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CHAPTER 1

HISTORICAL PERSPECTIVE

1.1 BACKGROUND

- 1.1.1 Historically, in the nineteenth and twentieth centuries, Colonial Assam saw migrations from other provinces of British India, which resulted in a change in the demographic profile in some districts of the Province. The growth of tea industry necessitated the migration of people from Bihar, Orissa etc in composite Bengal Presidency and other provinces, who came as plantation labour to work in the newly opened tea gardens. With the expansion of colonial administration, local economy and tea industry, Marwari traders from Rajasthan also made Assam their home. Further, the construction of railways, discovery of coal and oil facilitated migration from other parts of British India. The colonial authorities also encouraged the educated Bengalis to come to Assam to take up jobs in the lower echelons of the Provincial Government, as teachers and other such professions. Similarly, the availability of cultivable wastelands attracted the peasantry from the densely populated neighbouring districts of Bengal like Mymensingh, Bogra, Rangpur and Pabna, who came to Assam in large numbers in the twentieth century.
- 1.1.2 The foreigner's issue has been a matter of considerable concern after independence as articulated by various sections of the society including student organizations. There is, therefore, a strong need to place on record all relevant facts to arrive at greater clarity on the matter. In this background, Hon'ble Chief Minister, Assam announced the publication of a White Paper giving all details relevant to the Foreigners' Issue including detection and deportation of foreigners, updation of NRC and steps taken to protect the international border like taking up fencing, strengthening of border outposts etc.
- 1.1.3 It is important to note some positive and beneficial effects of migration of the peasants from East Bengal. The *Goalpara Zamindars* and other landlords had in fact initially encouraged these hardy peasants to settle down in Assam. The peasant migrants from the erstwhile East Bengal brought with them superior cultivation techniques including multiple cropping and introduced poultry farming. Because of the agricultural practices of the hardworking immigrants and their contribution to the agricultural economy, rice production increased significantly. A number of vegetables and crops including jute hitherto unknown in the state were also introduced by the migrants.

1.1.4 The demographic composition of the State from 1901 census onwards has been placed at **annexure 1**. It reveals that the population in all religious classes has registered growth at varying pace. It may be noted that major changes in the demographic profile of districts such as Goalpara, Nowgong, Darrang and Kamrup had taken place since 1871 census as shown in **annexure 1A and 1B**. A statement showing major religion population percentages in some states is shown in **annexure 1C**.

1.2 THE IMMIGRANTS (EXPULSION FROM ASSAM) ACT 1950

1.2.1 Following partition and communal riots in the subcontinent, Assam initially saw an influx of refugees and other migrants from East Pakistan. The number of such migrants other than refugees was initially reported by the State Government to be between 1,50,000 and 2,00,000 but later estimated to be around 5,00,000.

1.2.2 Taking note of the serious situation arising from this immigration, the Government of India initially promulgated an Ordinance on 6th January 1950. The ordinance was soon replaced by an Act known as Immigrants (Expulsion from Assam) Act 1950 which came into effect from 1st March 1950. According to the Act, any person or class of persons having been ordinarily resident outside India, has or have, whether before or after commencement of the aforesaid Act, come into Assam and that, in the opinion of the Central Government (or the Government of Assam or its officials if so delegated by a specific notification) the stay of such person or class of persons is detrimental to the interests of the general public of India or any Section or of any Schedule Tribe in India, the Central Government (or the Government of Assam or its officials if so delegated by a specific notification) may by order a) direct such person or class or persons to remove himself from India or Assam within such time and by such route as may be specified in the order: and b) give such further directions in regard to his or their removal from India or Assam as it may consider necessary or expedient. The Act however barred the application of its provisions on refugees fleeing Pakistan on account of civil disturbances or fear of such disturbances and on coming to India residing in Assam. A Copy of the Act is placed at **annexure 2**.

1.3 NEHRU-LIAQUAT AGREEMENT

1.3.1 When fresh communal disturbances occurred in early 1950 in Assam (along with East Pakistan, West Bengal and Tripura), some immigrants living in the districts of Goalpara, Kamrup and Darrang fled to East Pakistan leaving their properties behind. In the Nehru-Liaquat Agreement signed on 8th April, 1950, it was agreed by the two Governments-India and Pakistan-that the rights of the immovable property of a

migrant shall not be disturbed and the same shall be restored to him, even if it is occupied by another person in his absence, provided he returns to his original home by 31st December, 1950. The agreement facilitated the return of almost all the displaced persons. By 31st December 1950, there was net influx of 1,61,360 people into Assam who had entered Assam through recognized routes of travel. A copy of the agreement is placed at **annexure 3**.

1.4 THE CENSUS OF 1951 AND NATIONAL REGISTER OF CITIZENS (NRC) 1951

1.4.1 During the Census of 1951, a National Register of Citizens was prepared under a directive of Ministry of Home Affairs by copying out in registers the census documents containing information on relevant particulars of each and every person enumerated. Against each village, the NRC showed the houses or holdings in a serial order mentioning the number and names of persons staying therein. Further in respect of each individual, the father's name or husband's name, nationality, sex, age, means of livelihood or occupation etc were indicated. These NRC registers were initially kept in the offices of DCs and SDOs, but were later transferred to the Police in the early 1960s for facilitating verification of infiltrants /illegal immigrants.

1.4.2 The effectiveness of any drive against illegal immigrants in the early fifties was handicapped by the fact that passport and visa regulations between India and Pakistan came into operation only from October 1952 and the definition of a foreigner to cover a Pakistan national was only clearly spelt out with the amendment of the Foreigner's Act 1946 in 1957. In the then existing Foreigner's Act 1946 under section 2(a)(i), 'Foreigner' was defined among other things, as a person who is not a natural-born British subject as defined in Sub-section (1) and (2) of Section 1 of the British Nationality and Status of Aliens Act of 1914 or (ii) has not been granted certificate of naturalization as a British subject under any law for the time being in force in India. In 1957, Section 2 (a) of the then existing Foreigners Act, 1946 was amended and a foreigner came to be defined as a person who is not a citizen of India. This amendment, which came into force on 19th January 1957 brought Pakistani nationals within the purview of the definition of foreigner. The provisions and rules made under Foreigner's Act, 1946 prior to the above amendment were not applicable to the citizens of Pakistan. As such, they were not required to get themselves registered with the Registration officer of the district which they visited. After amendment of the Foreigners Act, 1946, detailed instructions were only thereafter issued by the Government of India in March, 1957 to all State Governments including Assam to deport Pakistani nationals staying in India without proper authority or sanction. It would be pertinent to mention that the Citizenship Act

was only passed in 1955 and had come into effect from 30th December 1955. It would also be pertinent to note that the Government of India entrusted the functions of the Central Government under the Foreigners Act 1946 to the Superintendents of Police and the Deputy Commissioner (in charge of Police) in Assam in respect of sections 3 (2)(c) and (cc) vide notification 1/7/61-F.III dated 22.3.1961 and in respect of sections 3 (2) (a) and (b) vide notification 1/32/61-F.III dated 15.3.1962. Both were specific entrustments of functions in respect of nationals of Pakistan. A copy of the notification dated 22.3.1961 is placed at **annexure 3A**.

1.5 THE CENSUS OF 1961 AND SETTING UP OF FOREIGNERS TRIBUNALS

- 1.5.1 The Registrar General of Census in his report on the 1961 census assessed that 2,20,691 infiltrants had entered Assam. In light of this report of Census 1961 coupled with intelligence reports about entry of infiltrants, police launched a drive in 1962-1964 to detect and deport such infiltrants. By mid 1964, the State Government had also set up 4 tribunals through an executive order to cover those cases of suspected infiltrants who claimed to be Indian. These tribunals were headed by special officers with judicial background who were appointed to scrutinize cases of infiltrants before issuing Quit India notices. A copy of the press statement issued by Chief Minister, Assam on July 27, 1965 is placed at **annexure 4**.
- 1.5.2 During the period 1961-1966 approximately, 1,78,952 infiltrants were either deported or had voluntarily left the country but an estimated 40,000 infiltrants did not leave India. The Police drive, which commenced in mid 1962 against infiltrators continued but invited criticism from some leaders of Assam. Pakistan also threatened to drag the issue of deportation to the United Nations. A Conference of Home Ministers of India and Pakistan was held in New Delhi on 7th – 11th April 1964 to discuss primarily the deportation issue and need to maintain communal harmony in the sub-continent including minority protection, but the conference did not yield any substantial result. The issue of eviction of infiltrants was deliberated by the cabinet several times during 1964-66 and there was a general consensus till early part of 1964 that any stoppage of deportation would seriously affect the internal situation in Assam. A copy of the letter from Deputy Secretary, Political Department addressed to Superintendents of Police is placed at **annexure 5**.
- 1.5.3 It was decided by the Central Government that before eviction every individual case should be examined by judicial authority even though this may result in delay, by introducing a judicial element in the procedure for the eviction of Pakistani infiltrators to stand the test of scrutiny before the international forum. All this culminated in the

issue of a statutory order called the Foreigners (Tribunal) Order on 23rd September 1964 and the creation of Foreigners Tribunals under clause-2 of the order, thereby making it mandatory for the appointment of Member with judicial background. This was done in the context of representations made by various organizations about harassments being caused to bona fide Indian persons while 'Quit Notices' were served on infiltrants as also adverse publicity on this issue over the international media. Under the aforesaid statutory order, 4 Foreigners Tribunals were set up in 1964 and as many as 35,080 persons were referred to these Tribunals till the end of August 1965. Apparently, most of the cases were disposed of in 10 month's time. The procedure of detection was relaxed so as to give the suspected infiltrant adequate opportunity to contest the Police case, should he desire to do so. In doing so, the Government was also attempting to counter criticisms that procedure followed was arbitrary and unfair. By 1968, there were 9 Foreigners Tribunals with headquarters at Tezpur, Gauhati, Nowgong(2), Sibsagar, Goalpara, Dhubri, Barpeta and Jorhat. A copy of order of 1964 is placed at **annexure 6**.

1.5.4 In 1969 Government decided that only following three categories of foreigners were to be summarily deported: - (1) Pakistani nationals who held Pakistani passports, (2) Re-infiltrants who were once deported. (3) Fresh infiltrants, caught at the border. Further, the Superintendents of Police were directed not to detain persons being checked at railway stations leading to their missing train connections as a consequence of such checking and detention. If a person was suspected to be a Pakistani, he was to be questioned and followed or information sent to where he was proceeding so that a track is kept on him and future inquiries can be pursued, but he should not be detained at the station itself. The Superintendents of Police were further instructed that there should be no wholesale checking of villages and houses. Only when there were specific suspicious circumstances surrounding the cases, which need to be further gone into, would such a probe be made. The Superintendents of Police were also advised that, as far as possible, the investigation should be done under the supervision of responsible officer. A Copy of the letter is at **annexure 7**.

1.6 THE PIP SCHEME AND OTHER MEASURES

1.6.1 In June 1962 Project PIP (Prevention of infiltration into India of Pakistani Nationals) was approved by the Ministry of Home Affairs, Government of India. The main object of the scheme was to establish a security screen in depth to exercise a physical check and control over the number, identity and movement of existing inhabitants in the immigrant settlements near the border making it impossible for any new entrants

to go untraced or unnoticed. The Police screen was originally intended to cover the border areas in three border districts-Goalpara, Garo Hills and Cachar, and three interior districts- Kamrup , Nowgong and Darrang where the infiltrators found shelter by mixing up with older settlers. In later years, the scheme was extended to cover Lakhimpur district as well. Under this scheme each police outpost was to be under one sub-inspector of Police backed by two unarmed constables. Each outpost would have a responsibility over an area of 3 to 5 sq. miles to keep watch over movement of infiltrators across the border and to detect the arrival of new immigrants in existing immigrant settlements near the border to prevent fresh encroachment of Government Reserves and to prepare a Register in a prescribed form, of all residents within this area. In the more vulnerable areas, these posts were to be given armed Police support from the existing staff of the State Government. Initially, 52 such posts were established in 1962 which entailed the creation of 26 posts of sub-inspectors, 26 posts of Assistant sub-inspectors and 156 constables. In 1964 the scheme was extended to the establishment of 180 Police watch posts and 39 armed personnel posts on the border with Pakistan along the border, employing in the process 219 sub-inspectors, 19 inspectors 396 constables. A post of Assistant Inspector General of Police along with posts of ministerial staff at headquarters were also created under this scheme. The AIG's post was later upgraded to that of Deputy Inspector General of Police and subsequently, in the recent times, to Additional Director General of Police. Till 1984, 1873 posts were sanctioned by the Government of India under the PIP scheme. Originally, it was envisaged that Police officers in these border outposts be vested with extensive revenue powers to enable them to evict the encroachers from the reserved or khas land, but these powers were eventually not given to them. The idea behind this scheme 'was that it was better to stop infiltration at the border, and make it unattractive for the foreigners to come to Assam by denying the benefits that lure them into this state'. In 1967, a scheme for keeping thumb and finger impressions and photographs of Pakistani infiltrants was introduced as a complement to the PIP and Watch post Schemes.

- 1.6.2 In 1965, the Government of India took up with the State Government to expedite compilation of Register of Citizens and to issue identity cards on the basis of this register to Indian inhabitants at least in selected areas. Under this proposal for Identity cards, Indian citizens in Assam were to carry Identity cards on a voluntary basis so that citizens possessing identity cards are not embarrassed by officials checking infiltration of Pakistanis. Furthermore, Government of India proposed to Government of Assam for clearance of a mile deep belt along the border with

Pakistan so that barbed wire fencing is erected. Government of Assam, however expressed difficulties in expeditiously clearing up the border areas since it involved shifting of 25,000 families (1,28,000 persons) along the 560 square mile belt on the Assam-East Pakistan border. In January 1965, the State Government also submitted a scheme to the Union Home Ministry for providing barbed wired fencing to cover vulnerable stretches. The Home Ministry decided that a beginning in barbed wire fencing must be made in a few key sectors but owing to shortage of barbed wire, amongst other things, the project, however, could not get off the ground. Eventually, by 1966, the Central Government dropped the proposal to issue identity cards in consultation with the Government of Assam, having found the project impracticable.

1.6.3 On February 17, 1976 Ministry of Home Affairs issued a notification entrusting the Superintendents of Police and the Deputy Commissioners (in charge of police) with powers of Central Government in making orders against Bangladesh nationals under Foreigners' Act, 1946. Prior to this, such entrustment of functions to Superintendent of Police in Assam was made only in respect of nationals of Pakistan in 1961 and 1962. While enclosing the above notification dated February 17, 1976 in respect of Bangladesh nationals, Government of India instructed the State Government that 'persons who (had) come to India from erstwhile East Pakistan/Bangladesh prior to March, 1971 are not to be sent back to Bangladesh'. In his reply at the end of the debate on the Governor's address on 2nd March, 1979, the then Chief Minister of Assam Shri Golap Borbora also made a statement before the Assam Legislative Assembly in this regard. Copies of the letter dated February 17, 1976 and Statement of CM are placed as **annexure 8 and 9** respectively.

1.7. ASSAM AGITATION AND ASSAM ACCORD

1.7.1 The death of Shri Hiralal Patwari, sitting Member of Parliament from Lok Sabha representing the Mangaldai LS Constituency on March 28, 1979 necessitated the holding of by-elections, which set in motion the events leading up to the Assam movement. The Assam agitation was born when it was alleged that a large number of names of suspect nationality was included in the voter's list in the Mangaldai LS constituency. The All Assam Students' Union (AASU) on June 8, 1979 sponsored a 12 hour general strike demanding 'detection, disenfranchisement and deportation' of foreigners. This turned out to be the first of such state-wide protests against infiltration. The Assam Agitation (1979-1985) was a mass movement against illegal immigrants in Assam led by All Assam Students' Union (AASU) and All Assam Gana Sangram Parishad (AAGSP) to compel the Government to identify and expel illegal immigrants. While the agitation programme was largely non-violent, communal incidents were witnessed in some parts of the State particularly in 1983. In 1980

when the Congress party led by Mrs Indira Gandhi came to power at the centre, AASU wrote to Prime Minister Mrs Indira Gandhi on January 18, 1980 drawing her attention to the problem of infiltration. A copy of the letter is placed at **annexure 9 A**. They submitted some broad proposals for the purpose of detecting and deleting the names of foreigners from the electoral rolls based on the NRC of 1951 and thereafter deporting them. The broad proposals for undertaking such an exercise are briefly summarized below: 1) Updating of NRC of 1951, 2) Cross checking of electoral rolls with the updated NRC, 3) Demarcation of the Indo-Bangladesh border and creation of a free uninhabited Belt 4) Issuing of identity cards throughout the Northeast region, 5) Strict maintenance of Birth and Death Register at all Block and Village levels, 6) Raising of additional armed Police battalions and a River Police Force with a view to checking infiltration. Following AASU's letter to the Prime Minister, the student leaders were invited for discussions and negotiations with the Central Government. The AASU delegation met Prime Minister Indira Gandhi on 2nd February, 1980 which signaled the beginning of protracted negotiations between the movement leaders and the Central Government headed by Mrs Gandhi. The AASU delegation also submitted a detailed memorandum to the Prime Minister, which is placed at **annexure 9B**. The Government of India insisted that March 25, 1971 be the cut off date for identifying foreigners, which the AASU rejected and insisted on 1951 being the cut off year for identifying and deporting foreigners. In April 1980, the Governor of Assam held discussions with AASU during which the Governor suggested that 1967, should be the base year for detection and deletion of foreigners and 1971 for deportation of foreigners. This offer was rejected by AASU vide their General Secretary's letter dated April 5, 1980, which was subsequently accepted by them in 1985. The Prime Minister Mrs Indira Gandhi herself came to Assam and held discussions with the AASU leaders on April 12, 1980 but there was no progress in the negotiation as AASU stuck to their stated position. In September 1980, AASU announced that it would agree to a negotiated settlement for allowing immigrants who came to Assam after 1951 till 1961 provided the Government agreed to shift the immigrants of 1961-1971 stream to other states, which was not agreed to by the Government. It appears that between 1980 and 1982 there were as many as 23 rounds of negotiations, which, however, did not yield any positive outcome.

- 1.7.2 After a 6 year long Assam agitation from 1979 to 1985, a landmark agreement-Assam Accord was signed on August 15, 1985 at the behest of Prime Minister Shri Rajiv Gandhi. This agreement between All Assam Students Union (AASU), Government of India & Government of Assam contains some important clauses relating to the foreigners issue, border fencing, construction of border roads, setting up of border out posts etc. A copy of Assam Accord is placed as **annexure 10**. A detailed account of implementation of various clauses of this accord is discussed in chapter 3.

CHAPTER 2

ILLEGAL IMMIGRATION

2.1 ILLEGAL IMMIGRANTS

2.1.1. Although “illegal migration” or/and “illegal immigrants” (particularly from Bangladesh) are very much a part of the public discourse on society, polity, and economy of Assam, there is some haziness as regards the precise meaning of these terms. The shared history of the British colonial rule, the partition at the time of independence, the role played by India in the creation of Bangladesh, and the provisions under the Citizenship Act – all contribute to this lack of concreteness. Section 2(1)(b) of the Citizenship Act of 1955 defines an “illegal migrant” as a foreigner who entered India

(i) Without a valid passport or other prescribed travel documents: or

(ii) With a valid passport or other prescribed travel documents but remains in India beyond the permitted period of time.

2.1.2 The Assam Accord settled March 24, 1971, as the cutoff date for identification and deportation of immigrants from East Pakistan into Assam. This accord also provided for citizenship to those who came to Assam between January 1, 1966 and March 24, 1971 after defranchising for a period of 10 years subject to registration.

2.1.3. Thus, those who crossed the international border without proper legal documents to come to Assam on or after March 25, 1971, are the illegal immigrants provided all those who came before that deadline became citizens through the legal process akin to naturalization. It should be kept in mind, however, that the children born to these illegal immigrants may or may not be lawful citizens of India by birth. In this regard, the following provisions stated in Section 3 of the Citizenship Act of 1955 would apply:

(i) A person born in India on or after 26th January, 1950, but before 1st July, 1987, is a citizen of India by birth irrespective of the nationality of his/her parents.

(ii) A person born in India on or after 1st July, 1987, but before 3rd December, 2004, is considered a citizen of India by birth if either of his/her parents is a citizen of India at the time of his/her birth.

(iii) A person born in India on or after 3rd December, 2004, is considered citizen of India by birth if both the parents are citizens of India or one of the parents is a citizen of India and the other is not an illegal migrant at the time of his/her birth.

2.1.4. Furthermore, any minor child can be registered as a citizen of India under Section 5(4), if the Central Government is satisfied that there are “special circumstances” justifying such registration. Each case would be considered on merit. These provisions together with the fact that most immigrants who entered before 1971 have not followed the legal process to become Indian citizens, complicate the issue of identifying the illegal immigrants.

2.2. LEGAL PROVISIONS:

2.2.1. A brief summary of various statutes governing provisions in respect of foreigners detection, deportation, citizenship, National Register of Citizens (NRC) in respect of Assam is presented below:

2.2.2 **THE FOREIGNERS ACT, 1946.** This Act was enacted to confer upon the Central government (Government of India) certain powers in respect of entry of foreigners into India, their presence therein and their departure therefrom. The term ‘foreigner is defined in Section 2, clause (a) to mean a person who is not a citizen of India. The regulations regarding recognition of citizenship are contained in the Citizenship Act, 1955 and the Indian Constitution. Section 3 of this Act empowers the Central Government by order, to make provisions, either generally or with respect to all foreigners, or with respect to any particular foreigner or any prescribed class or description of foreigners, for prohibiting, regulating or restricting their entry into India or their departure therefrom or their presence or continued presence therein.

2.2.3. **THE FOREIGNERS ORDER, 1948.** In exercise of the powers conferred by Section 3 of the Foreigners Act, 1946 the Central Government made the Foreigners Order, 1948. This Order came into force on 14th February, 1948 and lays down regulations concerning foreigner’s entry into, movement in and departure from, India.

2.2.4 **THE FOREIGNERS (TRIBUNALS) ORDER, 1964.** Under the provisions of this order the matter whether a person is or is not a foreigner is referred to the Foreigners Tribunals within the meaning of the Foreigners Act, 1946 for opinion. The Tribunals shall consist such number of persons as the Central Government may think fit. The Tribunals shall have the powers to regulate its own procedure. And also shall have the power of the Civil Court under the code of Civil Procedure, 1908 in respect of –

- ✦ Summoning and enforcing the attendance of any person and examining on oath.
- ✦ Requiring the discovery and production of any document.
- ✦ Issuing commissions for examination of any witness.

2.2.5. **THE FOREIGNERS (TRIBUNAL) AMENDMENT ORDER, 2012.** Under the Foreigners Tribunal amendment order 2012, every case should be disposed of within a period of 60 days after the receipt of the reference from the competent authority. A copy of the order is placed at **annexure 11**.

2.2.6. **THE PASSPORT (ENTRY INTO INDIA) ACT, 1920.** This Act confers powers on the Central Government, to make rules requiring possession of passports by persons entering India. Under Section 3 of the Act, the Central Government may make Rules requiring that persons entering India shall be in possession of passports, and for all matters ancillary or incidental to that purpose, and also provides for fines, penalties for contravention thereof, if any.

2.2.7. **THE CITIZENSHIP ACT, 1955.** A comprehensive law dealing with citizenship was passed by Parliament in 1955 in accordance with the powers vested in it by Article 11 of the Constitution. The provisions of the Act may be broadly divided into three parts, acquisition of citizenship, termination of citizenship and supplementary provisions. The Act provides five modes of acquiring the citizenship of India. These are:

- ♣ By birth.
- ♣ By descent
- ♣ By registration.
- ♣ By naturalisation
- ♣ By incorporation of territory

6(A) Special provisions as to citizenship of persons covered by the Assam Accord. Any person who came to Assam on or after the 1st January 1966 but before the 25 March 1971 and has been ordinarily resident in Assam and detected to be a foreigner shall register himself before the Registering Authority as specified by the Central Government in accordance with the rule and if his name is included in any Electoral Roll in force on the date, his name shall be deleted there from on the date of such detection. He shall be deemed to be a citizen of India for all purposes from the date of expiry of a period of 10 years from the date on which he has been detected to be a foreigner.

2.2.8. **THE CITIZENSHIP (REGISTRATION OF CITIZEN & ISSUE OF NATIONAL IDENTITY CARDS) RULES, 2003.** The Central Government has made the rules for preparation of National Register of Indian Citizen in the State of Assam in exercise of the powers conferred by Section 18 of the Citizenship Act, 1955.

2.2.9. **THE CITIZENSHIP RULES, 2009** The Central Government had made rules in exercise of powers conferred by Section 18 of Citizenship Act, 1955 in respect of (a) Application for Citizenship, (b) Issue of certificates of Citizenship and maintenance of Registers and connected papers. (c) Provisions as to citizenship of India for persons covered by Assam Accord. (d) Renunciation and deprivation of Citizenship of India. These rules have repealed the earlier citizenship rules, 1956.

2.3. FOREIGNER'S TRIBUNAL AND ILLEGAL MIGRANTS (DETERMINATION TRIBUNALS)

2.3.1. The Foreigner's Tribunals are to furnish opinion on the question as to whether a person is or is not a foreigner within the meaning of Foreigner's Act, 1946 whenever such reference is made to them. The Tribunals have the powers of a civil Court while trying a suit under the code of civil procedure in respect of summoning and enforcing the attendances of any person and examining him on oath, requiring the discovery and production of any document and issuing commissions for the examination of any witness. The number of Foreigner's Tribunals established has varied from time to time, according to the requirements of the situation. The Foreigner's Tribunals established after 1964 were gradually wound up between December 31, 1969 and March 1, 1973 in phases when they were no longer found necessary as most of the infiltrators had been deported. Besides, with the issue of revised procedure for deportation of Pakistani infiltrators in June 1969, it was decided that fresh references for the Foreigners Tribunals were to be dispensed with and the existing Tribunals were to continue only till the old pending cases were disposed of. For the residue work, the task was to be by the normal course of law. However, the Foreigner's Tribunals were revived in 1979, and 10 Foreigners Tribunals were constituted on July 4, 1979.

2.3.2. In 1983, IM(D)Ts were established under the Illegal Migrants (Determination by Tribunals) Act, 1983. Prior to that an ordinance was passed facilitating the setting up of IM(D)Ts. The State Government had initially decided to set up 20 IM(D)Ts. At the same time after 1985, the Foreigner's Tribunals co-existed with IM(D)Ts with the signing of the Assam Accord. While IM(D)Ts took up cases of suspected foreigners of the post March 25th 1971 stream, the existing Foreigners Tribunals were entrusted with the responsibility of disposing of cases pertaining to pre-March 25th 1971 stream of suspected foreigners. IM(DT) Act was amended by IM(DT) Amendment Act 1988 on April 25, 1988. With the Hon'ble Supreme Court declaring the IM(DT) Act, 1983 as *ultra vires* in 2005 and striking them down, the Tribunals and Appellate Tribunals

have ceased to function. The performance of the IM(DT) during various time periods is summarized below.

IM(DT) cases

Period	Cases Referred	Cases Disposed	Cases pending (cumulative)	Number of Persons declared as foreigners	Number of declared foreigners pushed back/deported.
1985-90	22682	6486	16196	6724	521
1991-95	3488	7335	12349	2577	792
1996-2000	17623	4420	25552	902	179
2001-July 2005	68998	5780	88770	2643	55
Total	112791	24021	88770	12846	1547

- 2.3.3. All cases pending before the Tribunals under the Illegal Migrants (Determination by Tribunals) Act, 1983 shall stand transferred to the Tribunals constituted under the Foreigners (Tribunal) Order, 1964 and shall be decided in the manner provided in the Foreigners Act, the Rules made there under and the procedure prescribed under the Foreigners (Tribunals) Order, 1964.
- 2.3.4. It has been found that due to a variety of reasons – lack of judicial supervision, long vacancies of members, inadequate staff – large number of cases were pending unregistered in some of the tribunals. On specific pursuance from Government of Assam and judicial intervention by Hon'ble Gauhati High Court, the number of unregistered cases has come down but there are still more than 65000 unregistered cases pending for years together in some of the foreigners tribunals. Additional staff have been deputed from Border Police so that all cases are registered without further delay.
- 2.3.5. The 21 IMDTs functioning in Assam were wound up and replaced by 21 new Foreigners Tribunals. The learned judges and staff of IMDT were redeployed in the newly created additional Foreigners Tribunals. As a result, after 2005, 32(21 new + 11 existing) Foreigners Tribunals started functioning. The number of Foreigners Tribunal has now been raised to 36 with the functioning of 4 new Foreigners Tribunals. The performance of Foreigners Tribunal over different time period is presented in the table below:

Foreigners Tribunal Cases

Period	Cases referred	Cases disposed	Cases pending (cumulative)	Persons declared as Foreigners	No. of declared foreigners pushed Back/deported.
1985-90	32991	15929	17062	14801	133
1991-95	482	5909	11635	4005	267
1996-2000	2986	3552	11069	6026	235
2001-2005	6094	2216	14947	4593	39
2006- July 2012	65666	45456	35157	12913	221
Total	108219	73062	35157	42338	895

Consolidated total of deported/ pushed back illegal migrants on being declared as foreigners by IMD(T)s and Foreigners Tribunals collectively till July 2012 – **1547+895=2442**.

2.3.6. The various Tribunals have since 1985 declared 61,774 persons as foreigners, both from the 1966-1971 stream and the post 25 March 1971 stream. A table indicating the streams to which these foreigners belong on being so declared by appropriate tribunals at various phases is placed below:

Period	1966-1971 stream	Post-1971 stream	Total	'D' Voters declared as foreigners.	Total with 'D' voters.
1985-1990	14801	6724	21525		21525
1991-1995	4005	2577	6582		6582
1996-2000	6026	902	6928	6590 (1998 to 31.7.2012)	33667
2001-2005	4593	2643	7236		
2006-2012 July	3112	9801	12913		
Grand total	32537	22647	55184	6590	61774

2.3.7. The above table clearly brings out the fact that a majority of the foreigners declared by the tribunals belong to the 1966-1971 stream, who, at any rate, are not to be deported but to be given time for registering themselves as Indian citizens. From the figures collected by Border police from various tribunals, out of 32,537 foreigners belonging to the 1966-1971 stream only 12,914 foreigners have registered themselves with the jurisdictional FRROs. On the other hand, tribunals (IMD(T)s and FTs) have declared 29,237 as foreigners who belong to the post 25 March 1971 stream. These 29,237 foreigners so declared by the appropriate tribunals over a long period of time were to be deported forthwith. However, records reveal that only 2442 such persons have been deported/pushed back.

2.4. PROCEDURE OF DETECTION AND DEPORTATION

2.4.1. Border Police Personnel are deployed in all Districts of Assam for detection of suspected foreigners and deportation / push back of declared foreigners. Apart from district deployment, Border Police Personnel are also deployed in 159 Watch Posts located in infiltration prone areas of 17 Districts to detect illegal foreigners settled in

their area of jurisdiction. There are 12 BOPs and 2 TAC Hqs of Border Organization functioning as Second Line of Defence behind the BSF BOPs in Dhubri, Cachar and Karimganj districts to check the infiltrators who might sneak through the first line of BoPs.

- 2.4.2. For detection of illegal foreigners, Border Police personnel mainly carry out survey work for identification of the suspected foreigners. During the village survey, Border Police personnel keep liaison with local Gaonbura, VDP etc. who may give vital information about presence of suspected foreigners. The list of the villagers is collected from the Gaonbura and VDP. Accordingly, the number of members in each family is checked and if any person is found whose name does not appear in the list then his/her citizenship is doubted and they are asked to produce documents in support of their citizenship. Every such person is given reasonable opportunity to produce the documents in support of his/her citizenship and enquiry is initiated against him/her only if he/she fails to produce satisfactory evidence after availing due opportunity.
- 2.4.3. Further, the survey and surveillance is generally carried out in the areas of new Settlements, Construction sites, encroached land, Government Land, Forest Land and hitherto uninhabited areas to identify and detect the suspected foreigners. Spot visits to Ferry Ghats, Bus Stands, Weekly Bazzars, Railway Station are also carried out to check movement of suspected foreigners.
- 2.4.4. It has been observed by Border Police that most of the suspected foreigners are found to be working as daily-wage labourers and Rickshaw Pullers who live in rented houses and do not own property. Most of these suspected foreigners claim that they do not keep required documents with them to prove their Indian citizenship and therefore they seek time fetch the relevant documents from their home districts for production before the authorities. However, during the given period, most of these suspected foreigners go untraced. In such cases, enquiries initiated against untraced suspected foreigners remain pending for long.
- 2.4.5. If the suspected foreigner produces documents to prove himself / herself as citizen of India and if the documents produced is found to be unauthenticated and unreliable, then an enquiry is initiated with approval of Superintendent of Police. After receiving the enquiry report from the enquiry officer, the Superintendent of Police, if satisfied, makes a reference to the Foreigners Tribunal under Foreigners Tribunal order 1964. The immigrants from the erstwhile East Pakistan, who came to India prior to January 1, 1966 are treated as Indian citizens under the Citizenship Act 1955.

Generally, any of the following documents like the Voter list of 1966, NRC of 1951, Refugee Certificate issued by the Government of India, Revenue record prior to 1966, School certificate prior to 1966 are asked for establishing the date of arrival of foreigners. If the person fails to produce the above mentioned documents to establish his citizenship as on January 1, 1966 then an enquiry is initiated against him/her that he/she is a suspected foreigner. If he/she fails to produce any of the above mentioned documents but produces some other documents which establish his/her entry into India between the period January 1, 1966 to March 24, 1971 (midnight), then an enquiry is initiated under Citizenship Act that he /she is a suspected foreigner of the 1966 –1971 stream. As per provision of section 6A of Citizenship Act 1955 the names of such foreigners are deleted from the electoral rolls for a period of 10 years from the date of detection and they are required to register their names with registering authority within extended period of 60 days. In case they fail to do so, they are liable to be deported.

- 2.4.6. As per orders dated October 21, 2009 Government has authorized Border Organization to obtain the fingerprints and photographs of suspected foreigners before or at the time of referring the cases to Foreigners Tribunal.
- 2.4.7. Foreigners Tribunal sends the copy of Opinion/Judgment to the Superintendent of Police for necessary action. The Foreigners Tribunal also decides whether or not the foreigner belongs to the post 1971 stream or the 1966–71 stream.
- 2.4.8. The process of detection has inherent difficulties since language, culture and living habits sometimes makes it difficult to identify the illegal immigrants. In the process of detection therefore even the genuine citizens may sometimes get subjected to enquiry. The suspected foreigners often work as daily workers and have no permanent addresses and some of them frequently change their locations. The Border Police also faces problem when suspected foreigners resist enquiry and do not cooperate in producing the documents.
- 2.4.9 It is difficult to give a precise estimate of illegal migrants/foreigners in Assam. Even when the new Government came to power after the Assam Accord, the Government in reply to a starred assembly question asked by Sheikh Abdul Hamid M.L.A during the session of August, 1986 regarding the number of foreigners residing in Assam then, stated that 'there is no definite information as regards the exact number of foreigners residing in Assam'. Similarly, in reply to another starred question asked by Amrit LaL Basumatary in the same session of August, 1986 about how many foreigners had entered Assam after 25 March 1971, the Government replied that 'the

exact number of foreigners who entered Assam after 25th March 1971 is not known'. Much later in the December session of the Assembly in 1996 in reply to an unstarred question no 398 asked by Shri Afzalur Rehman M.L.A regarding the total number of foreigners and illegal migrants in Assam, the Government stated that 'the exact number of foreigners and illegal migrants in Assam cannot be estimated as it is a fact of history and continuous process'.

2.5. DEPORTATION / PUSH BACK

- 2.5.1. For deportation of declared foreigners he/she is handed over to the BSF who takes up the matter of such deportation with their counter part - the Border Guards of Bangladesh (BGB) – as well as with the Ministry of External Affairs, Government of India. Often, it is found that the BGB refers to the local police authorities in Bangladesh for verifying the address as also the character and antecedents of these persons. It is only after complete and satisfactory verification that they accept such persons – a process which delays the return of the illegal immigrant to his home country.
- 2.5.2. Once a person is declared as foreigner he or she is taken into custody and kept in detention centre till he or she is pushed back to his or her country of origin. The foreigners who are kept in detention centre are pushed back through BSF deployed on the border.
- 2.5.3. There is difference between 'Push Back' and 'Deportation'. In case of Push Back there is no need for acceptance of the person concerned by the BGB. In case of deportation, on the other hand, there is proper flag meeting between BSF and BGB and deportation takes place only when BGB accepts the foreigner. If BGB refuses to accept the foreigner, BSF is left with no further option and such persons become 'stateless'.
- 2.5.4. In the absence of a proper laid down procedure for deportation of illegal migrants between the Government of India and the Government of Bangladesh, it has become difficult to carry out deportations. As such, deportation of foreigners is mainly carried out through the 'push back' method. However, to overcome this problem, the Ministry of Home Affairs has recently prescribed a detailed proforma which has been circulated to all State Governments for collecting data of such foreigners who are presently being detained in detention centres. The matter of deportation of foreigners who have illegally entered into India needs to be taken up by the Government of India with the Government of Bangladesh so that a proper policy could be evolved

and the process of deportation of such declared foreigners become easier and hassle free.

2.6. 'D' VOTERS

2.6.1. In pursuance of instructions of Election Commission of India dated January 5, 1998 during intensive revision of electoral roll in Assam in 1997, the letter 'D' was marked against the names of those electors who could not prove their Indian citizenship status at the time of verification through officers, especially appointed for the purpose. 'D' meant that the citizenship status of the elector was doubtful / disputed. Verification was done through local verification officers (LVOs). Based upon the report of the Local Verification Officers (LVOs), the Electoral Registration Officers took a decision on whether a reference to the concerned Tribunal was necessary to ascertain the Indian citizenship status of such elector. Once the Electoral Registration Officers confirmed in the affirmative, such cases were forwarded to the competent authority (SP of the concerned district) for reference to the concerned Tribunal. Such electors marked with 'D' were neither permitted to cast their votes nor contest in Elections. In issuing such instructions, the Commission took into consideration various orders of the Gauhati High Court, Supreme Court and provisions of Article 326 of the constitution read conjointly with section 16 of the Representation of People's Act, 1950 and section 62 of the Representation of the People's Act, 1951. The cases of such 'D' voters were forwarded by the Electoral Registration Officers concerned to the competent authority (Police Department) for further reference to the relevant Tribunals for determination of their citizenship. Based on the judgment /orders of the Tribunals, the letter 'D' was either removed from against the names of those electors whose Indian citizenship status was confirmed or the name of the elector deleted from the Electoral Rolls in the case of those whose citizenship status as Indian could not be established in Court. A total of 2,31,657 'D' references were made to the competent authorities.

2.6.2. Following table summarizes the disposal of D voters cases by the Tribunals since 1998.

'D' VOTERS (1998- April, 2012)

Cases referred	Cases disposed	Cases pending	Persons declared as foreigners	Persons declared as Indian	Cases where no opinion could be expressed
231657	88192	143465	6590	44220	37382

2.7. INTENSIVE REVISION OF ELECTORAL ROLLS.

- 2.7.1. A detailed note on the intensive revision of electoral rolls undertaken in Assam from 1985 to 1997 is presented below:
- 2.7.2. In Assam, because of the agitation over the Foreigners issue, no intensive revision of rolls was undertaken between 1979 and 1985.
- 2.7.3. **1985:** E/Rolls in Assam were intensively revised in 1985 with 1/1/85 as the qualifying date with the date of final publication being 7/11/85. The Election Commission of India (ECI) decided to undertake this intensive revision in fulfillment of an assurance given before the Supreme Court in September 1984 in the context of the hearing of the Writ Petition challenging the validity of the 1983 General Elections in Assam. Polling Station wise lists of persons enumerated during house-to-house enumeration were subjected to thorough scrutiny with reference to the **1971 Electoral Rolls**. Those whose linkages could not be established with the 1971 E/Rolls or could not prove their Indian Citizenship were deleted from the E/Rolls during the revision process. General Elections in 1985 were held on the basis of these rolls.
- 2.7.4. **1989:** In 1987, the state government objected to the Election Commission's proposal for a summary revision of E/Rolls with the 1985 E/Rolls as the reference roll and demanded that an intensive revision of rolls be undertaken with 1/1/87 as the qualifying date, where, instead of the 1971 E/Rolls, the 1966 E/Rolls should be considered as the basic document for linkage reference. At the end of wide ranging consultation, intensive revision of E/Rolls was taken up in Assam with reference to 1/1/89 as the qualifying date and the **1966 Rolls** as the basic reference document. Two lists were directed by the Commission to be prepared after enumeration- **List I** containing the names of persons enumerated about whom the Electoral Registration Officer (ERO) does not consider it necessary to make an enquiry and **List II** containing names of persons in respect of whom, ERO has doubts about eligibility, including, but not restricted to citizenship.

In preparing List II, EROs consulted the following smaller lists:

- a. Electors in 1985 E/Roll but without linkage to 1966 Roll.
- b. Persons whose claims were rejected during revision of rolls in 1985.
- c. List of persons served with Quit India notices on the basis of orders of FTs.
- d. Refugee registration list prepared in 1971 of persons migrating to Assam in the wake of the Bangladesh war

Draft Rolls were published containing names of those in List I, names of those from List II in respect of whom ERO, after enquiry, concludes that they are eligible for entry in the draft rolls and, also, those in whose cases the ERO could not complete

the enquiry before draft publication. Deletions of those found ineligible, whether on account of their citizenship or any other account, were made during the process of revision following due process. Final Rolls were accordingly published.

2.7.5. **1993 (de novo revision)** : The state government was initially asked by the Commission to identify all polling station areas where there was an increase of more than 4% in the 1992 enumerated figures over the 1990 rolls. The state government duly identified certain such areas in all LACs. But representations to the Commission from various quarters alleging that the 1990 rolls suffered from major defects and some discrepancies in the figures projected by the state government and those available with the Election Commission resulted in the Commission ordering special instructions for revision of rolls with 1/1/93 as the qualifying date in all LACs of Assam. These instructions, which were issued after consultation with the Ministry of Home Affairs on 21/8/92, prescribed a new procedure for verification of names enumerated so as to exclude all foreign nationals from the E/Rolls.

In pursuance of these instructions, names of all persons enumerated after house-to-house visits, after consolidation polling station wise, were referred to the District Administration for verification of status as Indian citizens (through established laws, linkage to **1966 E/Rolls/** NRCs etc). From the consolidated list, **List I-** containing names of those verified and found to be Indians, and **List II** –containing names of those not considered Indian were prepared. Those in List I automatically found their names in the Draft Rolls. Observers from other states were appointed by the Commission to oversee revision work. Deletions were made during revision process by EROs from List I where the ERO was satisfied, even after verification by District Magistrate, that the person was ineligible for entry in the E/Rolls on ground of citizenship.

The Commission however allowed final publication of E/Rolls only in respect of 86 LACs after this revision exercise and withheld the publication of E/Rolls in 40 LACs, being dissatisfied with the revision exercise in those LACs. The Commission then ordered special revision in these 40 LACs in 1994 and ordered summary revision with 1/1/94 as the qualifying date in respect of the other 86.

In view of Special Leave Petitions no 2484-85/94 in the Supreme Court, these twin processes were suspended by the Commission in April 1994. Following affirmation by the Supreme Court on 5.5.94 of the Gauhati High Court order dated 28.1.94 (and modified on 1.2.94) in Civil Rules 1566, 1616, 1836 and 2814, all of 1993 that challenged some of the provisions made under this de novo revision process, the

Commission directed that the names of persons in List II prepared in 1993, except the names of persons declared or detected by Tribunals under IM(D)T and FT and those whose claims/ objections have been disposed off by the EROs) be published as supplementary draft rolls. But the names of those who were not entitled to be registered in the rolls for disqualification or lack of qualification on ground of citizenship or any other ground were to be deleted after following due procedure, including providing opportunity to the person concerned to be heard. All the above were duly followed. The rolls were finally published on 31/8/94 in consonance with the instructions of the Commission.

- 2.7.6. **1997:** The Election Commission ordered intensive revision with 1.1.97 as the qualifying date and issued special guidelines for this purpose. The guidelines were framed keeping in view the judgment and order dated 28.1.94 and 1.2.94 of the Gauhati High Court in the case of HRA Chaudhury vs Election Commission of India and others (Civil Rules 1566,1616,1836 and 2814 of 1993) which was upheld by the Supreme Court by its judgment and order dated 5.5.94 and Civil Appeals no 4171-4180 of 1994 arising out of SLPs(Civil) 2484-85 of 1994) and the judgment and order dated 6.2.95 of the Supreme Court in the case of Lal Babu Hussain and others vs Electoral Registration Officer and others.

The Gauhati High Court had held in HRA Chaudhury vs Election Commission and others (upheld by the Supreme Court)

“the draft rolls are to be prepared on the basis of the statements submitted by the heads of the households in a constituency in Form 4 under Rule 8.....the statement made by the head of the household has its own value and cannot be lightly brushed aside. Rules do not contemplate any inquiry into the question of citizenship at the stage of preparation of draft roll, although there is provision for objection after a draft roll is published on the ground that a person who is not a citizen of India has been erroneously included.”

The Supreme Court had held in Lal Babu Hussain vs Electoral Registration Officer and others:

“Thus the question whether a person is a foreigner is a question of fact which would require careful scrutiny of evidence since the enquiry is quasi-judicial in character....”

(This implied that the question of citizenship is to be determined by the authorities vested with such powers under the Citizenship Act 1955 and other laws relating to citizenship)

The 1997 draft rolls that were published after enumeration comprised two categories of persons:

- a. Persons whose names appeared in the roll prepared in 1993-94 and further revised with reference to 1.1.96 as the qualifying date.
- b. Persons who did not find their names in the roll prepared in 1993-94 and further revised with reference to 1.1.96 as the qualifying date

2.7.7. After publication of rolls in draft, the EROs caused verification through Local Verification Officers (LVOs) in respect of those in the draft rolls where linkages could not be established with the earlier rolls but were provisionally included. After due verification, the LVO submitted his report in a specified format to the ERO, who in turn forwarded the cases, where he had reasonable doubt about the citizenship of any person, to the Competent Authority under the IM(D)T Act or the FT Act for further reference to the concerned Tribunal. Where decisions of the Tribunals on referred cases were not received before the date of final publication of rolls, the letter 'D' was marked against the name of such electors to indicate that the citizenship status of those persons is Doubtful/Disputed. The names of such persons were either retained or deleted based on the decisions of the Tribunals on the references made. Persons marked as 'D' in the E/Rolls are neither allowed to cast their votes at elections nor allowed to contest any elections.

CHAPTER 3

STATUS OF IMPLEMENTATION OF THE ASSAM ACCORD

As the position of action taken on clauses 5.1 to 5.9 pertaining to the foreigner's issue has been discussed in previous chapter, the status of action taken in respect of clauses 6 to clause 14, is brought out below:

3.1. CLAUSE 6

- 3.1.1. As per the Clause 6 of the Assam Accord, constitutional, legislative and administrative safeguards as may be appropriate shall be provided to protect, preserve and promote the cultural, social, linguistic identity and heritage of the Assamese people. For this purpose the Government of Assam had earlier constituted a Committee of Ministers for Clause 6 under notification No. IAA 51/2005/29 dated 19th October 2006 to examine all the issues relating to the implementation of the Clause 6 of the Assam Accord including the definition of 'Assamese people'. This Committee had held a number of meetings and also met Political Parties. It sought the views of different Political Parties, Sahitya Sabhas, Youth Organisations, Student Bodies etc on the definition of 'Assamese People' and deliberated on the same. After the present Government assumed office in May 2011, a Cabinet Sub-Committee was constituted in July 2011 to *inter alia* deal with the matter of implementation of Clause 6 of the Assam Accord. The entire matter is now under examination of the Cabinet Sub-Committee.
- 3.1.2. A cultural centre called the Srimanta Sankardeva Kalashetra Complex has been established in 1992 at a cost of Rs 18.85 crores in Guwahati. Out of this, an amount of Rs 3.15 crores were spent during 1991-1995 and the remaining Rs 15.75 crores spent during 1996-2000. The Jyoti Chitran Film Studio (Phase-I&II) at Guwahati has been modernised at a cost of Rs 8.79 crores, of which Rs 4.79 crores were spent during 1998-2000 and Rs 4.20 crores were spent during 2001-2003. The Phase III (Part I) of the modernisation of the Jyoti Chitran Film Studio for Rs 10 crores has also been sanctioned by the Govt. of India in 2007. Against the release of Rs 10.00 crores by the Govt. of India, the State Govt. has already sanctioned Rs 6.66 crores to the Jyoti Chitran Film Studio Society (JCFSS), which is implementing the scheme. A Technical Committee and a Monitoring & Supervision Committee have been constituted to implement the project. An amount of around Rs 2.64 crores have been spent so far and works are under progress.

- 3.1.3. In addition to the two Monuments at Poa-Mecca, Hajo and Urvarsi Archaeological Site that were taken over by the Archaeological Survey of India in 1919 and 1918 respectively, the Archaeological Survey of India has taken up another three Monuments for their preservation in 2005. These Monuments are the Hayagriva Madhava Temple, Hajo, the Kedar Temple, Hajo and the Ganesh Temple, Hajo.
- 3.1.4. The Government of Assam has also taken up the development of Historical Monuments and Archaeological Sites in Assam. During 2009-10, three Historical Monuments and Archaeological Sites have been taken up for Rs 2.00 crores and another 8 taken up for Rs 5.00 crores during 2010-11. An amount of Rs 5.00 crores has been provided during 2012-13 for taking up the development of more Historical Monuments and Archaeological Sites in Assam.
- 3.1.5. The Government of Assam has also taken up the protection, preservation and development of Sattras in Assam. During 2009-10, three Sattras were taken up for Rs 3.00 crores and during 2011-12, Rs 10.00 crores was provided for the protection, preservation and development of 87 Sattras in Assam. An amount of Rs 15.00 crores has been provided during 2012-13 for the protection, preservation and development of 85 Sattras in Assam
- 3.1.6. The Executive Council of the Jawaharlal Nehru University has approved the establishment of an Assamese Chair in the Centre of Indian Language, Literature and Culture Studies of the University in 2007.

3.2. CLAUSE 7

- 3.2.1 Under Clause 7, the Government has renewed their commitment for the speedy all round economic development of Assam so as to improve the standard of living of the people. As per this Clause, special emphasis would be placed on education and science & technology through the establishment of national institutions.
- 3.2.2. An IIT has been set up in Assam and has been functioning since 1991. Central Universities have been established through Acts of Parliament at Silchar in 1989 and at Tezpur in 1993. They have started functioning since 1994. The Numaligarh Oil Refinery has been established in Assam at a cost of Rs 2,500 crores and was inaugurated in 1999. The State of Assam has been categorised as a special category state for the purpose of grants-in-aid on the pattern of 90% grant and 10% loan. Assam is also being provided substantial funds out of the Non-Lapsable Central Pool of Resources for different socio-economic projects.
- 3.2.3. The foundation stone of the Assam Gas Cracker Project was laid by Dr Manmohan Singh, Hon'ble Prime Minister of India on 9th April 2007. This project is under

implementation and its present cost is Rs 8,920.00 crores. The Government of Assam has a 10% equity participation in the project. A Joint Venture company in the name and style Brahmaputra Cracker & Polymers Ltd (BCPL) has already been formed and is functioning. The physical and financial progress so far is to the tune of 80% and 60% respectively.

3.2.4. For the purpose of utilisation of the finished products of BCPL and for promoting industrial development and generating employment, a Plastic Park is proposed to be set up in Assam. Assam Industrial Development Corporation (AIDC) is the nodal agency for implementation of the project over an area of 1,500 bighas at Gellapukhuri near Tinsukia at a cost of Rs 104.00 crores. To create awareness among the end-consumers, the manufacturers and the distributors as well as the retailers of plastic commodities, an International Plastofair was held in Guwahati in May 2010 in association with Plast India Foundation.

3.2.5. In an effort to revive the Ashok Paper Mill, it was leased out twice, first to M/s Sanghi Textiles Ltd in 1995 and thereafter to M/s North East Paper & Industries Ltd (NEPIL) in 2000. However, both failed to revive it and it was taken over by the Government of Assam in 2008. Thereafter, through the aegis of the Department of Heavy Industries, GoI, a DPR has been prepared by an international consultant for the purpose of revival of the Ashok Paper Mill by taking up a green field project. This DPR has been placed before the Government of Assam. A decision has been taken in January 2011, to execute the project either through the Hindustan Paper Corporation (HPC) or by putting up an Expression of Interest for inviting Companies to take up the project and the Government of India has been moved accordingly. Actions are now being taken to enable the revival of the Ashok Paper Mill.

3.3. CLAUSES 8.1 & 8.2

3.3.1. The Citizenship Act has been amended in 1985 and issuance of citizenship certificates is done only by the authorities of the Central Government. The Government of India have informed that they have not received any specific complaints relating to irregular issuance of citizenship certificates.

3.4. CLAUSES 9.1 & 9.2

3.4.1. BORDER FENCING & BORDER ROADS

3.4.1.1. The Indo-Bangladesh border with Assam has a length of 267.30 km. Out of this 223.068 km is the land border and 44.232 km are river stretches and other non-feasible gaps across the river border. Within 44.232 km, the Brahmaputra river has a stretch of 32.750 km in Dhubri District. Details of the river border areas is given in

the **Annexure-12**. Roads and Fences are erected only on land border and the length of 44.232 km is unfenced.

- 3.4.1.2. Roads and Fences have been taken up for construction on the land border in three phases. In the Phase-I, construction of new roads and fencing was taken up in 1986 by Assam PWD and works completed in 2003. In the Phase-II, construction of remaining new roads and fencing was taken up by Assam PWD in 2000-01. Subsequently some parts of this Phase-II works were handed over to the National Building Construction Corporation (NBCC) by the Assam PWD. While Assam PWD has almost completed its works, that of NBCC are in progress. Under the Phase-III reconstruction of the fences constructed in Phase-I was taken up from 2006-07 through NBCC and NPCC (National Projects Construction Corporation). While NBCC has completed its Phase-III assigned works, works of NPCC are in progress.
- 3.4.1.3. A total of 228.118 km of new fencing was sanctioned under Phase-I&II, out of which, based on field conditions, the actual required length was 224.694 km. Against this 218.170 km of fencing (97.1%) has been completed. A stretch of 2.874 km could not be taken up at Lathitila-Dumabari area of Karimganj district due to an international dispute. Works in respect of 150 metres of fencing are in progress with Assam PWD. These *interalia* relate to approaches of two bridges and are targeted for completion within 31st December 2012. A length of 3.50 km in Karimganj Town could not be taken up earlier as it was within 150 metres of the Bangladesh border. It has now been decided to take up single fencing in this stretch in Karimganj Town, for which actions have been initiated by the NBCC.
- 3.4.1.4. A total of 251.558 km of new roads were sanctioned under Phase-I&II, out of which, based on field conditions, the actual required length was 246.073 km. Against this 234.153 km of roads (95.16%) have been completed. Assam PWD is yet to complete 60 metres of roads, which is targeted to be completed by 31st December 2012. NBCC is yet to complete 11.86 km of roads out of which 3.50 km relates to Karimganj Town, where work is yet to be started, and 8.36 km relates to Masalabari area in Dhubri district where work is in progress and scheduled to be completed this year.
- 3.4.1.5. A total of 144.961 km of reconstruction of Phase-I fencing was sanctioned under Phase-III, out of which based on field conditions the actual required length was 134.727 km. Against this, 121.707 km (90.34%) has been completed. NBCC has completed all works assigned to it. Works are in progress in respect of 13.020 km of fencing being constructed by NPCC, which are targeted to be completed by 31st

March 2013. The Government of India has sanctioned the Phase-III of the fencing project, entailing the use of concertina with double coil wire fencing for replacing the entire fencing constructed under Phase-I. Due to persistent efforts from Chief Minister, Assam, phase II fencing was designed to be double row where concertina with double coil wire has been used in contrast to Phase I fencing which was only single row. A copy of the DO letter written by Chief Minister, Assam to Union Home Minister in 2004 is placed as **annexure 13**.

3.4.1.6. The period-wise achievement in respect of Phase I & II works done by Assam PWD since 1986 is given in **annexure-14** and works done by all agencies is at **annexure-15**. A summary of the works done by all the agencies is given in the table below:

Progress under Phase-I and Phase-II (Fencing)

(in kms)

Phase	Sanctioned / Actual Length	Actual required	Completed	Disputed	Balance
Phase-I	150.55	147.17	144.3	2.87	0
Phase-II	77.57	77.52	73.87	0	3.65
Phase-I & II	228.12	224.69	218.17	2.87	3.65
Phase-III Fencing	144.96	134.73	121.71	0	13.02

3.4.1.7 While Assam has almost completed its fencing project under phase I and II with around 97% of the work having been completed, the work in other states bordering Bangladesh is lagging behind as indicated below:

State	Total length of border fencing sanctioned under Phase-I and Phase-II	Total length of border fencing completed under Phase-I and Phase-II	Percentage of completion
West Bengal	1528 km	1222 km	80%
Meghalaya	470.23 km	380.06 km	81%
Tripura	856 km	730.50 km	85%
Mizoram	352.32 km	206.80 km	59%
Assam	224.69 km	218.17 km	97%

3.4.1.8. The total unfenced portion of the Assam-Bangladesh border at present is given in the table below:

(in km)

1.	River stretches and other non-feasible gaps across the river border	44.23	
	Unfenced River Border:		44.23
2.	Phase-II fencing yet to be completed by APWD & NBCC	3.65	
3.	Disputed land in Lathitila-Dumabari	2.87	
4.	Earlier completed fence in Phase-I, now under reconstruction by NPCC and yet to be completed	13.02	
5.	Unfenced Land Border:		19.55
	Total unfenced length along Assam-Bangladesh Border:		63.79

3.4.2. BORDER PATROLLING AND GUARDING

3.4.2.1. In order to strengthen border domination and to prevent any transborder crimes including infiltration and exfiltration, after 2001 in the Assam portion of the Indo-Bangladesh border, 11 new BOPs have been established. More BSF troops have been deployed and the water wing personnel have been made active on duty round the clock in the riverine border areas. At present the BSF and the state police are doing joint patrolling of the borders. A total of 6 battalions of BSF are deployed for guarding of the Indo-Bangladesh border (Assam portion). There are 91 BOPs at present and the distance between two BOPs has been reduced. Night vision devices, thermal indicators and radar for better surveillance are being used by the BSF at the border. The state police are also having BOPs for providing a second line of defence. To strengthen the Government machinery for the purpose of detection and deportation of foreigners, the Government of India has sanctioned 1,280 additional posts in different ranks under the PIF Scheme. Including these 1,280 posts, the total sanctioned strength of the Assam Police Border Organisation is 4,002 police personnel in different ranks.

3.4.3. COMMITTEE FOR PREVENTING INFILTRATION THROUGH THE UNPROTECTED RIVERINE AREAS

3.4.3.1 The actions taken for completing the fencing of the land border have been detailed above. Initiative has also been taken to ensure that infiltration is prevented from the river stretches and other non-feasible gaps across the river border. With this end in view the Governor of Assam constituted a Committee vide the notification No. IAA 56/2011/1 dated 12th September 2011 to examine and recommend ways and means for preventing infiltration through the unprotected riverine areas in the Assam-Bangladesh Border. The Committee visited the riverine border areas of Dhubri district in October 2011 and the riverine border areas of Karimganj and Cachar districts in November 2011. During these visits extensive discussions were held with BSF and other local authorities. Various technical options of preventing infiltration through such riverine areas are presently being considered.

3.4.4. FLOODLIGHTING

3.4.4.1. To enable proper vigilance of the international border during the night, action has been taken to provide floodlighting all along the Assam-Bangladesh border. Floodlighting works are being implemented by the CPWD in the Assam. These

works are divided between the Guwahati sector and the Silchar sector and the total length comes to 213.74 kms. The Guwahati sector comprises a stretch of 37.60 km in Dhubri sub-sector and 43.44 km in Mancachar sub-sector. Work has started in both these sub-sectors and is scheduled to be completed within 2012-13. The Silchar sector comprises three sub-sectors. The works in respect of the first, from BP. No. 1338 to 1356 & 680635 for 40.50 km have started and are scheduled to be completed within 2012-13. Works in respect of the remaining two sub-sectors having stretches of 46.70 km and 45.50 km are yet to be started and are scheduled to be completed within 2013-14.

3.5. CLAUSE 10

3.5.1. Land administration in the Protected Belts and Blocks in Assam is carried out as per provisions of Chapter X of the Assam Land and Revenue Regulation 1886 and Rules framed there under. Steps are taken for removal of encroachment on a continuous basis.

3.6. CLAUSE 11

3.6.1. The Assam Alienation of Land (Regulation) Act 1980 restricts the acquisition of immovable property by foreigners in Assam. Progress made is indicated below:

No. of Cases instituted	Persons involved	Area involved	Area made free and restored
141	461	661 bigha, 3 katha & 9 lessa	471 bigha, 1 katha & 0 lessa

3.7. CLAUSE 12

3.7.1. Due to persistent efforts the percentage registration of births and deaths has shown an increasing trend. The registration of birth has increased from 56% in 2003 to 86.23% at present. Death registration has also increased from 27% in 2003 to 46.92% at present.

3.8. CLAUSE 13

3.8.1. The agitation was called off by the All Assam Students Union (AASU) and the All Assam Gana Sangram Parishad (AAGSP).

3.9. CLAUSE 14

3.9.1. All disciplinary cases against government employees were withdrawn vide O.M.No.ABP 179/85/Pt.III/16 dated 22.8.1986.

3.9.2. The Assam Public Service (Preferential Appointment) Rules 1986 and thereafter 1999 was made to regulate appointment in public services under the Government of

Assam of the next of kin of persons who sacrificed their lives by participating in the Assam movement on the problem of insurgency. As per available records, so far 391 next of kin of victims of the Assam Agitation have been given jobs under the State Government.

- 3.9.3. An ex-gratia of Rs 30,000/- each has been given to next of kin of martyrs of the Assam agitation.

CHAPTER 4

EFFORTS OF THE GOVERNMENT OF ASSAM SINCE 2001 AND THE ROAD AHEAD

4.1. UPDATING NRC

4.1.1. Due to efforts of the Government of Assam, a tripartite meeting for Implementation of Assam Accord was held at the level of Prime Minister in 2005 with representatives of AASU and the State Government after almost 20 years of signing of Assam Accord. Updation of NRC of 1951 has been a long standing demand but not reflected in the Assam accord. However due to bold initiative of Chief Minister, the decision for updating the NRC 1951 was taken in the aforesaid tripartite meeting on May 5, 2005. Based on the recommendations of the Group of Ministers in 2008, THE CITIZENSHIP (REGISTRATION OF CITIZEN & ISSUE OF NATIONAL IDENTITY CARDS) RULES, 2003 was amended in 2009 to put necessary legislative framework in place for updation of NRC by inserting rule 4A and procedures after rule 18. The NRIC preparation in Assam is to be carried out by taking into account the names of persons included in NRC 1951, electoral rolls prior to March 24th (midnight) 1971 and their descendents along with other supporting documents. Accordingly, modalities for the updating of NRC and standard operating procedures were prepared and 2 Pilot Projects were undertaken in Chaygaon (Kamrup district) and Barpeta (Barpeta district) revenue circles. However, due to protests it had to be put on hold for some time and a Cabinet Sub-Committee was set up to make recommendations for removing the difficulties and simplifying the procedures. The Cabinet Sub Committee had extensive negotiation with all the agitating groups and was able to successfully arrive at a consensus on various issues. Now all the hurdles in the way of NRC updation preparation have been removed by simplification of the application form and increasing the number of alternative documents required for establishing the authenticity of the claims. A proposal has been sent to Government of India to undertake the process of updation/preparation of NRC vide **annexure 16**. A copy of DO letter written by Chief Minister Assam in August 2008 to Prime Minister of India is place at **annexure 16A**.

4.2. PROGRESS IN DETECTION AND DISPOSAL OF CASES

4.2.1. There has been a substantial increase in the number of cases detected during the last 11 years. The disposal of cases also has shown a significant increase during this

time period. The following table provides a comparative picture of the cases registered and disposed of by Foreigners Tribunals and IMDT:

FOREIGNERS' TRIBUNAL & IMDT

Period	Cases referred	Cases disposed of
1985-2000	80252	43631
2001-July 2012	140758	53452

4.2.2. It may be seen that the progress in 10 years time period from 2001-2012 far exceeds the progress made during the 15 years time period from 1985 to 2000. Keeping in view that the disposal mechanism is a judicial process and also subject to judicial review, the disposal of cases has not been able to keep pace with the number of cases registered in the Foreigners Tribunals. Therefore, there has been a large cumulative pendency of cases in the Tribunals which needs to be addressed through special measures.

4.3. STRENGTHENING OF MACHINERY FOR DETECTION AND DEPORTATION

4.3.1. In order to prevent infiltration into the State through Riverine Routes 4(four) River Police Stations and 7(seven) River Police Out Posts have been set up under River Police Organization. In addition, a new I.R. Battalion for River Police has also been raised and steps are being taken to provide necessary equipments and training to this riverine battalion. The Assam Police Border Organization has set up 159 Watch Posts in the infiltration prone areas of 17 districts of Assam for detection of illegal infiltrators.

4.3.2. The ex-servicemen employed under PIF scheme have been given the status of regular government servants so that they do not suffer from uncertainties of employment. Government has paid more than Rs 22 crores as arrears to these ex-servicemen deployed since 1988 during 2011-2012.

4.3.3. The number of Foreigner's Tribunals which was hovering between 4 and 11 from 1964 to 2005 increased to 36 Tribunals in 2009. All of them have been made functional. Standard staffing pattern and service order governing service conditions of FT staff have been notified. Proposal for providing additional staff depending on workload is submitted to MHA for approval. Power of appointment of vacant staff position has been delegated to Member FT based on a transparent selection process by a board headed by Deputy Commissioner.

4.3.4. New terms and conditions have been issued for appointment of Members so as to make the service conditions attractive. The upper age limit has been relaxed from 65

to 67 years, remuneration has been made more attractive besides providing other amenities like vehicle, orderly peons etc. This has led to significant reduction in vacancy position of Judicial members of Foreigners' Tribunals – 33 members are in place and other 4 applications are in process to achieve 100 % occupancy. It is noted that till February 2011 there were as many as 13 vacancies of Members, Foreigners Tribunal. The Government of Assam has also received 7 nominations from the registrars of the High Courts of other states and 3 members have been appointed so far from outside the state. There is a paucity of suitable judicial officers in the State and all efforts have been made to fill up all the posts of members. This is the biggest impediment to our efforts in increasing the number of tribunals.

- 4.3.5. Office infrastructure of Foreigners Tribunals has been improved by providing computers, printers, telephone, fax, photocopiers etc. The Government of Assam is making every effort to overcome the constraints of inadequate infrastructure including office space for all the Foreigners Tribunals.

4.4. DETENTION CENTRES

- 4.4.1. In most cases it was found that illegal migrants detected as foreigners by the foreigners Tribunal under the provision of the foreigners Act, 1946 go untraced after they are so detected. This has created hurdles in deportation of the foreigners detected by the Foreigners Tribunals. To impose restrictions in the movement of the detected foreigners and requiring them to reside in a particular place immediately after they are so detected and to ensure that such persons do not 'perform the act of vanishing', it was decided to set up detention centres to keep such foreigners till they are deported to their country of origin. The Government of India has authorized the State Government under the provisions of Section 3(2) (e) of the Foreigners Act, 1946 and Para 11(2) of the Foreigners Order, 1948 to set up detention centres. Accordingly, detention centres have been set up at Goalpara, Kokrajhar and Silchar for keeping persons declared as foreigners. The number of such foreigners kept in three detention centres (as on 15/10/2012) is as follows-. Goalpara (66), Kokrajhar (32), and Silchar (20). Their finger prints and photographs are also being kept and the photographs of absconding foreigners are being published in Newspapers.

4.5. COMMITTEES FOR DETECTION OF FOREIGNERS AND PREVENTING HARASSMENT OF GENUINE INDIAN CITIZENS

- 4.5.1. Thana Level Committees headed by Circle Officer (Revenue) of the area have been set up in all districts to ensure that genuine Indian citizens are not harassed. Besides, Circle Level, District Level and State Level Committees have also been formed with the objective of assisting the Government in the detection of foreigners in the State

while ensuring that no genuine Indian citizens are harassed. Copies of Government notifications are placed at **annexure 17 and 17A**.

4.6. IMPACT OF GOVERNMENT MEASURES ON INFILTRATION

4.6.1. Assam witnessed a decadal population growth rate higher than the all India average during the major part of the twentieth century. The decadal growth of Assam since 1901 is given in the table below.

POPULATION TREND IN ASSAM AND INDIA

YEAR	Population (in lakh)		Percentage Decadal Variation		Density (Person per Sq. Km.)	
	ASSAM	INDIA	ASSAM	INDIA	ASSAM	INDIA
1901	33	2384	0	0	42	77
1911	38	2521	17	5.8	49	82
1921	46	2513	20.5	0.3	59	81
1931	56	2789	19.9	11	71	90
1941	67	3186	20.4	14.2	85	103
1951	80	3611	19.9	13.3	102	117
1961	108	4392	35	21.5	138	142
1971	146	5481	35	24.8	186	177
1981	0	6833	0	24.7	0	230
1991	224	8463	24.2	23.9	286	267
2001	266	10270	18.9	21.5	340	325
2011#	312	12102	16.9	17.6	397	382

* *Interpolated*

Provisional

The higher decadal population growth rate of the state has been attributed to migration from outside Assam. However, due to various measures taken by the Government to curb cross border migration, amongst other things, growth rate of population in 1991-2001 (18.9%) and 2001-2011(16.9%) censuses has shown a declining trend. This rate has been lower than the national growth rate which was 21.5% in 1991-2001 and 17.6% in 2001-2011.

4.7. ROAD MAP FOR FUTURE

4.7.1. The Government of Assam is committed to expediting the process of detection and disposal of cases pending with the Foreigners Tribunals. Towards this end, the Government of India has amended the rules mandating the Tribunals to dispose of cases within a stipulated time of 60 days. In regard to the cases which are already pending, a plan of action will be put in place in consultation with the Foreigners Tribunals so that all cases pending in tribunals are disposed of in a time bound manner. A workshop to finalize the plan of action will be held with all the Members of foreigners Tribunals and border Police shortly. Earlier on 10th April 2008, a workshop was held to discuss ways and means for expediting the disposal of cases and the problems faced by Members of Foreigners Tribunal. In addition, the existing Foreigners Tribunals are being strengthened in terms of infrastructure and man

power. Separately, Border Wing of the Assam Police Border Organization will also be strengthened with the enabling support structure for servicing the Foreigners Tribunals and also for the purpose of detection and investigation of the cases. The Government of Assam has also sent a proposal to the Government of India to increase the number of Foreigners Tribunals in the State so as to cope with the extra load in select districts.

- 4.7.2. The Government of Assam is committed to updation /preparation of a correct National Register of Indian Citizens for the entire State in phases. All the procedural hurdles have now been removed amicably and the Central Government has been requested to bring about necessary changes in the rules and standard operating procedures for commencing the work. The areas comprising 42 LA constituencies shall be taken up in the first phase. An NRIC Directorate / Commissionerate to be headed by a Commissioner/Secretary ranked officer with modern infrastructure, adequate officers and staff will be set up soon to undertake the myriad processes of NRIC. In addition, the Government is setting up an Advisory Commission headed by a retired Judge as Chairperson and 2 senior Retired Government officials as Members to advise the Government on NRIC matters and the Foreigners' issue. NRIC Directorate will render secretarial service to this commission. The Government of Assam is hopeful of completing the preparation of NRIC within 3 years.
- 4.7.3. The Government of India notified the Unique Identification Authority of India (UIDAI) as an attached office under the aegis of the Planning Commission to implement the UID Scheme. The UID initiative proposes to develop a comprehensive database for the entire resident population of the country and its objective is to create a core database which is regularly updated and is easily accessible by all departments for identification of residents in the country for various purposes. The Government approved that UIDAI may create initial database from the Electoral Rolls as one of the partner databases and validate the same through BPL database and PDS database. The database so created would be a database of residents, not of citizens. UIDAI also has the responsibility of defining mechanism and processes for interlinking AADHAAR Numbers with other databases on a continuous basis, co-ordinating with the implementing agencies.
- 4.7.4. The Government of Assam is fully seized of the problem of unguarded riverine areas where ingress of infiltrants is possible. Therefore, the Government is committed to implementing the recommendations of the committee constituted for the purpose as brought out in paragraph 3.4.3 in the previous chapter.
- 4.7.5. The Government seeks to activate and strengthen the local thana level committees for detecting foreigners and preventing harassment of genuine Indian citizens so that infiltration of foreigners is checked at the grass root level besides preventing harassment of genuine Indian citizens in the process.