

# How do Assam's Foreigners Tribunals function? | Explained

How do these tribunals decide whether a person is Indian or not? Does the Border police play a role?

Published - July 19, 2024 08:30 am IST

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The Foreigner's Tribunal office in Barpeta, Assam. | Photo Credit: AP

**The story so far:** On July 5, the Assam government asked the Border wing of the State's police not to forward cases of non-Muslims who entered India illegally before 2014 to the Foreigners Tribunals (FTs). This was in keeping with the Citizenship (Amendment) Act of 2019 that provides a citizenship application window for non-Muslims — Hindus, Sikhs, Christians, Parsis, Jains, and Buddhists — who allegedly fled persecution in Afghanistan, Bangladesh, and Pakistan.

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## How did the FTs come about?

The FTs are quasi-judicial bodies formed through the Foreigners (Tribunals) Order of 1964 under Section 3 of the Foreigners' Act of 1946, to let local authorities in a State refer a person suspected to be a foreigner to tribunals. The FTs are currently exclusive to Assam as cases of "illegal immigrants" are dealt with according to the Foreigners' Act in other States. Each FT is headed by a member drawn from judges, advocates, and civil servants with judicial experience. The Ministry of Home Affairs told Parliament in 2021 that there are 300 FTs in Assam but the website of the State's Home and Political Department says that only 100 FTs are currently functioning, beginning with 11 established before the Illegal Migrants (Determination by Tribunals) Act of 1983 was scrapped in 2005.

## What is the role of the Border police?

The Assam Police Border Organisation was established as a part of the State police's Special Branch in 1962 under the Prevention of Infiltration of Pakistani (PIP) scheme. The organisation was made an independent wing in 1974 and is now headed by the Special Director General of Police (Border). After the liberation war of Bangladesh, the PIP scheme was renamed Prevention of Infiltration of Foreigners or PIF scheme. The Centre has sanctioned the posts of 3,153 out of the 4,037 personnel of this wing under the PIF scheme while 884 are sanctioned by the Assam government. The members of this wing are tasked with detecting and deporting illegal foreigners, patrolling the India-Bangladesh border with the Border Security Force, maintaining a second line of defence to check the entry of illegal foreigners, and monitoring people "settled in riverine and char (sandbar) areas". This is apart from referring people of suspicious citizenship to the FTs to decide whether they are Indian or not based on documents. Cases of 'D' or doubtful voters can also be referred to an FT by the Election Commission of India and people excluded from the complete draft of the National Register of Citizens (NRC) released in August 2019 can appeal to the FT concerned to prove their citizenship. Some 19.06 lakh out of 3.3 crore applicants were excluded from the NRC, whose process has been on hold.

## How does an FT function?

According to the 1964 order, an FT has the powers of a civil court in certain matters such as summoning and enforcing the attendance of any person and examining him or her on oath and requiring the production of any document. A tribunal is required to serve a notice in English or the official language of the State to a person alleged to be a foreigner within 10 days of receiving the reference from the authority concerned. Such a person

has 10 days to reply to the notice and another 10 days to produce evidence in support of his or her case. An FT has to dispose of a case within 60 days of reference. If the person fails to provide any proof of citizenship, the FT can send him or her to a detention centre, now called transit camp, for deportation later.

## **Why are some FT orders under fire?**

On July 11, the Supreme Court set aside an FT order declaring Rahim Ali, a deceased farmer, a foreigner 12 years ago. The apex court called the order a “grave miscarriage of justice” while pointing out that the Foreigners’ Act does not empower the authorities to pick people at random and demand that they prove their citizenship. In September 2018, an FT member in central Assam’s Morigaon observed that foreigners’ cases have assumed the form of an industry where everyone involved is “trying to mint money by any means”. The member also noted that notices are “hung up on some trees or electric pole” without the suspected non-citizens unaware of such a case against them.