

## Updating the NRC and its implications on illegal immigration



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## Lead Essay

### Updating the NRC and its implications on illegal immigration

#### Introduction

The state government in Assam recently requested the Centre for additional troops across the states after the Supreme Court rejected its plea to extend the deadline for updating the National Registry for Citizens (NRC). This is the first time since 1951 that the NRC is being updated exclusively in one particular state. Since citizenship and voter registration will be based to this registry, this exercise holds immense significance as can be inferred from the tense climate in the state and has far reaching consequences for thousands of people. Although the updation carried out in pursuance of a 3 decade old Accord will possibly leave many homeless and stateless, one of the main purposes is to end what is seen as illegal immigration into Assam. Following the 1971 Bangladesh Liberation war, the porous border between India and the newly formed country led to thousands entering Assam without due paper work leading to a socio-economic crisis in the state.

Sensing the anti Congress mood of the electorate for capitalising on vote bank politics, the BJP government made its debut in Assam in 2016 following an intensive campaign on the lines of jati, mati, bheti (community, home, hearth). Their major electoral plank was to seal the Bangladesh border and weed out the illegal immigrants according to the terms of the Assam Accord. This resonated with the Assamese who have witnessed protracted violence in their state from the late 1970s and throughout the 1980s in a bid to preserve the Assamese culture and language from 'outsiders'. Prior to the 2014 general elections, BJP had promised updation of the NRC which formed the crux of the Accord but has remained unfulfilled so far. One of the promises made by Sarbananda Sonowal during his rallies was that the entire Indo-Bangladesh border passing through Assam would be sealed within two years time. However, even though the 'original inhabitant' discourse and the promise for a new registry of citizens propelled BJP to win the most number of seats in its history in Assam, the electoral promise remained a hollow one.

#### Background

Assam has been witness to a massive influx of Bangladeshis after the liberation war of 1971. The porous border and ethnic similarities between the people made it a difficult task to distinguish the Bangladeshis from the Assamese Bengali who have been settled in the state since the colonial era. The vexing question about who is a citizen, along with deteriorating socio economic situation and a demographic change in the state finally culminated in the student uprising led by AASU and eventually the signing of the Assam Accord by the Congress government in the Centre with AASU leaders. The most crucial aspect of this Accord was Clause 6 which stated that the Government stands committed to provide constitutional, legislative and administrative safeguards for the preservation and promotion of the cultural, social, linguistic identity and heritage of the Assamese people.<sup>1</sup> A compromise was struck between the AASU leaders and government wherein the NRC would be updated to grant citizenship to refugees who entered India before March 1971. For the detection and deletion of foreigners, 1.1.1966 shall be the base date and year. Any person who came to Assam prior to 1.1.1966, including those whose names appeared on the electoral rolls used in 1967 elections will be regularized.<sup>2</sup> Under the IMDT Act, people held to be illegal immigrants can be detained in detention centres and then deported. Despite the initial progress in the implementation of this Accord, the subsequent rise of the secessionist group ULFA, change in the political environment of the state as well as rise of vote bank politics resulted in the NRC updation taking a backseat. The border also remained pervious and over the years, thousands of Bangladeshis crossed over to the state and joined the migrant labour force. The one-man Hazarika Commission appointed by the Supreme Court has revealed that the influx of illegal Bangladeshi immigrants into Assam has drastically changed the demographics of the state and a growth of 4% has been recorded in Assam's Muslim population between 2001 and 2011. The report mentioned a sudden rise in the electorate in some areas and said that most of these migrants were registered with the government, though their nationalities were yet to be ascertained.<sup>3</sup>

The Supreme Court deliberating upon three writ petitions from 2009, 2012 and 2014 ordered that the exercise to update the NRC be undertaken immediately and gave the Centre and Assam three years to complete the entire process. As per the top court order, those who came to the eastern state on or after January 1, 1966 and before March 25, 1971 but were declared foreigners by the foreigners

<sup>1</sup> Assam Accord (Accord between AASU, AAGSP, Central and State Government on the Foreigner Problem Issue) 15th August, 1985, available at [http://www.assam.gov.in/documents/1631171/0/Annexure\\_10.pdf?version=1.0](http://www.assam.gov.in/documents/1631171/0/Annexure_10.pdf?version=1.0)

<sup>2</sup> Ibid

<sup>3</sup> Hazarika Commission final report on illegal migrants submitted, India Today, 21 November 2015, available at <http://indiatoday.intoday.in/story/hazarika-commission-final-report-on-illegal-migrants-submitted/1/528478.html>

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tribunals initially but had subsequently got themselves registered with the registering authority, were eligible to be included in the consolidated list of Indian citizens. Those who have been declared bonafide Indian citizens by the foreigners' tribunals too were eligible.

### Complications related to NRC updation:

Updating a registry of citizens involving people of disputed nationalities is a task of immense magnitude and involves several complications. However, the executive mechanism for its implementation is far from reliable. The provisions for determining citizenship and nationality are vague and there is no distinguishing clause for mixed ethnicities. While the government has claimed repeatedly that the system is foolproof and competent to carry out a large scale survey, there are a few gaping holes that the government has refused to address or comment on.

- i) **Defining 'Original inhabitants':** The entire basis of this registry remains controversial as the state accounts for hundreds of tribes along with migrants from the rest of India and there is no specific criteria listed to identify whether a particular person can be categorised as an original inhabitant or not. An aspect that the government has overlooked is the detention of Assamese Bengalis on the basis of their linguistic and cultural similarities with the Bangladeshis. The stringent set of conditions attached to the process requires the Bengalis of Assam to prove their Indian citizenship solely on the basis of their or their ancestors' names appearing on the electoral rolls or in the other sets of government authorised documents published up to 25 March 1971 and the NRC of 1951, failing which they would be removed from the updated NRC. To make things complicated for these people, such electoral rolls are found to be both incorrect and incomplete and most people in the rural area mostly do not possess any other document.<sup>4</sup> 91% of the 38 lakh people who visited the Seva Kendras from February 27 till May 21 2017 found their legacy data, and another 40.2 lakh people found their records online but the government agrees that the modalities for identifying families without any of the authorised documents are yet to be figured out.<sup>5</sup> Similarly, it has been alleged that many of the infiltrators have managed to forge their documents. A close scrutiny of the documents pertaining to these kind of cases poses serious questions to the surveillance state on the dialectics of legality, authenticity and legitimacy. The NRC updation in its current form may result in the exclusion of people who have migrated from different parts of the country and have been residing in the state for generations but may not possess the necessary documents.
- ii) **Detention in violation of human rights:** Several immigrants have been detained on grounds of suspicion under the erstwhile IMDT Act in the 6 detention centres set up the government and run the state police. While the Act was struck down in 2005, people continue to be detained under an obsolete law. A report in Assam Tribune pegs the total number of detainees at 489, out of which apparently 310 have been identified as belonging to Bangladesh and are ignorant of their place of origin. Another report in the same newspaper says that the detainees also include 28 convicted Afghan nationals.<sup>6</sup>
- iii) **Lack of extradition and repatriation treaties with Bangladesh:** Although the state government has set up detention centres across lower Assam which is considered to have a higher density of Bangladeshi population, records show that only 1 person has been physically expelled out of India since 2015.<sup>7</sup> This points at the legal and technical encumbrances that the government will encounter while actually deporting people since it does not have any bilateral treaty with Bangladesh on repatriation. The Bangladesh government has already refused to take in people that India has alleged to be illegal immigrants and this problem is likely to persist. In the meantime, detainees have been languishing in detention centres for years in clear violation of the law and human rights. The few who have been deported according to the existing deportation norms and practices are evicted to the no man's land on the Indo-Bangla border.
- iv) **Granting citizenship to Hindu and Sikh minorities in neighbouring countries:** Section 6A and Section 3 of the Citizenship Act provides for citizenship by birth in contravention of the Assam Accord which sets a clear timeline for identifying naturalised citizens and illegal immigrants. The BJP has also flouted provisions of the Accord by granting Hindus and Sikhs citizenship in India if they are fleeing persecution in a country where they are a minority. While the demands of the movement against foreigners were to deport the Bangladeshis, there was no differentiation on the basis of religion. Such discrimination is a distortion of the whole debate around infiltrations and might not taken into account the solution as envisaged by the Assamese people which involves eliminating any infiltrator without bias towards their religion.

### Conclusion

<sup>4</sup> Joydeep Biswas, The Starkness of Being Nowhere, The Hindu, 10 September 2015 available at <http://www.thehindu.com/opinion/lead/the-starkness-of-being-nowhere/article7633845.ece>

<sup>5</sup> Shaheen Ahmed, Transitory Citizenship and the Plight of the 'Illegal' Immigrant in Assam, The Wire, 4 August 2016 available at <https://thewire.in/56412/assam-national-registry-of-citizens/>

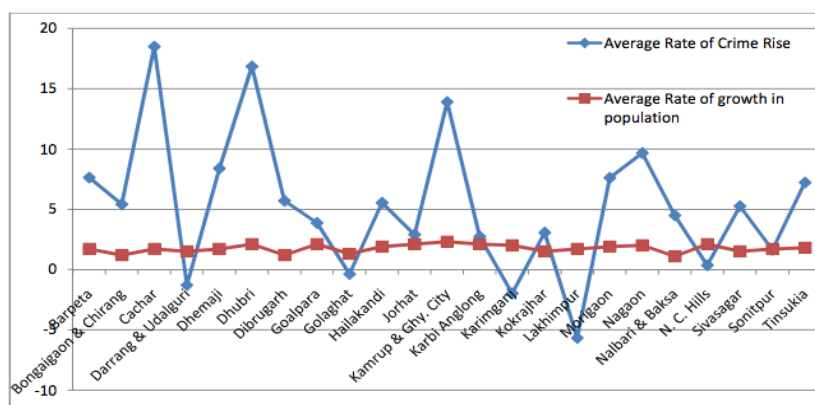
<sup>6</sup> Ibid

<sup>7</sup> Ibid

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It is an accepted fact that the threats arising out of such a massive influx not only cause socio-economic tensions but also enable activities such as smuggling and illegal trade as well as promote trans-border terrorist outfits. While overall population growth or increase in overall population density do not generally lead to conflict, research has shown that in many cases, certain population changes are strongly associated with political instability. Research shows that the drastic demographic change and population growth has contributed to instability throughout the state.<sup>8</sup> The Supreme Court while striking down the IMDT Act as an impediment to deportation of illegal infiltrators stated in its judgement that “the presence of such a large number of illegal migrants from Bangladesh is in fact an aggression on the State of Assam and has also contributed significantly in causing serious internal disturbances in the shape of insurgency of alarming proportions”.<sup>9</sup>

### Co-relation between crime rate and population growth



Source: NCRB. National Crime Records Bureau data (2010) available in [www.ncrb.gov.in](http://www.ncrb.gov.in); accessed in 20/02/2011

While many attempts both judicial and legislative have been made to broker peace in the region by deporting the foreigners, it must be understood that the social, political and communal tensions spawned by ethnic differences arising out of complex histories and a shared past cannot have a quick fix and one track solution like ‘throwing out’ foreigners. Not all Bengalis in Assam trace their origins to Bangladesh or East Pakistan. The repeated redrawing of Assam’s political map from the colonial times of Bengali dominance imposed by the British to post colonial times when the Assamese retaliated by driving a movement to expel ‘foreigners’ to protect its language and culture points towards a situation ethnic and cultural entanglement. Over simplification of the problem by aiming to drive out non Assamese might have a disastrous impact on thousands of Bengali speaking Assamese as well as immigrants who have crossed the border decades ago but do not have sufficient documentation. Any decision on this must be taken keeping in mind the history and geographical context of colonial Assam.

The BJP government in Assam has already been blamed for ‘changing the course of Assam’s history’ as the government is increasingly being viewed as emulating the pro Hindutva ideology of the Centre and neglecting the rights of the indigenous people. An updation of the NRC along communal lines as has been the Centre’s policy might be more counter reactive than helpful. While the relevance and necessity of updating the register cannot be denied, an effective updating in consonance with human rights will require careful understanding of the various tribes and communities that reside in the state.

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<sup>8</sup> Plabita Saikia, Study on Rise of Crime rate with Population growth in Assam (India) with special reference to Illegal Migrants, International Research Journal of Social Sciences, Vol. 4(1), 9-15, January (2015) available at <http://www.isca.in/IJSS/Archive/v4/i1/2.ISCA-IRJSS-2014-229.pdf>

<sup>9</sup> Sarbananda Sonowal v. Union of India, Writ Petition (civil) 117 of 2006, India: Supreme Court, 5 December 2006, available at: [http://www.refworld.org/cases,IND\\_SC,52ca8c974.html](http://www.refworld.org/cases,IND_SC,52ca8c974.html) [accessed 17 December 2017]



## Lead Essay

### Insolvency Ordinance Faces First Challenge in Court

(BQ Desk, *Bloomberg Quint* , December 08, 2017)

The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017, promulgated on November 23, 2017, faces its first legal hurdle. The Ordinance, which amends the Insolvency and Bankruptcy Code, 2016, effectively barring promoters of defaulting companies to bid for their assets being sold under the bankruptcy process, has been challenged by Punjab-based RMS Pvt. Ltd. in the Punjab and Haryana High Court. The challenge is on two key grounds: a) the retro-activity of the ordinance; and (b) no distinction in the Ordinance between a genuine promoter and a wilful defaulter. The promoter of RMS had submitted a resolution plan for repaying its lenders just before the IBC ordinance. Post the amendment, the promoter stands ineligible to participate in the resolution process.

**Read more:** <https://www.bloombergquint.com/insolvency/2017/12/08/insolvency-ordinance-faces-first-challenge-in-court>

**Date accessed:** 13.12.2017

## Governance and Development

### ECONOMY

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### GOVERNMENT

#### Girl Death Corners Govt

(A.S.R.P. Mukesh, *The Telegraph* , December 14, 2017)

The Jharkhand food and civil supplies minister Saryu Roy admitted that the BJP-led state government was “on the back foot” in view of the alleged hunger death of 11-year old Santosh Kumari in September this year. Mr. Roy said: “It’s a fact that the names (of Santoshi’s family) got struck off the ration list due to Aadhaar issues, which means they stopped getting ration. The cancellation of the family’s ration card was our mistake. We are on the back foot,” said Roy. However, the minister showed reluctance to accept that the girl starved to death, claiming instead that “even if one doesn’t get ration, one may try to arrange food from other sources.”

**Read more:** <https://www.telegraphindia.com/states/jharkhand/girl-death-corners-govt-192859>

**Date accessed:** 13.12.2017

#### 24 years on, OBC workforce in Centre still short of Mandal mark

D. Suresh Kumar, *the Hindu* , December 9, 2017

As per the data updated under the Right to Information (RTI) Act, by 24 of the 35 Union Ministries, 25 of the 37 Central departments and various constitutional bodies reveal that 24 years since the implementation of the Mandal Commission recommendations, across various groups of employees, the OBCs have not optimally benefited from it. Thus at a time when President Ram Nath Kovind recently had appointed a five-member commission to examine sub-categorisation of Other Backward Classes (OBCs) in order to “to achieve greater social justice,” a reality check shows that representation of OBCs in the workforce in Central Government offices falls far short of achieving the 27% quota recommended by the Mandal Commission.

**Read More:** <http://www.thehindu.com/news/national/24-years-on-obc-workforce-in-centre-still-short-of-mandal-mark/article21382491.ece>

**Date Accessed:** 10 December, 2017

#### States fined for lapse on widows

*The Telegraph*, December 7, 2017

The Supreme Court recently fined 11 states and a Union territory Rs 2 lakh each for failing to furnish details of welfare measures for destitute widows. Uttarakhand, Madhya Pradesh, Karnataka, Gujarat, Mizoram, Assam, Himachal Pradesh, Jammu and Kashmir, Punjab, Tamil Nadu, Arunachal Pradesh, and the Union territory of Dadra and Nagar Haveli had failed to provide the information to a court-appointed panel. “We are extremely pained to note from a reading of the affidavit and complete lack of a

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positive response from the State Governments and UTs that there is very little concern, if at all, for the welfare of women of the States/UTs,” observed the apex court. The top court directed the States/UTs concerned to deposit Rs two lakh each within four weeks and also instructed them to furnish the required information to Union Ministry of Women and Child Development within three weeks.

**Read More:** <https://www.telegraphindia.com/india/states-fined-for-lapse-on-widows-191729#.WiiY2X7Mc7c.twitter>

**Date Accessed:** 10 December, 2017

### DEVELOPMENT

#### In a Poor Gujarat District, Infrastructure cannot compensate for Lack of Jobs

(Swagata Yadavar, *IndiaSpend*, December 09, 2017)

In South Gujarat’s Dang district – 400 kms from the State’s capital Gandhinagar – close to 75% population lives under the poverty line of Rs 356 per person a month in villages and Rs 538 per person in cities. As per the latest National Family Health Survey of 2015-16, 48.1% of children under the age of five were stunted, 72.2% of women were anaemic and only 44.3% of children under the age of two were fully immunised. This data should be seen in the light of the district’s social demography. Dang is a primarily tribal district – 98% of its population belongs to the Scheduled Tribes and is one of the six most backward districts of Gujarat.

**Read more:** <http://www.indiaspend.com/cover-story/in-a-poor-gujarat-district-infrastructure-cannot-compensate-for-lack-of-jobs-46770>

**Date accessed:** 13.12.2017

#### Unique IDs for urban public toilets soon for better maintenance

PTI, *The Indian Express*, December 10, 2017

Public and community toilets in urban areas will be allotted unique identification numbers that will be displayed at their entrances, an initiative aimed at their better upkeep under the Swachh Bharat Abhiyan, according to an official document. Besides unique IDs, other information like the name of the local body under whose jurisdiction the toilet falls, details of maintenance authority, name and contact number of supervisor or in-charge and information about the grievance redressal mechanism would be provided.

**Read More:** <http://indianexpress.com/article/india/unique-ids-for-urban-public-toilets-soon-for-better-maintenance-4976735>

**Date Accessed:** 10 December, 2017

### HEALTH

#### Why are there disparities between States on diseases?

Bindu, Shajan Perappadan, *The Hindu*, December 9, 2017

The India State-Level Disease Burden report, a first-of-its-kind assessment of causes for diseases in each State from 1990 to 2016, was released recently. The report found that while life expectancy at birth in the country has improved significantly, there are indications of many health inequalities among States. While there was a fall in the under-five mortality in every State, there was also a four-fold difference in the rate of improvement among them.

**Read More:** <http://www.thehindu.com/news/national/why-are-there-disparities-between-states-on-diseases/article21381446.ece>

**Date Accessed:** 10 December, 2017



## India and the World

### INDIA IN THE WORLD

#### Peace in Border Areas Essential for Smooth Relations, India tells China

(PTI, *The Wire*, December 13, 2017)

Reiterating that peace and tranquillity in the border areas were essential prerequisites for smooth relations, External affairs minister Sushma Swaraj in discussions with her Chinese counterpart Wang Yi stressed on the need for approaching bilateral difference with due consideration to each other's [India's and China's sensitivities and concerns. "The external affairs minister and the Chinese foreign minister both noted the challenge it had posed to the relationship and both expressed satisfaction that it was resolved with the disengagement of troops at the face-off site through concerted diplomatic communications," said External affairs ministry spokesperson Raveesh Kumar.

**Read more:** <https://thewire.in/204749/peace-in-border-areas-essential-for-smooth-relations-india-tells-china/>

**Date accessed:** 14.12.2017

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