

# Assam Riddle: Who Will Be The Last Illegal Immigrant Standing?

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Of the 5 million illegal immigrants in Assam, only 2,442 had been expelled between 1985 and 2012

## The Needle's Eye



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The issue of citizenship in India has been rendered very complex by a thicket of laws, rules and executive fiat. Article 6 of the Constitution says anybody from East or West Pakistan who enters India after July 19, 1948 must apply for citizenship. Citizenship is also governed by the Foreigners Act of 1946, the Passport Act of 1952, and the Citizenship Act of 1956. Besides naturalisation, until January 1, 1987, every person born in India was automatically conferred citizenship. Then the rules changed and until December 3, 2004, at least one parent had to be a citizen for a baby to be Indian. After that date, if one parent was an illegal immigrant the child would not be eligible for citizenship.

It was almost inevitable that the 1979-85 agitation against illegal Muslim immigrants would erupt like a putrid boil on Assam's fertile landscape. Census figures show that the state's population leapt by 36 per cent between 1951 and 1961 and by 35 per cent in the next decade. The Assam Accord that was signed by Prime Minister Rajiv Gandhi with the All Assam Students Union and the All Assam Gana Sangram Parishad on August 15, 1985 ended the agitation, but it laid down a complex formula that has been near-impossible to implement in the three decades since.

The Accord said all residents of Assam who entered the state until January 1, 1966 would be 'regularised'. Those who came between 1966 and 25 March 1971 would be disenfranchised for ten years. It said "Foreigners who came to Assam on or after March 25, 1971 shall continue to be detected, deleted and expelled in accordance with law."

The reality is that between 1985 and 2012, according to an Assam government white paper, only 2,442 illegal immigrants from Bangladesh had been expelled from the state. The central home ministry said in 2004 it esti-

mated a total of five million illegal immigrants in Assam.

That number could be a lot higher. Assam's population rose to 31.2 million in 2011, a 17.1 per cent rise from 2001. Aditya Langthasa, a doctor and the state legislator for Hojai, scoffed at the idea of illegal migration of Muslims from Bangladesh. "It is true that Muslims are not very good at practising family planning," he said, explaining their rise in numbers. Langthasa is the working president of the All India United Democratic Front (AIUDF), the biggest Muslim party in Assam and the main opposition party in the legislature.

A definitive answer on the number of illegal immigrants in Assam will be produced by the National Register of Citizens. This is only the second time in the past 65 years that the citizens' register is being updated, and only in the state of Assam. The 1951 NRC replicated independent India's first census, which was a count of all present whether they were citizens or not. At that time Assam's population was eight million. When the Assam government carried out a pilot NRC in three tehsils, or village clusters, in 2010, there was violence after the All Assam Minority Students Union protested.

India's Supreme Court has had to step in more than once to cut through Assam's Gordian knot. The Illegal

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**Migrants (Detection by Tribunals) Act of 1983 put the onus of proving the illegality of a migrant on the complainant, while India's Foreigners Act requires the accused**

to prove his or her right to Indian citizenship. In a scathing 2005 judgment, the Supreme Court said the legislation hindered deportations of illegal foreigners from Assam. Citing government data, the court noted that between 1971 and 2000, of a total of 310,759 complaints about citizenship, only 1,481 illegal migrants had been physically expelled from India.

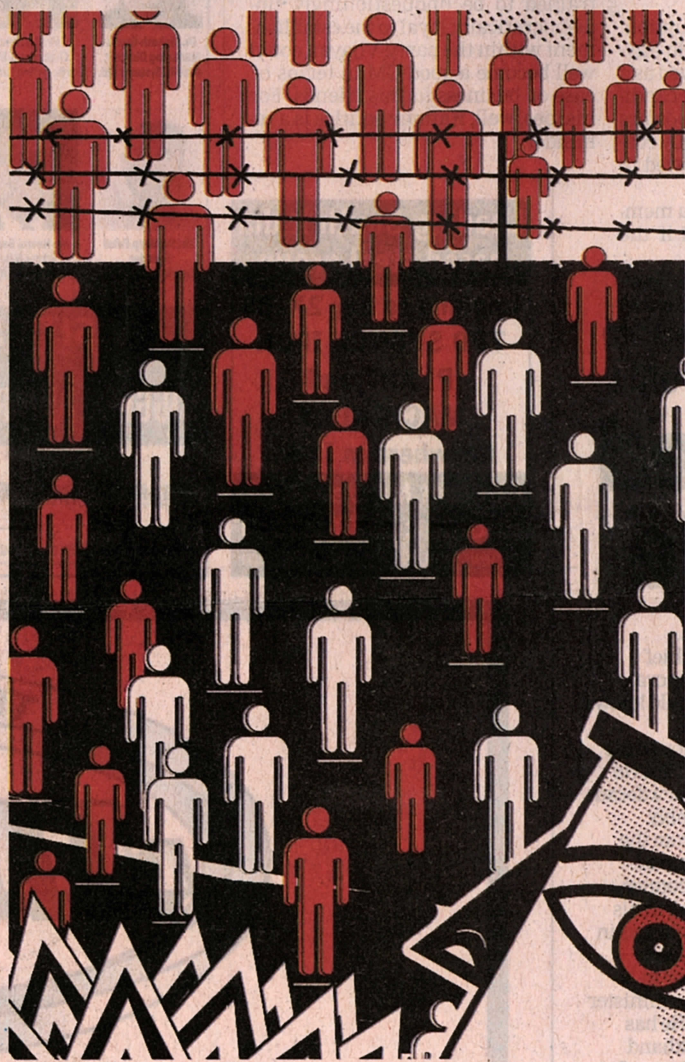
More recently, the court clubbed together three writ petitions from 2009, 2012 and 2014, and in October 2014 ordered that work on the NRC be completed by January 31, 2016. On July 21 last year, the Supreme Court went much further. It invoked Article 144 of the Constitution, which states baldly: "All authorities, civil and judi-

cial, in the territory of India shall act in aid of the Supreme Court." In other words, the court is now directly monitoring, for the first time in India's history, the enumeration of citizens in one part of India, although the actual work is done by the Registrar General of India using the resources of the Assam government.

The man who has been asked to hold the hot potato of deciding who is, or is not, a legitimate resident of Assam is Prateek Hajela, a 46-year-old Indian Administrative Service officer based in Guwahati. "It is a huge task, but we will ensure that no foreigner is left undetected. Nobody will be able to cast aspersions on our findings," says Hajela, the NRC's

State Coordinator, who started work in September 2013 and whose team has grown to 1,000 people. In addition, about 55,000 Assam government employees are working part-time on updating the NRC, helped by 8,000 data operators contracted by Wipro, the software company.

The numbers are daunting. Hajela's team is sifting through 'legacy data' for 20.5 million people. Close to 67 million documents relating to residents of Assam between the 1951 NRC and voters' rolls up to the midnight of March 24, 1971 are being scanned, digitised and the data cleansed. People on those lists and their verified descendants will be recognised as Indian citizens.



This huge battalion of sleuths is using computer technology like never before in determining the fates of 'foreigners' in Assam. They will carry out back-end verification of mountains of documents that are handwritten, many yellowing and crumbling when picked up. Elaborate family trees have been constructed. Hajela says his team has had to ferret out forged birth certificates, often by identifying complicit hospitals. Sometimes a legitimate pre-1971 Muslim resident of Assam will have the names of as many as 50 'children' linked to his. 'Siblings' are found to be unrelated. "We've found men who had one wife but one child born in January and one in February," Hajela says. Sometimes a Muslim villager living in the plains of central Assam will produce a birth certificate from Nagaland. The lengths to which illegal immigrants have gone to obtain papers seem limitless.

The NRC will not be enough to douse the fires, says Upamanyu Hazarika, a Supreme Court lawyer whose maverick Prabajan Virodhi Manch (or Forum Against Infiltration) has waged a relentless campaign, collecting about half a million signatures across 12 constituencies to expel aliens and reserve prized farmland for 'ethnic' Assamese.

Hazarika gives an example. According to a government reply to a Right to Information query, 77,420 bighas of state land in the Sipajhar area in Darrang district, just across the Brahmaputra from the capital Guwahati, have been occupied by illegal migrants. Of this, 3,000 bighas consisted of professional grazing areas where no human habitation is permitted. In 1994, a total of 199 families squatting on the grazing land on the grounds that they were affected by floods were ordered to get out. The squatters not only stayed put; the government even built 12 schools on the grazing land.

Verification of the NRC data will begin after the results of the April elections are announced. Three or four months from then, the new Assam government will be presented with the updated NRC — a time bomb of potentially huge proportions that will start ticking immediately: how do you then go about deporting so many people to Bangladesh? This question will haunt the next Assam government.

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