

PEOPLE NO COUNTRY WANTS

Relevant for: Indian Polity & Constitution | Topic: Indian Constitution – Features & Significant Provisions related to The Preamble, Union & its Territories and The Citizenship

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When the sun went down on 2018, the doors closed for one million residents of Assam who were unable to file their claims to prove that they are Indian citizens. The claims of the three million who were left out of the [National Register of Citizens \(NRC\)](#) will now be examined by the Foreigners' Tribunals.

Assam, meanwhile, continues to battle the throes of a uncertain tumult. Through a complex and tortuous process with no parallels in any other part of the country — and few if any in the world — millions of Assamese residents were called upon to produce documents that prove that they are Indian citizens.

It is not often remembered that not just Punjab and Bengal, but also Assam, was partitioned in 1947, when after a referendum, Sylhet district was transferred from Assam to Pakistan. Migration from Sylhet and other parts of Bengal to Assam had continued until then for two centuries, fuelled by land-hunger and the attraction of creating farm-lands in the vast virgin forest tracts and river islands, and encouraged by the state. The cataclysms of Partition and the Bangladesh Liberation War of 1971 spurred fresh migrations into Assam.

From the late 1970s, a sporadically violent movement against “foreigners”, by people who saw themselves as “original inhabitants”, rocked the state. The current updating of the NRC is in fulfilment of the agreement reached by the agitators with the Union government, that persons who migrated after 1971 would be identified and deported.

The Supreme Court in 2007 ruled that it was not the duty of state agencies which charged a person with being a foreigner to prove their claim. Instead, it was for those who claimed citizenship to prove that they were citizens. This turned on its head natural law that a person is innocent until proved guilty. Resultantly, impoverished and often unlettered people were required to garner official documents — such as of birth certificates, land-ownership and voters' lists — to establish their citizenship credentials. The majority of indigent rural people anywhere in the country would be unable to prove their citizenship because birth-certificates were rare; many did not attend school and migrated for work or were married as children; land records are poorly maintained, and in any case, many are landless, or unrecorded tenants or encroachers on government land; and voters' lists are replete with omissions. The underlying chauvinism of the process was exposed also by official orders, again ratified by the SC, which exempted “persons who are originally inhabitants of the State of Assam” from any “further proof or inquiry” for automatic inclusion in the NRC. The “original inhabitant” is nowhere defined, but in practice original inhabitants are taken to exclude people who speak Bengali, Nepali, Hindi or Santhali, even if they have lived in Assam for generations.

The labyrinthine NRC authority is not the only agency empowered to identify non-citizens in Assam. In fact, three parallel processes, mostly dependent on low-level bureaucratic and police discretion, run side by side in what poet Manash Bhattacharjee aptly describes as the “sniffer-dog” idea of the state, hunting down “foreigners”.

One of these “sniffer-dog” processes began in 1997 when, on the pretext of extensive revision of electoral rolls, the Election Commission, without any due process, marked 3.70 lakh voters as doubtful, or “D-voters”. This stripped them of voting rights, and their cases were referred to the Foreigners’ Tribunal. Election officials continue to identify persons they regard to be “doubtful”. The Assam Police Border Organisation deposes police officials in many police stations who also identify people they regard to be possibly non-citizens, and refer their cases to Foreigners’ Tribunals.

People who don’t speak Assamese, and are not from indigenous tribes, are in this way beleaguered from all sides. They do not know when challenges to their citizenship may come, from the NRC executives, election officials or the local policeperson. In 2006, the Police Border Organisation referred Ajbahar Ali, a small farmer in Kheluwapara village in Bongaigaon district of western Assam, to the Foreigners’ Tribunal. When he answered the summons from the tribunal he learnt that the tribunal in an ex-parte judgement had already declared him a foreigner. He was whisked away from the tribunal directly to a detention centre inside a jail. His wife Balijan Bibi sold their farmland, cattle and the only cell-phone they owned to pay a lawyer to challenge the order to get her husband released from detention. Their older son, Moinul Haque, travelled to the Guwahati High Court to hear the judgment, while his mother waited anxiously at home for his news. He returned the next morning only to inform his mother that the court has rejected their plea. Balijan Bibi didn’t speak much, just asked her son to take rest. After a while, he found her hanging from the ceiling.

Months later, our Karwan e Mohabbat team visited their family. The children’s father was in a detention centre with no prospect of his release, their mother was dead, and their land and all they owned sold. There are at least 28 suicides of people who had lost hope of proving that they were citizens of this country, and found no reason to live.

This is the collective tragedy of millions of religious, linguistic and ethnic minorities in Assam. No light is visible even in distant horizons, because the Union and state governments are silent about what the fate will be of those who in the end are declared to be foreigners? Over a thousand are housed indefinitely in hellish detention centres, in flagrant violation of constitutional guarantees and international law. But if the numbers tomorrow run into possibly millions, where will they be detained?

The Indian government is not even negotiating an extradition treaty for the return of these persons with the Bangladesh government. If they are to continue to live in India as non-citizens, are we not manufacturing a Rohingya-like situation, forcing people to live without rights or security in the country which refuses to own them?

At stake, however, is not just their destinies. On test is the mettle of India’s democracy, its sense of justice, its inclusiveness and its humanity.

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