

# The Politics of Citizenship Registration in India from the Perspective of a Bengali Refugee

December 5, 2019



Human beings have been repeatedly subjected to mass displacement and migration due to war, strife and conflict originating on the grounds of religion, race or ethnicity. If a “sneak peak” is taken into the pages of documented human history of mass migration, we will come across scores of refugee crises like World War Two, the Partition of India, the Bangladesh Liberation War, the Venezuelan refugee crisis and notably the current refugee situation in Syria. The quantification of refugees run into millions and embedded within the quantification lies the horror of it.

## The History of Indian Refugee Crisis

According to Article 1 of the 1951 UN Convention, as modified by the 1967 protocol, a “refugee” is a defined as a person who *“owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.”*

The independence of India after two centuries of British rule saw the single largest human migration in the history of the entire world. The much sought independence was accompanied by the horrific and ghastly partition of India into 2 independent nations. There was an unprecedented mass migration of more than 5 million refugees from East Pakistan to the Indian province of West Bengal alone. 4.1 million people migrated in the period of 1946 to 1958 and another 1.2 million migrated during the period 1959 to 1971. People and their families got uprooted from their ancestral homes and were made to migrate to an unknown destination hundreds of miles away in search of a home. The cruel pangs of partition plunged all these millions of people into the ocean of insecurity, fear, loss of property and loss of identity and existence itself. In 1971, came the Bangladesh Liberation

War, which saw another 8 million refugees coming into India due to the horrors of the war. It is estimated that nearly 2 million (majority of them being Hindu Bengalis) stayed back in India owing to the fear of persecution in the newly created nation of Bangladesh. This small snapshot of history is enough to remind us of the horrors of partition, the Bangladesh war and the mass migration of refugees resulting from it.

### **Origin of the National Register of Citizens and the identity crisis it presents**

Coming back to the present day, the political situation prevailing in India has been charged up in the last few years by the debate of the National Register of Citizens (NRC) and the Citizenship Amendment Bill (CAB). The roots of the NRC lie in the Assam Accord of 1985, signed between the Govt. of India and representatives of Assam agitation movement. It was in this accord that it was resolved that a NRC would be prepared in Assam to protect the rights of the indigenous people of Assam and prevent the culture of the state from changing due to migration and infiltration. The Assam Accord, NRC and the subsequent Supreme Court of India decision of implementing NRC was limited to Assam only and never had a legal or humane basis to be implemented anywhere else in India. On August 31st, 2019 the Supreme Court (SC) appointed NRC exercise reached its culmination and released the final list. The NRC list saw a massive 1.9 million Indian residents not making their way into it. The reasons were several. In a province like Assam which gets ravaged by the floodwaters of Brahmaputra every year, the State machinery asking people to submit 43 year old documents (the cut-off date being March 25th, 1971) is highly impractical. The poor, landless and the people belonging to the marginal sections of the society were the most affected by this exercise as expected. Now, lays an uncertain and difficult path ahead of these 1.9 million poor souls. Appeals in the Foreigner Tribunal is expected to bear a cost of approximately 14-15,000 per appeal, following which they can approach the higher levels of judiciary like the High Court or the Supreme Court, which is expected to be even more complex and costlier. Undoubtedly these people have become neo-refugees in their own country, staring at an uncertain future laden with fear and insecurities of losing one's entire existence once again. This situation is turning into a human rights crisis situation where people who have inhabited a location for more than four decades have suddenly become stateless.

In this light, the ministers of the Central Government of India and many prominent right-wing leaders have openly declared their plans of conducting a pan-India NRC and passing an amendment to the Indian Citizenship rules in the Parliament. This has led to widespread fear and panic among people living in the border states of West Bengal and Tripura, which had seen large amount of Hindu Bengali refugee influx during partition and the Bangladesh war. The Home Ministry of India has already issued a gazette notification dated July 31st, 2019 which states that the government will conduct a house to house enumeration exercise throughout the country to update the National Population Register (NPR). According to the gazette notification, this exercise is supposed commence from April 1st, 2020. This notification has led to widespread panic and confusion among the common residents because the notification states that this enumeration exercise will be conducted throughout the country except the state of Assam (where NRC has been recently conducted). It is widely speculated that the database of residents thus collected will be used as the foundation basis for a pan-India NRC after the updating of the NPR. This is because only by this logic can the state of Assam be kept outside the loop of the NPR, as the state of Assam had just experienced a Supreme Court monitored NRC process. West Bengal has nearly 20 million Bengalis whose lineage can be traced back to the erstwhile East Pakistan and present day Bangladesh. This thought of a pan-India NRC has evoked the old fears and insecurities of all these people whose forefathers had migrated to this side of the border between 1947 and 1971. The fault-lines and scars of partition can never be totally eradicated from our minds, but they were healing with the passage of time. But this debate surrounding NRC has opened up those decade old wounds once again. The

pangs of partition and its subsequent migration are staring at us with their cold, murderous eyes. Most of those hailing from Bengali refugee families have their forefathers who migrated into India to escape religious persecution and bloody riots of the late 40s and again during the Bangladesh war. Most of them could never bring along valid government issued documents, just brought along few shreds of clothes, morsels of food and their lives. In case of NRC in Assam, the SC monitored body had asked the people of Assam to produce valid documents issued by the Govt. of India or Govt. of Assam prior to March 24th, 1971. Only those people who would be able to successfully produce these documents would find their names enlisted in the NRC list. In case of a pan-India NRC, the speculation is even more dangerous. A cut-off year of 1951 is being mulled and considered by the government. In simple layman terms, only those who would be able to produce valid, legal government issued documents, which have been issued prior to 1951 would find their names enlisted as valid citizens of the Republic of India. Asking descendants of the migrated refugees to produce 7 decade old documents is both impractical and absurd. On the other hand, the government has not made it clear as to what its stand will be with respect to those who will not make it to the NRC list. The government has maintained a stony silence in this aspect. Rumors of detention camps are only adding fear to the already distressed minds. Again the biggest wrath is being faced by the poor and downtrodden in the border districts of Coochbehar, South and North Dinajpur, Malda, Murshidabad, Nadia, North and South 24 Parganas of West Bengal. People from the marginal sections of the society have to toil 11-12 hours a day to earn their livelihood. How can the State machinery even expect them to maintain proper documentation in the face of such adversities that life has already planned for them. The panic is evident, when you see the long serpentine queues standing in front of the Public Distribution System Ration offices, Sub-Division offices and Block Development Offices consisting of people applying for ration identity cards or applying for certain rectifications to be made in those identity documents.

We, the people of India, already possess a plethora of identity documents. We have our EPIC cards (voter card), digitized ration cards, passports, PAN cards and newly distributed biometric enabled Adhar cards. These identity documents have been issued by the state machinery only after thorough verification and validation of supporting documents. Now, if the state machinery is asking the residents to submit 70 year old documents to prove their ancestors' lineage and origins, it is simply infeasible given the vast diversity of living conditions, financial situations of this 1.3 billion populated nation.

The fear is not only of the NRC process but also of the uncertain future it brings with itself. The government has not clearly mentioned its stance with respect to those residents whose names will not figure in the final NRC list. Rumors of being put in detention camps are being strengthened due to the commencement of camp constructions in Assam and Karnataka. An entirely unknown and unseen future lies ahead. Fears of again becoming a refugee in one's own country are looming large.

### **The Citizenship Amendment Bill and its Dubious Nature**

Now coming to the aspect of the Citizenship Amendment Bill, its details are filled with doubts and ambiguities. The Central government had tried to pass this piece of legislation in the last tenure of the Lok Sabha itself. Due to severe opposition from many political parties and North-eastern organizations, the bill failed to sail through the Rajya Sabha. But, ever since returning to power with an even greater majority in the recently concluded General elections of 2019, the government has been making moves inside and outside the Parliament regarding the passage of this Bill. This bill seeks to make the Hindus, Sikhs, Buddhists, Jains, Parsis and Christians coming to India from Bangladesh, Pakistan and Afghanistan due to religious persecution, deemed as refugees and not illegal infiltrators. The bill also seeks to reduce the citizenship application period of these people from the existing norm of 11 years to 6 years. On paper, this bill seems to be refugee-friendly and giving them justice. But in reality, it is much more confusing, complex and perplexing. Any

government regulation needs to have a date from which its effect will commence. But the proposed bill remains silent on that case. Now, for instance, a East Pakistani refugee had migrated to India in 1948. Then in his case the six years required for citizenship application, whether that will commence from 1948 (his year of arrival in India) or 2019 (year of the bill's passage in the Parliament) is shrouded in confusion. If it is 1948, then there will be millions of cases where the person in question will not be able to prove his or his ancestor's exact year of arrival in India due to lack of documentation dating back to the stormy days of partition and migration. His family might have migrated in the times of total unrest, war or riots in 1947 or 1971. In such cases it was obviously not feasible for them to carry documents predicting this future exercise of NRC. On the other hand, if six years is to be calculated from the year 2019, then the person's current citizenship status will come under question and doubt. Questions like whether he will remain a valid citizen and a valid elector, whether he will be able to practice his existing profession, whether he will be able to execute financial transactions through his bank accounts, whether he will be able to receive government subsidies or even travel using his passport for the next 6 years will have to be answered the State. All these dimensions remain completely unanswered. All this is only leading to more confusion among the masses.

Now comes the question of Constitutional and legal validity of this bill. Article 14 of the Indian Constitution states that "*The State shall not deny to any person equality before the law or equal protection of the laws within the territory of India and prohibits discrimination on the grounds religion, race, caste, sex or place of birth.*" The Constitution of India makes it absolutely clear that discrimination cannot be made on the basis of religion. This proposed bill does not give the Muslims of India equal rights compared to other religions when applying for citizenship of India. The Preamble to the Constitution of India declares the nation to be a secular nation. Any nation whose spirit is secular cannot discriminate on the basis of religion. Thus it is evident that even if the bill is passed through the Parliament, it will be challenged at various levels of the Indian judicial system.

There is another logic that also denounces this Citizenship Bill. If the bill seeks to give refuge to the people subjected to religious persecution residing in the neighboring countries of India, then it must include the Rohingya Muslims of Myanmar. Myanmar and India share an International border and Rohingyas have been declared "refugees" by the United Nations itself. So this is another point where this Bill falls short of natural logic and justice. Denying or granting citizenship on the basis of religion had dire effects on the world earlier. The entire Nazi narrative was built on not viewing the Jews as equals and subsequently sentencing them to concentration labour camps. The entire world watched and suffered the horrors of the 2<sup>nd</sup> World War. It must be remembered that at the crux of it all was discrimination and hatred on the basis of religion.

### **The Conclusion and an Unknown Future**

Finally, I would like to sum up by saying that for a nation like India which was wounded and ravaged by the Partition of 1947 and the Bangladesh Liberation War of 1971, it would be absolutely inhumane and catastrophic to conduct this exercise of NRC. In a diverse country where people's homes get ravaged and destroyed by floods and famines every year, if the State machinery expects its 1.3 billion residents to submit 70 year old documents as proof of citizenship then it is as absurd as the word absurd can be. We as a nation have been forged by the cruel fires of partition. The state should not open up age-old wounds by conducting the NRC. As is evident from the NRC exercise of Assam, this will not take us anywhere other than subjecting our own people to tremendous mental, physical and financial hardships. We must and should resist this inhuman NRC exercise and reject the unconstitutional and illegal citizenship Amendment Bill. This exercise of NRC will render millions stateless for merely not possessing proper documentation. It will be a refugee and human rights crisis of extraordinarily massive proportions. It has to be the citizens' voice that reaches the State machinery's ears. This exercise and all the rumor-mongering surrounding it has started taking

its toll in form of dozens of suicides due to mental distress and an uncertain future looming large in the horizon. The state must understand the plight of the common man because at the end of the day the Preamble of the Indian Constitution starts with "We, the People of India."