



DAILY NEWSPAPER ANALYSIS

THE HINDU

(10th June, 2019)

**Topic: GS2 - NRC and Its
Procedural Issues**



THE HINDU
Daily News Paper

Inhumane, and utterly undemocratic

Context:-

- **The case of Mr. Sanaullah**, who had served for three decades in the Indian Army, was declared a “foreigner/illegal migrant” by the Foreigners Tribunal, and packed him off to a detention camp — until the Gauhati High Court stepped in to set him at liberty after sustained public pressure.
- Mr. Sanaullah is among the luckier ones. Investigative journalists have revealed over the last few years that ‘**administrative errors**’ of this kind are the **rule rather than the exception**.
- For other individuals who are victims of “**administrative mix-up**” or **shoddy investigation**, without the benefit of media scrutiny, there may be no bail — only an endless detention.

Current Process to Give Effect Assam Accord:-

- According to the **Assam Accord**, individuals who entered Assam after March 24, 1971 are illegal immigrants.
- There are two parallel processes to establish citizenship:
 - the **Foreigners Tribunals** operating under **the Foreigners Act**, and
 - the **National Register of Citizens (NRC)**, which is under preparation.
- While nominally and formally independent, in practice, these two systems bleed into each other, with people who have been declared as foreigners by the Foreigners Tribunals, and even their families, dropped from the draft NRC.

Expected Procedural Safeguard from the Current Process:-

- **Need of Careful Administration With Zero Error of Margin:** For something as elemental and important as citizenship, one would **expect these systems to be implemented as carefully as possible, and with procedural safeguards.**
 - This is especially true when we think of the **consequences of being declared a non-citizen:** disenfranchisement, exclusion from public services, incarceration in detention camps, statelessness, and deportation.
 - Before treating an individual — a human being — to such drastic consequences, the very least a humane and civilised society can do is **to ensure that the rule of law has been followed to its last degree.**

Working of the Current Process and Issues associated with it:-

- **Current Issues in The Foreigners Tribunal:**
 - In a vast number of cases, the **legally mandated initial inquiry** before an individual is dragged before a tribunal as a suspected “foreigner” simply does not happen.
 - The Tribunals themselves are only constrained by a **very limited number of procedural safeguards.** This has led to situations where Tribunals have issued notices to entire families, instead of just the suspected “foreigner”.

- Additionally, reports show that Foreigners Tribunals habitually declare individuals to be “foreigners” on the basis of **clerical errors in documents**, such as a spelling mistake, an inconsistency in age, and so on. Needless to say, the **hardest hit by this form of “justice” are the vulnerable and the marginalised**, who have limited documentation at the best of time, and who are rarely in a position to correct errors across documents.
- On occasion, orders determining citizenship have been passed by tribunals **without even assigning reasons, a basic sine qua non of the rule of law**.
- In addition, a substantial number of individuals are **sent to detention camps without being heard** — on the **basis of ex parte orders** — and the detention centres themselves are little better than concentration camps, where families are separated, and people not allowed to move beyond narrow confined spaces for years on end.

➤ **Issues with Implementation of NRC:**

- The process under the NRC is little better. Driven by the Supreme Court, it has been **defined by sealed covers and opaque proceedings**. For example, in a behind-closed-doors consultation with the NRC Coordinator, the Supreme Court developed a new method of ascertaining citizenship known as the **“family tree method”**.
 - This method was not debated or scrutinised publicly, and ground reports found that people from the hinterland were not only unaware of the method, but those who were aware had

- particular difficulties in putting together “family trees” of the kind that were required (the burden fell disproportionately upon women).
- And recently, it was found that **a process by which individuals could file “objections” against people whose names had appeared in the draft NRC** — and on the basis of which these people would be forced to once again prove their citizenship — had resulted in thousands of indiscriminate objections being filed, on a seemingly random basis, causing significant hardship and trauma to countless individuals.
- **Lack of Grievance Redressal:** With the recent case of Mr. Sanaullah highlighted that there is not proper grievance redressal mechanism.
 - Administrator simply brushed off their mistakes by saying that it was mere “**collateral damage**” in the quest to weed out illegal immigrants.
 - In a process riddled with such flaws, and where the consequences are so drastic, one would expect the **judiciary, the guardian of fundamental rights and the guarantor of the rule of law**, to intervene. However, instead of questioning procedural violations and infringement of rights, the Supreme Court, has repeatedly attempted to speed up proceedings of NRC.
 - However, what the Supreme Court has failed to understand is that in questions of life and death, where the **cost of error is so high, it is not “speed” that matters, but the protection of rights.**

Conclusion:-

- Mr. Sanuallah's case has provided hope that we may yet **recognise the unfolding citizenship tragedy in Assam for what it is, and step back from the brink while there is still time.**