the Indian government to support Bangladesh’s pro-independence group in the Bangladesh liberation war. Some estimates reported that around 10 million Bangladeshis had migrated into India during the course of the war and out of which 1.5 million never returned. Of course, a large majority of the refugees

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<sup>16</sup>Anand Kumar, “Illegal Bangladeshi Migration to India: Impact on Internal Security”, *Strategic Analysis*, Vol. 35, No. 1 Year ?

were Hindus who later adopted Indian citizenship. And thus, the patterns of contemporary migration from Bangladesh go back to colonial times. In addition, people have been mobile in the Bengal delta region for centuries due to flooding, erosion and environment issues. According to the National Population and Housing Census, 2.8 million Bangladeshi household members were living abroad in 2011 out of which 95 percent of them were men. Out-migration from Bangladesh increased to almost three million between 2005 and 2010. Today, indeed, Bangladesh's economy depends on the emigrants' remittances. Within India, Assam is most impacted by the illegal migration from Bangladesh. Reportedly, the Muslim population has increased in the border districts of Assam. One estimate holds that not less than one-third of Assam's 22.38 million populations are that of immigrants and their descendants. Whereas another estimate projects that about 5 million illegal Bangladesh migrants are settled in Assam. Source ? Foot note Today, given the estimates in the 1990s, there is certainly a reason to believe that the phenomena of migration have gone up and the conservative estimate is that it should be around 6 million. An analysis puts Assam's population growth rate at 130% which is same as the rest of India from 1901 to 1971, means the net population would be 7.6 million in 1971 and, consequently, the share of migrants and their descendants could be at least 7.4 million. Even if the migration of Hindu population from erstwhile East Pakistan and present-day Bangladesh could be counted, understanding the rate of growth of Muslim population in Assam's southern districts, points to higher growth rates of Muslim population than the all-India aggregates and this phenomenon is attributed to illegal immigration from Bangladesh.

### **3.5 Consequences of Illegal Bangladeshi Migration:**

The influx of such a large number of illegal Bangladeshi immigrants, particularly in the bordering states, has proved to be a huge challenge for India with serious implications on its resources and national security. It has substantially contributed to the changing demographic pattern in the bordering areas of the north-eastern states of India, where the locals feel overwhelmed by the outsiders. This has adversely affected their way of life and led to simmering tension between the two sides. Also, the illegal influx of Bangladeshi immigrants into India has ramifications for India's own internal security. The following are the major consequences:

Check spacing

### **3.5 (a) Socio-Economic Impact**

The economy of the States in north-eastern India that are bordering Bangladesh is predominantly rooted in products like tea, petroleum and forest produce. Agriculture is the primary means of livelihood for most of the population. Considerable migration through illegal means from Bangladesh translates this into a reduced share of already limited produce. Also, over a period of time, the illegal migrants attempt to acquire or occupy land from locals. This occasionally causes alienation of tribes from their ancestral land leading to conflicts. Although there is some law on paper to prevent alienation of tribal land, it remains largely ineffective in Assam.<sup>173</sup> Thus, the major impact of the influx of Bangladeshi nationals is largely on the demography. Allegedly, huge areas of forest land were said to be encroached upon by the migrants. As a result, it is reported that Assam faced declining percent of forest land from 39% in 1951-52 to about 30% in 2015-16. The migrants who entered through the illegal means into India and particularly, West Bengal and Assam got access to government subsidy programmes including ration items apart from availing education and health care from government schools and clinics. As a result, it impacts the state exchequer, an extra fiscal cost. Also, the influx of illegal migrants has displaced native workers as the immigrants are prepared to take up jobs for lower wages than the natives. This in some places has led to competition and conflict.

### **3.5. (b) Environmental Impacts**

With the increasing immigrant population in the border districts of Assam, West Bengal and Tripura, understandably there is a mounting pressure on the requirements of fuelwood, timber and land in the forest areas to meet the demand. Even marginal forest lands are cleared to put it to the plough. Forest resources from which various minor products, including fuelwood, are derived are needed in incremental quantities. This has led to substantial environmental impact in the region.

<sup>3</sup> *White Paper on Foreigners' Issue*, Home and Political Department, Government of Assam, October 20, 2012

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<sup>17</sup>*White Paper on Foreigners' Issue*, Home and Political Department, Government of Assam, October 20, 2012

### **3.5. (c ) Political Impacts**

One of the main political fallout of large scale illegal migration from Bangladesh had led to the rise of All Assam Gana Sangram Parishad (AAGSP) and All Assam Student's Union (AASU) and also protests in Assam in the 1970s and 1980s. The illegal migrants who settled in the bordering districts of Assam and West Bengal have successfully enrolled their name in the voter list and acquired voter identity cards. As a result, *firstly* they become illegal voters; *secondly*, by this means they acquire citizenship. Even if the initiative like the National Register of Citizens (NRC) is intended for the detection of illegal Bangladesh migrants, the success of it is yet to be realised. Reportedly, Bangladeshi immigrants who enter India and settle down in the bordering districts are playing a key role in the political outcome and allegedly they 'determine' the outcome of polls in about 52 Constituencies out of the 292 Assembly Constituencies in West Bengal. Consequently, there is a perception that the political power of the locals is being taken away by the immigrants.

### **3.6 Impact on India's border security:** move to next page

The Bangladesh border is the longest land border that India shares with any of its neighbours. It covers a length of almost 4,096 kilometres abutting the states of West Bengal, Assam, Meghalaya, Mizoram and Tripura. The existing and emerging threats along this border are conditioned, to a large extent, by the terrain. The highly porous border cuts heavily along rivers, canals, villages, agricultural lands and tropical forests. The border which was carved out by the Radcliffe Line, was not demarcated on the ground. As a result, the border cuts through the middle of several villages and in some cases, while one section of a house is in India, the other section lies in Bangladesh. In West Bengal, for instance, there are more than 100 villages located on the zero line, and in many instances there are houses where the front door is in India and the rear door opens into Bangladesh. The international border drawn during the partition of India in August 1947, divides a contiguous landscape and a population that was integrated and interdependent for centuries. There are hardly any distinguishing geographical features marking the porous border. Over the last 50 years, almost the whole length of the border has been demarcated, however a few kilometers of undemarcated stretches remain the source of tension and misunderstanding between the two neighbours. In addition there are a number of enclaves and adversely possessed lands (APL), relics of the colonial past, which remain

unresolved. Inadequate demarcation has also created the problem of enclaves. There are 51 Bangladeshi enclaves, with a total area 7,110 acres, in India and 111 Indian enclaves measuring 17,158.1 acres in Bangladesh. The population figures of these enclaves are not available, as no access to the Indian enclaves in Bangladeshi territory has been provided by Bangladesh for census operations. Similarly, there are about 52 pieces of land, which actually belong to Bangladesh but are in adverse possession of India and approximately 49 pieces of land belonging to India that are in adverse possession of Bangladesh. The Land Boundary Agreement between the two countries in 1974 laid down procedures for joint demarcation of boundaries. Although the survey authorities of the two countries have completed the demarcation of over 4,000 kilometres of India-Bangladesh boundary, they have not been able to resolve differences in demarcation of approximately 6.5 kms. of land boundaries in the States of Tripura, West Bengal and Assam. The two countries have set up two Joint Boundary Working Groups to resolve all pending issues relating to the implementation of the Land Boundary Agreement of 1974, including exchange of enclaves. Though the number of unauthorized transit points for goods and people are limited along the border, for all practical purposes it has remained open. People continue to cross the borders with consummate ease, and this has also encouraged large volumes of irregular and unofficial trade along the border. The ethno-cultural proximity of populations on both sides of the borders, and the absence of physical barriers and vigilance by security forces have facilitated such illegal border trade.

### **3.7 The case of Assam and the North-East:**

Assam shares 263 km of border with Bangladesh. Large scale infiltration into Assam from Bangladesh threatens the demographic pattern of Assam, so much so that the majority Assamese community stands threatened of being relegated to minority status.<sup>184</sup> In a report to the then President of India K.R. Narayanan, dated November 8, 1998, the then Governor of Assam, Lieutenant General (Retd.) S.K. Sinha warned that illegal Bangladeshi influx “poses a grave threat both to the identity of the Assamese people and to our national security. Successive governments at the Centre and the State have not adequately met the challenge.” He insisted that by viewing the illegal migration issue as a largely regional affair, affecting only the state of Assam, policymakers in New Delhi failed to recognise its negative impact on the overall

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<sup>18</sup>W.W. Hunter, *A Statistical Account of Assam*, Vol. I, London: Trubner & Co. Year?

security landscape. This limited view in New Delhi increased the ability of external actors to influence political developments not only in the peripheral states of the north-east but also created vital destabilizing linkages within India's strategic heartland. In order to tackle illegal migration into Assam, the Centre has set up the Illegal Migration (Determination by Tribunals) Act, 1983 on December 12, 1983, under an act Act of Parliament. Applicable only to the state of Assam, the IMDT Act provided that anybody settled in Assam before March 25, 1971, was a legal citizen. Significantly the cut offcutoff date for acquiring Indian -----?

<sup>4</sup> W.W. Hunter, *A Statistical Account of Assam*, Vol. I, London: Trubner & Co.

citizenship is July19, 1948. The IMDT Act also laid down the onus on the complainant – the police, rather than the accused to prove the latter's citizenship status. The Foreigner's Act, 1946, in contrast, lays the responsibility on the accused, and not the complainant, to prove his/her citizenship status.

The implementation of the IMDT Act evoked a lot of acrimony in Assam. It was enacted during the turbulent elections of 1983. At that time, the All Assam Students' Union (ASSU) leaders spearheading the Assam agitation questioned the validity of the 1983 elections. For them the elections lacked legitimacy as they were held without resolving illegal migration issue. The ASSU leaders argued that under the IMDT Act political favouritism was shown towards the illegal migrants. The leaders of the Assam agitation also became suspicious of the IMDT Act given that it was enacted by the Hiteshwar Saikia government, which was perceived to be pro-illegal Bangladeshi migrants for its own political gains. On August 15, 1985, the Assam Accord was signed between the leaders of the Assam agitation and the Rajiv Gandhi government at the Centre. The accord stated in Para 5.9 that “the government will give due considerations to certain difficulties expressed by the ASSU/AAGSP regarding the implementation of the Illegal Migrants (Determination by Tribunals) Act, 1983.” “Significantly the agitating leaders who under the banner Asom Gana Parishad formed the government twice, took an ambiguous stand with regard to the annulment of the IMDT Act. Indeed they did little to remove the difficulties of the Act, which prevented a judicious handling of the migration issue. Yet, an analysis of the ground realities till date reflects the inability of the IMDT Act to effectively identify and deport illegal migrants. As a result, polemics in Assamese civil society

increased the demands for scrapping the IMDT Act. In 2003 the then ruling NDA government headed by Prime Minister Vajpayee made a move to repeal the Illegal Migrants (Determination by Tribunals) Act 1983. A bill was also introduced in the Parliament by the Deputy Prime Minister, L.K. Advani which said: “The detection and expulsion of the illegal migrants under the Act has been very tardy.<sup>195</sup> The operation of the Act in Assam has been hurting the Assamese psyche and is one of the contributing factors for the feeling of alienation in Assam. It has therefore been decided to repeal the Act so that the Foreigner’s Act, 1946, which is applicable throughout the territory of India also becomes operative in the State of Assam to expedite detection and deportation of illegal migrants.” But the Act could not be repealed because the ruling NDA government did not command a majority in the Rajya Sabha.<sup>20</sup> <sup>6</sup>

In Manipur, for instance, illegal migration from Bangladesh via Assam is adding to the complexities of the existing problem of Chin infiltration from Myanmar. In late April, 2003, Bangladeshi immigrants in Jiribam sub-division of the Imphal teamed up with a local Islamist outfit, the People’s United Liberation Front (PULF), to avenge the death of an illegal migrant. At least 300 Bengali Hindus were hounded out of their villages.<sup>7</sup> Such has been the scale of Bangladeshi immigration into Manipur that an influential civil organisation. Similarly Bangladeshi migrants in Nagaland constituted a serious threat to the demographic balance of the State. Nagaland, in 2001 Census registered the highest population growth rate (64.41%) in the country, and a major proportion of this increase can be ascribed to illegal migration. All the manual workers, construction labourers, taxi drivers, rickshaw pullers, and cultivators are largely -----?

<sup>5</sup> Amalendu Guha, *Planter Raj to Swaraj: Freedom Struggle & Electoral Politics in Assam*

<sup>6</sup> Uddipana Goswami, “Miya or Axamiya? Migration and Politics of Assimilation in Assam”, *Journal of Social and Policy Sciences*,

<sup>7</sup> Nilanjan De, “Bengali Immigration and Renovation of the Administrative Structure of

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<sup>19</sup> Amalendu Guha, *Planter Raj to Swaraj: Freedom Struggle & Electoral Politics in Assam*      details  
incomplete

<sup>20</sup>. Uddipana Goswami, “Miya or Axamiya? Migration and Politics of Assimilation in Assam”, *Journal of Social and Policy Sciences*, year ?

Tripura: An Analytical Study”, *International Journal of Research in Social Sciences*, Vol. 2,

Bangladeshi migrants. Bangladeshi nationals run almost half the shops in Dimapur – the commercial hub of the state as well as in Kohima. The National Socialist Council of Nagaland-Khaplang (NSCN-K) has been reportedly issuing temporary work permits to the immigrants and has even set a permissible number of immigrants per district. Many of the illegal Bangladeshi immigrants have married local Naga women.

Tripura which shares an 856 km. border with Bangladesh has been widely acknowledged to have been transformed from a tribal majority State into a tribal minority State in less than six decades, and this is now an irreversible feature of the State’s demography. There is ample evidence that illegal migration continues to take place in the State, though the scale fluctuates with challenges in the political dispensations in Bangladesh. In addition, the porous border also facilitates the movement of militants, criminals, smugglers and drug peddlers, mostly acting under the protection or at the behest of the BDR officers and personnel. Some incidents reported in 2006 are illustrative.

Meghalaya, which shares a 443 km. border with Bangladesh, has served as a traditional route for Bangladesh based militants operating in India’s north-east. The Garo Hills have also provided significant routes for drugs and arms smuggling. Little, however, is known about the scale of infiltration of Bangladeshis into the State. On March 31, 2000 the then Meghalaya Chief Minister, E.K. Mawlong, said that the intrusion of the Bangladeshis into the state had increased and at least 950 persons had been detected between January and February 2000. Answering a question raised by an independent MLA. P.M. Syiem on the issue of the illegal Bangladeshi migrants in the state, Mr Mawlong said that 1,512 Bangladeshi nationals were detected in 1994, of which 1,429 were pushed back and 83 were prosecuted. In 1995, as many as 1,474 were detected of which 1,382 were pushed back and 92 were prosecuted. In 1996, 2,533 Bangladeshi nationals were detected and 2,426 were pushed back while the rest were prosecuted. Mr. Mawlong also added that a total of 2,857 Bangladeshis had made inroads into the state in 1998, of which 2,803 were pushed back, while the rest had been prosecuted. In March 2000, Mr. Mawlong also said that his government was trying to implement the central package for surrendered militants to solve the problem of insurgency in the state.

### **3.7 The Land Acquisition Acts:**

The issue of land alienation in Assam had emerged as a major problem during the colonial days when it was observed that immigrants from East Bengal were either granted tenancy rights by the administration or the immigrants themselves encroached upon forested land and reclaimed wasted land thereby divesting the tribals of their land. The tribal people, under the banner of Central Organisation of Assam Tribes, had agitated against the large-scale land transfer from the tribal peasants to the East Bengali immigrants and, in 1945, demanded that the Assam government should evict the migrants from East Bengal from the reserved forest and other areas, end all encouragement to migrate from East Bengal and redistribute land to the landless tribal people of the state. After independence, keeping the concerns of the tribal population in mind, the Assam government amended the Assam Land Revenue Regulation of 1886 (the Assam Land and Revenue Regulation Amendment Act, 1947) and institutionalised the decision taken in 1946 to reserve land for the tribals by creating tribal belts and blocks.<sup>218</sup> Under the Act, villages with 50 per cent or more of tribal population and backward communities were brought under the jurisdiction of the tribal belts and blocks, and in some instances, for the sake of

<sup>8</sup> Jogesh Ch. Bhuyan, “Illegal Migration from Bangladesh and the Demographic Change in the North-East Region”, in B.B. Kumar (ed.), *Illegal Migration from Bangladesh*, Delhi

geographical contiguity, even villages having less than 50 per cent of tribal population were clubbed with the reserved areas. Contrary to expectations, the initiative hardly addressed the problem of land alienation amongst the tribals as the lands earmarked for them were in remote and barren areas. Further, the interests of capitalists, tea plantations, landlords and non-tribals inhabiting the tribal land remained legally protected as they were granted permission to retain land in the tribal areas. Consequently, the tribals not only were deprived of land tenancy rights but were also compelled to migrate to remote and inhospitable areas of the state. In later years,

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<sup>21</sup>Jogesh Ch. Bhuyan, “Illegal Migration from Bangladesh and the Demographic Change in the North-East Region”, in B.B. Kumar (ed.), *Illegal Migration from Bangladesh*, Delhi YEAR ?

the enactment of a couple of Land Acquisition Acts—such as the Assam Acquisition of Land for Flood Control and Prevention of Erosion Act, 1955 and the Assam Acquisition of Land for Flood Control and Prevention of Erosion (Validation) Act of 1959—further added to the woes of the tribals in terms of land alienation. Since these Acts permitted the Assam government to acquire land to resettle persons displaced by floods and earthquakes, it benefited the Bengali immigrants instead of the tribals because the Bengali immigrants were the ones who inhabited the low-lying areas, such as chars and chaporis, which got inundated during annual floods, and were settled in government-acquired land and given tenancy rights. Since these Acts did not address the land alienation grievances of the tribals, they were challenged in the court and once the Assam Land (Requisition and Acquisition) Act of 1964 was legislated, these Acts were repealed. Thus, because of faulty policies, vested political interests and bureaucratic apathy, legislations which could have discouraged further immigration from East Bengal/Pakistan by denying them rights to land in Assam ended up giving them land rights, thereby encouraging further illegal migration.

Illegal migration from East Pakistan, later Bangladesh, into India has continued unabated since independence. It brought in its wake not only socio-economic and political turmoil in the migrant-receiving states but also strained bilateral relations. As lakhs of undocumented migrants fleeing either politico-religious persecution or economic deprivation in East Pakistan/Bangladesh crossed the border and settled in the border states of India, it created conflict between the host population and the immigrants. Competition over land, job opportunities and cultural supremacy between the natives and immigrants became more intense. The numerical preponderance of the illegal immigrants also resulted in altering the demographic profile of Tripura and many border districts of Assam and West Bengal. The loss of political power by the natives to the immigrants and the fear of being marginalised in their own territory fomented secessionist tendencies among the people in the border states, with ULFA and Bodo militant groups in Assam and TNV, NLFT and ATTF in Tripura emerging as major insurgent groups. While the Indian government was still grappling with the insurgencies in the North-East, the BJP and its allies, emerging as a strong force at the centre, projected the issue of illegal migration as an existential threat to India. In an attempt to garner Hindu votes and establish itself as a “nationalist” party, the BJP portrayed the illegal migrants from Bangladesh as Muslims who are entering into India to take away jobs from the local people. The BJP also alleged that most of them had connections with Islamic fundamentalist

organisations in Bangladesh and their motive was to create socio-political unrest in India and ultimately merge parts of Assam and West Bengal with Bangladesh to create “Greater Bangladesh”.

The way forward in managing the problem of illegal migration from Bangladesh is, first, to objectively assess the number of migrants illegally crossing the border as well as staying in the country and make such a database publicly accessible. This would free the issue from speculation and provide a clearer perspective on the problem. Second, borders have to be tightly controlled through a judicious mix of fences and better human and electronic surveillance. In this effort, support of the local people is also necessary. Third, serious and sincere efforts should be made to identify illegal migrants, who are not considered morally and legally entitled to stay in the host country, and arrange for their repatriation. For this purposes, Bangladesh has to be brought on board on this issue sooner or later by pursing a vigorous diplomatic engagement. Lastly, India should put in place an immigration policy that would clearly state terms for granting citizenship and asylums and put to rest ambiguity, bureaucratic discretion and political calculations.

# **CHAPTER-4**

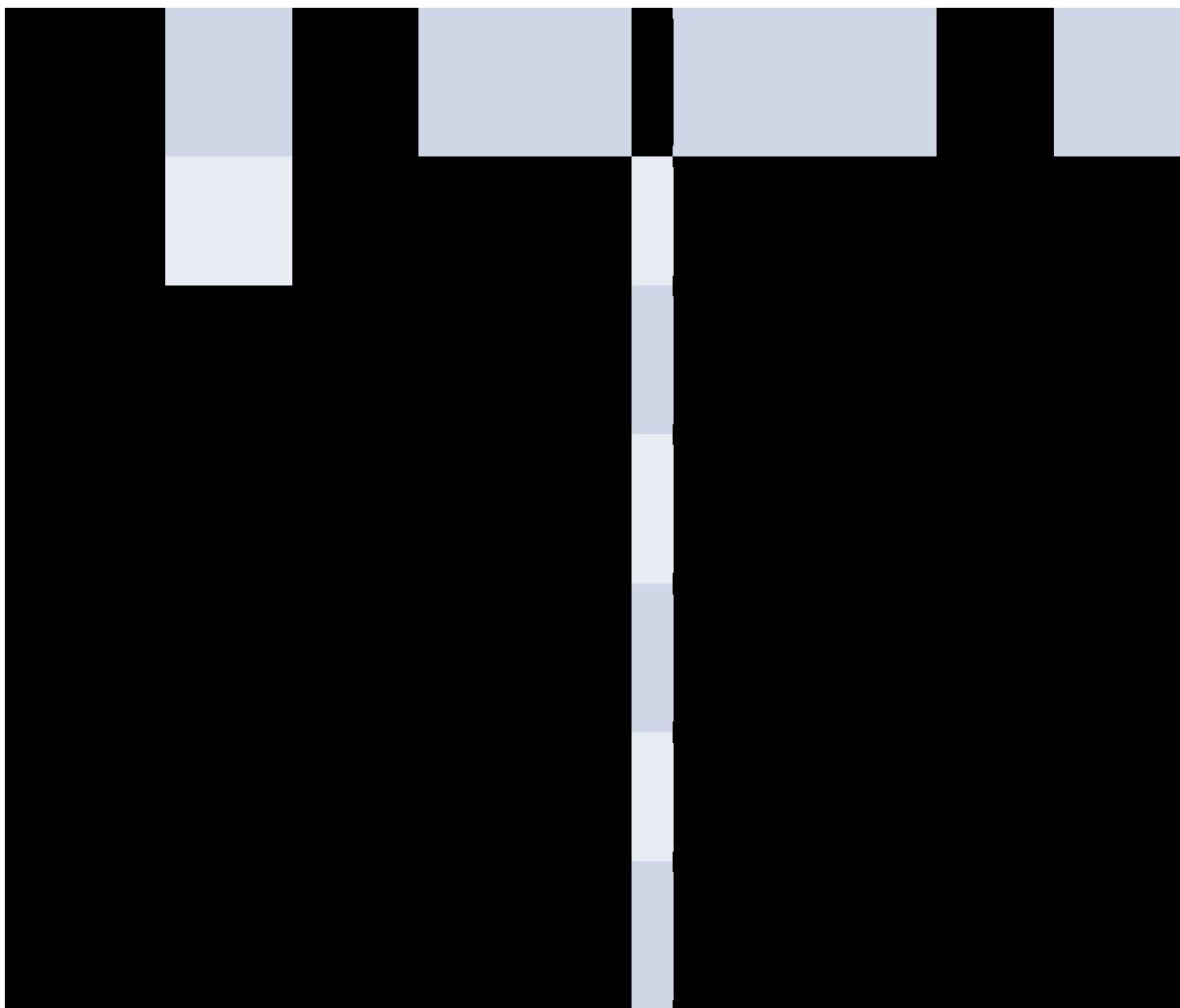
## **CASE ANALYSIS**

#### **4.1 Case analysis:**

Within India, Assam is most impacted by the illegal migration from Bangladesh. Reportedly, the Muslim population has increased in the border districts of Assam. One estimate holds that not less than one-third of Assam's 22.38 million populations are that of immigrants and their descendants.

**Table I:** The growth rate of population of Muslims vis-a-vis other religious communities from 1971-2001

The image features a decorative graphic composed of five vertical bars arranged horizontally. The bars alternate between black and a very light blue color. The widths of the bars vary: the first and third bars are the widest, the second and fourth bars are narrow, and the fifth bar is of medium width. The bars are set against a plain white background.

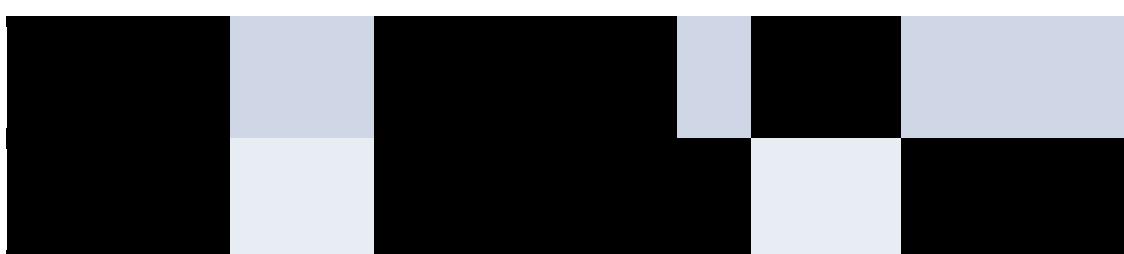


Particularly, out of 27 districts in Assam, Dhubri, Goalpara, Barpeta, Morigaon, Nagaon, Dhemaji, Cachar, Karimganj and Hailakandi are reportedly facing intense crisis due to illegal migration from Bangladesh. As per the 2011 census .

Put statistics in table

**Table II:** Growth of Muslim population in per cent in bordering districts of Assam during 1971-2001

Put it in table format





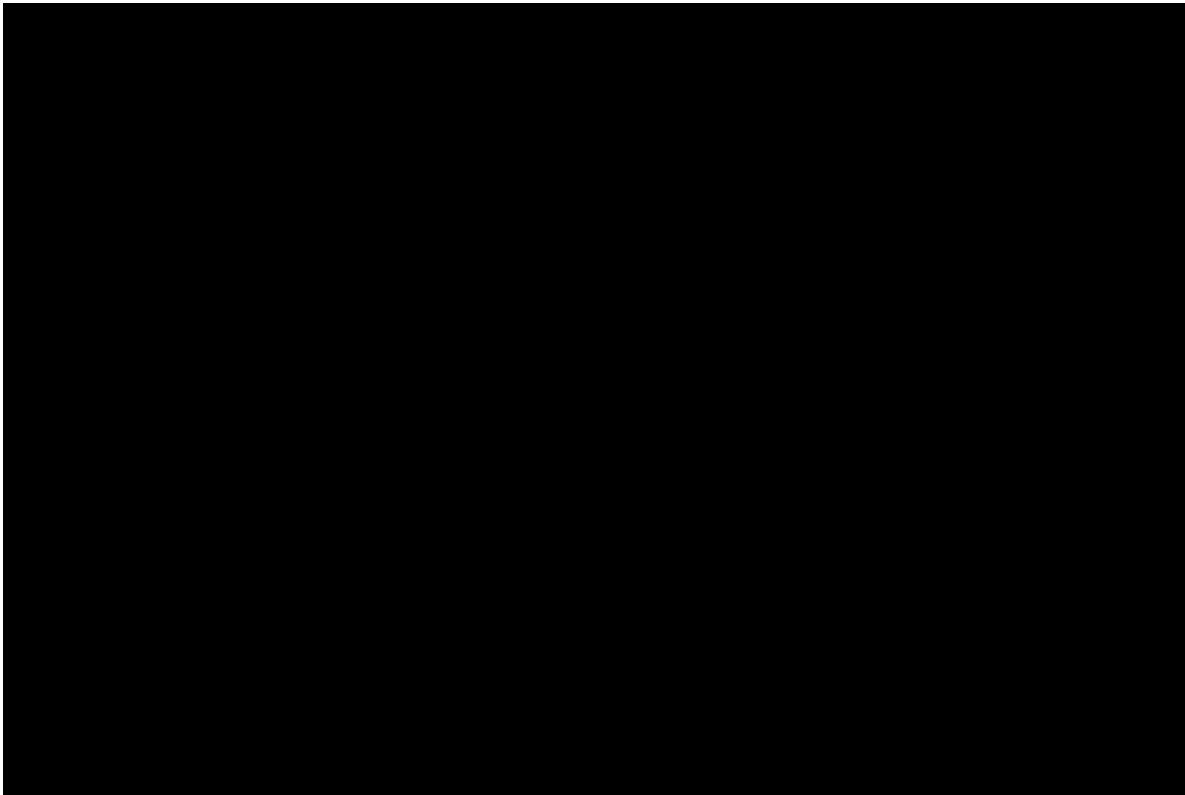
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The West Bengal that borders with Bangladesh is another state within India that is preferred by the migrants owing to the presence of the same linguistic and cultural environment. Allegedly, over five million Bangladeshi Muslims in West Bengal are illegally residing in the State. Between 1951 and 2001, in West Bengal while the growth rate of Hindus was 198.54 percent, the Muslims growth rate was about 310.93 percent. The growth rate of the Muslim population of West Bengal has been noticed comparatively higher especially in the border areas. For instance, between 1991 and 2001, North 24 Parganas registered a population rise of 22.64 percent, Murshidabad 23.70 percent and Malda 24.77 percent respectively, whereas, between 2001-2011. 24 Parganas district registered 30.96 percent, while Murshidabad 21.07 percent, and Malda 21.5 percent respectively in the identical periods. Rampant illegal migration from Bangladesh is pointed as a reason for such disparities.

In Tripura, the local residents, indigenous or native tribes, are said to be turning into a marginal community over a period of time by the inflow of undocumented migrants from Bangladesh. T.V. Rajeshwar, former Governor of West Bengal, was of the view that there could be about 7 million of the illegal or undocumented migrants in West Bengal, 5 million in Assam and 2 million in Bihar. According to the data submitted by the government to the Supreme Court, a total of 9,91,031 Bangladeshis entered India with valid documents but did not return,

between 1972 and 1997. However, generally, it is acknowledged that there is no reliable data on the exact number of illegal migrants from Bangladesh in India.

### **Religion-wise population in Assam (Census 2011/Assam)**



Spacing

Assam, the North Eastern state of India has become the first state in the country where the updation of the NRC is being taken up to include the names of those persons whose names appeared in the NRC of 1951 and are still alive; and/or of their presently living descendants who have permanent residence within the state. The process of updating Assam's part of NRC started in 2013 when the Supreme Court of India passed an order for it to be updated. Since then, the Supreme Court (bench of Chief Justice of India Ranjan Gogoi and Rohinton Fali Nariman) monitored it continuously. The entire process was conducted by Prateek Hajela, an IAS, who has been designated as the State Coordinator of National Registration, Assam.

The final updated NRC for Assam, published 31 August 2019, contained 31 million names out of 33 million population. It left out about 1.9 million applicants, who seem to be divided roughly equally between Bengali Hindus, Bengali Muslims and other Hindus from various parts of India. The one advisor to Prime Minister of Bangladesh has indicated that Bangladesh will take back any of its citizens residing in any neighboring nation including India

if evidence is provided. While Prime Minister of Bangladesh called it an internal matter of India.

#### **4.2 Background**

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During the 19th and 20th centuries, [Colonial Assam](#) (1826–1947) witnessed intermittent migration of populace from rest of the provinces of [British India](#) in the aftermath of the [Yandabo treaty](#) which brought the region under the control of British. The liberal colonial authorities encouraged the migration of peasants from Bengal to Assam in search of fertile lands. As early as 1931, C.S. Mullan, the Census Superintendent in his census report stated:

Probably the most important event in the province during the last 25 years- an event, moreover, which seems likely to alter permanently the whole feature of Assam and to destroy the whole structure of Assamese culture and civilization has been the invasion of a vast horde of land-hungry immigrant, mostly Muslims, from the districts of East Bengal

#### **4.2 (a)After 1950:**

This migration surged, especially that of [Hindu](#) Bengali people, from [East Pakistan](#) (presently [Bangladesh](#) since 1971) after India's independence and subsequent partition into two separate countries namely the secular [India](#) and [Muslim Pakistan](#).<sup>221</sup> Following the [Partition of India](#), Pakistan consisted of two isolated landmasses, [Pakistan](#) to the west of India and [East Pakistan](#), to the East. Demarcation was loose and without any robust physical barrier or fencing between East Pakistan and India. Post Partition, East Pakistan suffered from political turmoil and witnessed civil unrest which finally led to a civil war and separation of East Pakistan from Pakistan and a new country [Bangladesh](#) came -----?

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<sup>1</sup> Myron Weiner, “The Political Demography of Assam’s Anti-immigrant Movement”, *Population and Development Review*, Vol. 9,

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<sup>22</sup> Myron Weiner, “The Political Demography of Assam’s Anti-immigrant Movement”, *Population and Development Review*, Vol. 9, YEAR ?

into being consisting of all the geographical area of erstwhile East Pakistan. There occurred mass exodus of population from the war-torn regions into the Indian side and most of these refugees never returned.

Even after the end of civil war and the formation of Bangladesh, migration continued, though illegally. The Government of India already had in its stock of statutes, the Immigrants (Expulsion from Assam) Act, 1950. This act came into effect from 1 March 1950 which mandated expulsion of illegal immigrants from the state of Assam. To identify illegal immigrants, the National Register of Citizens was prepared for the first time in Assam during the conduct of 1951 Census. It was carried out under a directive of the [Ministry of Home Affairs](#) (MHA) by recording particulars of every single person enumerated during that Census. Practical implementation of the act was difficult and the measures taken under this act proved ineffective largely due to the vast stretch of the open border between the countries and illegal immigrants pushed out of India at one point of it could easily infiltrate again at some other unmanned point. The issue of illegal infiltration was becoming formidable problem in the state of Assam as migrants enjoyed political patronage. The Registrar General of Census in his report on [1961 Census](#) assessed 2,20,691 infiltrators to have entered Assam. In the year 1965, the government of India took up with the government of Assam to expedite completion of the National Register of Citizens and to issue National Identity Cards on the basis of this register to Indian citizens towards the identification of illegal immigrants. But in 1966 the Central Government dropped the proposal to issue identity cards in consultation with the Government of Assam, having found the project impracticable. In a notification issued by the Government of India in the year 1976, the State government was instructed not to deport persons coming from Bangladesh to India prior to March 1971. Thus between 1948 and 1971, there were large scale migrations from Bangladesh (then East Pakistan) to Assam.

#### 4.2 (b) Final NRC

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##### **Methodology**

The mechanism adopted to update the NRC 1951 has been developed from scratch owing to the fact that there is no precedence of such a mammoth task ever undertaken in India or elsewhere that involved identification of genuine citizens and detection of illegal immigrants using technology since it involved data of over 3 crore people and over 6.6 crore documents. The guidelines under which NRC Update has been taken up is as follows –

The process of NRC update is divided into the following phases:

1. Publication of Legacy Data
2. Distribution & Receipt of Application Form
3. Verification Process
4. Publication of Part Draft NRC
5. Complete Publication of Draft NRC
6. Receipt and Disposal of Claims & Objections
7. Publication of Final NRC

### **Publication of Final NRC**

The Final NRC has been published on 31 August 2019 after completion of all the statutory works as per various standard operating procedures. As per a press release by the SCNRC, a total of 3,30,27,661 persons applied to the registering authority through 68,37,660 application forms and out of which 3,11,21,004 persons were found eligible for inclusion of their names in the final NRC leaving out 19,06,657 persons, who were not included and shall have to approach a Foreigners' Tribunal with an appeal against non-inclusion if they so desire.

### **Controversy on Final NRC**

As soon as the final NRC was published on 31 August 2019 at 10 AM on completion of the updating the NRC, 1951 at all the local, tehsil & district level offices created for the purpose, controversy regarding its correctness set in and even some lawmakers openly came out criticizing the document. A sitting M.L.A of Assam belonging to the political party All India United Democratic Front (AIUDF) representing the Scheduled Caste-reserved constituency of Abhayapuri South in lower Assam, having found himself out of the NRC, reportedly expressed that thousands of genuine Indians, especially Bengali Hindus, have been left out of final NRC, and as many illegal foreigners have made into the final list.

The Assam Public Works (APW), the original petitioner in the Supreme Court which led to the update of the National Register of Citizens six years ago, said the final NRC turned out to be a 'flawed document' because its prayer for re-verification of the draft list was rejected by the apex court. The NGO also wondered whether the software used in the update exercise was capable of handling so much data. Widespread protests erupted against the Citizenship Amendment Act, 2019 when read with NRC, across India. The allegation ranged from the Act when applied through the lens of NRC being against the Constitution of India and being discriminatory to Muslims. However, protests in

the North Eastern State of India were concerning the effect of the Act and the register eroding the identity of north eastern India by allowing naturalizing of illegal immigrants.

## **Eligibility Criteria**

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The following classes of persons as being eligible to be included in the NRC:

Persons whose names appear in the NRC, 1951

Persons whose names appear in any of the Electoral Rolls up to 24 March (midnight), 1971.

Descendants of the above persons.

Persons who came to Assam on or after 1 January 1966 but before 25 March 1971 and registered themselves in accordance with the rules made by the Central Government with the Foreigners Registration Regional Officer (FRRO) and who have not been declared as illegal migrants or foreigners by the competent authority.

People who are original inhabitants of Assam and their children and descendants who are citizens of India provided their citizenship is ascertained beyond a reasonable doubt by the registering authority.

'D' voters can apply for inclusion of their names in the updated NRC. However, their names will be finally included only when the appropriate Foreigner Tribunal declares them as non-foreigners.

Persons who can provide any one of the documents issued up to midnight of 24 March 1971 as mentioned in the list of documents admissible for citizenship.

All Indian Citizens including their children and descendants who have moved to Assam post 24 March 1971 would be eligible for inclusion in the updated NRC on adducing satisfactory proof of residence in any part of the country (outside Assam) as on 24 March 1971.

All members of the Tea Tribes shall be covered under 'Original inhabitants of Assam 'Assam' category provided for under Clause 3(3) of the Schedule of The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003.

All such original inhabitants shall be included on the basis of proof to the satisfaction of the Registering Authority. On the establishment of the citizenship of such persons beyond a reasonable doubt, their names shall be in the updated NRC.

## **Updating the NRC**

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The NRC is updated as per the provisions The Citizenship Act, 1955 and The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules. As per the statutes, the eligibility status would be ascertained based on the NRC, 1951, Electoral Rolls up to 1971 and in their absence the admissible documents up to 24 March (midnight) 1971.

Updating the National Register of Citizens (NRC) in the state of Assam is the most extensive citizen-engaging exercise undertaken in any Indian state, perhaps the first of its kind even globally, that touches the lives of every resident of the state. Once the Registrar General of India appointed Prateek Hajela as the State Coordinator for the project:

**Setting up of an Innovative Technical Mechanism:** NRC update project in Assam required new systems for residents data collection, processing and management of the data so collected, document scanning, verification and digitizing. Development of over twenty large custom software applications, over 2500 digitization hubs and a state of art Data centre, and extensive manpower involvement (involving over 30,000 government officers and 10,000 contractual/ outsourced staff) was set up to take on the process of the NRC update.

**Setting up of NRC Seva Kendras (NSK):** In order to aid and assist the public in enrolling themselves in the NRC update process Information and communications technology (ICT) enabled Help Desks named NRC Seva Kendras (NSKs) were set up across the state. NRC Seva Kendras (NSK) were set up in each district of Assam; each NSK covering an approximate of 2,500 households. NSK acts as the epicentre for all the NRC activities starting from assisting the public in searching the Legacy Data, distribution of Application Form, receipt of Application Form, carrying out all the data entry work, displaying of Draft NRC and so on. Each NSK is equipped with sophisticated software for Legacy Data Search in three languages, namely English, Assamese and Bengali & besides that, adequate hardware such as computers, scanners, & furniture are made available for public convenience.

**Publication of Legacy Data:** To claim eligibility for inclusion in NRC the applicants had to prove their residence in Assam (or in any part of the country) up to 24 March 1971. As per statutory requirement, the NRC authorities had to publish copies of NRC 1951 and

Electoral Rolls of all years up to 24 March 1971(collectively named as **Legacy Data**).<sup>232</sup> Easy accessibility of these documents was the key to ensure effective public engagement in the process. About 6.26 lakh pages of such old documents were available across the state, but most of those were in poor condition as can be seen in the image of Original NRC 1951. It would not have been possible for the public to search for their names in the heaps of dilapidated documents. To address this concern, NRC authority decided to digitize and develop the legacy data and make it available in an easily searchable format.

<sup>2</sup> Amit Baruah, "Illegal immigration on both sides" citation incomplete details of book, year, publication ?

2.01 crore records were digitized and were assigned a Unique "Legacy Data Code" from 6.26 lakh pages of such legacy documents. All these pages were then converted into images through photographic scanning and assigned unique image IDs and linked to the 2.01 crore records for preserving the database, establishing the unique identity of records and producing true copies of Legacy Data for publication. The data was transliterated to make it search enabled in Assamese, English, and Bengali. Out of the total 8 crore words found in the Legacy Database, an "Assam Data Dictionary" was prepared with 24 lakhs unique words. 25 GB of SQL database and 240 GB image files were installed in a short span of 10 days in 5000 laptops spread over 2500 NRC Seva Kendras (NSKs) specially set up for free search and issue of Legacy Data. The legacy database was also made available on the public domain through NRC Website. Issue of 77 lakh Legacy Data Codes in NSKs and 68 lakh through the web in a period of 6 months proved to be the game-changer in NRC update. Out of 68.23 lakh Application Forms received from the public, 95% of applicants submitted Legacy Data as supporting documents to prove their claim for inclusion in NRC. This indicates to the indispensability of Legacy Data development exercise which set the ball rolling for NRC update.

### **Documents to be furnished**

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<sup>23</sup>Amit Baruah, "Illegal immigration on both sides" citation incomplete details of book, year, publication ?

Two sets of documents had to be furnished by the applicants for inclusion in the updated NRC. They are -

**List A Documents:** For inclusion of names of any person in updated NRC, the applicants must produce any one of the following List A documents issued before 24 March (midnight), 1971 where the name of self or ancestor appears (to prove residence in Assam up to 24 March (midnight), 1971) - 1951 NRC, Electoral Roll(s) up to 24 March (midnight), 1971, Land & Tenancy Records, Citizenship Certificate, Permanent Residential Certificate, Refugee Registration Certificate

**List B Documents:** If any of the documents of List A is not of the applicant himself/herself but that of an ancestor, namely, father or mother or grandfather or grandmother or great grandfather or great grandmother (and so on) the applicant then have to submit List B documents to establish relationship with such ancestor, i.e., father or mother or grandfather or grandmother or great grandfather or great grandmother, etc. whose name appears in List A. Such documents shall have to be legally acceptable document which clearly proves such relationship. The applicants must produce any one of the following List B to establish the linkage: Birth Certificate, Land document, Board/University Certificate, Bank/LIC/Post Office records, Anyany other legally acceptable document.

### **Distribution and Receipt of Application Process**

For the convenient update of NRC, the application process was facilitated to the public in both online and offline modes.

**Offline:** People opting for the offline mode had to visit their nearest NSK for filling up and submission of their application forms. The NSKs received applications from 9 AM till 6 PM, sometimes till late hours depending on the footfall of the public. Every applicant received a photocopy of his/her entire form submitted along with an acknowledgment receipt containing a unique Application Receipt Number (ARN) issued against the form.

**Online:** For the Online mode of application, NRC online form was made available to the public. People opting for online mode had the option of submitting the form via their smartphones and tablet devices as well, in addition to accessing the form via a desktop/Laptop. The online process was also made convenient for applicants who lacked access to stable internet connection; preventing them from going through with the online application process uninterrupted. This was done by integrating an innovative offline-online

facility of form receipt, which allowed offline filling up of Form and online submission as and when network connectivity is available.

Distribution and Receipt of Application Form took off initially on 9 May 2015 with a trial run of the NRC Application Receipt Software at Chandrapur 3 NSK under Chandrapur circle of Kamrup Metropolitan. Soon after, the Application Receipt phase was launched in May 2015 and the online submission facility was launched on 22 June 2015. Application Forms were distributed house to house by government functionaries in the entire state and could be collected by the applicants from the NRC Seva Kendra's (NSKs) in case it was lost or damaged.

The guidelines of form fill up were made available in the form of instruction sheets distributed during the Community Awareness Meetings, video tutorials were developed and made available online as well as distributed in the form of CDs in each district at the capacity building meetings, toll free helpline numbers were made available.

The NRC Seva Kendras (NSKs) served as the Application Receipt Centres. The online receipt of application forms allowed the user to submit their registration details online, submit their NRC Application Forms online and finally generate their Acknowledgement Receipt Number on successful submission of the forms online.

A first of its kind combination of the online and offline facility was introduced for benefit of the rural public. The application was introduced at a later stage and could be accessed through any Government-authorized Common Service Center (CSC)/Arunoday Kendra. The Common Services Centres are being operated by the Village Level Entrepreneurs (VLE) who ensure the percolation of the National e-Governance Plan at the grass-root level. In total 1148 SAHAJ Arunoday Kendras have been rolled out so far in the State of Assam, out of mandated 2833 Centres to July 2009), Cyber Cafes, any friend or internet access point for uploading photos and supporting documents. The e-form was made available at the NRC Assam website [www.nrcassam.nic.in](http://www.nrcassam.nic.in) from 6 August 2015 onwards, through which anyone could download the e-form or copy in pen drives from the CSCs. One could easily fill up the e-form online or offline as per their convenience from literally anywhere.

The last date of receipt of the Application Form was 31 August 2019.

### **Verification Process**

The sole objective of the verification process is to ensure that no ineligible person gets entry into the updated NRC and that no genuine person is left out from the NRC. The verification process consists of the following steps:

Office Verification

DOCSMEN - Document Segregation and Meta-Data Entry

Field Verification

Family Tree Matching Technique

Final eligibility for the inclusion of names is determined only if the results of all the three verification process -field verification, office verification, and Family Tree Matching- are found positive. As mandated in the Citizenship Rules, 2003 all cases, after ascertaining final eligibility at LRCR level, is referred to the DRCR for his/her approval before publishing the Part Draft NRC and Complete Draft NRC. Verification of Family Tree commenced on 15 February 2018 in Assam. Applicants whose family tree details mismatch with other members of the family will be called for family tree verification. Mismatches arising due to giving nicknames in family tree details, name/ surname changes due to marriage, missing out names of all family members due to lack of knowledge or ignorance, etc., will be corrected during these proceedings. Applicants will receive Letter of Information (LOI) delivered at their households by NRC field level functionaries. Details of date, time and venue will be mentioned in the LOI. However, those who receive this letter should not think their application is considered doubtful or will lead to exclusion from NRC. It is an opportunity to ensure the Legacy of each genuine citizen is protected from being misused by any unauthorized person to wrongfully enter NRC. A few applicants whose names are already included in Part Draft NRC may also receive an LOI. In such cases, they need to appear and testify to stop people from misusing their Legacy Data mischievously.

### **Publication of Part Draft NRC**

The first part of draft NRC, known as the Part Draft NRC has been published on expiry of midnight of 31 December 2017 by the Office of the State Coordinator of National Registrar (Assam) in all the villages/wards where the Application Forms were issued and received. The total number of people included in the Part Draft NRC is 19010932 members out of 3.29 crore applicants.

Following facilities were made available for the general public to check their name in the Part Draft NRC:

Visiting Designated NSK (1 January 2018 to 31 January 2018)

Online Publication on the website (until 5 February 2018)

Toll-Free Helpline Facility

Pre-registration SMS Service

On-Demand SMS Service

A total of 19010932 names of applicants have been included in the Part Draft NRC out of a total of 3.29 crore applicants. The names of remaining applicants will be included in the Final Draft NRC if found eligible after the entire verification process is completed. Also, names of applicants who submitted GP Secretary Certificates haven't featured in the Part Draft NRC as their verification was on hold until the ruling of the Supreme Court on 5 December 2017; stating that GP Secretary certificates can be used as a valid identity document for claiming citizenship. Therefore, verification of applicants who submitted GP Secretary Certificates has been resumed after the publication of Part Draft NRC; and if found eligible, will be included in the Final Draft NRC in Assam.

### **Complete Publication of Draft NRC**

The Complete Draft NRC was published on 30 July 2018 consisting of names of all those persons who have been found eligible after the entire verification process was completed.

### **Receipt and disposal of Claims and Objections**

Applicants who did not find their place in the Final Draft NRC could once again furnish any of the 15 admissible documents to prove their eligibility. They could either submit the same documents that they had submitted during the application or can submit any fresh documents. The process of filing Claims and Objections began from 25 September 2018 amidst all anxiety for some and amidst all eagerness for others. Applicants had to fill up the Claim Form and submit to the NRC Seva Kendras where they have applied earlier during the Application Phase. The process of submitting Claims and Objections began from 25 September 2018 and continued till 31 December 2018 as per the Supreme Court's order. The disposal of claims and objections was then carried out with the objective that the process of claims and objections is fair and transparent and provides a reasonable opportunity to all concerned.

## **Publicity Measures Undertaken to Empower the Public about NRC**

Considering the sensitivity of the matter and the magnitude of the project, it was important to reach out to the public in a meticulous way and ensure complete public awareness. For this, a strategic information dissemination and communication plan was adopted. A 360 degree IEC and media campaign was designed and implemented for generating awareness and dissemination of information to target audience across Assam/India/Globally through the following platforms: Community Level Meetings (CLMs), Leaflets, Video Tutorials, Field Level Speakers (FLS), Print Media, Electronic Media, Social Media, NRC Website.

## **Grievance Redressal Mechanism**

For active public participation, a one-stop Grievance Redressal System was developed and implemented through which the complaints/grievances related to NRC can be addressed.

## **Creation of additional Foreigners' Tribunals**

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On 30 May 2019, the [Government of India](#) passed a Foreigners' (Tribunals) Amendment Order 2019, which allows all states & UTs within the union of India to constitute their own [Foreigners' Tribunals](#), earlier unique to the state of Assam only, to address the question of citizenship of a person. The amendment empowers district magistrates in all states and union territories to set up Foreigners' Tribunals to detect foreigners. Following the Amendment, the provincial [Government of Assam](#) has initiated the process of establishing 400 additional Foreigners' Tribunals out of which 200 are made functional since beginning of September 2019.

## **Construction of Detention Camps**

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The Government of the state is also set to construct ten more detention camps besides six already in place in anticipation of the possible requirement to house a large number of illegal foreigners who may be declared as such by the Foreigners' Tribunals. The first such new exclusive detention camp is under construction in the district of [Goalpara](#) in lower Assam at cost of around Rs 460 million and a capacity to hold 3000 persons.

Spacing

## **CHAPTER-5**

### **Suggestions and Conclusion**

Introduction

#### **Illegal migration:**

Illegal migration from East Pakistan, later Bangladesh, into India has continued unabated since independence. It brought in its wake not only socio-economic and political turmoil in the migrant-receiving states but also strained bilateral relations. As lakhs of undocumented migrants fleeing either politico-religious persecution or economic deprivation in East Pakistan/Bangladesh crossed the border and settled in the border states of India, it created conflict between the host population and the immigrants. Competition over land, job opportunities and cultural supremacy between the natives and immigrants became more intense. The numerical preponderance of the illegal immigrants also resulted in altering the demographic profile of Tripura and many border districts of Assam and West Bengal. The loss of political power by the natives to the immigrants and the fear of being marginalised in their own territory fomented secessionist tendencies among the people in the border states, with ULFA and Bodo militant groups in Assam and TNV, NLFT and ATTF in Tripura emerging as major insurgent groups.

While the Indian government was still grappling with the insurgencies in the North-East, the BJP and its allies, emerging as a strong force at the centre, projected the issue of illegal migration as an existential threat to India. In an attempt to garner Hindu votes and establish itself as a “nationalist” party, the BJP portrayed the illegal migrants from Bangladesh as Muslims who are entering into India to take away jobs from the local people. The BJP also alleged that most of them had connections with Islamic fundamentalist organisations in Bangladesh and their motive was to create socio-political unrest in India and ultimately merge parts of Assam and West Bengal with Bangladesh to create “Greater Bangladesh”. Branding illegal migrants as a security threat also echoed the then worldwide trend of growing intolerance against migrants.

Given these challenges, the Government of India tried to contain illegal migration through a mix of laws and executive interventions aimed not only at expelling the foreigners from the country but also deterring potential migrants to cross the border illegally. Towards this end, detection, disenfranchisement and deportation of foreigners remained the prominent scheme.

Under this scheme, the illegal migrants were identified under the Foreigner's Act, their names deleted from electoral roles and then they were deported from India. While the aim and intent of the scheme was right, it could not achieve the desired results as a number of factors prevented its effective implementation. First, given the circumstances under which the people were fleeing their homes in East Pakistan and later Bangladesh, the central leadership adopted a more humane attitude towards them and despite pressure from the local leadership, instructed the state governments to be lenient towards those who have crossed the border irregularly.

Soon the state leadership realised that no matter how much they disliked the illegal migrants, their political survival hinged upon the votes cast in favour of them by these illegal migrants. So, they also started cultivating the leaders among the migrants and extended political patronage to the illegal migrants. These political parties not only provided the illegal migrants documents to prove their Indian citizenship and enlisted them in the electoral roles, but also protested vehemently alleging harassment towards the Indian Muslims whenever the police tried to evict the undocumented Bengalis. Such was the support for the illegal migrants amongst the politicians that they even enacted the IMDT Act, which made it impossible to carry on the process of detection and deportation of illegal migrants. The dismal record of the tribunals formed to evict undocumented Bangladeshis from Assam proves the point. Besides, Bangladesh's denial that its citizens had indeed migrated to India and were staying there illegally made deportation impossible. Bangladesh consistently maintained that the conditions of the Indian states bordering Bangladesh were no better than those in Bangladesh and therefore, the Bangladeshis did not have any reason to cross into those states. Whenever India tried to forcibly "push back" the illegal migrants, Bangladesh government refused to cooperate arguing that India was trying to "push in" Bengali-speaking Indian Muslims into the country.

The second most important measure that was undertaken to check illegal migration was strengthening border controls. For this purpose, the government augmented the strength of the BSF and constructed additional border check posts to keep a strict vigil along the border. The BSF personnel were also provided with state-of-the-art surveillance devices for enhancing their remote surveillance capabilities. In addition, the Indian government decided to construct a barbed wire fence along the international border to deter as well as prevent Bangladeshis from crossing the border illegally. Despite stiff resistance from Bangladesh, India was able to fence a substantial section of the India–Bangladesh border. Border roads were also built for easy mobility of the border guards. The Union government also launched a scheme of providing

identity cards to its citizens so that foreigners staying illegally in India could be easily identified and deported.

Doubts regarding the effectiveness of greater border control measures in preventing illegal migration have been raised periodically. It also has to be borne in mind that fencing, in itself, is a suboptimal measure because the illegal migrants have been able to circumvent the hurdle in various ways. In addition, government apathy at state level, local protests, difficult terrain and corruption have contributed in reducing the effectiveness of the fences. The dearth of authentic official data on the number of illegal border crossing makes it near impossible to judge the outcome of these border control measures. But if the BSF apprehension figures over the years are to be taken as an indication of the trend, then it appears that the border fence, along with increased presence of border guards, has indeed increased the costs of illegal border crossings and lesser number of people are attempting to cross it illegally now. It is important to understand that border controls are an ongoing process. It will take a developing country like India huge amount of resources, time as well as determined political will to effectively manage its international borders.

Given that the issue of illegal migration has generated emotional and violent reactions in the country and given the fact that the Indian government has not been able to successfully check infiltration, many scholars and analysts have argued that it is time to desecuritise illegal migration. They emphasise that an overwhelming proportion of illegal migrants are economic migrants, who come to India to earn a living. By taking up unskilled jobs, these illegal migrants are not only fulfilling an existing local demand at a low cost but also contributing to the Indian economy meaningfully. Since these migrants remain focused on earning a decent livelihood, it is unlikely that they would indulge in terrorism and crime, which would bring attention to their status and deprive their community of a livelihood in India. This argument is reinforced by the fact that despite visible discrimination, these illegal migrants, especially in the urban areas, have remained preoccupied with their niche occupations and have not forged links with other dispossessed lots and recent arrivals to organise rebellion against the state. Even in Assam, where there have been widespread riots against the migrants, there has been no major backlash against the Assamese community by the Bangladeshi migrants.

Against this background, a proposal for issuing work permits for the Bangladeshis who wish to work in India has been forwarded. The analysts argue that a work permit would provide the economic migrants respectability as legal workers in India and eliminate the root cause of

political protests against them. Work permits would also reduce the cost of crossing the border irregularly for the migrants, who otherwise were giving out hefty amount to the smugglers. For the country, work permit would help ascertain the number of Bangladeshis actually crossing the border. The migrants would supply cheap labour and the country would economically benefit. The government of the day has bought into the argument and is seriously deliberating implementing the proposal for work permits.

However, before issuing work permits as a means to prevent illegal migration into India, a thorough assessment of the proposal has to be carried out. To begin with, it has to be conclusively established through meticulous survey that the illegal flow of migrants across the border from Bangladesh is truly a response to demand for labour in India. Countries which have active work permit programmes are the ones who face the problem of domestic labour. As far as India is concerned, it is a labour-surplus country, with 12 million youth entering the workforce every year; therefore, it is difficult to conclude that such a demand for labour exists in the country. If the demand for labour is not there, then issuing work permits to Bangladeshis would result in depressing wages in the unskilled labour markets in the country and will add to the existing societal hostility against illegal migration.

The fact that most of the Bangladeshi workers are engaged in unorganised sector and given that this sector is beyond the pale of government's purview, it would be difficult to generate data on the number of Bangladeshis actually employed in the country, thereby defeating the purpose of keeping a tab on them. Furthermore, it is generally observed that most of the Bangladeshi citizens who have entered India have been either hounded out of the country by religious bigots or have lost all means to earn a livelihood. Under such conditions, almost all of them have come to India to settle in the country permanently. If this is the predominant template, then these illegal migrants cannot be categorised as seasonal workers and hence, providing work permits to them will not resolve the problem.

The way forward in managing the problem of illegal migration from Bangladesh is, first, to objectively assess the number of migrants illegally crossing the border as well as staying in the country and make such a database publicly accessible. This would free the issue from speculation and provide a clearer perspective on the problem. Second, borders have to be tightly controlled through a judicious mix of fences and better human and electronic surveillance. In this effort, support of the local people is also necessary. Third, serious and sincere efforts should be made to identify illegal migrants, who are not considered morally and

legally entitled to stay in the host country, and arrange for their repatriation. For this purposes, Bangladesh has to be brought on board on this issue sooner or later by pursing a vigorous diplomatic engagement. Lastly, India should put in place an immigration policy that would clearly state terms for granting citizenship and asylums and put to rest ambiguity, bureaucratic discretion and political calculations. the issue of unlawful migration from Bangladesh ought to be regarded as a national issue as opposed to seeing it as a territorial issue. In spite of the fact that the Indian Government has neglected to prevent the inundation from Bangladesh because of the absence of political will on their part to settle this highly tricky issue and the craving to utilize these illegal migrants as vote banks for their very own personal stake. The government should take provoke measures to heighten the procedure of distinguishing proof and extradition of the illegal migrants. The fencing along the whole India-Bangladesh fringe ought to be finished as right on time as would be prudent and a high-security alarm ought to be kept up along the whole outskirt. Individuals must be made mindful of the ill effects of the unlawful relocation to land at a national accord. Be that as it may, most importantly, there must be a solid political will of the Association Government, the State Governments and all the political gatherings to spare the nation from the danger of the unlawful vagrants, else it will totally demolish the political, monetary and social strength of the North-east, as well as of the entirety. Prime Minister Narendra Modi's interest for building up the eastern piece of India and his legislature should lead the pack in settling all current and debate. While 2014 election campaign was going on, Narendra Modi blamed opposition in Assam for permitting unlawful Bangladeshi migrants to reside in Assam accusing them of exhausting the assets that were for local people. Despite the fact that On December 17,2014 n Supreme Court of India passed a 70-page judgment referring clause 6A of the Citizenship Demonstration to the Constitution Seat other than giving a huge number of bearings to the inside and in addition the state for prompt execution of specific parts of Assam Accord concerning a bundle of writ petitions documented under Article 32 of the constitution, by the Assam Sanmilita Mahasangha, All Assam Ahom Affiliation also, others, identifying with the issue of unlawful Bangladeshi transients in Assam. The SC additionally has set the due date for conclusion of last refreshed „National Register of Citizenship (NRC) by January 2016. Yet, on the off chance that we see the current refreshing news of the records or the Heritage data, we will see there are different issues like fake archives accommodation. The new BJP government in Assam raises the issue of illegal immigrants with their partner, yet any attempt to really dislodge them would be both unfeasible and burdened with security challenges inside, what's more, would hurt ties with

Bangladesh. Relocation and national security have moved toward becoming blended in this time of globalization. Thus, the state must consider them in an incorporated way so as to comprehend the outcome of human streams, to expand their advantages, and in addition to react to their difficulties. Along these lines, there is a need to change observations about illegal Bangladeshi migrants. They can be formative partners in India's developing economy. Talented and untalented cheap labor could limit advancement costs and quicken monetary development. Work culture is likewise one of the best strategies to stop the additional inflow of foreigners and also to stop land estrangement from the indigenous individuals to the workers (migrants) which are threatening to remove the indigenous individuals from their own country and to belittle them politico-socially.

### **Terrorism:**

The Indo-Bangladesh border remains quite a serious concern for India unless the problems afflicting the border are addressed urgently. The issues of illegal migration, infiltration, insurgency, ISI threat, spread of Islamic fundamentalism, terrorism, smuggling of drugs, arms, cattle as well as human-trafficking along the border needs to be effectively tackled. It has been repeatedly asserted that measures like construction of fences and roads have to be undertaken on a war-footing. In addition, it is important to sensitize the border population about the strategic importance of their area and also get them involved in guarding the border. Further, proposals like issuance of photo-identity cards to Indian citizens living along the borders and work permits for the Bangladeshi migrants should be considered positively. Effective border management and maintenance of peace and tranquility along the border is only possible through mutual cooperation. For this India and Bangladesh have down the years established a number of institutional mechanisms. These include bi-annual meeting between the BSF and the BDR, the Home-Secretary Level talks and the annual meeting of the Joint Boundary Working Group (JBWG). However these institutional mechanisms have failed to produce any desired results, in face of Bangladeshi intransigence towards Indian proposals. During successive meetings either at the Home-Secretary level or at the BSF-BDR level, Bangladesh has failed to respond to Indian concerns. India points out that with the fast-paced developments on counter-terrorism across the world after 9/11, it would be in Bangladesh's interest, as much as India's that Dhaka clamps down on terror groups in the country. India feels that Bangladesh should apply the same yardstick in cracking down both local terror elements as well as Indian separatists and their global partners. Bangladesh should immediately dismantle all the terror

camps belonging to the Islamic fundamentalist and terrorist outfits as well as the camps belonging to the north-east insurgent groups, that are operating from Bangladeshi soil. Dhaka has always denied the presence of anti-India forces within its soil. The Bangladesh government has time and again said that it does not provide any kind of assistance to anti-India forces, either in terms of logistics, financial assistance or safe-havens. But Indian authorities have provided Bangladesh with concrete evidence to substantiate Indian claims of the presence of not only north-east insurgent groups but also presence of ISI, Islamic terrorist outfits like Laskar-e-Toiba, HUJI-BD, Jaish-e-Mohammad as well as Al-Qaida elements within Bangladesh. New Delhi has on several occasions provided Dhaka with maps where the exact location and the hide-outs of the insurgents as well as other terrorist groups are clearly indicated. New Delhi has repeatedly requested the Bangladeshi authorities to stop providing shelter or any other kind of assistance to these insurgent and terrorist groups. The repeated demand of the Indian government to deport ULFA leaders like Anup Chetia, Paresh Baruah and many other leaders of several militant groups has been ignored by Dhaka. The Indian authorities have made repeated requests to Bangladesh to freeze the Bank accounts of these rebels groups and seize other assets belonging to them. But inspite of that they continue to hold transactions in Bangladeshi banks where huge amount of money is deposited in the accounts of these groups and the money generally comes from various foreign countries. Many of the anti-India group leaders belonging to ULFA are having large assets in Bangladesh including hotels of international standards and soft drink businesses. The situation in the sub-continent seems to have been extremely tensed due the spread of such terror elements in India, Bangladesh, Pakistan and Sri Lanka. In order to strengthen the bilateral relationship between India and Bangladesh, Dhaka must make sure that it does indulge in anti-India operations either directly or indirectly. No amount of barbed wires, fences, machine guns, floodlighting, high-tech surveillance, border policing and joint border-patrolling can stop illegal immigration, cross border infiltration, smuggling, human trafficking and other criminal acts unless the governments of both the countries acknowledge the seriousness of the crises and jointly fight against it. An environment of strengthened bilateral relationship would be beneficial to millions of ordinary people in the two nations, however, during 1997-2007, India and Bangladesh failed to evolve such a relationship and the issues – enumerated and discussed above – in effect violated further the uneasy relations between the two neighbours.

#### **National register of citizen in assamAssam:**

Migration is a natural phenomenon and there is a need to understand its economic aspect. Development needs to be more inclusive. It is important that the identity quest of these people needs to be resolved in a politically correct and socially acceptable manner so that they are included in the process of development and are not seen as a challenge or threat to the socio-economic and political ideologies of the nation. The problem has emerged due to creation of international boundaries without taking into consideration the problems of their respective population. With the increasing burden and pressure on land no nation can make their borders invisible to others as they themselves lack adequate resources to support their native population. Migration is generally induced except in case of natural calamities. There is a reason to migrate. It can be temporary or permanent. But why it should be illegal? Why do people need to cross borders illicitly? Why the policies framed are forcing them to be called as Illegal Immigrants? This indicates lack of political will from the government. There is absolutely no dialogue between the India-Bangladesh governments regarding the problem of migration. This puts the lives of the so called illegal immigrants in a limbo. Many a times, some have been left in the No Man's Land to go back to Bangladesh while Bangladesh denied taking them in. This has resulted in gross human rights violation. Hence, respecting dignity of a human being and realistically finding a solution to their social, cultural and economic problems should be the way out as identity ensures stability. Furthermore, the NRC update has added to the anxiety and concerns among members of this particular religious community, who have been long discriminated due to their perceived status as foreigners. Also there is a difference of opinion amongst various political parties over the NRC issue, along with the reported anomalies in updation of NRC. In this context, what political solution the present government has to offer for each one of the individual whose struggle to prove their Indian citizenship still continues is a matter of serious concern. The future road map for the names excluded from NRC in Assam, only time will tell. Outside Assam these migrants belonging to this minority group and have been continuously adding to the existing slum population of Lucknow, whose Realizing Ambedkar's Vision without Reservation. Moreover, the state response towards this poor marginalized group is also not of empathy. In Assam most of them are illegal immigrants, in Lucknow they are outsiders who are subject to regular police verification but for the public they are only kuda wallas and kabadi walas (Waste pickers and Waste contractors). With the release of new NRC draft and finding out the foreigners alias Bangladeshis in and outside Assam, we all are looking forward towards the legitimate bhoomiputras of Assam, once this NRC debate and exercise comes to rest.

In the most recent draft of the NRC, 4 million applicants have been left off and face a legal protection black hole in Assam. While that number may reduce in the final draft, it is predicted that over a million will remain excluded. It is difficult to foresee what this exclusion will mean for these individuals and their families, but what is clear is that significant damage has already been done by the bureaucratic process itself. Our study has shown that, from the outset, this process was structurally flawed with marginalising effects. Detailed, accurate and consistent information and support on how to fill out the form and gather the documents has been absent or inaccessible at village level, leaving people reliant on word of mouth, media updates and informal assistance from (literate) relatives and neighbours. This has contributed to an increased number of errors in the final forms, which has resulted in exclusions on the basis of bureaucratic technicalities. Moreover, access to documentation, abilities to fill in the forms, and access to officials trained in the process has not been equal among all residents. Some have had to travel great distances at a great personal expense for documentation and verification, and others (primarily women) have had less access to officials and the online information often necessary to complete the application accurately. These equality failings risk citizenship being determined more by financial resources and ability to travel than the fundamental rights to claim it. Inequality of documentation and information access, and their potentially exclusionary consequences, also undermine the spirit of equality, inclusion and accessibility that is supposed to be protected under wider governance norms. If the Electoral Commission of India rules that no voter in India should be more than two kilometres away from a polling station to enable equal access, why then must residents of Assam travel dozens, sometimes hundreds, of kilometres to collect documentation, submit their application and 12 verify their claims? Beyond the material impacts, the NRC application process has also resulted in negative physical and psychosocial health effects (including anxiety and blood pressure spikes), and safety risks for women and men estranged from abusive relations. NRC Seva Kendras have not been sufficiently staffed to cope with the volume of queries, and the deputation of government officials from elsewhere to process NRC documentation has potential resource and capacity consequences for other government service areas.

#### **Among the hardest affected by this process have been:**

The poor, who have lost days and weeks of work in attempts to gather documentation, fill out forms and attend verification meetings – often with no inclusion in the end. As well as directly

impacting individuals and families through loss of earnings, this will also have had an indirect impact on the wider economy with working days lost.

Illiterate applicants, who could not understand or fill out the form and only received their information via informal networks. Lawyers recounted numerous examples of name spelling errors where names have been written carelessly or transliterated inconsistently in present and past documentation, resulting in exclusion. Moreover, particularly in poor and illiterate villages, a lot of responsibility and power has been placed on the most educated members of each community, typically teachers and booth level officers. This has taken them away from the public services they are meant to provide day-to-day.

Women, especially poor and illiterate women, are by far some of the most marginalised by this process. Our surveys showed that women were the least likely to receive official information, the least likely/able to seek official assistance, and have been excluded on the basis of ineligibility of the only documentation they often hold (i.e. marriage certificates/gaonbura (village headmen) certificate). Survivors of domestic violence are forced to choose between returning to their abusers in an attempt to retrieve documentation or face exclusion. Others (including men) have migrated to Assam from different states to marry and do not have the resources to return for legacy data. While the sample of this survey is relatively small, the findings suggest significant bureaucratic failings and a pattern of marginalisation and arbitrariness that characterises the system as a whole. Even if only partially generalised, they have significant implications for the experiences of millions across Assam.

Note:

1. Check the spacing
2. Each chapter to have introduction and conclusion
3. There should be numbering of sub-topic ( eg. 4.1, 4.1 (a) for chapter if it is fourth chapter)
4. Foot note is not complete write the authors name, title, publishers details year etc, ( procedure to write Foot note click the place where content to be given foot note, click Reference in main bar and click insert foot note)
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6. Dissertation should be written in your own words after reading the content, if it is cut pasted or typed as it is from the existing material it will be shown as plagiarized content and max limit is 30% reproduction if it exceeds this your dissertation will be rejected.
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8. Suggestion and conclusion chapter – you have to give your suggestions on the basis of your work done and analyse your hypothesis whether it is proved or disproved. Conclusion is your own understanding of the issues.

Books

Articles

Journals

Newspaper

Weblinks

Arrange the source in alphabetical order

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