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A senior official at the Assam home ministry speaking on condition of anonymity said that members only get one or two days of orientation before overseeing a tribunal. One tribunal member who is a retired district court judge, also speaking anonymously, said that some members were not experienced enough and made mistakes in gauging evidence.

One thing is consistent: The members expect record-keeping that few in Assam have.

Many people in the judgments knew their place of birth, but rarely the exact date. And the date of birth on school certificates often didn't match the ages on voter lists. In interviews, parents recalled that if they didn't know their children's exact birthday, a school headmaster would sometimes write down an estimate based on the child's height. The differences in Assamese and Bengali pronunciation of

finding any foreigners? Then I realised that they are just not there."

A younger former member, also requesting anonymity because he works in the High Court, believed he was fired for being "too lenient."

Both were part of a group of 14 former Foreigners Tribunal members who in 2017 sued the Assam government in the High Court to be reinstated as they believed they had been wrongfully terminated. Among other allegations, they said the state had fired them for not declaring enough people foreigners. "In the latter part of our tenure, there was an undercurrent from the authorities that we should produce more foreigners," the younger former member said.

The Assam government responded in the High Court, "The performance of Foreigners Tribunals have always been an important topic of discussion." It also attached a telling annexure: A table with columns for the percentage of cases heard, and the percentage of those declared

approved 200 more Foreigners Tribunals, Assam decided to appoint retired civil service employees with some judicial experience as members.

"[Foreigners] Tribunals are the most important tribunals in the country," said the older of the former members, his voice rising in anger at the idea of bureaucrats deciding foreigners' cases.

"It's not a joke. Making a person stateless is worse than a death sentence."

LIVING IN FEAR

Many people don't even get a hearing. In the Hajo tribunal where Ayesha is fighting for her citizenship, in the last half of 2018, every single one of 299 judgments issued declared the accused a foreigner in their absence. Nearly 98 percent of those people were Muslims. Another Kamrup court, the Amingaon Foreigners Tribunal, declared 98 percent of the accused foreigners.

Across all four tribunals, more than three-quarters of the orders were delivered in the absence of a defendant.

When asked about the ex-parte decisions, a tribunal member who spoke on the condition of anonymity blamed the high number on people who live on islands moving homes often due to flooding and not updating their addresses on records. A senior officer in the border police station in Amingaon, also speaking anonymously, said that after being issued a summons, many people go into hiding. Both spoke on the condition of anonymity as they were not authorized to speak to the press.

But the tribunal member also acknowledged that when the border police cannot issue a summons, they routinely say they can't find the accused individual, without explaining how they tried.

Sarabari, a village of about 6,000 people under the Hajo tribunal's jurisdiction, is home to 18 people declared foreigners in absentia in the Hajo tribunal during the six months reviewed.

Villagers said that in addition to not properly notifying them on a summons, police often don't do an initial investigation. Before officially filing a complaint and summoning a person to a Foreigners Tribunal, border police are supposed to visit their home, giving them an opportunity to present documents proving their nationality. But about two dozen lawyers and nearly 100 people who've been through tribunals said this initial inquiry wasn't done.

Sarabari's elderly headman Yakub Ali said border police regularly file complaints without giving his villagers an opportunity to present proof of their citizenship. In fact, in all the decades Foreigners Tribunals have existed, and Ali has ministered to Sarabari, he said he's never been contacted by border police for an initial inquiry nor heard of one happening. Nazmul Islam Bhuiyan, a Gauhati lawyer who estimates he has worked on about 200 cases in six tribunals, said police had not done a proper initial inquiry in a single one of his cases.

This shoddy police work was recently exposed publicly. The Boko tribunal had declared a retired army serviceman a foreigner based on differences between his details and the police complaint and had him detained in May. The family of the accused man, Mohammed Sanaullah, told the media they were shocked.



PHOTO: SAHIBA CHAWDHARY

Monima and Lilima Begum, their children, and the mother of the Ali brothers, who were taken to detention after being declared foreigners.

letters can lead to different spellings when documents were written in English. Some Muslims said government officials added names and titles, like Abdul, Sheikh, and Mohammed, to their given names, creating more confusion.

Members often disregard documents over discrepancies like these.

"If this parameter is applied on every Indian, almost all will become stateless," Aman Wadud, a Gauhati lawyer, said.

A former member in a Foreigners Tribunal now practicing in the Gauhati High Court criticised the tribunals' reliance on documents alone, ignoring the local context of illiteracy, poor record-keeping, and frequent migration during floods.

Speaking on condition of anonymity, the former member added he'd been led to believe that Assam was filled with unidentified foreigners, but the first few months presiding over his tribunal proved him wrong. "I thought, why am I not

foreigners. When the latter was below 10 percent, the member was usually marked "Not satisfactory. May be terminated." One member who had heard 10 percent of cases pending in his court and found 59 percent of the defendants to be foreigners was recommended for a contract extension. Another who had heard 26 percent of the tribunal's cases and declared only 4 percent of people foreigners was fired.

In its official response to the members' petition, Assam's home ministry dismissed the allegation that they assessed the performance of members by their conviction rate. Two serving members also said they were not under any direct pressure from the state to declare people foreigners. After the petition was filed, a High Court monitoring bench took over the appraisals of members. The bench chair turned down a request for an interview.

In May, after the government of India

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