

A BRIEF ANALYSIS ABOU-NPR, NRC, AND AADHAAR

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ABSTRACT

Citizenship Act of 1955 deals with the acquisition and termination of citizenship after the commencement of the Constitution. Rights of Citizenship of certain persons who have migrated to India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution. National Register of Citizens, 1951 is a register prepared after the conduct of the Census of 1951 in respect of each village, showing the houses or holdings in a serial order and indicating against each house or holding the number and names of persons staying therein. National Register of Citizen (NRC) is a register that contains the names of all genuine Indian citizens. Currently, only Assam has such a register in India. In the year 1951, NRC identified all the illegal immigrants from Assam on the Supreme Court's order. Ever since it was implemented in Assam, there has been a growing demand for its nationwide implementation. According to the Citizenship Rules, notified on December 10, 2003, NPR is 'the register containing details of persons usually residing in a village or rural area or town or ward or demarcated area within a ward in a town or urban area. NRC is a register containing details of Indian Citizens living in India and outside India.

KEYWORDS- NRC, NPR, ASSAM, CITIZENSHIP, NON RESIDENCES, AADHAAR, AMMENDMENT.

INTRODUCTION-

Constitutional Provisions for Citizenship

The Constituent Assembly incorporated a generalized provision through Article 11 for the Parliament to regulate the citizenship by law. However, when it adopted the Constitution it brought into force Part 2 of Constitution for Citizenship with **Articles 5-11 dealing with it which states as follows:**

Article 5 states that “every person” who has a domicile in the territory of India and:

- Who was born in the territory of India or
- Either of whose parents were born in the territory of India or
- Who has been ordinarily resident in the territory of India for not less than 5 years immediately preceding such commencement shall be a citizen of India

Article 6: Rights of Citizenship of certain persons who have migrated to India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution

Article 7: Rights of Citizenship of certain migrants to Pakistan is a special provision for persons who have migrated to Pakistan after March 1, 1947, but returned to India subsequently.

Article 8: These are the Rights of Citizenship of certain persons of Indian origin residing outside India for the purpose of employment, education, and marriage

Article 9: Persons who voluntarily acquire citizenship of a foreign state will not be citizens of India.

Article 10: Every person who is a citizen of India under any provisions of this part will be subject to any law enacted by the Parliament.

Citizenship Act of 1955 and its Amendments

1. Citizenship Act of 1955 deals with the acquisition and termination of citizenship after the commencement of the Constitution. The provisions under it include:

- A person born in India after 26th January 1950 would-be citizen of India except those of children of diplomats and enemy aliens cannot be citizens of India by birth
- Any person born after 26th January 1950 would-be citizen of India subject to certain requirements, for example, either parent (mother or father) to be a citizen of India

- Certain categories of citizens can acquire citizenship by registration in the prescribed manner
 - Foreigners could acquire Indian citizenship by naturalization on certain conditions
 - If any territory becomes part of India, the Government of India could specify the conditions for them becoming citizens
 - Citizenship could be lost by termination, renunciation, deprivation on certain grounds
 - Citizen of a Commonwealth country would have the status of a Commonwealth citizen in India
- 2.** The Citizenship (Amendment) Act of 1986: This act specifically deals with the citizenship of the state of Assam. It mentions those illegal migrants to get citizenship to need to be registered with the Indian consulate in the prescribed format.
- 3.** The Citizenship (Amendment) Act of 1992: According to this Act any person born outside India is considered a citizen of India by virtue of Citizenship by Descent if either of the parents was a citizen at the time of his birth.
- 4.** The Citizenship (Amendment) Act of 2003: This Act introduces several provisions for overseas citizens regarding their registration, rights in India etc.
- 5.** The Citizenship (Amendment) Act of 2005: This Act is based on the recommendations of the Parliamentary Standing Committee on Home Affairs. It provides for dual citizenship to PIO of 16 countries.

Modes of acquisition of Citizenship

1. By birth: The grant of citizenship under this clause is subject to changes according to amendments in place at that time.
2. By registration: Citizenship can be acquired by registering.
3. By Descent: Similar to citizenship by descent this provision also was subjected to changes from time to time
4. By naturalization.
5. By incorporation of territory.

Loss of Citizenship in India

The Citizenship Act of 1955 deals with the loss of citizenship also in addition to acquisition. Accordingly, it is carried by the following means:

1. By renunciation: Any person who has made a declaration stating his willingness to renounce the citizenship shall cease to be the citizen of India.
2. By termination: If a person voluntarily or knowingly becomes a citizen of any foreign country.
3. By deprivation.

Overseas Citizen of India (OCI)

According to the Citizenship (Amendment) Act of 2003, an overseas citizen of India includes a person:

- Indian origin being a citizen of a specified country
- Was citizen of India immediately becoming a citizen of other country and registered as OCI by the central government?

Non-Resident Indian

An NRI is a citizen of India who holds an Indian passport and has temporarily immigrated to other countries either for employment or education or any other purpose.

Persons of Indian Origin

A PIO is a person of India origin whose parents or grandparents are citizens of India but he is not a citizen of India but of other countries.

The issue of citizenship plays a vital role in a democratic nation-state and hence citizenship is a significant principle of a democratic polity.

What is National Register of Citizens (NRC)?

- National Register of Citizens, 1951 is a register prepared after the conduct of the Census of 1951 in respect of each village, showing the houses or holdings in a serial order and indicating against each house or holding the number and names of persons staying therein.
- The NRC was published only once in 1951.

National Register of Citizen (NRC) is a register that contains the names of all genuine Indian citizens. Currently, only Assam has such a register in India. **The government recently stated that said the National Register of Citizens is a necessary exercise for any sovereign country and it would have to carry it out as per the dictates of Indian law.**

The government made the submissions in an affidavit to the Supreme Court as its response to a batch of petitions challenging the Citizenship Amendment Act.

Prime Minister Narendra Modi, Home Minister Amit Shah and several other senior Ministers, on numerous occasions, have clarified that no nationwide NRC has been announced. Today we are providing some information related to NRC and everything that you need to know.

What is the National Register of Citizens (NRC)?

In the year 1951, NRC identified all the illegal immigrants from Assam on the Supreme Court's order. Ever since it was implemented in Assam, there has been a growing demand for its nationwide implementation.

Now, many top govt. leaders including Home Minister Amit Shah have proposed that the NRC in Assam will be implemented nationwide. It suggests bringing in a legislation that will help the government in identifying people who have been living in India illegally and deport them to where they came from.

The NRC starts with a register of residents i.e. the population registry it is a citizenship registry, a registry of all Indian citizens will be created. The process of "moving" people from the local population registry to the local citizenship registry is the key issue here.

How does one prove citizenship?

In Assam, one of the basic criteria to prove citizenship was that the **names of applicant's family members must either be in the first NRC prepared in 1951 or in the electoral rolls up to March 24, 1971.**

Apart from this, people also had the option to present the documents like refugee registration certificate, birth certificate, LIC policy, land or tenancy records, citizenship certificate, passport, government issued licenses or certificates, bank or post office accounts, permanent residential certificate, educational certificate and court records, government employment certificate.

What will happen with the excluded individuals?

"Non-inclusion of a person's name in the NRC does not by itself amount to him/her being declared a foreigner," the government has said that such individuals will be given the opportunity to present their case before foreigners' tribunals. If one loses the case in the tribunal, then the person can move the high court and, then, the Supreme Court.

In Assam, the state government has clarified that it will not detain anyone until he/she is declared as a foreigner by the foreigners' tribunal.

What can people do if they cannot find legacy data?

The government has set up NRC Seva Kendras in every district of Assam, which assists people in searching their Legacy Data, issuing of Legacy Data Code, and in receipt of NRC Application forms.

Will NRC be for people of any particular religion?

NRC has nothing to do with any religion. NRC is for all the citizens of India. It is a register, where the names of every citizen of the country will be recorded.

Will people be excluded in NRC on religious grounds?

NRC is not about any religion at all. Whenever NRC will be implemented, it will not be applied on the basis of religion. No one will be excluded just on the basis that he/she follows a particular religion.

NRC in Assam

- The issue of its update assumed importance as Assam witnessed large-scale illegal migration from erstwhile East Pakistan and, after 1971, from present-day Bangladesh.
- This led to the six-year-long Assam movement from 1979 to 1985, for deporting illegal migrants.
- The All Assam Students' Union (AASU) led the movement that demanded the updating of the NRC and the deportation of all illegal migrants who had entered Assam after 1951.
- The movement culminated in the signing of the Assam Accord in 1985.
- It set March 25, 1971, as the cut-off date for the deportation of illegal migrants.
- Since the cut-off date prescribed under articles 5 and 6 of the Constitution was July 19, 1949 - to give force to the new date, an amendment was made to the Citizenship Act, 1955, and a new section was introduced.
- It was made applicable only to Assam.
- There had been intermittent demands from AASU and other organisations in Assam for updating the NRC, an Assam based NGO filed a petition at the Supreme Court.
- In December 2014, a division bench of the apex court ordered that the NRC be updated in a time-bound manner.
- The NRC of 1951 and the Electoral Roll of 1971 (up to midnight of 24 March 1971) are together called Legacy Data. Persons and their descendants whose names appeared in these documents are certified as Indian citizens.

Impact

- An updated NRC is likely to put an end to speculations about the actual number of illegal migrants in Assam in particular and the country in general.
- It will provide a verified dataset to carry out meaningful debates and implement calibrated policy measures.
- Publication of an updated NRC is expected to deter future migrants from Bangladesh from entering Assam illegally.
- The publication of the draft NRC has already created a perception that staying in Assam without valid documentation will attract detention/jail term and deportation.
- More importantly, illegal migrants may find it even more difficult to procure Indian identity documents and avail all the rights and benefits due to all Indian citizens.
- Inclusion of their names in the NRC will provide respite to all those Bengali speaking people in Assam who have been, hitherto, suspected as being Bangladeshis.

Challenges

- Flawed Process - People who found themselves on the first list that was released on January 1, 2018, didn't find their names in the second. Even the family of a former President of India did not mention on the list.
- The parallel processes of NRC, the voters list of the Election Commission, and the Foreigners' Tribunals with the help of the Assam Border Police, have led to utter chaos, as none of these agencies are sharing information with each other.
- Though the draft provides a window for re-verification, due to large number of people being excluded from the list, it will be very difficult to physically verify all of them.
- Since such 'non citizens' can resort to judicial relief to substantiate their citizenship claim, it can lead to overburdening of judiciary which already reels under large number of pending cases.
- There is uncertainty about the future of those left out from the list.
- Expelling them to Bangladesh is not an option since Dhaka has never accepted that they are its citizens or that there is a problem of illegal immigration. In the absence of a formal agreement, India cannot forcibly push the illegal migrants back into Bangladesh.
- Moreover, raising this issue can also jeopardise relations with Dhaka. Such an attempt would not only damage bilateral relations but also sully the country's image internationally.
- Apart from deportation, the other option is large scale detention camps - which is an unlikely option for a civilised democracy like India.
- Another option is instituting work permits, which would give them limited legal rights to work but ensure they have no political voice. However, it is not clear what will be the fate of children of such individuals.
- With no end to uncertainty, NRC seems to be a process without an end.

Way Forward

- India, as a country which follows the ideology of 'Vasudhaiva Kutumbakam', should not be hasty in taking decisions that can disenfranchise her citizens – contradicting its centuries-followed values.
- The need of the hour is that Union Government should clearly chart out the course of action regarding the fate of excluded people from final NRC data and political parties should refrain from coloring the entire NRC process through electoral prospects that may snowball into communal violence.
- There is a need for a robust mechanism of legal support for the four million who have to prove their citizenship to India with their limited means.

Points to note regarding NPR, NRC, and Aadhaar:

1. National Population Register (NPR) may help the government solve many issues in the country. The government decided to update the **National Population Register** along with the House listing phase of Census 2021 during April to September 2020 in all the States/UTs except Assam.
2. While registering with the NPR is mandatory, furnishing of additional data such as PAN, Aadhaar, driving license and voter ID is voluntary.
3. NPR will seek verification of biometric details from UIDAI. Hence, those holding Aadhaar are not required to give biometric details to NPR.
4. The 15 demographic parameters that will be included in **NPR** are:
 - (1) Name of person
 - (2) Relationship to head of household
 - (3) Father's name (4) Mother's name
 - (4) Spouse's name (if married)
 - (5) Sex
 - (6) Date of Birth
 - (7) Marital status

- (8) Place of birth
 - (9) Nationality (as declared)
 - (10) Present address of usual residence
 - (11) Duration of stay at present address
 - (12) Permanent
 - (13) Residential address
 - (14) Occupation/Activity
 - (15) Educational qualification
5. NPR will be the base for a nationwide National Register of Citizens. You may note that the list of citizens of Assam was released recently.
6. The main purpose of the NPR is to identify illegal migrants and identify them as foreign nationals. However, you may note that – NPR is not a citizenship enumeration drive. NPR will also include a foreigner staying in an area for more than six months.
7. The Unique Identification Authority of India (UIDAI) is responsible for enrolling individuals in the UID scheme, and the Registrar General of India (RGI) is responsible for enrolling individuals in the NPR scheme.
8. The main aim of Aadhar is to identify the beneficiaries of government services like subsidies.
9. There is great overlap between the data collected for Aadhar and NPR – hence efforts are made for more synergy.
10. NRC can be considered as a subset of the National Population Register (NPR).

National Population Register (NPR)

The National Population Register (NPR) is a register of the **usual residents of the country**.

A usual resident is defined for the purposes of NPR as a person who has resided in a local area for the past 6 months or more or a person who intends to reside in that area for the next 6 months or more.

It is **mandatory** for every usual resident of India to register in the NPR.

It is being prepared at the local (Village/sub-Town), sub-District, District, State and National level under provisions of the **Citizenship Act 1955** and the **Citizenship Rules, 2003**.

Difference between NPR & NRC Explained

Among the on-going protests and breaking news in media, the general public is confused about both the terms and its implications.

According to the Citizenship Rules, notified on December 10, 2003, **NPR** is ‘the register containing details of persons usually residing in a village or rural area or town or ward or demarcated area within a ward in a town or urban area. **NRC** is a register containing details of Indian Citizens living in India and outside India.

The rules further say that ‘**National Register of Indian Citizens**’ shall contain the particulars of every citizen i.e.

- Name;
- Father’s name;
- Mother’s name;
- Sex;
- Date of birth;
- Place of birth;
- Residential address (present and permanent);
- Marital status ñ if ever married, name of the spouse;
- Visible identification mark;
- Date of registration of Citizen;
- Serial number of registration; and
- National Identity Number.

In the case of **NPR**, **both demographic and biometric data** are collected. From the last NPR collected in 2010, certain new categories have been added to the list. These are as follows:

Aadhaar Number (voluntary);

- Mobile Number;
- Date & Place of Birth of Parents;
- Place of Last Residence;
- Passport Number (if Indian passport holder);
- Voter ID Card Number;
- Permanent Account Number;

- Driving License Number;

The Home Ministry said the objective of conducting NPR is to “prepare a credible register of every family and individual living in the country apart from strengthening security and improvement in the targeting of beneficiaries under various Central government schemes”

CONCLUSION

The National Citizenship Register (NRC) update (updation) is causing political havoc in the country. This NRC is being updated in Assam and the ruling NDA government is planning to update the NRC across the country.

- The government has made a **law to make a complete register of the citizens of India**. According to this, people residing here should produce a valid document to state their citizenship before March 24, 1971.
- This **received widespread criticism from all parts of India** as this claims to be not in favor of the Muslim population in India. Protests are being carried out in various parts of the country to prevent this act
- The government has now **stopped collecting the Information due to the COVID 19 Pandemic**.

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