



New Citizenship Regime

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This article is based on **“The misadventure of a new citizenship regime”** which was published in The Hindu on 27/11/2019. It talks about issues related to the nationwide exercise for preparing National Register of Citizens.

Recently, a nationwide exercise for counting the citizens of the country was proposed in the Parliament in the form of **National Register of Citizens (NRC)**.

- The objective of this latest initiative is to **count citizens** so as to separate them from non-citizens and expel the infiltrators out of the country.
- The previously conducted exercise (NRC-1951) counted the **residents** (a person who has resided in a local area for the **past 6 months** or more) **rather than citizens of the country**.

Background

- The need for this nationwide exercise came into limelight in the backdrop of the similar **exercise conducted in the state of Assam** (2019) under the supervision of the Supreme Court.
- Also, the ***Office of the Registrar General and Census Commissioner*** will upload the **Census of 2021** along with the **National Population Register (NPR)** next summer.
 - NPR is the database that consists of a comprehensive identity of every usual resident in the country.
 - As of January 2019, nearly 123 crore **Aadhaar cards** had been issued- which serves as a proof of residency in India and not the citizenship. This can help in the formation of the NPR.

Issues and Challenges associated with Nationwide NRC

The underlying rationale, feasibility, and moral legitimacy with a nationwide NRC gives birth to various challenges:

- **Legal Inconsistencies:** The NRC exercise raises suspicion of alienage in the minds of the citizens. The process of NRC is inconsistent with existing laws such as:
 - Under the **Foreigners' Act, 1946**, the burden of proof lies on the individual charged with being a foreigner but in NRC the entire population has to give proof of their citizenship.
 - Even the **Citizenship Act, 1955** which deals with the provisions of acquisition and termination of Indian citizenship does not contain any provision for identifying aliens. But NRC declares the non-nationals as aliens.
 - The Supreme Court **in 2005** struck down the **Illegal Migrants (Determination by Tribunal) Act (IMDT Act-** which highlighted the mechanism for identifying the foreigners) claiming that the provisions mentioned in it are very stringent making the detection and deportation of illegal migrants almost impossible. But the NRC tries to repeat the same thing.
- **Paucity of Resources:** The associated costs and scarcity of resources to frame such nationwide NRC is a big challenge before the government.
 - **Financial Costs:** The entire Assam exercise is reported to have cost around **₹1,600 crore** to enrol 3.3 crore applicants which also ended up excluding 19 lakh people.
 - On this basis, a nationwide NRC would require an outlay of **₹4.26 lakh crore-** which is four times the budgetary outlay for education this year.
 - **Human Resources:** The work of authenticating the Indian electorate of 87.9 crore people would necessitate the deployment of around 1.33 crore officials (more than half of the government officials) for at least next 10 years. This will incur huge administrative burden on the already stressed administrative machinery.
- **Social Risks:** The NRC would give rise to the practice of **“paper citizenship”** acquired through the networks of kinship. The one who is not included in the list would lose the Indian nationality, putting undocumented nationals at risk of losing their citizenship in a futile search for non-national migrants who are better documented, as was found in the case of Assam. This poses a grave fear in the minds of the people.
- **Inherent Political Drawbacks:** There are many uncertainties that persist related to this exercise like:
 - **Cut-off date:** There is speculation about a July 1948 date as the cut-off date in light of constitutional provisions, post-Partition jurisprudence, and the enactment of the Citizenship Act in 1955, but it still is unclear.
 - Will the enrolment process in the NRC be compulsory or voluntary (as was the case in Assam), and what might be the consequences of not seeking registration is debatable.
 - **Federal Challenge:** Seeking the consent of State governments to conduct this exercise is a challenging task. Many North-eastern states are already protesting the NRC.

- **NRC versus Citizenship Amendment Bill:** On one hand NRC carves out a framework to eliminate illegal immigrants, on the other hand, the **Citizenship Amendment Bill (2016)** creates a path to grant citizenship to preferred groups of the immigrants.

For instance, the implicit assumption in the case of Assam NRC was that the infiltrators were **Bangladeshis** (primarily Muslims) who must be disenfranchised. Whereas the Citizenship Amendment Bill explicitly promises to grant citizenship to migrants belonging to specified minority religious groups (all except Muslims) who face the fear of persecution in Afghanistan, **Bangladesh**, and Pakistan.

Impact of Nationwide NRC

- **Fear of Victimization:** The exercise would lead to enhanced anxiety in the minds of excluded sections of the society, especially the minorities. The series of recent events such as **vigilante violence** against minorities, the **triple talaq legislation**, and the reading down of **Article 370** aggravates such fears.
- **Psychological Fears:** The fear of not having papers has already led to many suicides in Assam. The nationwide NRC would multi-fold such events.

Conclusion

- At the end of a prolonged debate on citizenship, the Constituent Assembly settled on the **principle of 'jus soli'** which means **law of the soil** or the birth-based citizenship as opposed to the racial citizenship implied by **'jus sanguinis' (the right of blood)**.
The Citizenship Amendment Bill (CAB) and the NRC will only consolidate the shift from birth-based citizenship to the racial citizenship regime.
- Constitutionally, India is a **secular country**- following the idea of the nation as a civic entity by transcending the ethnic differences.
The NRC-CAB combination signals a **transformative shift from a civic-national conception to an ethnonational conception of India**. This is expected to have adverse repercussions on the delicate and plural social fabric of the nation.
- To aptly identify and detect foreigners, and to secure the borders against illegal immigrants is a primary challenge that needs to be overcome first in order to address the internal security challenges faced by the nation.

Drishti Mains Question

A nationwide NRC is not a solution to check illegal migrants in the country.
Comment.