

INTERNATIONAL JOURNAL FOR

# CONSTITUTION

& DEVELOPMENT OF LAW

---

**IJCDL**

VOLUME 1 ISSUE 1

2024

WWW.IJCDL.COM

## **THE CONSTITUTIONAL VALIDITY OF THE NATIONAL REGISTER OF CITIZENS (NRC) AND ITS IMPLEMENTATION IN ASSAM.**

Vankayal Tanishka<sup>1</sup>

### **INTRODUCTION**

Since at least 1971, there has been debate about the issue of foreigners in Assam. Assam is a state with a composite culture and a population that is incredibly diverse. In addition, Assam has a huge potential for natural resources that, if used properly, might lead to wealth for the entire country. However, the region hasn't been able to reach its full potential because of Assam's peculiar topographical features and political divisions among its many groups. And in such circumstances, the problem of illegal immigration has posed a serious threat to the identity of the Assamese locals, who from 1979 to 1985, during the period known in history as witnessing the largest struggle in Independent India by its citizens for the purpose of defending their identity, expressed their frustration with the government out of fear of losing their rights and identities. The All Assam Students Union and the Central Government of India signed a pact, which brought an end to this momentous movement known in Indian history as the Assam Movement. Later, on the basis of the deadline established in the Assam Accord, the Citizenship Act of 1955 was revised, and Section 6A was added, creating a special provision for the State of Assam in relation to the rest of the nation on the determination of illegal immigrants. Nevertheless, the Assam Accord's provisions for awarding citizenship to non-Muslim minority groups of illegal immigrants on the basis of a humanitarian basis are likely to be altered by the new Government. Additionally, the extent of the rights violations and the threat to the identity of the local Assamese Communities are also hotly contested.

### **FINDINGS**

In 1951, a national citizenship register was created. The NRC was created to meet the post partition demands by compiling a list of everyone who had ever lived in the nation or claimed to be an Indian citizen at the time. Since its commencement in 1951, the NRC has not been appropriately updated in the majority of Indian states (apart from Assam). The cause is that no

---

<sup>1</sup> The author is a student of law at Alliance University, Bangalore.

state has a system in place for registering its residents or has kept any records of marriages, births, or deaths. People were requested to confirm their citizenship using birth certificates, lineage certificates, and names of themselves or their direct ancestors on the Assam pre-1971 voting list during the NRC process, which took place in Assam from 2012 to 2018 under the authority and supervision of the Supreme Court of India. These papers will be necessary for NRC on a national basis throughout India. However, it has been observed that the NRC idea is fundamentally problematic since it compulsorily requests documents.

It will be difficult for a large portion of the populace to suddenly find the papers. The most disturbing aspect of the most recent law, known as CAA, is that it violates article 14 of the Indian Constitution by seeking to confer citizenship rights to certain minority of surrounding nations based only on their religion. The ruling Indian government's claim of a reasonable categorization is not at all tenable in the eyes of the nation's legal system. There is class legislation that determines classification, but there is truly no legitimate classification to which citizenship of the nation should be conferred. Consequently, making act stand is obviously unlawful and essentially erroneous. Additionally, the CAA gravely contradicts the preamble, several significant provisions of the Indian Constitution, including provisions 15, 25, 29, and 30, as well as Article 14 as stated above. In addition, the legislation contradicts articles 51C and 253, which bind the country to the convention and require it to ensure that international law is respected in its full form.

The CAA and NRC were both introduced by the Parliament in an effort to overturn the COI's Preamble, which states unequivocally that India is a secular nation. In India, secularism refers to the state's equitable treatment of all religions. The Preamble to the Constitution declared India to be a secular republic after the passage of the 42nd Amendment in 1976.

The connection between religion and the state is not, however, clearly defined by either the Indian Constitution or its legislation. The laws indirectly demand that the State and its institutions respect plurality, recognize and accept all religions, and enforce parliamentary laws rather than religious legislation. However, it is obvious that the CAA and NRC discriminate against the **Muslim Community because of their faith.**

Let's examine a case law to help us comprehend. Through its order in the matter of **Assam Sanmilita Mahasangha v. Union of India**<sup>2</sup> dated December 17, 2014, the Supreme Court took control of the NRC update.

---

<sup>2</sup> WP(C) 562/2012.

Section 6A of the Citizenship Act, which established different citizenship laws for each state to implement the Assam Accord, was challenged by the Mahasangha. In accordance with the rule, immigrants of Indian descent who arrived in Assam before to March 25, 1971, might be eligible for either Indian citizenship or a pathway to citizenship, unlike other states. The Mahasangha claimed that the clause infringed on Assamese residents' right to life by promoting a "massive influx of illegal migrants" from Bangladesh. Additionally, it claimed that the unique system infringed on their constitutionally protected right to culture.

Justice (now Chief Justice) Ranjan Gogoi and Justice R.F. Nariman were on a bench that suggested the matter be decided by a larger constitutional bench. By directing the drafting of the NRC without consulting any other parties to the dispute, including the Attorney General of India, in private in-chamber meetings with the NRC Coordinator, the Supreme Court has put itself in a position to sow political discord. We heard the Court call for no modification in the NRC exercise in regard of outreach and education, despite the Assam government admitting in court that many of those who had declined to engage in the claims procedure were illiterate and destitute and so unable to fill out forms.

So, in what is now assumed to be an era of rising religious and ethnic polarisation, the Supreme Court through its involvement in no way played a role in answering inquiries from people or lessening the burden of impacted persons.

## **CONCLUSION**

The Court should permit the public release of the draught NRC at this time because that would be the best-case situation. It should establish a legal and orderly process for those who have been wronged by exclusion to exhaust their legal options without having their rights compromised by prejudging any situation. What happens to persons who are legally designated as "illegal migrants" after all administrative and judicial procedures have been exhausted is still an open subject. This subject is significantly more intricate, and its resolution may be partly political and somewhat legal.

However, there is a serious chance that the Supreme Court would unintentionally unleash a wave of xenophobia and intolerance as a result of the project, rather than guaranteeing a fair and reasonable process of drafting the NRC. The Citizenship (Amendment) Bill debacle should serve as a reminder to the Court that it is entering potentially hazardous territory and may have

accepted a challenge it is ill-prepared to handle.