

Humanising Citizenship Law in India

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Why in News?

- The Supreme Court declared an Assam resident (Md Rahim Ali) a citizen of India, overturning the decision of a **Foreigners' Tribunal (FT)** in the state.
- Because of minor discrepancies in spellings and dates in the documents produced by him, the FT declared him a foreigner, holding that he had entered India illegally on or after the cut-off date of March 25, 1971.

What are Foreigners' Tribunals?

- These are **quasi-judicial bodies** entrusted with determining the citizenship status of those accused of being or labelled as foreigners.
- These are established as per **the Foreigners' Act 1946 and the Foreigners' Tribunal Order 1964.**
- **The Foreigners Act 1946** is a colonial legislation that preceded the Constitution of India.
- Post-independence, the Foreigners' Tribunals were established in **1964** by an executive order of the Home Ministry.
- Under **Article 323B** of the Constitution (inserted by the Constitution [42nd Amendment] Act 1976), tribunals may be established (by the appropriate legislature) **by law**.

Why are FTs under Criticism in Assam?

- About 3 lakh people in Assam were declared Doubtful Voters in 1997 without any inquiry or notice. They were excluded from the Assam National Register of Citizens (NRC).
- Although the Foreigners' Tribunal Order of 1964 mandates that notices shall mention the "main grounds", **notices issued by FTs generally do not mention any ground.**
- Until March 2019, as many as 1.17 lakh people had been declared foreigners, and people **had to defend themselves without knowing the charges.**
 - This is because the Foreigners Act 1946 puts the burden of proof on the person who is alleged to be a foreigner.
- The recent SC judgement could have an immediate positive bearing on the cases pending with the FTs.

How the SC's Verdict Humanised Citizenship Law in India?

- **On the burden of proof:** While the burden of proof may be on the accused under the Foreigners Act, the apex court held that this burden is to be discharged only after the state has shared the material on which the allegation is founded.
 - The supply of this material is an integral part of the classic rule of **natural justice** – no one shall be condemned unheard.
- **Minor discrepancies in documents cannot result in loss of citizenship:** The judgement will alleviate the anxieties of many people worried about minor spelling mistakes in their and their parents' names following the enactment of the CAA 2019, and the proposal to have a nationwide NRC.

The Citizenship (Amendment) Act (CAA) 2019:

- **About:**
 - The Act **seeks to amend the definition of illegal immigrant** for Hindu, Sikh, Parsi, Buddhist, Jains and Christian (but not Muslim) immigrants from Pakistan, Afghanistan and Bangladesh, who have lived in India without documentation.
 - They will be **granted fast track Indian citizenship in 5 years** (11 years earlier).
 - The Act (which amends the Citizenship Act 1955) also **provides for cancellation of Overseas Citizen of India (OCI) registration** where the OCI card-holder has violated any provision of the Citizenship Act or any other law in force.
- **Who is eligible?**

- The **CAA 2019** applies to those **who were forced or compelled to seek shelter in India** due to **persecution on the ground of religion**. It aims to protect such people from proceedings of illegal migration.
- The cut-off date for citizenship is **December 31, 2014**, which means the applicant should have entered India on or before that date.
- The act **will not apply to areas** covered by the Constitution's **sixth schedule**, which deals with autonomous tribal-dominated regions in Assam, Meghalaya, Tripura, and Mizoram.
- Additionally, the act will not apply to states that have an **inner-line permit regime** (Arunachal Pradesh, Nagaland and Mizoram).

National Register of Citizens (NRC):

• About NRC:

- The NRC is **an official record** of those who are legal Indian citizens. It is mandated by the 2003 amendment of **the Citizenship Act, 1955**.
- It includes **demographic information** about **all the legal citizens of India** so that the illegal immigrants can be identified and deported.
- So far, such a database has **only been maintained for the state of Assam**.

• Why was NRC updated for Assam?

- A write petition had been filed before the SC demanding **the deletion of illegal migrants' names from voter lists in Assam**.
- In 2014, **the SC ordered the updation of the NRC**, in accordance with Citizenship Act, 1955 and Citizenship Rules, 2003 in all parts of Assam.
- An individual had to demonstrate that they or their ancestors were in Assam on or before March 24, 1971.
- The process officially started in 2015 and the updated final NRC was released on August 31, 2019, **with over 1.9 million applicants failing to make it to the NRC list**.
- **Those who were not included in the final NRC list** or were tagged as 'D' (doubtful) have the right to file **an appeal with the Foreigners Tribunal**.
- Only Foreigners Tribunals have the authority to declare a person a foreigner.

Q.1. What is Article 323B of the Indian Constitution?

Article 323B of the Indian Constitution provides for the establishment of tribunals for the adjudication of disputes in various matters. These tribunals play a crucial role in ensuring efficient and specialized resolution of disputes in specific areas.

Q.2. Why was the Foreigners Act 1946 enacted?

The Foreigners Act empowers the Indian government to detain a person until deportation back to their country of origin.

Source: 12 years after Assam man was declared a foreigner, Supreme Court restores citizenship: 'A miscarriage of justice' | IE

Source: <https://vajiramandravi.com/current-affairs/humanising-citizenship-law-in-india/>

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