

## OUT, DAMNED FOREIGNER

**W**HAT WILL INDIA DO with 1.9 million illegal immigrants in Assam? The publication of the final National Register of Citizens (NRC) in Assam on August 31 marked the end of a mammoth six-year project, the largest winnowing of a population in our history. It might be the start of another tortuous and tangled chapter in Assam since the fertile region, rich in rice, tea and oil, was conquered by the British East India Company 193 years ago.

To begin with, nearly everybody is unhappy with the NRC. The Bharatiya Janata Party governments in Guwahati and New Delhi both argued before the Supreme Court that they wanted 20 per cent of the NRC to be re-validated; they were turned down because NRC officials had already cross-checked 27 per cent. The All Assam Students Union, which spearheaded the 1979-85 agitation against Bangladeshi immigrants – peaking with the Nellie massacre which I wrote about in 1983 and 2016 – has launched protests. At least four police cases have been filed by aggrieved parties against NRC State Coordinator Prateek Hajela.

Although the NRC did not contain a religion-wise breakdown, sources tell me more than a million of the 'excluded' are Bengali Hindus; another 100,000 or so are Nepali settlers. The 'out' list even includes thousands of indigenous Assamese like the Rajbongshis, also called the 'plains tribals'. They are all angry.

Home Minister Amit Shah has repeatedly vowed India will throw out every last *ghuspetiya* (infiltrator). Deportations involve a lengthy judicial process, and the country of origin has to provide travel documents to enable repatriation. Bangladesh has not offered to take back any migrant.

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Assam's register of citizens is a poisoned chalice

Constitution came into effect.

Now, 69 years later – and in a move that will definitely muddy the NRC waters – the government is trying to revive the Citizenship (Amendment) Bill (CAB). It was introduced in 2016, referred to a Joint Parliamentary Committee (JPC) which submitted its report only in January 2019, and expired with the last Lok Sabha.

'Web' is a good descriptor: even before independence, citizenship was governed by the Foreigners Act, 1946, Passport (Entry into India) Act, 1920, and the Registration of Foreigners Act, 1939. After independence, The Citizenship Act, 1955 has been amended several times, but the most contentious changes are proposed by the CAB.

It says illegal migrants of Indian origin belonging to the Hindu, Sikh, Buddhist, Jain, Parsi and Christian religions from Afghanistan, Bangladesh and Pakistan who entered India on or be-

fore December 31, 2014, will be granted citizenship. Even the minimum length of stay in India for such 'persecuted minorities' has been relaxed. Noticeably, it omits Muslims.

The CAB has been opposed by AASU, indigenous Assamese groups, and BJP ally Asom Gana Parishad, who believe it violates the Assam Accord of 1985 that mandated all illegal immigrants from Bangladesh who entered the state after March 24, 1971 would be detected





and deported. Legal experts believe the Bill contravenes Article 14 of the Constitution which guarantees equality before law. If enacted, it is sure to be challenged in the Supreme Court.

The JPC backed the Bill, saying that “protecting the interest of the indigenous Assamese people is the responsibility of both the Central Government and the State Government of Assam”. Nine of the JPC’s 30 members dissented from the report.

The final NRC excluded a total of 1,906,657 people. This was a marked drop from the 4,070,707 in the first draft published in July 2018, after which those excluded could seek a review. Every individual whose name does not appear on the NRC can appeal to the 100 Foreigners Tribunals; the government has said it will set up another 200. Detention camps are being built.

Even afterward, those excluded can appeal to the courts. “For those who are not in the final list will not be detained and will continue to enjoy all the rights as before till they have exhausted all the remedies available under the law,” the Foreign Ministry has said.

Underlining the legal hurdles in the expulsion process, the JPC noted that the Foreigners Tribunals “have identified over 90,000 illegal migrants since 1986 out of which only 2,400 could be deported and the deportation of others could not materialise for various reasons.” It said it was not satisfied by the reasons given by the Home Ministry, adding that deportation of illegal migrants has been a perennial problem.

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All this does not take away from the complexity of the NRC process, which I wrote about three years ago. Hajela, an IAS officer who took charge of the NRC in September 2013, has had to appear before the Supreme Court 68 times. The Court, which has monitored every step of the exercise, has held a total of 84 hearings on Assam’s migration crisis since 2010.

To add to the tumult, the Modi government has said it will now carry out a nationwide NRC. My hunch is that it will be twinned with the 2021 Census, because it will have to be house-to-house enumeration. In that sense we will have come full circle, because the first nationwide NRC coincided with our first Census in 1951. Only Assam has gone

through two NRCs; this time every inhabitant of Assam had to apply to prove that he or she was a citizen of India.

One model India should certainly not follow is that of Myanmar, where a military crackdown in 2017 forced about 730,000 Rohingya Muslims to flee to Bangladesh. Myanmar is now forcing the remaining Rohingya, and those daring to return, to accept National Verification Cards that identify them as foreigners. Like those excluded from Assam’s NRC, the Rohingya are seen as illegal immigrants from Bangladesh. **BW**

*The author is former Editor, Reuters Asia, Editor-in-Chief of The Hindustan Times and Editor of Business Today*