

LEGAL BRIEFS

LEGAL ANALYSIS OF THE CITIZENSHIP (AMENDMENT)
ACT, 2019 AND THE NATIONAL REGISTER OF CITIZENS OF
INDIA

NOTE-6/2020

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LEGAL ANALYSIS OF THE CITIZENSHIP (AMENDMENT) ACT, 2019 AND THE NATIONAL REGISTER OF CITIZENS OF INDIA

Abstract

This legal brief examines the Citizenship (Amendment) Act (CAA) 2019 and its implications for India's National Register of Citizens (NRC). The CAA, passed by the Indian Parliament in December 2019, grants citizenship to certain religious minorities from Pakistan, Bangladesh, and Afghanistan but explicitly excludes Muslims. This law, framed as a humanitarian gesture, is critiqued for its exclusionary basis and its alignment with the Bharatiya Janata Party (BJP)'s Hindutva ideology. The brief explores the historical background of the NRC, the political and legal motives behind the CAA, its compatibility with India's domestic and international human rights law, and its potential for regional destabilisation. The paper also offers policy recommendations for Pakistan, focusing on lawfare strategies to counter India's actions, engage international organisations, and highlight the human rights violations stemming from the CAA and NRC processes.

Keywords: Citizenship (Amendment) Act 2019 (CAA), National Register of Citizens (NRC), Minority Rights, Lawfare Strategies.

OVERVIEW

India's India's Parliament passed the Citizenship (Amendment) Act (CAA) 2019 on 11 December 2019. The law amends the Citizenship Act 1955 by allowing a path to citizenship for Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians from Pakistan, Bangladesh and Afghanistan who arrived in India on or before 31 December 2014. The Act is the first time that citizenship has been granted on the basis of religion in India and minority Muslim sects are tellingly excluded from the law's remit.

The Bharatiya Janata Party (BJP) has long promised that citizenship would be offered to the listed minorities seeking refuge from religious persecution in their home country. Whilst framed in the humanitarian language of granting amnesty to vulnerable minorities, the Act is another display of Hindutva ideology which relies heavily on the distinction between those who are preferred as citizens and those viewed as undesirables. Although the party's rallying cry has been the issue of illegal migration, particularly in states bordering Bangladesh which have undergone demographic changes, the real reason seems to be to further marginalize Muslims. It sends a clear signal that Muslims are not seen as members of the nation and uses citizenship as a tool for their exclusion.

This Advisory legal brief explains the legal intricacies of the range of measures undertaken by the Government of India which further the BJP's longstanding agenda against migrants from selected minorities. It also sets out the history of the National Register of Citizens (NRC) and the evolution of the Citizenship Act in India. The Legal brief then provides a detailed analysis of the compatibility of the CAA 2019 with India's domestic law and International Human Rights Law. Based on the above, specific policy options and potential lawfare strategies for Pakistan are suggested in the way forward.

DECIPHERING THE BJP'S CORE AGENDA: REVIEW OF ELECTION MANIFESTOS 1989-2019

Illegal immigration has been a feature of all of the BJP's election manifestos (Annexure A), along with three other constants: building a temple at Ayodhya; abolishing Article 370 of the Constitution; and introducing a Uniform Civil Code to replace religion-based personal laws governing civil activities. Their manifestos have taken an increasingly hostile stance towards Muslims.

Since 1984, the BJP has repeatedly contended that India's northeastern states have borne the brunt of illegal immigration which has resulted in demographic and social destabilisation and that this will be curtailed.¹ The 1984 Manifesto included the aim of conducting a detailed enumeration of the region, looking to revise the electoral rolls in a "meaningful" manner. The 1989 Manifesto states that the BJP will issue identity cards to all citizens in the north-eastern border states,² with the 1991 Manifesto adding that this will be done while safeguarding the interests of "bona fide" refugees fleeing because of religious or political persecution in Bangladesh.³

The 1996 Manifesto takes a more antagonistic stand while attempting to hide its true purpose. It states that, "The invasion of illegal immigrants from Bangladesh has led to an alarming growth in a section of the population in our North-East, in Assam, in West Bengal, parts of Bihar, and Delhi. In certain areas, a section of the population has grown by almost 100 percent."⁴ This "section" of the population clearly refers to Muslims, a group which has experienced rapid population growth, and an increasingly important minority in elections in the Border States.

BJP's 2009 Manifesto explicitly targets Muslims (migrant or otherwise), stating that, "...time and again [they have been] exploited by the ISI and its jihadi front organizations as well as local terror cells to carry out bombings and provide logistical support to foreign terrorists."⁵

The BJP in its 2019 manifesto states that it will expeditiously complete the process of NRC registration in priority areas, and vows to implement it in a phased manner in other parts of the country.⁶

There appear to be one—or a combination—of three possible factors in the minds of the BJP leadership in its approach to this issue:

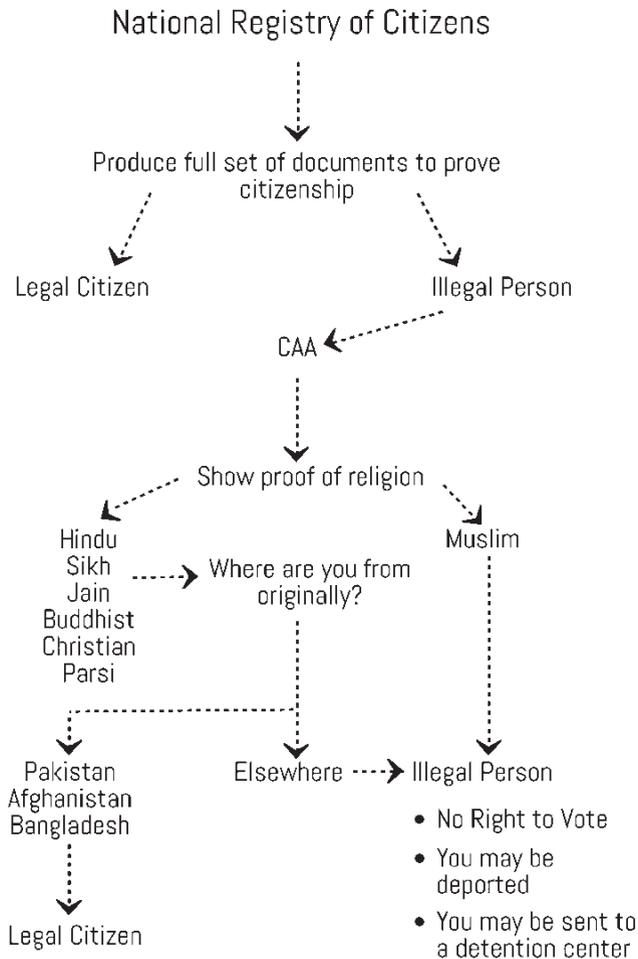
- A legitimate concern that unchecked migration has led to changing demographics and economic consequences for India's Border States which needs to be remedied.
- That migrants, especially those from an ethnic or religious minority, are easy scapegoats for economic and social ills, and emphasizing their 'otherness' is a panacea, when actual progress would require a much deeper look at the fundamental flaws in governance in the region.
- That Muslims largely tend to not vote for the BJP⁷ which would benefit from their exclusion from voting rolls.

THE NATIONAL REGISTER OF CITIZENS

What is the NRC?

The National Register of Citizens (NRC) is the official register containing the names of all Indian citizens. It was created under the Citizenship Act, 1955.

(Registration of Citizens and Issue of National Identity Cards) Rules, 2003.⁸ (Annexure B).



NRC AND THE ASSAM EXPERIENCE

The first attempt at a national register for citizens took place in Assam in 1951 following a census. Over the years, especially following the 1971 war, Assam witnessed a large influx of migrants from Bangladesh and other ethnolinguistic communities from different parts of India. This in turn led to resentment from the local population, who perceived these migrants as destabilizing the demographic, political, socio-economic and cultural environment of the state, resulting in calls for formally updating the NRC in Assam.^{9 10} The updated NRC will enlist the names of those persons (or their descendants) whose names appear in any of the Electoral Rolls up to 24 March 1971, the 1951 NRC or any of the admissible documents stipulated.¹¹ (Annexure C) Bengalis arriving after the independence of Bangladesh will therefore be deprived of citizenship.

In 2005, the Government of India agreed to update the list of Indian citizens in Assam. However, the process was called to a halt following violent protests by the All Assam Minority Students Union.¹² In 2009 Assam Public Works petitioned the Indian Supreme Court for the deletion of illegal voters (illegal immigrants) from the voters list of Assam and for an update to the NRC 1951 arguing that illegal immigrants pose a threat to Assamese culture and identity.¹³

This update began in 2014 with the Supreme Court of India deciding to judicially oversee the process itself.¹⁴ This took around four years and ended in 2018 with a total of 1.9 million individuals left out of the final NRC List.¹⁵ These are no longer considered citizens essentially rendering them 'stateless'. India has since begun work on constructing mass detention camps for those stripped of citizenship in the state.¹⁶

THE NRC & CAA 2019

The BJP has long fueled anti-Muslim sentiments in Assam by exaggerating the numbers of Bengali Muslims illegally living in the state in order to gain political acceptance.¹⁷ Home Minister Amit Shah has said, regarding Muslims immigrants from Bangladesh that “illegal immigrants are like termites and they are eating the food that should go to our poor and they are taking our jobs. They carry out blasts in our country and so many of our people die.”¹⁸

The Government of India plans to instate a nationwide NRC nationwide once the census is completed in 2021.¹⁹ Those whose names are not in the NRC’s final list will be detained but would not be outrightly declared “illegal” citizens as that would have to be established by Foreigners Tribunals. Following a decision from the Foreigners Tribunals, the Ministry of External Affairs would approach the concerned nations for their deportation.²⁰

The NRC taken in light of the CAA 2019 will mean that those excluded who are members of the listed minorities will nevertheless be eligible for Indian citizenship. However, Muslims will not. The CAA 2019 primarily benefits illegal Bengali Hindu migrants from Bangladesh who have settled in the region and is seen as an attempt to legalize illegal Hindu immigrants while arbitrarily excluding Muslims who fled from the same circumstances.²¹ Those who remain unaccommodated in the final list are largely poor, working class, Bengali Muslims.²² The CAA 2019 and the NRC are therefore twin legal instruments which serve to further the BJP’s longstanding agenda.

This law has sparked large-scale protests and violent demonstrations in cities across India. Many of these protests have been in Assam state. However, there are two types of protests. Whilst most are protesting against the law and its discrimination against Muslims, others are protesting against illegal immigrants believing that their permanent settlement will disturb the region’s demography and threaten its cultural and linguistic identities.²³

Following the protests, the government has rolled back on statements that a nationwide NRC would be forthcoming stating that any such claims are false. This, however, looks doubtful and news outlets have reported that not only is this statement disingenuous but work on an Indiawide NRC has already commenced and those with ‘doubtful citizenship’ are to be identified.²⁴

EVOLUTION OF THE CITIZENSHIP ACT 1955 – 2019

Legal Precursors to the CAA: Background to the Evolution of Citizenship Act and Related Legislations

There are two key amendments to the Citizenship Act 1955 which serve as an important precursor to understanding the CAA but also, more broadly, India’s evolving policy towards foreigners and, in particular, refugees and asylum seekers.

- **Citizenship (Amendment) Act, 1986:** Citizenship could initially be acquired through birth, descent, registration, naturalization and incorporation of territory. The Citizenship (Amendment) Act, 1986 was passed to ‘prevent automatic acquisition of citizenship of India by birth’.²⁵ Instead, citizenship was reserved for individuals with at least one parent who was an Indian national. The underlying reason for this shift was due to the influx of foreigners from neighbouring countries such as Nepal and Bangladesh²⁶ as well as a mass influx of refugees into the Indian state of Tamil Nadu from Sri Lanka.
- **Citizenship (Amendment) Act, 2003:** This amendment required that both parents be born in India, or at a minimum, one parent not be an illegal migrant at the time of birth.

The BJP precipitated the CAA by making amendments in 2015 to the Rules of the Passport (Entry into India) Act, 1920 and the Foreigners Act, 1946. These amendments allow minorities from Bangladesh and Pakistan to stay in India without, or after the expiry of, their documents.

This was significant in that it legally allowed the authorities to find and deport Muslims from Pakistan and Bangladesh whilst showing leniency to non-Muslims also residing unlawfully in India. It is in furtherance of this that the CAA was finally brought into effect. (Annexure E)

THE CITIZENSHIP (AMENDMENT) ACT 2019: KEY FEATURES

The CAA 2019 inserts a proviso to Section 2(1)(b) of the Citizenship Act, 1955 under which illegal migrants who are Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan can be eligible for Indian citizenship.

Only certain illegal migrants are eligible for citizenship i.e. the persons belonging to the six specified religious communities²⁷, from the three specified countries²⁸, who entered India on or before December 31, 2014, and do not reside in the areas provided in the Sixth Schedule of the Constitution of India, 1950²⁹ or in the states regulated by the Inner Line Permit states.³⁰

The law also allows a person to apply for citizenship by naturalisation if they meet certain criteria. For Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, the person must have resided in India for or been in central government service for the last 12 months and for at least 5 of the previous 14 years.

The Statement of Objects and Reasons for the CAA 2019 states that Afghanistan, Bangladesh and Pakistan all have a specified State religion in their constitutions which has resulted in the religious persecution of minority groups. It says this has resulted in many fleeing to India to seek shelter who have continued to stay even if their travel documents have expired or they have incomplete or no documents.

The Act seems to be part of the BJP's larger goal to create a Hindu nationalist State and deliberately exclude Muslims from the same protection granted under the Act.

Another reason for the BJP omitting Muslims from the CAA 2019's purview, as pointed out by a former judge of the Indian Supreme Court, is that the BJP knows that Muslims will vote against them in elections, and so wishes to deny them citizenship which carries voting rights.³¹

PRELIMINARY LEGAL IMPLICATIONS OF THE CITIZENSHIP (AMENDMENT) ACT 2019

The unprecedented protests against the CAA in India indicates that the Act is likely to have wideranging implications and is potentially a major driver for regional destabilization in the coming years. In the short-term however, the following legal implications are immediately foreseeable:

- **Muslims of Bengali Origin:** The CAA 2019 will have the greatest impact on Bengali Muslims who have fled to India after Partition and the independence of Bangladesh in 1971 who will be stripped of citizenship due to the NRC. The issue then is where and how they will be deported back to Bangladesh and whether Bangladesh will accept such a large number of returnees. If not, these individuals would be rendered stateless. The Indian government has attempted to repudiate this by stating that the people left out of the NRC are not "stateless" and will continue to enjoy "all the rights as before" till they exhaust all remedies available under the law.³² The remedies alluded to include appeals to the High Court and Supreme Court regarding the NRC decision. However, after these remedies are exhausted the issue remains that an individual stripped of his or her citizenship would be stateless.
- **Rohingya Muslims from Myanmar:** There are an estimated 18,000 Rohingya asylum seekers and refugees registered with UNHCR in India. They fled Myanmar due to discrimination, persecution and violence by state security forces. Their main destination has been Bangladesh, which is currently hosting more than 919,000 Rohingya.

However, harsh conditions in Bangladesh, including appalling conditions in the camps, scarce employment options, and hostility from the local population, served to push the Rohingya to India.³³ The Indian government has already begun deporting Rohingya refugees back to Myanmar, despite the risk to their lives.³⁴

- **Tamils from Sri Lanka:** The Act also does not provide citizenship to nearly 100,000 Sri Lankan Tamils who came to India, particularly Tamil Nadu, as refugees during the Sri Lankan Civil War, which lasted from 1983 to 2009.

These include about 60,000 in camps in southern Tamil Nadu state. Convinced that they cannot co-exist with the Sinhalese, they came to India as refugees with the hope that they would be conferred Indian citizenship.³⁵ Many of the refugees are Hindu or Christian whose forefathers were born in India.³⁶ The BJP's refusal to include them into the categories of those granted citizenship may also stem from the fact that the BJP has historically had little success with courting voters in Tamil Nadu.³⁷ The BJP is believed to represent an upper caste, north Indian agenda and has largely been rejected by India's southern states. In fact, during the election campaign in 2019, #GoHomeModi began trending on social media every time Modi visited the South.

- **Buddhists from Tibet:** The Act further excludes around 85,000 Tibetan Buddhist refugees who sought refuge in India from the Chinese invasion of Tibet in March 1959.³⁸ A number of refugees left for India after the Dalai Lama left for India in 1959 following the Tibetan uprising. According to the High Commission of India in Ottawa, Tibetan refugees do not have the right to acquire Indian nationality, even if they were born in India.³⁹

COMPATIBILITY OF CAA 2019 WITH INDIA'S DOMESTIC LAW

The CAA 2019 appears to openly violate Articles 14 and 21 of the Constitution of India and also flies in the face of secularism which has long been held by the Indian superior courts to be a basic feature of the Constitution.

ARTICLE 14: EQUALITY BEFORE LAW

Article 14 of India's Constitution guarantees equality before the law and equal protection of law to every person in India. The State cannot discriminate between persons through State action including by passing any legislation and this right is guaranteed to all persons regardless of whether they are citizens of India. The CAA discriminates against Muslims by arbitrarily extending the citizenship right only to non-Muslims of the three countries. Therefore, the Act violates the principle of equality and non-discrimination guaranteed under India's own Constitution.

Although Article 14 permits classification of persons by the legislature for the purpose of attaining specific ends, the Indian Supreme Court has stated that the classification must be reasonable⁴⁰ and non-arbitrary.⁴¹ However, this classification is unreasonable and arbitrary as these three countries are not the only ones in which persecution occurs, and there are other religious minorities from Pakistan, Afghanistan and Bangladesh, who have faced religious persecution and may have illegally migrated to India.⁴²

Former judges of India have stated that any classification based on religion cannot be reasonable. The Former Chief Justice of India Justice, RM Lodha, contends that exclusion based on religion may not satisfy the touchstone of constitutional provisions.⁴³ Shashi Tharoor, a lawmaker from the Indian National Congress party, has stated that the law is "a cynical political exercise to further single out and disenfranchise an entire community in India".⁴⁴

While expounding upon “reasonable classification”, the Supreme Court of India also stated that (i) the classification must be founded on an intelligible differential which distinguishes those that are grouped together from others, and (ii) the differentia must have a rational relation to the object sought to be achieved by the Act.⁴⁵ The CAA fails on both these grounds as not only does it select certain illegal migrants on the basis of religion, but it also does so for reasons that have no basis in the objective the law claims to seek. Either a person is persecuted on the basis of religion or they are not – some illegal migrants cannot be more equal than others or else the classification cannot be said to be reasonable.⁴⁶

ARTICLE 21: RIGHT TO LIFE AND LIBERTY

The CAA also violates the right to life and liberty in Article 21⁴⁷ which has been interpreted by the Supreme Court to include the right to live with dignity available to all persons. The Supreme Court of India confirmed its applicability to non-citizens in *National Human Rights Commission vs State of Arunachal Pradesh, 1996*,⁴⁸ where it held that the right was available to Chakma refugees, who were undocumented immigrants from Bangladesh. The CAA violates Article 21 by extending the right to live with dignity to a class of refugees while excluding its application to other by discriminating on the basis of religion.

Secularism under India’s Constitution

The CAA also goes against the idea of secularism which is one of the basic features of India’s Constitution. The Supreme Court of India identified certain basic features of the Constitution in *Kesavananda Bharati vs State of Kerala (1974)*, and secularism has always been regarded as one of its core features. The CAA violates this basic feature since citizenship is being granted based on an individual’s religion.

Challenges before Indian Courts

India's Supreme Court took up 59 petitions against the CAA on January 22, 2020.⁴⁹ These petitions are still being heard and on March 4, 2020, the UN Commissioner for Human Rights filed an application with the Court to join the pleas challenging the law. The Supreme Court has, however, not suspended the operation of the law while hearing the challenges.

The promulgation of the CAA has resulted in widespread protests all across India in which at least 40 people have died in clashes with police. A number of petitions have been filed regarding these protests and the resultant violence that has ensued. Petitions raising various concerns over police violence at universities were first presented to the Supreme Court.

The Court was, however, reluctant to hear the matter and opined the appropriate forum for the pleas would be their jurisdictional High Courts, and assured that appropriate inquiries will be made by the High Courts. When these petitions were taken up by the Delhi High Court, however, the Court merely issued a notice in the matter. Nevertheless, in February 2020, a court directed the Delhi police to submit a specific status report on the police attacks on students inside the campus of Jamia Millia Islamia University during anti-CAA protests on December 15, 2019. In similar pleas before the Allahabad High Court, the Court ordered provision of medical care, as well as compensation for those injured in the incidents at the Aligarh Muslim University. Moreover, the Madras High Court also conducted a special hearing and reiterated that peaceful protests cannot be curbed in a democracy.

Other than this, the Karnataka High Court criticized the administration and held that the prohibitory orders under Section 144 of the Code of Criminal Procedure in Bangalore amid antiCAA protests were illegal.

Moreover, while hearing a petition against the denial of permission by the Maharashtra government to organize an indefinite protest at Beed, the Bombay High Court upheld the right to protest against the Citizenship Act even as it refused to go into the question of the constitutionality of the new law. The High Court of Tripura also upheld the right of government employees to attend political rallies, while the Telangana High Court expressed its displeasure over the denial of permission to hold a protest against the new citizenship law.

CAA 2019 UNDER INTERNATIONAL HUMAN RIGHTS LAW

The CAA 2019 clearly violates international law, especially international human rights law. The most glaring violations at this stage are as follows:

- **International Covenant on Civil and Political Rights (ICCPR):** Articles 2 and 26 of the ICCPR guarantee equality and non-discrimination, regardless of whether a person is a national of that state or an alien residing within the country without lawful authority.⁵⁰

As already discussed, the law is discriminatory and does not treat people equally due to their religion. India is also under an obligation to extend human rights protections to all persons including illegal migrants. India must protect their Right to Life under Article 6 and prevent them from being tortured (Article 7) insofar as there is a risk that such person or group of persons would be under a real risk of irreparable harm through ‘extradition, deportation, expulsion or [an] otherwise removal from the country’.⁵¹ Additionally, the construction of detention camps for the 1.9 million Muslims in Assam would also be a violation of international law as it seeks to deprive them of their liberty.

Although the Indian government has said the detainees would have recourse to an appeals process to the Foreigners Tribunal, the High Court of Assam and ultimately the Supreme Court, it is nonetheless a procedure that could take many years and is therefore unjustifiable, arbitrary and in violation of Article 9(1) of the ICCPR. The Human Rights Committee has stated in Communication No. 1069/2002 that even if detention is prescribed by law, it must not be extended for an unjustifiable period.⁵²

- **International Convention for the Elimination of Racial Discrimination (ICERD):** Although religion is not a ground for discrimination under ICERD, the Committee on the Elimination of Racial Discrimination has noted that if religious discrimination is coupled with discrimination on the basis of nationality or ethnic origin, it may trigger obligations under the Convention.⁵³ Arguably, the Act discriminates against those deprived of citizenship in Assam by virtue of them being both Bengali and Muslim. The Office of the High Commissioner of Human Rights has also stated that the Bill is in violation of India's obligations under ICERD.⁵⁴
- **Customary Obligation of Non-Refoulement:** Beyond its treaty obligations, India is also bound by the customary norm of non-refoulement. The obligation provides protection to individuals from return to a country where they would face the threat of persecution. India has already deported Rohingya Muslims to Myanmar despite risks to their lives and security and this could worsen due to this law.

If India deports Rohingya Muslims, Myanmar will either not take them back or will not be able to guarantee them protection from persecution. This could trigger a humanitarian crisis and will likely be a violation of the principle of non-refoulement.

INTERNATIONAL RESPONSE

The international community, civil societies and the UN itself have subjected the CAA and the NRC to severe criticism.

- United States Commission on International Religious Freedom has previously said that if the law passes, the US government “should consider sanctions against the home minister and other principal leadership”.⁵⁵ The Commission stated that the Act is a “dangerous turn in the wrong direction”.
- **Office of the UN High Commissioner for Human Rights (OHCHR)** stated that it considers India’s new citizenship law to be “fundamentally discriminatory” in nature. A spokesperson for the Office said that the amendment will have a discriminatory effect on people’s access to nationality, while all migrants, regardless of their migration status, are entitled to respect, protection and fulfillment of their human rights. He also pointed out the fact that India has endorsed the Global Compact for Safe, Regular and Orderly Migration, which requires States to avoid the arbitrary detention and collective expulsions of migrants, and ensure that all migration governance measures are based on human rights.⁵⁶
- On 2 March 2020, the United Nations Commissioner for Human Rights, formally filed an intervention application urging the Indian Supreme Court to make the OHCHR a third-party in the petition filed against the CAA 2019 which was regarded by the OHCHR as being “fundamentally discriminatory in nature”. With this, the High Commissioner for Human Rights, Michelle Bachelet, plans to intervene as amicus curiae or assistant to the Court. This is an interesting development which will be closely monitored by CEIL, NDU as it unfolds.
- **International Commission of Jurists (ICJ)** called upon India to repeal, or substantially amend the CAA as it deemed it to be in violation of international law as well as its domestic law.

ICJ's Asia Director noted that the law violates the principles of non-discrimination, equal protection of the law and freedom of religion.⁵⁷

Way Forward for Pakistan

The Pakistan-India dynamic for more than a decade has not been favorable to Pakistan, which has been portrayed by the Indians as sponsoring terrorism against the 'world's biggest democracy'. However, the Hindutva ideology of the BJP Government and brazen recent policy moves has put India in the global spotlight and damaged its reputation as the world's biggest democracy. India has come under unprecedented global criticism after CAA 2019 and also for its heavy-handed response to protests by its citizens. The internet blackout and curfew imposed is reminiscent of India's actions in Kashmir which were also subject to much condemnation. The notion that India is a democracy based on secular values is now no longer tenable. The current situation provides Pakistan with a historic opportunity to reset the dynamic in its relationship with India and capitalize on this opprobrium while simultaneously taking all policy measures necessary to portray itself as a responsible state which actively protects the interests of its minorities.

In this context, international law can play an important role in guiding our foreign policy and domestic policy responses. This may include:

- Voicing the claims of Muslims who will effectively be rendered stateless at international forums including the General Assembly, ECOSOC and Human Rights Council.
- Special Sessions of the Human Rights Council (HRC) can be called if at least 16 of the total 47 members of the HRC agree, especially since the OHCHR has deemed the Act to be 'fundamentally discriminatory in nature' and has formally filed an intervention application before the Indian Supreme Court to make it a third-party in domestic petitions filed against the CAA 2019.

- The Human Rights Council can be engaged to constitute an Independent Commission of Inquiry to investigate India's systematic violations against minorities.
- UN Special Rapporteurs and Working Groups can be requested to report on the law and observe the situation in detention camps.
- An Inter-State Communication can be filed by Pakistan or any country under Article 11 of Convention on the Elimination of Racial Discrimination due to the Act's impact on Bengali Muslims. Although this provision has not been used very often, its utilization in the present matter can give Pakistan a legal recourse whereby it can gain support of the momentum that is being generated through the international community and can use it as means to portray India as a state that discriminates against people residing in its territory on the grounds of nationality and/or ethnicity.
- Pakistan must actively engage in the legal domain with the OHCHR and other reputable organizations, such as Amnesty International, Human Rights Watch, and the International Commission of Jurists by highlighting the specific violations of international law in order to exert increasing pressure on India.
- It may be prudent for Pakistan to develop legal memorandums and reports on the CAA 2019 which can be used as a basis for diplomatic engagement with states and international organizations. In addition, Pakistan must also document and circulate the internal criticism against the CAA 2019 by reputable Indian lawyers, judges, academics and journalists etc. which will augment our own stance on this issue.
- The Pakistan High Commission in New Delhi should continue to closely monitor developments against the CAA 2019 before the Indian Supreme Court.
- Pakistan recently passed a resolution in the National Assembly against the discriminatory law which is a welcome move.⁵⁸

Steps must be taken to make sure that this narrative is reinforced continually and that India's attempts to subdue protests are highlighted at international forums.

- Pakistan must also work with Bangladesh and Afghanistan to protest the impact of the law on these States and emphasize that minorities are protected under their constitutions. Diplomatic channels should be used to give a united response that minorities are welcome in their countries and attempts to grant citizenship to their citizens purely on the basis of religion are not welcome.
- This is also an opportunity for Pakistan to link these moves with India's attempt to annex Indian Occupied Kashmir on 5 August 2019 and reinforce its apprehensions of the treatment of Muslims in Kashmir. While Pakistan highlights the war crimes occurring in Indian Occupied Kashmir, it must also emphasize that BJP's aim is to build a Hindu nationalist State that discriminates against Muslims not just in Indian Occupied Kashmir but in all of India as well.

CHALLENGES

It is at present difficult for Pakistan to gain traction in its efforts to lobby or advocate for India's minority because of our own vulnerability in the field of human rights. Minorities in Pakistan have suffered under outdated laws and indifferent criminal and civil justice responses which undermines our international advocacy on human rights.

Our legal treatment and policy on refugees has been uncertain for decades which has undermined Pakistan's huge sacrifices in hosting millions of refugees and prevented effective advocacy at the global stage.

Pakistan Missions abroad do not have access to high quality, indigenous research and policy options on international law which can support our diplomatic efforts.

Key ministries, including the Ministries of Law & Justice and Human Rights, suffer from similar weaknesses and have not collated detailed data on the application and effectiveness of laws protecting the rights of minorities. The superior judiciary over the years has provided wide-ranging judgments on the protection of fundamental rights, including minorities and refugees, which have not been effectively highlighted by Pakistan in its diplomatic representation at international forums.

The role of academia is of vital importance in the development of international law and narratives. Unfortunately, Pakistan's representation in this circuit is almost non-existent, which undermines its ability to advance its strategic policy narratives. The Indians on the other hand have a small but increasingly robust community of globally recognized international law academics which allow them to advance specific narratives and who are also well positioned to counter Pakistan's lawfare maneuvers in this area.

SUGGESTED ADDITIONAL MEASURES

The challenges highlighted above do not have any quick fixes. However, as Pakistan moves towards utilizing lawfare strategies by developing its strategic narratives on strong legal foundations, it must continue to build specialist capacity in key state institutions including the Ministries of Foreign Affairs, Law & Justice, Human Rights, Attorney General's Office, ISI Dte, MO Dte, JAG etc.

Pakistan must also continue to invest in research and scholarship in international law by developing indigenous capacity in its universities and undertaking detailed studies which showcase its state practice on human rights. The role of academia can play a key role in engaging with international human rights bodies and NGO's to advance Pakistan's perspective.

It is essential to aggressively showcase Pakistan's actions as a responsible state under international law across the spectrum – from increased compliance with FATF to the PM's vision on non-state actors and the treatment of minorities as evidenced by measures such as the opening of the Kartarpur Corridor. Domestic policy responses must then quickly align with these strategic priorities through legislation and administrative actions etc.

Annexure A

BJP Election Manifesto 1984

400 • 1984 Manifesto

Our North East

All our North Eastern States suffer from unsatisfactory, economic development, insufficient recognition of local diversity, inadequate participation in National tasks, unchecked illegal immigration resulting in demographic imbalances and serious social destabilisation. The BJP believes that a resolution of all these problems has to be undertaken jointly and keeping in mind the peculiarities of the region. In this endeavor the Brahmaputra Valley and the State of Assam play a crucial role. No integrated development of the region is possible if Assam continues to remain unstable.

The BJP will, therefore, give high priority to the solution of the many problems afflicting Assam. It will work purposefully and expeditiously for their early resolution.

Whilst cooperating with the efforts of the Chief Election Commissioner, to carry out a detailed enumeration, leading to a proper revision and publication of electoral rolls, the party will simultaneously continue to emphasise the need for adequate safeguards so that the scrutiny of enumeration lists becomes meaningful.

Mindful of the national commitment of bonafide refugees in the region, the BJP will work continuously to protect their interests.

In addition, the BJP will take all effective steps to prevent further illegal immigration. For this purpose it will work towards joint, cooperative effort by all the concerned adjoining states like Tripura, West Bengal and Bihar.

At the heart of the continued impasse in Assam is the alienation of a whole section of our countrymen, resulting in the citizens of that state being deprived of their right to participate in current elections.

The BJP will immediately resume the process of negotiation and reconciliation so that the many problems of the region can be tackled with the wholehearted participation of the citizens.

Punjab

‘The BJP shares the agony of Punjab with the Punjabis. It congratulates the people of Punjab on maintaining the peace in the Punjab in the face of grave provocation.

The BJP holds the Congress (1) squarely responsible for

BJP Election Manifesto 1989

1989 Manifesto • 363

To honest tax-payers and to avoid generation of black money.

1. Require all Ministers to make an annual declaration of assets.
2. Review and update the existing laws, administrative procedures and powers for detecting the corrupt practices and for speedily punishing the guilty.
3. Create an atmosphere of austerity and simplicity by enforcing strictly the norms of expenditure in government departments.

The North East

The entire North Eastern region is in ferment. The BJP holds, the Central Government squarely responsible for the neglect of the North Eastern Region and its unsatisfactory economic development and consequent exploitation by the foreign Missionaries.

The BJP would take following steps to meet the alarming situation in the North East— 1.

1. Setting up of the barbed wire fencing along the Indo Bangladesh border;
2. Detection of infiltrators and deletion of their names from the voters list on a war footing. Steps will be taken for their deportation;
3. Issue identity cards to all citizens in border states;
4. Creating a special cell for identification of the landed properties acquired by infiltrators, such property will be confiscated;
5. Repealing the Foreign Contribution (Regulation) Act. Foreign – contributions will be totally banned. No private organisation, religious, social or any other will be allowed to receive any foreign contributions—in cash or kind;
6. Abolishing the Innerline permit system in all the North Eastern States;
7. Safeguarding the interests of refugees;
8. Taking effective steps for an honourable return of the Chakmas to Bangladesh;
9. Ensuring no further division of Assam; and
10. Implementing a sub-plan for the economic development

Bharatiya Janata Party Manifesto 1991

1991 Manifesto • 323

1. Give legal teeth to the Election Commission's Code of Conduct by making violation of the same a corrupt practice under the Election Law;
2. Empower the Election Commission to, monitor Akashvani and Doordarshan broadcasts and ensure that the same are not misused for any partisan purposes;

3. Fix a realistic limit on a candidate's election expenses and then include in it not only the money spent by him but also by his party and friends; and
4. Introduce public auditing of party funds.

Shri Ram Mandir at Janamsthan

BJP firmly believes that construction of Shri Ram Mandir at Janmasthan is a symbol of the vindication of our cultural heritage and national self respect. For BJP it is purely a national issue and it will not allow any vested interests to give it a sectarian and communal colour. Hence party is committed to build Shri Ram Mandir at Janmasthan by relocating super imposed Babri structure with due respect.

Clean Public Life

BJP attaches the greatest importance to the probity and quality of public life. To this end we will

1. Inquire into all cases of serious corruption in high places;
2. Require all those holding public office to make an annual declaration of their own and their dependents' assets;
3. Set an example in simple living, to give a new, higher tone to public life.

North-east

We have long had many problems in the North-East beginning with Naga insurgency. And now we have a Bodo problem and also the ULFA problem in Assam proper. BJP will examine outstanding regional and sectional problems, redress all legitimate grievances and, for the rest maintain law and order with a firm hand. To this end we will

1. Have electrified barbed wiring all along the IndoBangladesh border, to keep infiltrators out:

Bharatiya Janata Party Manifesto 1996

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Jai Jawan

The BJP is rightly proud of our valiant soldiers who have dedicated their lives to defend our nation from external aggressors and internal subversives. We believe it is our duty to take care of our serving jawans and look after those who have retired from service, as well as their families. To fulfil this duty, the BJP will adopt the following programmes and policies:

1. The terms of service, including pay and allowance, housing, education for children and pension, of all ranks will be improved so as to attract men and women of high calibre. The present shortage of men and officers does not have to be met by lowering standards of entry;
2. Widows and dependents of jawans who die in action will receive higher benefits and compensation;
3. Pension disparities will be solved and anomalies sorted out expeditiously;
4. Hospitals for veterans will be set up throughout the country so that no ex-serviceman, irrespective of his rank, is denied medical care;
5. Ex-servicemen's welfare will be included in the concurrent list;
6. The services of our retired soldiers will be used to the maximum extent possible, especially in insurgency-affected areas. Wherever there is a stipulated percentage for employing ex-servicemen, it will be fulfilled;
7. Necessary changes will be made in agricultural and urban tenancy laws to secure the proprietary rights of servicemen; and,
8. District Sainik Boards will be strengthened.

Illegal Immigration:***Demographic Invasion — A Threat to Our Security***

We believe that illegal immigration from our neighbouring countries, especially Bangladesh, has a direct impact on our nation's security and has an unsettling effect on our demography. Given the sheer dimension of numbers there are as many as 1.7 crore illegal immigrants, the bulk of them Bangladeshis, living in various parts of the country. Illegal immigration is not only transforming

1996 Manifesto • 279

The geography, but the sociology, the economy, indeed even the politics of this country. India is facing an explosive issue. If our demographic balance is allowed to be disturbed by inept policies and political considerations, various demographic entities are bound to come in conflict, thus adversely affecting our security environment. The invasion of illegal immigrants from Bangladesh has led to an alarming growth in a section of the population in our North-East, in Assam, in West Bengal, parts of Bihar and Delhi. In certain areas, a section of the population has grown by almost 100 per cent.

The BJP proposes to:

1. Complete barbed wire fencing along the India-Bangladesh border, beginning with the plains, to prevent infiltration;
2. Detect illegal immigrants, delete their names from voters' lists and arrange for their deportation without any further delay;
3. Declare all property deals between Indians and illegal immigrants as null and void;
4. Amend immigration rules and other laws to impose stringent checks on illegal entry into India; and,
5. Expedite the issuance of identity cards to all citizens of the country.

Bharatiya Janata Party Manifesto 2009



Internal security is also imperilled by unchecked illegal immigration across our eastern border. The vulnerability of these illegal immigrants has been time and again exploited by the ISI and its jihadi front organisations as well as local terror cells to carry out bombings and provide logistical support to foreign terrorists. The Supreme Court has described illegal immigration as an act of ‘external aggression’ while striking down the IMDT Act. But the Congress, both at the Centre and in Assam, has tried to circumvent the Supreme Court’s judgement through executive orders. The Gauhati High Court last year lashed out at the State Government for doing nothing to stop the illegal immigration. The High Court highlighted how a Pakistani, who had entered Assam via Bangladesh, contested Assembly elections unchallenged. Vote-bank politics has not only changed the demography of vast stretches of eastern and NorthEast India but also eroded the authority of the state. India is sitting on a tinderbox. The consequences of this unabated illegal immigration are bound to be disastrous.

In its dying days, the UPA Government has tried to fool the people by tampering with outdated laws and setting up a National Investigating Agency to fight terror. But such halfhearted efforts to calm anger and disquiet following the 26/11 outrage are neither enough nor the right approach to tacking the menace of terrorism.

The BJP will initiate the following measures within 100 days of coming to power:

1. Revive the anti-terror mechanism that has been dismantled by the Congress; improve upon POTA to ensure it is more effective as an instrument of deterrence and a tool to prosecute offenders without innocent people being harassed; and, strengthen the operational role of the National Investigating Agency.

2. Give assent to laws drafted by State Governments for dealing with organised crime and terrorism; encourage other State Governments to adopt similar laws.
3. Launch a massive programme to detect, detain and deport illegal immigrants.
4. Completely revamp the internal and external intelligence agencies and review the existing system of coordination, convergence and dissemination of intelligence inputs. A massive exercise will be undertaken to modernise intelligence agencies so that they are better equipped to use technology and cope with the rapidly changing trends and patterns of terrorism at home and abroad. The National Security Council will be made the hub of all sector-related assessments. It will be accountable for real-time intelligence dissemination; intelligence agencies will be held responsible for lapses. Appointments to intelligence agencies will be on merit and not because of political patronage as has been the system during the Congress years.
5. A Digital Security Agency will be set up to deal with cyber warfare, cyber counterterrorism, and cyber security of national digital assets.
6. State Governments will be provided with all assistance to modernise their respective

Bharatiya Janata Party Manifesto 2019

Nation First

The decisive leadership of Prime Minister Shri Narendra Modi has fundamentally altered the national security paradigm of India in the last five years. Looking ahead, we propose to do the following:

Zero-Tolerance Approach to Terrorism

- 01 Our security doctrine will be guided by our national security interest only. This is exemplified by the Surgical Strikes and the Air Strikes carried out recently. We will firmly continue our policy of 'Zero Tolerance' against terrorism and extremism and will continue to follow our policy of giving a free hand to our security forces in combating terrorism.

National Security

- 02 **Strengthening our Armed Forces** - We will speed up the purchases of outstanding defense related equipments and weapons. In order to equip the Armed Forces with modern equipment, we will continue to take focused steps to strengthen the strike capability of the Armed Forces.
- 03 **Self-reliance in defence sector** - In order to ensure self-reliance in procurement of defence equipment, we have taken several effective steps in the last five years. For instance, the most modern AK-203 automatic rifles are being manufactured at Amethi under our 'Make in India in Defence' initiative. We are committed to focus on 'Make in India in Defence' to enable indigenous production of defence equipment. This will also generate employment and encourage investment in the defence sector.

Welfare of Soldiers

- 04 We have already demonstrated our commitment to the welfare of our veterans with the implementation of long delayed OROP. To take this commitment forward, we promise to create a more effective framework for the resettlement of our Armed Forces veterans. Under this effort, the Armed Forces will start planning for the resettlement of soldiers three years before their retirement and in accordance with their preferences. This will include provision for skills training, soft skills training, financial support for higher education, for housing and for starting an enterprise.

Modernization of Police Forces

- 05 We will continue to take forward the process of modernizing the Central Armed Police Forces to further increase their capacity and readiness and enable them to effectively combat internal security challenges.
- 06 We will provide assistance to the states to upgrade their police forces through the 'Scheme for Modernization of Police Forces'. We will encourage expedited police reforms in the states so as to enable the State police forces to deal with new types of crimes like cyber crime and help them to be more sensitive to the citizens, especially the weak and vulnerable sections of the society.

Combating Infiltration

- 07 There has been a huge change in the cultural and linguistic identity of some areas due to illegal immigration, resulting in an adverse impact on local people's livelihood and employment. We will expeditiously complete the National Register of Citizens process in these areas on priority. In future we will implement the NRC in a phased manner in other parts of the country.
- 08 We will continue to undertake effective steps to prevent illegal immigration in the Northeastern states. For this, we will further strengthen our border security. A pilot project on the use of technology to strengthen border security (Smart Fencing) was implemented in Dhubri (Assam). We will implement this on all borders.



Reinforcing Border Security

- 09 We will focus on creation of developmental and other necessary infrastructure in border areas to ensure that border security is strengthened, and to enable increased participation of and benefits for border areas in the country's development and progress.
- 10 We have completed building six integrated check-posts with another under construction to facilitate easier trade and travel from the neighboring countries. We will further ease the movement of goods and people by constructing 14 more integrated check-posts by 2024. After completion of all the proposed integrated check-posts, all trade movement with Bangladesh, Nepal and Bhutan will be conducted through the integrated check-posts.

Coastal Safety

- 11 After effectively strengthening coastal security through implementation of a coastal security scheme to provide modern equipment and allocating funds to the states for establishing coastal police stations, establishment of National Committee for Strengthening Maritime & Coastal Security, Island Information System and National Academy of Coastal Policing, we will continue to take steps for ensuring security of India's long coastline.

Citizenship Amendment Bill

- 12 We are committed to the enactment of the Citizenship Amendment Bill for the protection of individuals of religious minority communities from neighbouring countries escaping persecution. We will make all efforts to clarify the issues to the sections of population from the Northeastern states who have expressed apprehensions regarding the legislation. We reiterate our commitment to protect the linguistic, cultural and social identity of the people of Northeast. Hindus, Jains, Buddhists and Sikhs escaping persecution from India's neighbouring countries will be given citizenship in India.

Combating Left Wing Extremism

- 13 We have already taken strong actions to reduce left wing extremism to a very large extent and limited them to small pockets. We are committed to taking necessary and effective steps against left wing extremism to eliminate this menace in the next five years. In the last five years, we have focussed on the development of economic and social infrastructure such as roads, mobile towers, schools and medical facilities in the tribal areas affected by left wing extremism and we will continue to make efforts in this direction.

Jammu & Kashmir- Article 370

- 14
- In the last five years, we have made all necessary efforts to ensure peace in Jammu and Kashmir through decisive actions and a firm policy. We are committed to overcome all obstacles that come in the way of development and provide adequate financial resources to all the regions of the state. We reiterate our position since the time of the Jan Sangh to the abrogation of Article 370.
 - We are committed to annulling Article 35A of the Constitution of India as the provision is discriminatory against non-permanent residents and women of Jammu and Kashmir. We believe that Article 35A is an obstacle in the development of the state. We will take all steps to ensure a safe and peaceful environment for all residents of the state. We will make all efforts to ensure the safe return of Kashmiri Pandits and we will provide financial assistance for the resettlement of refugees from West Pakistan, Pakistan occupied Jammu and Kashmir (POJK) and Chhamb.



“India supports peace, but the country will not hesitate to take any steps required for national security”

- Shri Narendra Modi



Annexure B

**THE CITIZENSHIP (REGISTRATION OF CITIZENS AND
ISSUE OF NATIONAL IDENTITY CARDS) RULES, 2003**

In exercise of the powers conferred by sub-sections (1) and (3) of section 18 of the Citizenship Act, 1955 (57 of 1955), the Central Government hereby makes the following rules, namely:

1. Short title and commencement.-**(I)** These rules may be called the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003.
 - 1.1. They shall come into force on the date of their publication in the Official Gazette.
2. Definitions.-In these rules, unless the context otherwise requires,
 - 2.1. "Act" means the Citizenship Act, 1955 (57 of 1955);
 - 2.2. "Chief Registrar of Births and Deaths" means the Chief Registrar of Births and Deaths appointed under the Registration of Births and Deaths Act, 1969 (18 of 1969);
 - 2.3. "citizen" means the citizen of India in terms of the Constitution of India and provisions of the Act;
 - 2.4. "Director of Citizen Registration" means the Director of Census in a State or Union territory appointed by the Central Government under the Census Act, 1948 (37 of 1948), who shall also function as the Director of Citizen Registration in that State, or as the case may be, in the Union territory;
 - 2.5. "District Register of Indian Citizens" means the register containing details of Indian citizens usually residing in the district;
 - 2.6. "District Registrar of Citizen Registration" means the District Magistrate of every revenue district, by whatever name known, who shall act as the District Registrar of Citizen Registration;

- 2.7. "Local Register of Indian Citizens" means the register containing details of Indian citizens usually residing in a village or rural area or town or ward or demarcated area (demarcated by the Registrar General of Citizen Registration) within a ward in a town or urban area;
- 2.8. "Local Registrar of Citizen Registration" means a local officer, or a revenue officer, appointed by the State Government at the lowest geographical jurisdiction, that is to say, of a village or rural area or town, or ward or demarcated area (demarcated by the Registrar General of Citizen Registration) within a ward in a town or urban area, who shall function as Local Registrar for the purpose of preparation of Local Register of Indian Citizens;
- 2.9. "National Identity Card" means the identity card issued under rule 13;
- 2.10. "National Identity Number" means a unique identity number allotted to every Indian Citizen by the Registrar General of Citizen Registration, India;
- 2.11. "National Register of Indian Citizens" means the register containing details of Indian Citizens living in India and outside India;

Rule 4] (1)

- 2.12. "Population Register" means the register containing details of persons usually residing in a village or rural area or town or ward or demarcated area (demarcated by the Registrar General of Citizen Registration) within a ward in a town or urban area;
- 2.13. "Registrar General of Citizen Registration" means the Registrar General, India, appointed under the Registration of Births and Deaths Act, 1969 (18 of 1969), who shall also function as the Registrar General of Citizen Registration, India;
- 2.14. "State Register of Indian Citizens" means the register containing details of Indian citizens usually residing in the State;

- 2.15.** "Sub-district or Taluk Registrar of Citizen Registration" means the Subdistrict Magistrate or Taluk Executive Magistrate of every sub-district or taluk, by whatever name known, as the case may be, who shall function as Sub-district or Taluk Registrar of Citizen Registration;
- 2.16.** "Sub-district Register of Indian Citizens" means the register containing details of Indian citizens usually residing in a taluk, or by whatever name known, of the sub-district.
- 3.** National Register of Indian Citizens.-
- 3.1.** The Registrar General of Citizen Registration shall establish and maintain the National Register of Indian Citizens.
- 3.2.** The National Register of Indian Citizens shall be divided into sub-parts consisting of the State Register of Indian Citizens, the District Register of Indian Citizens, the Sub-district Register of Indian Citizens and the Local Register of Indian Citizens and shall contain such details as the Central Government may, by order, in consultation with the Registrar General of Citizen Registration, specify."
- 3.3.** The National Register of Indian Citizens shall contain the following particulars in respect of every Citizen, namely:
- Name;
 - Father's name;
 - Mother's name;
 - Sex;
 - Date of birth;
 - Place of birth;
 - Residential address (present and permanent);

- Marital status-if ever married, name of the spouse;
 - Visible identification mark;
 - Date of registration of Citizen;
 - Serial number of registration; and
 - National Identity Number.
- 3.4.** The Central Government may, by an order issued in this regard, decide a date by which the Population Register shall be prepared by collecting information relating to all persons who are usually residing within the jurisdiction of Local Registrar.
- 3.5.** The Local Register of Indian citizens shall contain details of persons after due verification made from the Population Register.
- 4.** Preparation of the National Register of Indian Citizens.-
- 4.1.** The Central Government shall, for the purpose of National Register of Indian Citizens, cause to carry throughout the country a house-to-house enumeration for collection of specified particulars relating to each family and individual, residing in a local area including the Citizenship status.
- 4.2.** The Registrar General of Citizen Registration shall notify the period and duration of the enumeration in the Official Gazette.
- 4.3.** For the purposes of preparation and inclusion in the Local Register of Indian Citizens, the particulars collected of every family and individual in the Population Register shall be verified and scrutinized by the Local Registrar, who may be assisted by one or more persons as specified by the Registrar General of Citizen Registration.
- 4.4.** During the verification process, particulars of such individuals, whose Citizenship is doubtful, shall be entered by the Local Registrar with appropriate remark in the Population Register for further enquiry and in case of doubtful Citizenship, the individual or the family shall be informed in a specified proforma immediately after the verification process is over.

- 4.5.** (a) Every person or family specified in sub-rule (4), shall be given an opportunity of being heard by the Sub-district or Taluk Registrar of Citizen Registration, before a final decision is taken to include or to exclude their particulars in the National Register of Indian Citizens.
- 4.6.** (b) The Sub-district or Taluk Registrar shall finalize his findings within a period of ninety days of the entry being made, or within such reasonable extended time for which he shall record the reasons in writing.
- 4.7.** (6) (a) The draft of the Local Register of Indian Citizens shall be published by the Subdistrict or Taluk Registrar, for inviting any objections or for inclusion of any name or corrections for the family or individual particulars collected and proposed to be finally entered in the National Register of Indian Citizens.
- 4.8.** (b) Any objection against a particular entry or for inclusion of a name, or corrections if any, in the Local Register of Indian Citizens may be made within a period of thirty days from the date of publication of the draft of the Local Register of Indian Citizens, spelling out the nature and reasons for the objection in such form as may be specified by the Registrar General of Citizen Registration.
- 4.9.** (c) Subject to the provisions contained in clause (a) of sub-rule (5), toe Sub-district or Taluk Registrar shall consider such objections and summarily dispose off the same within a period of ninety days, and thereafter submit the Local Register of Indian Citizens so prepared to the District Registrar of Citizen Registration who shall cause the entries in the Local Register of Indian Citizens, to be transferred to the National Register of Indian Citizens.
- 4.10.** (7) (a) Any person aggrieved by the order of the Sub-district or Taluk Registrar under subrule (5) or sub-rule (6), may prefer an appeal within thirty days from the date of such order, to the District Registrar of Citizen Registration.

- 4.11.** (b) The District Registrar of Citizen Registration shall take a final decision, after giving an opportunity of being heard to the person so aggrieved, within a period of ninety days from the date of appeal.
- 4.12.** (c) In case the appeal is allowed, the particulars shall be entered in the National Register of Indian Citizens.
- 5.** Officials of the Central Government, State Governments and local bodies to assist the Registrar General of Citizen Registration.-Every official of the Central Government, State Government, local bodies or their undertakings shall assist the Registrar General of Citizen Registration or any person authorized by him in this behalf, in preparation of the database relating to each family and every person, and in implementing the provisions of these rules.
- 6.** Initialization of National Register of Indian Citizens.-
- 6.1.** The Registrar General of Citizen Registration shall, by order, notify the date on which the National Register of Indian Citizens shall be initialized throughout the country.
- 6.2.** The order made under sub-rul_ (1) may provide for the initialization period specified by the Registrar General of Citizen Registration for establishment of the National Register of Indian Citizens.
- 6.3.** Every individual must get himself registered with the Local Registrar of Citizen Registration during the period of initialization as specified under sub-rule (2).
- 7.** Head of family and individual to act as informant.-
- 7.1.** It shall be compulsory for every citizen of India to assist the officials responsible for preparation of the National Register of Indian Citizens under rule 4 and get himself registered in the Local Register of Indian Citizens during the period of initialization.

- 7.2. It shall be the responsibility of the head of every family, during the period specified for preparation of the Population Register, to give the correct details of name and number of members and other particulars, as specified in sub-rule (3) of rule 3, of the family of which he is the head.
- 7.3. It shall be the responsibility of every Citizen to register once with the Local Registrar of Citizen Registration and to provide correct individual particulars to that authority.
- 7.4. In the case of dependents, such as minor who has not attained the age of eighteen years, or who is disabled, the responsibility of reporting the particulars under this rule shall be of the head of the family: Provided that in so far as inmates of institutions, such as orphanages, old age homes, mental asylums are concerned, the responsibility for providing the requisite details shall lie with the head of the Institution.
8. Power of District Registrar, Sub-district or Taluk Registrar or Local Registrar of Citizen Registration to obtain information.- The District Registrar, Sub-district or Taluk Registrar or the Local Registrar of Citizen Registration may, by order, require any person to furnish any information within his knowledge in connection with the determination of Citizenship status of any person and the person required to furnish information shall be bound to comply with such requisition.
9. Procedure as to making of entries in National Register of Indian Citizens.- The Registrar General of Citizen Registration may, by order, specify the procedure to be followed in preparation of the National Register of Indian Citizens and disposal of claims and objections with regard to family and individual particulars proposed to be entered in that Register.
10. Deletion of name and particulars from National Register of Indian Citizens.-

- 10.1.** The name and particulars of a Citizen may be removed from the National Register of Indian Citizens by an order of the Registrar General of Citizen Registration or any officer authorized by him in this behalf in the event of
- death of the person; or
 - the person ceasing to be an Indian citizen under section 8 of the Act;
 - revocation of Indian citizenship under section 9 of the Act; or
 - the particulars provided by the individual or the family found to be incorrect subsequently, thereby affecting the Citizenship status of the person.
- 10.2.** It shall be the duty of the Indian Citizen concerned to inform the District Registrar of Citizen Registration, within a period of thirty days, about the cessation of his Indian citizenship under clause (ii) of sub-rule (1).
- 10.3.** in the event of an order under sub-rule (I), the person concerned, or in the event of his death his nearest relative, shall be duly informed about the deletion of any entry from the National Register of Indian Citizens:
- Provided that any person aggrieved by the order of an authorized officer may prefer an appeal against such order to the Authority within a period of thirty days of such order.
- 10.4.** The appeal under sub-rule (3) shall be disposed off, after giving to the appellant an opportunity of being heard, and produce any documentary or oral evidence in support of his claim.
- 11.** Maintenance and updating of National Register of Indian Citizens. The Registrar General of Citizen Registration shall cause to maintain the National Register of Indian Citizens in electronic or some other form

which shall entail its continuous updating on the basis of extracts from various Registers specified under the Registration of Births and Deaths Act, 1969 (18 of 1969) and the Act.

- 11.1.** It shall be the responsibility of the head of each and every family to ensure that any event of birth or death occurring in the family has been duly entered in, or deleted from, the Local Register of Indian Citizens.
 - 11.2.** The Chief Registrar of Births and Deaths and all other officials engaged in the registration of births and deaths shall assist the Registrar General of Citizen Registration in updating the National Register of Indian Citizens as required under sub-rule (1).
- 12.** Modification of entries in National Register of Indian Citizens.-The Sub-district or Taluk Registrar may, on an application made by the concerned person and after due verification, authorize the modification of any entry in respect of the following particulars in National Register of Indian Citizens, namely:
 - 12.1.** change of name; or
 - 12.2.** the name of the applicant's parent in case his status has been altered by adoption under the relevant laws; or
 - 12.3.** change of residential address; or (d) change of marital status; or (e) change of sex.
- 13.** Issue of National Identity Cards.-The Registrar General of Citizen Registration, or any officer authorized by him in this behalf, shall issue the National Identity Card to every Citizen whose particulars are entered in the National Register of Indian Citizens under sub-rule (3) of rule 3.
- 14.** National identity Cards to be Government property and responsibility of Citizens to keep them properly.-
 - 14.1.** The National Identity Card shall be the property at the Central Government.

- 14.2.** No person shall wilfully destroy, alter, transfer or use in any form the National Identity Card, except for the lawful purposes.
- 14.3.** On the happening of any of the events specified under sub-rule (1) of rule 10, the National Identity Card shall be surrendered, by the Citizen concerned or his nearest relative, as the case may be, to the Registrar General of Citizen Registration or any other authorized officer acting on his behalf.
- 14.4.** In the event of a loss of the National Identity Card, it shall be the duty of the Citizen or his nearest relative, as the case may be, to report the matter immediately to the nearest police station and the concerned Authority.
- 15. Designation of National Registration Authority and officers.-**
- 15.1.** On and from the date of commencement of these rules, the Registrar General, India shall be designated as the Registrar General of Citizen Registration, India who shall also function as such for the purposes of these rules.
- 15.2.** The Central Government may designate
- one or more officers as Additional or Joint or Deputy Registrar General of Citizen Registration and such other officers and staff as may be required; and
 - an officer as a Director, and one or more officers as Joint Director, Deputy Director, Assistant Director of Citizen Registration for each of the States and the Union territories along with requisite support staff, to assist the Registrar General of Citizen Registration in discharging the functions and responsibilities under these rules.
- 15.3.** The State Government shall notify a State Co-ordinator of National Registration not below the rank of a Secretary in the State Government or equivalent.

- 16.** Supervision and Control of Registrar General of Citizen Registration over District, Subdistrict or Taluk and Local Registrars of Citizen Registration. –
- 16.1.** The State Governments shall designate an officer or a person as Local Registrar of Citizen Registration for each lowest geographical jurisdiction, that is to say, of a village or rural area or town, or ward or demarcated area (demarcated by the Registrar General of Citizen Registration) within a ward in a town or urban area who shall function as Local Registrar for the purpose of preparation of Local Register of Indian Citizens.
- 16.2.** Every Local Registrar of Citizen Registration shall function under the overall supervision of the Sub-district or Taluk Registrar of Citizen Registration.
- 16.3.** Every Sub-district or Taluk Registrar of Citizen Registration shall function under the overall supervision of the District Registrar of Citizen Registration.
- 16.4.** For the purposes of implementing and carrying out the provisions of these rules, the District Registrar, the Sub-district or Taluk Registrar and the Local Registrar of Citizen Registration shall be under the supervision and control of the Registrar General of Citizen Registration.
- 16.5.** The Registrar General of Citizen Registration or any officer authorized by him at any time may call for any records for examination, and issue directions regarding inclusion or exclusion of any individual or family particulars from the Population Register or Local Register of Indian Citizens, to the District Registrar, the Subdistrict or Taluk Registrar and the Local Registrar of Citizen Registration.
- 17.** Penal consequences in certain cases.-Any violation of provisions of rules 5, 7,8, 10, 11 and 14 shall be punishable with fine which may extend to one thousand rupees.

18. Guidelines for collection of particulars of individuals, verification, issue of National Identity Cards, etc.-The Registrar General of Citizen Registration may, in consultation with the Central Government, issue from time to time, such guidelines to the State Governments as are considered necessary for implementation of these rules.

Annexure C

WHO ARE ELIGIBLE FOR INCLUSION?⁵⁹



»	Persons whose names appear in NRC, 1951
»	Persons whose names appear in any of the Electoral Rolls up to 24th March (midnight), 1971.
»	Descendants of the above persons.
»	Persons who came to Assam on or after 1st January 1966 but before 25th March 1971 and registered themselves in accordance with the rules made by the Central Government with the Foreigners Registration Regional Officer (FRRO) and who have not been declared as illegal migrants or foreigners by the competent authority.
»	Persons who are original inhabitant of Assam and their children and descendant who are citizens of India provided the citizenship of such personas is ascertained reasonable doubt by the registering authority.
»	‘D’ voters can apply for inclusion of their names in the updated NRC. However, their names will. Be finally included only when the appropriate Foreigner Tribunal declares them as nonforeigners.
»	Persons who can provide any one of the documents issued upto midnight of 24th March, 1971 as mentioned in the list of documents admissible for citizenship.
»	As per the latest Order of the Hon’ble Supreme Court
»	All Indian Citizens including their children and descendants who have moved to Assam post 24th March 1971 would be eligible for inclusion in the updated NRC on adducing satisfactory proof of

	residence in any part of the country (outside Assam) as on 24th March, 1971.
»	All the members of the Tea Tribes shall be covered under 'Original inhabitants of Assam' category provided for under Clause 3(3) of the Schedule of The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003.
»	All such original inhabitants shall be included on the basis of proof to the satisfaction of the Registering Authority. On establishment of the citizenship of such persons beyond reasonable doubt, their names shall be in the updated NRC.

Annexure D

Timeline of the National Register of Citizens

- 1948:** Post-independence India witnessed an increased rate of migration as there were no restrictions on freedom of movement of people from India to Pakistan or vice versa. The ‘Influx from West Pakistan (Control) Ordinance, 1948’ came into existence which was recognised as the cut-off date that entitled Right to Citizenship of migrants of Pakistan in the Constitution of India.⁶⁰
- 1950:** A large influx of immigrants were seen to be moving to Assam from then East Pakistan region. Due to the alarming situation of large-scale migration in the region, the government of India promulgated the Immigrants Expulsion from Assam Act which allowed illegal immigrants to be expelled from Assam.⁶¹
- 1951:** To identify illegal immigrants, the National Register of Citizens was prepared for the first time in Assam during the conduct of 1951.⁶²
- 1955:** The Citizenship Act came into force that codified rules for Indian citizenship by birth, descent and registration.⁶³
- 1957:** The Immigrants (Expulsion from Assam) Act was repealed,⁶⁴ as it was never implemented since the process of the NRC could not be completed and illegal immigrants were not identified.⁶⁵
- 1960:** The Assam Legislative Assembly passed a bill to make Assamese the only official language.⁶⁶
- 1964:** The Centre issued the Foreigners’ Tribunal Order under the Foreigners’ Act, 1964.⁶⁷
- 1965:** Due to disturbances in East Pakistan, Assam experienced another influx of refugees.⁶⁸

- 1971:** India witnessed a fresh influx of immigrants from East Pakistan following the 1971 war between India and Pakistan that resulted in the independence of Bangladesh.⁶⁹ According to the United Nations Human Commissioner for Refugees, somewhere between 7.5 and 8.5 million people crossed into the Indian side of the border. Many among them sought shelter in Assam.⁷⁰
- 1972:** Subsequent to the war ending, India and Bangladesh began the process to repatriate the refugees began. Both the Prime Minister of India and President of Bangladesh came to an agreement that immigrants that crossed the border into India prior to 1971 were no longer considered to be Bangladeshi citizens.⁷¹
- 1979:** Anti-foreigner sentiments rose in Assam. This led to Assam movement/Assam Agitation (1979-1985) under organizations such as the All Assam Students' Union (AASU) and All Assam Gana Sangram Parishad (AAGSP) for detection, disenfranchisement and deportation of foreigners.⁷²
- 1983:** During the years of the Assam movement, over 3,000 migrant workers were killed in Nellie near Guwahati by the local tribes of Tiwas, Kabis, Mishings, Rabhas, and Kochas. The reason for the attack can be drawn to the participation of a large numbers of Muslims in the 1983 elections. Consequently, the Government of India enacted the Illegal Migrant (Determination by Tribunal) Act 1983.⁷³
- 1985:** The Movement ended in 1985 which was followed by the signing of the Assam Accord by the Centre, the State, AASU and AAGSP. The Accord stated that the foreigners who migrated to Assam after March 25, 1971 shall be expelled.⁷⁴
- 1997:** The Election Commission decided to add a 'D' for doubtful against the names of voters whose claim to Indian citizenship is doubtful.⁷⁵

- 2005:** The Supreme Court of India struck down the Illegal Migrant (Determination by Tribunal) Act as unconstitutional in 2005⁷⁶ after a petition was filed by present Chief Minister of Assam, Sarbanand Sonowal on grounds of the provisions of the Act and the work of the tribunal not being satisfactory.⁷⁷ On the National Register of Citizens the Indian government agreed to update the list of Indian citizens in Assam. However, no major development took place.⁷⁸
- 2009:** The Assam Public Works aiming to gain a closure to this citizenship question petitioned to the Supreme Court for the deletion of illegal voters (illegal immigrants) from the voters list of Assam and consequently, updating the NRC 1951.⁷⁹
- 2010:** A pilot NRC project was taken up in two Legislative Assembly Constituencies i.e. Chhygaon and Barpeta. The Chhaygaon project was successfully completed but the work at Barpeta was stopped mid-way after the All Assam Minority Students Union triggered violence in the region.⁸⁰
- 2013:** The Supreme Court of India took up the Assam Public Works petition.⁸¹
- 2014:** The Supreme Court of India directed the State to begin the process for updating the NRC and to set up the NRC State Coordinator's Office.⁸²
- 2015:** The process of preparing a list of Indian citizens in Assam started.⁸³
- 2016:** The Bharatiya Janata Party introduced the Citizenship (Amendment) Bill to facilitate citizenship for Sikhs, Buddhists, Christians, Jains, Parsis and Hindus who fled to India due to persecution from Afghanistan, Bangladesh and Pakistan.⁸⁴
- 2017:** On 31st December 2017, the first draft of the NRC was published with names of 1.9 crore citizens out of a total of 3.29 crore applicants.⁸⁵

- 2018:** A second draft NRC was published wherein 40 lakh people out of 2.9 crore applicants were excluded.⁸⁶
- 2019:** The final publication of the Additional Draft Exclusion List of 1,02,462 citizens was release on 26 July, 2019. The final NRC List was published on 31 August, 2019.⁸⁷

Annexure E

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Ministry of Home Affairs

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Exemptions to minority community nationals from Bangladesh and Pakistan in regularization of their entry and stay in India⁸⁸

The Central Government has decided, on humanitarian considerations, to exempt Bangladeshi and Pakistani nationals belonging to minority communities who have entered into India on or before 31st December, 2014 from the relevant provisions of rules and order made under the Passport (Entry into India) Act, 1920 and the Foreigners Act, 1946, in respect of their entry and stay in India without such documents or after the expiry of those documents, as the case may be. The Central Government has accordingly issued two notifications in the Official Gazette today under the Passport (Entry into India) Act, 1920 and the Foreigners Act, 1946.

There are reports that a number of Bangladeshi and Pakistani nationals belonging to minority communities in those countries, such as Hindus, Sikhs, Christians, Jains, Parsis and Buddhists, were compelled to seek shelter in India due to religious persecution or fear of religious persecution. They have entered into India either without any valid document including passport/ other travel document or with valid documents but the validity of such document has expired.

The issue of regularization of entry and stay of such Bangladeshi and Pakistani nationals in India has been under consideration of the Central Government.

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