

National Register of Citizens

September 22, 2021

A Foreigners' Tribunal (FT) in Karimganj district of southern Assam, while removing the ambiguity around a man's citizenship, has pronounced that there is no doubt that the NRC published on August 31, 2019, is the final one. This has raised much controversy.

In news: Done and dusted: On the National Register of Citizens process

Placing it in syllabus: Society

Dimensions:

- What is NRC? Its constitutional and statutory validation
- Details of NRC updating process: Its evolution
- The appeal process and Foreigners' Tribunal latest pronouncement
- Debate on NRC: Can it be emulated across States?

Content:

What is NRC? Its Constitutional and Statutory Validation

- At its core, the NRC is an official record of those who are legal Indian citizens.
- The Register is meant to establish the credentials of a bona fide citizen as distinguished from a foreigner.
- It includes demographic information about all those individuals who qualify as citizens of India as per the Citizenship Act, 1955.

National Register of Citizens, 1951 is a register prepared after the conduct of the Census of 1951 in respect of each village, showing the houses or holdings in a serial order and indicating against each house or holding the number and names

of persons staying therein.

NRC was first introduced after the 1951 Census of India. The NRC was published only once, in 1951.

Constitutional Provisions:

- The constitutional validation for NRC comes from Articles 5 – 11 of Indian Constitution that deals with the concept of citizenship.
- In particular Article 11: Parliament to regulate the right of citizenship by law. It gives the Parliament the right to make any provision concerning the acquisition and termination of citizenship and any other matter relating to citizenship.
- Consequently, The Citizenship Act, 1955 was enacted to deal with Indian citizenship. This has been amended by the Citizenship (Amendment) Act 1986, the Citizenship (Amendment) Act 1992, the Citizenship (Amendment) Act 2003, and the Citizenship (Amendment) Act, 2005.

Statutory Provisions:

- As per the provisions contained in Rule 3 of the Citizenship Rules 2003 framed under the Citizenship Act, 1955, the Registrar General of Citizen Registration shall establish and maintain the National Register of Indian Citizens and prepare the Population Register
- As per the Union government, the preparation of Population Register is a part of preparation of NRIC under provisions of the Citizenship Act, 1955 read with the Citizenship Rules (2003)
- According to Section 14A of the Citizenship Act, 1955 (which was inserted in 2004), the Central Government may compulsorily register every citizen of India and issue a national identity card to him; and it may maintain a National Register of Indian Citizens

Details of NRC updating process: Its evolution

- Assam was the first in updating this NRC for including the names of the persons along with their descendants whose name was successfully registered in the NRC of 1951, or was found in any of the electoral rolls till the midnight of 24th March 1971.
- The main purpose for the introduction and updating of the NRC in Assam was the identification of the illegal immigrants in Assam who had migrated to Assam from Bangladesh during the 1971 war with Pakistan.
- This is a sensitive issue in Assam as many complain of mass infiltrations from the eastern border that are eroding Assamese culture and changing the demographics of the region.
- The origin of the NRC process in Assam lies in the 1985 Assam Accord entered into between the Rajeev Gandhi-led Union Government with the leaders of Assam.
- A part of para 5 of the Accord was given statutory recognition by Section 6-A of the Citizenship Act, 1955.

Assam Accord, 1985

During the year 1985, the Assam Accord was signed between the All Assam Students Union (AASU), the All Assam Gana Sangram Parishad and the then Central Government led by Rajiv Gandhi to bring stability in the state.

The provisions of the Assam Accord were:

- Any foreigner will be given full citizenship including the right to vote if he/she had come to Assam between 1951 and 1961
- The foreigners who had migrated to Assam between 1961 and 1971 will be given all the rights of citizenship except the right to vote, which would be denied for a period of ten years and those who entered Assam after the year 1971 would be deported.

Many difficulties arose during the implementation of the Assam Accord as it led to massive law problems.

- Therefore in 2005, another agreement was signed between the Centre, the Assam government and the AASU in order to update the NRC that was first published after the 1951 Census data.
- NRC update, though stated as a pilot project in some districts, was halted after violence took place in some parts of the state.
- In 2009, Assam Public Works (APW), an NGO filed a petition in the Supreme Court calling for the identification of Bangladeshi foreigners in the state and removal of their names from the voters' list.
- In 2013, an order was passed by the Supreme Court for completion of the NRC update by December 31st, 2017.
- Thus the recent publication of updated NRC comes as a result of the SC order to complete the exercise by December 31, 2017.
- Currently, the Supreme Court is responsible for monitoring the entire process of NRC updation.

Exclusion criteria include

- D-voters (Doubtful voters who have been disenfranchised on account of failure to prove citizenship).
- Descendants of D-voters.
- Persons whose cases are pending before the foreigners tribunal.
- And Descendants of Persons whose cases are pending before the foreigners tribunal.

The appeal process and Foreigners' Tribunal latest pronouncement

- The first draft in 2018 had left 4 Million people out, and the June 2019 list left 1 Lakh more.

- Another draft was released in August 2019. The final draft absorbed 2.2 million of those left out in the previous drafts.
- Of the total population of 33 Million, around 1.9 Million were left out. The fate of those left-out persons was to be decided by Foreigners Tribunals (FT's).
- This created an issue as different segments claimed that this exercise is biased towards Bengali Hindus or Bengali Muslims.
- Considering all these, the Assam government and even the New NRC coordinator, have made repeated requests for a re-verification of 20% of the list, especially for the areas bordering Bangladesh.
- However, post-publication progress on the NRC has been excruciatingly slow, and not just due to the pandemic.

Recent Developments

- While the Registrar General of India has not yet issued a notification on Assam's National Register of Citizens (NRC) to make it a legal document, a Foreigners' Tribunal (FT) has gone ahead and recorded it as the "final NRC".
- A Foreigners' Tribunal (FT) in Karimganj district of southern Assam, while removing the ambiguity around a man's citizenship, has pronounced that there is no doubt that the NRC published on August 31, 2019, is the final one.
- With the FT declaring the list to be final, the questions of revision become doubtful. Even if the revision is taken up, it has its own set of problems.

Debate on NRC: Can it be emulated across States?

- Ever since the implementation of the NRC in Assam, there has been a growing demand for its nationwide implementation.

- It effectively suggests bringing in legislation that will enable the government to identify infiltrators who have been living in India illegally, detain them and deport them to where they came from.
- While in Assam, citizens were asked to submit the proof of citizenship themselves to NRC Seva Kendras set across the state, it is not sure how the same model will be implemented across the entire country.

Arguments against NRC implementation:

- There are immense humanitarian dimensions involved in making lakhs of people stateless.
- The verification requires people rather than officials to extract documents, prove they have strong roots in the state, and prove one's nationality and is not an easy task. So the government is accused of putting the official burden on people.
- It has been tragic for those who may be genuine citizens but have been left out. And it has been most tragic for them to have had to live with the fear of being perceived as the outsiders.
- It remains unknown about what happens to those who are deemed as non-citizens. Political campaigns favor deportation.
- But government and political functionaries are quick to admit that expelling them to Bangladesh is not an option at all.
- Dhaka has never accepted that they are its citizens or that there is a problem of illegal immigration.
- If deportation is not an option, some have suggested large-scale detention camps. But locking in hundreds of thousands of people in camps or extensions of them is out of the question for a civilized democracy like India.
- Many suggested instituting work permits for the excluded with limited legal rights to work but without any

political voice. It is not clear how this will work for those who have worked for generations in India, or what will be the fate of children of such individuals.

- NRC is in violation of India's neighborhood first policy because there is a growing fear in Bangladesh that those excluded from NRC will be deported to Bangladesh.

Arguments favoring NRC

- Most of the pre-1971 immigrants of East Pakistan/Bangladesh origin who have been living all these years with the tag of a foreigner have now found a place in the citizens' register.
- Lakhs of immigrants, both Muslim and Hindu get citizenship tag and they can live freely without fear of stigma and suspicions.
- The central and state governments, as well as the Supreme Court, have said this list cannot, and will not, be the basis of coercive action against anyone who is excluded. The Election Commission has said their names will not be removed from voter rolls.

Mould your thought: What are the constitutional and statutory basis for NRC? Critically discuss the debate surrounding the pan-India implementation of NRC.

Approach to the answer:

- Introduction
- Define NRC and explain what it does
- Discuss the constitutional and statutory validations of NRC
- Discuss the arguments favouring nationwide NRC
- Discuss the arguments against nationwide NRC
- Conclusion