

## Associate Paper

19 September 2019

### **Modi's Manifesto Promise: Assam National Register of Citizens has Implications for all of India**

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#### **Key Points**

- Action is in progress on the “One India” policies set out in Prime Minister Modi’s 2019 Election Manifesto.
- Included in the Manifesto was a pledge to update the National Register of Citizens (NRC), the objective of which is to record and list Indian citizens while identifying illegal migrants and residents who cannot substantiate citizenship claims.
- The completion of the Assam NRC has revealed the diversity of “illegal migrants” denied citizenship and who may face detention or deportation.
- Changes broadening access to Indian citizenship contained in the Citizenship (Amendment) Bill 2019 have not yet achieved passage through the Rajya Sabha. Enacting the Bill may have an effect on promised NRCs, resulting in fewer denials of citizenship.
- The values expressed in the Indian Constitution may raise questions about some of the provisions in the current Citizenship (Amendment) Bill.

#### **Summary**

Any understanding of the act of extending and strengthening Prime Minister Narendra Modi’s 2019 Election Manifesto, coupled with its description as the ‘resumption’ of a journey, must include a “One India” policy direction, which has already been seen in Jammu and Kashmir and in the Citizenship (Amendment) Bill that awaits passage in the Rajya Sabha. The Assam National Register of Citizens (NRC) has been completed, although appeals

continue to be heard. This paper examines the operation of the Assam NRC and draws attention to the diversity of illegal migrants who were not awarded citizenship. Amendments to the Citizenship Bill, allowing citizenship to applicants from minority backgrounds other than Muslim, are a possible means to alter the outcome of NRCs. The Citizenship Bill itself, however, may arguably be deemed unconstitutional in the light of the clear values set out in the Preamble to the Constitution, and the fundamental rights that it enshrines.

## Analysis

### ***Background: The 2019 Election Manifesto***

The Assam National Register of Citizens (NRC) was published on 31 August, hot on the heels of the Jammu and Kashmir Reorganisation Act, which was assented to on 9 August 2019. Re-elected to office in May, the Bharatiya Janata Party has moved quickly to deliver on aspects of its “One India” policy direction, set out in its Election Manifesto.

This is a fresh start. The Modi Government’s 2019 Manifesto has been read as a report on its predecessor. The government’s slow progress in bringing about reforms since its election victory in 2014 has seen major areas of the domestic agenda re-stated, extended and strengthened in this year’s Manifesto. Its intention to pursue its headline policy goals has been set out as the ‘resumption of a journey’. As an example, a domestic policy such as the popular and highly recognisable “Make in India” programme, which is newly described as a ‘National Policy for Reskilling and Upskilling’ (Manifesto 2019, pp. 29-30), now underpins the ambitious ‘India as a global manufacturing hub’, in anticipation of engagement across multiple community levels (Manifesto 2019, pp. 18-19).

Reference to a “Hindu India”, the dedicated centre of BJP policy, is illustrated prominently, and is another example of resuming a journey with reference to facilitating, ‘within the framework of the Constitution’, the majority-supported construction of the Ram Temple in Ayodhya. It sits under ‘Cultural Heritage’ (Manifesto 2019. 36), together with less-visible pro-Hindu sub-headings under ‘Nation First’.

The ‘Nation First’ sub-headings cover the government’s present activities, brief sections on ‘Jammu & Kashmir – Article 370’ and the ‘Citizenship Amendment Bill’ (Manifesto, 2019, sections 14 & 12, p.12). An equally brief reference to the NRC is made in ‘Towards a New India’, a summary of the Prime Minister’s vision for the country, to ‘[e]xpediently complete the National Registrations of Citizens in Assam and actively consider its extension to other states’ (Manifesto 2019, p.9). The Summary is outside the Manifesto’s numbered sections and follows introductory statements attributed to the Prime Minister, the National President of the BJP, Amit Shah, and the Chairperson of the Manifesto Committee, Rajnath Singh.

The ‘Nation First’ domestic policies are underway: Jammu and Kashmir now under home rule, the Citizenship (Amendment) Bill slated for passage in the Rajya Sabha during the current parliamentary session, and the NRC implementation which has attracted nationwide and international political and media commentary, questioning the government’s actions

amid stories of now-stateless millions. This paper weighs the historical background to, and constitutional ramifications of, the National Register of Citizens (NRC), and responsibility to minorities under the 2019 Citizenship (Amendment) Bill, with respect to values embedded in the Indian Constitution.

### ***The National Register of Citizens (NRC)***

The NRC, eventually to be implemented nationally, is now complete in Assam, although those not on the Register have some months to appeal. Problems, however, have emerged and will be raised below. Its objective is to record and list Indian citizens and to identify illegal migrants and residents who cannot substantiate citizenship claims. In Assam alone it is a mammoth task; the state was selected because its porous border with Bangladesh allows passage to would-be migrants from culturally and ethnically diverse backgrounds. They may have lived in Assam for lengthy periods, but are among those least likely to have proof of citizenship. Their insecure lifestyle can force seasonal relocation in the face of, for example, monsoon activity scattering their possessions.

The register identifies people likely to be illegal immigrants and, as [described](#) by human rights experts, ‘disproportionately affects Muslims and the region’s poorest communities’.

The Government claims support for the Assam NRC on the basis of the Lok Sabha election results this year, in which it increased the number of seats that it won, and earlier state and *panchayat* (village council) electoral victories in north-eastern states over the past year.

The Assam NRC has had a stop-start history. Some two decades after an unsuccessful Assam Accord was signed with the Government of India in 1985 to curb illegal migration, which was already a problem by that time, the NRC was trialled in 2010 as a pilot programme in two districts. It stalled after outbreaks of violence but was reintroduced under the eye of the Supreme Court in 2015, following a [petition](#) that supported the removal of people without documents from the electoral roll.

Data collection is complex and lengthy. Unlisted Individuals applying for inclusion had to provide a paper trail that established that a family member had lived in Assam pre-March 1971 (the outbreak of the Bangladesh War), and show connection to that family, thus gaining citizenship regardless of country of origin. Failure to establish citizenship may mean facing deportation if verification within the allowed period fails. As the process continued, a second draft of the Assam Register, published in July 2018, added the letter “D” next to the names of “doubtful voters” whose citizenship was, or remains, in doubt. [Speculative figures](#) suggested that at that stage some 40 lakh (four million) claiming citizenship have been excluded.

A third list for Assam published on 31 August 2019 reduced the excluded number, but [did not distinguish](#) citizens or migrants who may be Hindu, aspiring to citizenship on grounds of occupation (e.g. land owners or government employees), or on religious grounds. Those deemed not eligible may become stateless. Official information on their future is not forthcoming although some are already in detention centres in Assam while [more centres](#)

are under construction. Bangladesh has made it clear that it will not accept India's non-citizens.

Statelessness will also apply if, as promised, the government extends the NRC nationally. Modi's Government may, however, have thrown itself a lifeline. New applicants for Indian citizenship will be admitted or excluded under the terms of the Citizenship (Amendment) Bill 2019 if it is passed into law by the Upper House.

### ***Citizenship (Amendment) Bill, 2019***

The Citizenship (Amendment) Bill, first tabled in 2016 and now awaiting passage in the Rajya Sabha, changes the rights of would-be citizens to protect religious minorities moving to India from neighbouring states including, in the case in question, Bangladesh. It seeks to further amend the 1955 Act, amending Section 2 as in the 2016 Bill. The new draft [lacks the context detail](#) of the 2016 amendment but remains the same. The unchanged 2019 amendment to the 1955 Act is a [provision](#) that makes illegal migrants, whether they be Hindu, Sikh, Buddhist, Jain, Parsi or Christian from Afghanistan, Bangladesh or Pakistan eligible for Indian citizenship, changing the definition of illegal migrants. Muslims are excluded, thus confirming discrimination on the basis of religion.

The possible application of the Citizenship (Amendment) Bill to legitimise citizenship applications for inclusion in the Assam NRC is a legal complication yet to be addressed.

### ***Indian Constitution – Conclusion***

Modi's "only sacred document", the Constitution, sets out a [resolution](#) on the first page of the Preamble with a clarity that defies misinterpretation, committing the people of India to a 'sovereign socialist secular democratic republic' that secures for all 'Justice, social, economic and political; Liberty of thought, expression, belief, faith and worship; Equality of status and of opportunity [and] Fraternity; assuring the dignity of the individual and the [unity and integrity of the nation]'. Part III of the Constitution on Fundamental Rights decrees under the Right to Equality (№ 15), that 'The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them'. The Constitution also includes, however, Parliament's right to regulate citizenship by law (Constitution, Part II, № 10). Is the latter the escape clause that the Modi Government may employ?

If not, the question becomes might the Citizenship (Amendment) Bill, 2019, which was passed by the Lok Sabha in January this year, but not yet by the Rajya Sabha, be unconstitutional? Mobilising such a challenge and shepherding it through India's arcane legal world would be a nightmare, holding up, if not preventing, the amendment to the Citizenship Act that allows a step along the Hindu India path espoused by the BJP.

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Published by Future Directions International Pty Ltd.  
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