



Citizenship Determination Processes in Assam: The National Register of Citizens (NRC) and Beyond

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On 22 August 2018, the Institute of Peace and Conflict Studies (IPCS) hosted a discussion on '**Citizenship Determination Processes in Assam: The National Register of Citizens (NRC) and Beyond**' with the following speakers:

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Significance of the NRC and other processes in tackling illegal immigration in Assam

Rajat Sethi

At this point in time, the Northeast is in the middle of several crossfires, with different communities, political and civil society groups asserting themselves. The entire region is undergoing an enormous political, social and demographic shift. Every community in Assam sees itself in a complicated zero-sum game with another other community.

For a long time, the Northeast has had a relatively stable polity. For example, Tripura had a stable government for 35 years, Manipur and Assam for almost 15 years, and so on. Politically, therefore, the region was more or less static.

After the 2014 general elections and Prime Minister Narendra Modi's coming to power, the Northeast was posed as the primary focus area for the new regime. PM Modi initiated the Act East Policy during his outreach to the people, and several projects, such as a rail line to Imphal, the building of some of the world's tallest buildings and longest bridges, etc. were begun.

In 2016, the BJP won the elections in Assam and thereafter swept almost the entire Northeast region in elections including in Manipur, Tripura, Meghalaya and Nagaland, leading to a definitive political shift. Given the present context, it is helpful to take a few steps back into history and analyse how Assam reached where it is now, and where can one place this recent political shift.

The problem of 'illegal' migration started with certain British-era policies aimed at settling tribal communities - also called the 'tea tribe population' - from Chotta Nagpur Plateau to the Northeast to tend to the tea estates in the region. That was the first instance of an influx of outsiders (almost 60-70 lakh) moving to and living in Assam.

The second major influx of migration happened in the early 1930-40s under the Muslim League's rule in the Assam Province, with the premier, Syed Saadulla, bringing in labour from neighboring provinces to work in the agricultural fields under the Grow-More-Food campaign.

The independence of India in 1947 and the partitions in Punjab, Assam, and East Bengal provinces led to the drawing of boundaries. With this came the third big wave of migration from Punjab to Assam. The then premier of Assam Province, Gopinath Bordoloi, wrote innumerable letters to Pandit

Jawaharlal Nehru, the then prime minister of India, that Assam had already accepted around 2.5 lakh illegal migrants. This strained the natural resource base of Assam significantly. However, Delhi had a rather hazy understanding of the resource pressure that the region was under.

Bangladesh was created in 1971, which was accompanied by the biggest round of migrants to Assam till date. The Indira-Mujib pact was signed between India and Bangladesh, which failed to mention the migrants who had moved to safer pastures; nor did it indicate any deportation procedures. As a result, Assam's indigenous people faced many threats, and pressure on their resources.

In 1977, the Janata Party came to power at the Centre. In the by-elections held in Assam in 1978, around 70,000 new names appeared in the voter list which came as a rude shock to the people of Assam. This ultimately led to the biggest student-led agitation, resulting in the Nellie massacre. Finally, in 1985, the Assam Accord signed between the government and the leaders of the Assam movement, led to the All Assam Students Union (AASU) and All Assam Gana Sangram Parishad (AAGSP) concluding the agitation. The Assam Accord intended to "identify, detain and deport" illegal immigrants. However, no concrete steps were taken to implement the commitments specified in the agreement.

In 1998, SK Sinha, the then governor of Assam, brought out a 40-page report addressed to the Ministry of Home Affairs (MHA) and the president, which highlighted how critical the problem of illegal immigration in Assam had become. Some argue that this report was not as comprehensive or pragmatic. However, a point to note here is that Mr Sinha wrote this report with much fear and anxiety. It reflected the deeper fears of the people of Assam, and therefore, much of what was included in the report was a reflection of the dominant sentiment at that point in time and should be seen as part of a larger narrative.

After coming to power, the BJP used the same lexicon that the AAGSP used to consolidate trust amongst the Assamese people, promising that the BJP will implement the long-standing NRC and take the appropriate future measures. This was done under the guidance of the Supreme Court to remove any partisanship.

Reflections on the NRC Debate

Even though the NRC process has been a messy affair with flaws in the list of people who have been included and excluded, one has to acknowledge that it is the need of the hour - there is simply no getting around it. Currently, even though the final list is not out, measures need to be devised about what needs to be done with illegal immigrants after they are identified.

Concerns regarding the unjust treatment that can potentially be meted out to this group of people need to be put to rest since India is signatory to numerous international covenants relating to human rights and therefore the Indian government will not and cannot take any measures that go against the principles and ethics of international law. As far as the equitability of the exercise is concerned, till now, 11 per cent of illegal immigrants have been identified in the Barak Valley (predominantly Hindu Bengalis) and 11 per cent illegal immigrants have been identified as Bangladeshi Muslims, suggesting that the entire NRC process has remained as secular in its approach as possible. Therefore, the communal colour that is being given to the process is a flawed interpretation.

One important point that often goes unnoticed is the qualitative difference between policies that need to be devised for economic migrants as opposed to a politically or religiously persecuted minority in neighbouring countries. This is a vital difference that the BJP tried to position itself on, and thus came up with the Citizenship Bill (which is happening alongside NRC). This bill takes into account this very crucial difference between the two kinds of migrants and was inspired by the bill tabled by the then Nehru government, called the Immigrants Expulsion from Assam Act of 1950.

A lacuna in Indian policy has been the absence of a refugee policy to clearly determine who is a refugee. The Citizenship Bill exercise is a step in that direction. A clear refugee policy can help identify these qualitative distinctions better. The Northeast protested against the bill, and rightfully so, because the region should not bear the burden of any more migrants, be it economic migrants or religiously persecuted minorities.

There are also concerns about putting the identified illegal immigrants in detention centres after the NRC process is over. However, such fears are unfounded. The setting up of new detention centres have nothing to do with the NRC exercise and are primarily efforts by the Foreigner Tribunals at building new centres for people who have been identified as illegal migrants through their own process, since the existing five centres are at full capacity. It is true that the documents citing 'original inhabitants' status are shortcut methods that the NRC authorities adopted and is hence is deeply problematic.

The NRC process is not foolproof, and there are numerous NGOs on the ground that are working hard to make this process easier for everyone. People whose names have been left out of the NRC have several recourses: they can file objections, go- to various courts and challenge the verdict, among others. Although systemic limitations remain, the government is trying its level best to provide just legal recourse to the people of Assam.

Several long-term options are being considered parallel to the NRC process. One proposed option is for indigenous people to have reservations in the state assembly so that their voices are not crushed, regardless of how demography changes in the region. The second option is the disenfranchisement of this group. A third option is to limit/ration work permits. These solutions need to be assessed so that policies can take into account not only the security angle but also the humanitarian aspect.

In conclusion, the NRC as a policy measure has helped bring closure to the disillusioned indigenous people of Assam whose forebears sacrificed their lives during the Assam Movement, and this development should thus be seen in a positive light.

Identity and citizenship in Assam: Are current processes constructive policy solutions?

Angshuman Choudhury

Broadly speaking, there have been three major citizenship determination processes in Assam; of these, the NRC has gained the most media traction. Assam is a demographically complex state with a wide array of groups coexisting under one administrative domain. Naturally, then, the execution and the outcome of any policy measure pertaining to this set of identities is also bound to be complex.

When assessing NRC as a policy measure, it is imperative that both the government and civil society concern themselves with the viability and comprehensiveness of this entire policy. The current NRC, as it is being held today, was mandated by a 2014 Supreme Court order by virtue of a petition that was by an organisation called the Assam Public Works. However, it does not suffice to say that the NRC is a viable strategy just because it is mandated by the Supreme Court. It is also important to consider the quality and context of the judgment.

The sentiment around the NRC goes back to the Assam Movement and the resultant Assam Accord. It has been more than three decades since the Assam Accord was passed, and it is crucial that the state policy response accounts for the changes in the geopolitical, social and economic context that have taken place ever since.

One of the most problematic factors in this process is the lack of proper data. The various data sets that have been presented as the basis for the enumeration of illegal immigrants are, at best, flawed, since there is not a single comprehensive, full-proof data set of people who have come to Assam since 1971. The data does not specify the exact number of illegal immigrants that have crossed the border or the contours of the demographic or cultural threat that is being bandied about. In the absence of clear data, such a statewide enumeration exercise where the citizen has to prove the legitimacy of her/his citizenship becomes inherently contestable.

When the Assam Public Works petition was filed, the Supreme Court adjudicated that there is a need to review the citizenship conundrum around the demand. For example, the Supreme Court opined on why 24 March 1971 should be the cutoff date, and that there was a need to review Article 6A of the Citizenship Act which was inserted after the Assam Movement. Although this matter was referred to a bigger bench, the Supreme Court still went ahead and sanctioned the NRC process.

The administrative and systemic elements of the NRC which require the citizen to present their legacy documents tracing their family roots to the decades before 1971 is not an easy task. While some sections of the society, owing to their material privilege, will be able to produce such documents, other economically and socially disadvantaged sections will be left behind. This has the potential to differentially impact various groups in Assam.

Other administrative lapses include some members from the same family finding their names in the NRC while others do not. Additionally, the NRC authorities introduced a new informal category of 'original inhabitants' for easy verification of documents. Most of the people within this category turned out to be Hindu Assamese. This could indicate a subconscious bias against Muslim Bengalis which is worth exploring. It is important to remember that Assam has a significant Bengali Hindu and Muslim population, too. Groups in Southern Assam districts claim that out of the 40 lakh who have been excluded from the list, a majority are Bengali Hindus.

The SK Sinha report, which was a landmark report on this issue, also contains certain discrepancies. The report mentions that census records in Bangladesh noted a reduction of 39 lakh Hindus in Bangladesh between 1971 and 1981 and another reduction of 36 lakh between 1981 and 1989, drawing the hasty conclusion that these 75 lakh Hindus obviously came into India. In this instance, the anxiety around the process cuts across religion, as both Hindus and Muslims are worried about not making it to the final list.

The shortcomings that have been discussed could be attributed to clerical mistakes, lack of data accessibility, and so on. Even if they are not deliberate lapses, however, they must be accounted for because of their potential impact on Assam's social and political future of Assam. The dominant narrative that speaks to peace in Assam despite the NRC-related complexities, amounts to pushing a red herring. One cannot deny the latent tension that exists, especially amongst the minorities.

The final list will definitely clear much of the confusion. However, the narrative that has been created in this intervening period is dangerous since land and identity are the primary markers in not only Assam but the entire Northeast. Therefore, anything that plays with this identity can only be a recipe for disaster.

The possibility of an identity crisis

In this current context, question of who an 'indigenous Assamese' often arises. In Assam, the Assamese-speaking groups constitute less than 50 per cent of the population; Bengali-speaking groups constitute 30-35 per cent, and the rest are indigenous tribal groups who have their own native languages. Language, thus, has been a key determinant of the 'Assamese identity'. However, 'Assamese' per se is a broad term that can include/exclude a Bengali living in Assam for

the past 40 years, or a caste Hindu Assamese living in Assam, and even the *Khilonjia* (indigenous) Muslims. In fact, many groups became Assamese by 'naturalisation'.

Similarly, understanding 'Assamese culture' and the 'threats' posed to that culture also become crucial when talking about the 'Assamese identity'. A threat is one that has clear manifestations. Many argue that as an important marker of Assamese culture, the decline in the Assamese language as the mother tongue from 2001 to 2011 constitutes a threat. However, a separate data set states that linguistically, the highest population growth in Assam has been neither amongst the Assamese nor Bengali-speaking community but instead the Hindi-speaking community. Hence, language, too, can be slippery slope.

The other question worth asking is if the NRC process was worth it. Except the NRC, there have been two other citizenship determination processes: the Foreigners' Tribunal, which was instituted by the 1983 IMDT Act and reinstituted in 2005 under the 1946 Foreigners Act, and the Election Commission's (EC) D-Voter (Doubtful-Voter) mechanism introduced in 1997. The Tribunal is a quasi-legal authority that handles applications of suspected foreigners. With the EC's mechanism, if someone is marked a D-Voter, the case goes to the Foreigners' Tribunal. If the verdict is in favour of the citizen, the EC is supposed to revise the roll and remove the D-Voter status.

Even though lapses remain, the process carried out by the Foreigners' Tribunal has yielded considerable results. Until October 2017, 20,578 D-Voters were labelled 'foreigners'; 29,663 were pushed back, and 127 were deported to Bangladesh. Hence, it is worth asking: with these two parallel processes already going on, was an exercise worth INR 1200 crore like the NRC really necessary?

The last and one of the most crucial questions is: what is the follow-up strategy to the NRC? Where will the segregated 'illegal foreigners' go?

The Union Home Ministry has said that there is no question of anyone being put in a detention centre after the publication of the NRC. The Ministry has since given the green light for a 3,000-capacity detention camp in west Assam. This is a mismatch between word and deed, further increasing uncertainty. It is clear that Bangladesh will not take the illegal immigrants back, and whether other states in India will accept them is doubtful. This in itself is a violation of India's international legal standards. While India is a signatory to the International Covenant on Civil and Political Rights (ICCPR), it does not have a refugee law, which means many of the illegal immigrants will become 'stateless'.

Assam's chief minister said earlier this year that those who not feature on the NRC list will be 'stripped of all their constitutional rights and will be given basic rights given by the UN which is food, water and shelter.' The 'statelessness' of 'illegal immigrants' can have definitive negative

consequences for the future of Assam, and India. Instead of carrying out a state-wide exercise like the NRC and aggravating existing fissures, efforts should be made to build confidence between communities and bridge gaps at a localised level.



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