

India's National Register of Citizens: What's Next for the Excluded

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Summary

The fate of the 1.9 million people whose names are missing from the final list of the updated NRC hangs in the balance. They can now move to the Foreigners Tribunal and, if not satisfied, then to the higher Court. However, the bigger question is-what will happen to those who will be finally declared as foreigners?

On 31 August 2019, the final list of the updated National Register of Citizens (NRC) for the Indian state of Assam was published. This list finds more than 1.9 million people non-eligible to be citizens of India. Many of them claim that they have been left behind despite living there for generations. The entire exercise was conducted under the supervision of the Supreme Court of India with an objective to detect and deport the illegal migrants living in Assam.

Those whose names are not in the list can now move to the Foreigners Tribunals (FTs) within 120 days. For this purpose, there are 100 tribunals already working in 33 districts of Assam and about 200 new FTs started working from 1 September 2019. To speed up the detection process, the Assam government, with an assistance from the Union government, will set up another 1000 such tribunals in a phased manner. In case applications are rejected by the FT, one can appeal to the higher Court.

In the past, questions have been raised over the transparency, accountability and fairness of the FTs. According to Amnesty International, the works of the FTs have been "shoddy and lackadaisical". Indian journalist Rohini Mohan has analysed 500 judgements of the FTs and has found that more Muslims than Hindus had been declared foreigners by the FTs. She has also found that about 78 per cent of the orders have been delivered by the FTs without hearing the one who is accused by others as a 'foreigner'. In all such cases, the police has played a significant role by declaring such individuals as 'absconding', while the reality is, as Mohan found, many of them are living in their homes and unaware that they have been accused and declared as "foreigners".

Interestingly, the Bharatiya Janata Party (BJP), which has been one of the ardent supporters of the NRC, is now critical of it. The BJP leaders and supporters argue that many of the Hindus and tribals have been left out while a majority of the Muslims living in the border areas whom they call 'infiltrators' have managed to find their names on the list. In Assam, the BJP State President Ranjeet Kumar Das said that the final NRC list contains a very small figure of exclusions compared to the official figures stated earlier. He said that "We [the party] do not trust this NRC... We are very unhappy...We appeal to the central and the state

governments to prepare a national level NRC". Himanta Biswa Sarma, the Finance Minister of Assam, termed the list "faulty", and said that the party will approach the Supreme Court of India for reverification in certain parts of Assam.

More than the legal process the non-included will follow, the bigger question is what will happen to those who will be finally declared as foreigners living illegally in India? The Indian government has not yet decided. In 2014, the SC has asked the Indian government to negotiate the issue with the government of Bangladesh so that those who will be out of the list can be easily deported. However, Bangladesh has never accepted that any of its citizens are living illegally in India.

Bilaterally, both governments have never engaged on this issue. In 2018, before the final draft list was to be published, *The Indian Express* reported that "Weeks before its publication sparked a political row, India had quietly and informally briefed Bangladesh on the draft National Register of Citizens in Assam, it is learnt, and assured them that there was no talk of 'deportation' to prevent a slide in bilateral ties". Recently, India's External Affairs Minister, Dr S. Jaishankar, during his visit to Dhaka on 20 August 2019 assured the Bangladeshi leaders that the NRC is "an internal matter of India" ", about which Bangladesh need not worry. Given the close political relations India shares with Bangladesh, it is less likely that the Indian government will take a risk to deport a large number of people to Bangladesh.

Thus, the first option is to reintroduce and pass the Citizenship (Amendment) Bill from the parliament. This bill calls for the implementation of a faith-based citizenship in India. It seeks to facilitate acquisition of Indian citizenship by Hindus, Sikhs, Jains, Buddhists, Christians and Parsees from Afghanistan, Pakistan and Bangladesh. Once it becomes an act, the BJP government, its supporters and other groups may help the excluded Hindus from the NRC to attain citizenship in India while Muslims are likely to be left out.

Second, as such a large number of excluded people cannot be deported to any country, they may land up in one of the six dilapidated detention centres in Assam. There are around 1000 people living in those centres. The government has already announced its plans to build 10 more detention centres. Detention of such a large number of people, however, would be a gross violation of their human rights.

Third, there are speculations about giving work permits to those who will finally be declared as foreigners and allow them to live as "non-citizens" in India. This will create what Sanjib Baruah, calls "a new form of precarious citizenship — people with fewer rights and entitlements". They will be vulnerable to all forms of abuses.

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