APPENDIX A

Assam Accord, 15 August, 1985

Accord between AASU, AAGSP and Central Govt, on the Foreign National Issue

MEMORANDUM OF SETTLEMENT

1. Government have all along being most anxious to find a satisfactory solution to the problem in Assam. The All Assam student Union (AASU) and All Assm Gana Sangram Parishad (AAGSP) have also expressed their keenness to find a solution.

2. The AASU through their Memorandum dated 2nd February 1980 presented to the late Prime Minister Smt. Indira Gandhi, conveyed their profound sense of apprehensions regarding the continuing influx of foreign nationals into Assam and the fear about adverse effects upon the political, social, cultural and economic life of the state.

3. Being fully alive to the genuine apprehensions of the people of Assam, the then Prime Minister initiated the dialogue with AASU/AAGSP. Subsequently, talks were held at the Prime Minister's and Home Minister’s levels during the period 1980-83. Several rounds of normal talks were held during 1984. Formal discussions were resumed in March, 1985.

4. Keeping all aspects of the problem including constitutional and legal provisions, international agreements, national commitments and humanitarian considerations, it has been decided to proceed as follows:

Foreigners Issue:

5.1 For purposes of detection and deletion of foreigners, 1.1.1966 shall be the base date and year.

5.2 All persons who came to Assam prior to 1.1.1966, including those amongst them whose names appeared on the electoral rolls used in 1967 elections, shall be regularized.
5.3 Foreigners who came to Assam after 1.1 1966 (inclusive) and upto 24th March 1971 shall be detected in accordance with the provisions of the Foreigners Act, 1946 and Foreigners (Tribunals) Order 1964.

5.4 Names of foreigners so detected will be deleted from the electoral rolls in force. Such persons will be required to register themselves before the Registration Officers of the respective district in accordance with the provisions of the Registration of Foreigners Act, 1939 and the Registration of Foreigners Rules, 1939.

5.5 For this purpose, the Govt. of India will undertake suitable strengthening of the government machinery.

5.6 On the expiry of a period of ten year following the date of detection, the names of all such persons which have been deleted from the electoral rolls shall be restored.

5.7 All persons who were expelled earlier, but have since re-entered illegally into Assam, shall be expelled.

5.8 Foreigners who came to Assam on or after March 25, 1971 shall continue to be detected, deleted and expelled in accordance with law. Immediate and practical steps shall be taken to expel such foreigner.

5.9 The government will give one consideration to certain difficulties expressed by the AASU/AAGSP regarding the implementation of the illegal migrants (Determination by Tribunals Act, 1983).

**Safeguards and Economic Development:**

6. 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.

7. The government takes this opportunity to renew their commitment for the speedy all round economic development of Assam, so as to improve the standard of living of the people. Special emphasis will be place on education and science and technology through establishment of national institutions.
Other Issues:

8.1 The government will arrange for the issue of citizenship certificates in future only by the authorities of the Central Government.

8.2 Specific complaints may be made by the ASSU/AAGSP about irregular issuance of Indian Citizenship Certificates (ICC) will be looked into.

9.1 The international border will be made secure against future infiltration by erection of barriers like walls, barbed wire fencing and other obstacle at appropriate places. Patrolling by security forces on land and riverrine routes all along the international border shall be adequately intensified. In order to further strengthen the security arrangements, to prevent effectively future infiltration, an adequate number of check posts shall be set up.

9.2 Besides the arrangement mentioned above and keeping in view security considerations, a road all along the international border shall be constructed so as to facilitate patrolling by security forces. Land between border and the road shall be kept free of habitation, wherever possible. Riverrine patrolling along the international border would be intensified. All effective measures would be adopted to prevent infiltrators crossing or attempting to cross the international border.

10. It will be ensured that relevant laws for the prevention of encroachment of government lands and lands in tribal belts and blocks are strictly enforced and unauthorized encrochers evicted as laid down under such laws.

11. It will be ensured that the relevant law restricting acquisition of immovable property by foreigners in Assam strictly enforced.

12. It will be ensured that Birth and Death Registers are duly maintained.

Resorting of Normalcy:

13. The all Assam Student’s Union and the All Assam Gana Sangram Parishad call off the agitation assure full co-operation and dedicate themselves towards the development of the country.
14. The Central and the State Government have agreed to:

a. Review with sympathy and withdraw cases of disciplinary action taken against employee in the context of the agitation and to ensure that there is no victimization;

b. Frame a scheme for ex-gratia payment to the next of kin of those who were killed in the course of the agitation;

c. Give sympathetic consideration to proposal for relaxation of upper age limit for employment in public services in Assam, having regard to exceptional situation that prevailed in holding of academic and competitive examinations, etc in the context of agitation in Assam;

d. Undertake of detention cases, if any, as well as cases against persons charged with criminal offences in connection with the agitation, except those charged with commission of heinous offences;

e. Consider withdrawal of the prohibitory orders/notifications in force if any.

15. The Ministry of Home Affairs will be the nodal Ministry for the implementation of the above.

Sd/-

(P K Mahanta) (R.D Pradhan)
President Home Secretary
All Assam Student Union Govt. of India
Sd/-

(B K Phukon) (Smt. P.P. Trivedi)
General Secretary Chief Secretary
All Assam Student Union Govt. of Assam

Sd/-

(Biraj Sharma)
Convenor
All Assam Gana Sangram Parishad
In the presence of

Sd/-

(RAJIV GANDHI)

PRIME MINISTER OF INDIA

Date: 15th august, 1985

Place: New Delhi

1. Election Commission will be requested to ensure preparation of fair electoral rolls.

2. Time for submission of claim and objections will be extended by 30 days, subject to this being consistent with the Election Rules.

3. The Election Commission will be requested to send Central Observers.

Sd/- Illegible

HOME SECRETARY

1. Oil Refinery will be established in Assam.

2. Central Government will render full assistance to the State Government in their efforts to re-open.

(i) Ashok Paper Mill

(ii) Jute Mills

3. I.I.T will be set up in Assam.

Sd/- Illegible

HOME SECRETARY
APPENDIX B

The Immigrants (Expulsion from Assam Act, 1950)

Be it enacted by Parliament as follows:

1. (a) This Act may be called Immigrants (Expulsion from Assam) Act, 1950.

(b) It extends to the whole of India.

2. If the Central Government is of the opinion that any person or class of persons, having been ordinarily resident in any place outside India, has or have, whether before or after the commencement of this Act, come into Assam and that the stay of such person or class of persons in Assam is detrimental to the interests of the general public or any section thereof or any Scheduled Tribe in Assam, the Central Government may by order-

   (a) direct such persons or class of persons to remove himself or themselves 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.

   Provided that nothing in this section shall apply to any person who on account of civil disturbances or the fear of such disturbances in any area now forming part of Pakistan has been displaced from or has left his place of residence in such area and who has been subsequently residing in Assam.

3. the Central Government may, by notification in the official Gazette, direct that the powers and duties conferred or imposed on it by Section 2 shall, subject to such conditions, if any, as may be specified in the notification, be exercised or discharged also by-

   (a) any officer subordinate to the Central Government;

   (b) the Government of Assam, Meghalaya or any officer subordinate to that Government.
4. Any authority empowered by or in pursuance of the provisions of this Act to exercise any power may, in addition to any other action expressly provided for in this Act, take or cause to be taken such steps, and use or cause to be used such force, as may in its opinion be reasonably necessary for the effective exercise of such power.

5. Any person who-

   (a) contravenes or attempts to contravene or abets the contravention of any other made under section 2, or

   (b) fails to comply with any direction given by any such order, or

   (c) harbours any person who has contravened any order made under section 2 or has failed to comply with any direction given by any such order shall be punishable with imprisonment which may extend to three years and shall also be liable to fine.

6. No. suit, prosecution or other legal proceedings shall lie against any person for anything which in good faith is done or intended to be done under this Act.

7. In this Act, except in section 3, references to Assam shall be construed as including also a reference to the state of Meghalaya and Nagaland and the Union territories of Arunachal Pradesh and Mizoram.
APPENDIX C

The Illegal Migrants (Determination by Tribunals) Act, 1983


An Act to provide for the establishment of Tribunals for the determination, in a fair manner, of the question whether a person is an illegal migrant to enable the Central Government to expel illegal migrants from India and for matters connected therewith or incidental thereto. WHEREAS a good number of the foreigners who migrated into India across the borders of the eastern and north-eastern regions of the country on and after the 25th day of March, 1971, have, by taking advantage of the circumstances of such migration and their ethnic similarities and other connections with the people of India and without having in their possession any lawful authority so to do, illegally remained in India; AND WHEREAS the continuance of such foreigners in India is detrimental to the interests of the public of India; AND WHEREAS on account of the number of such foreigners and the manner in which such foreigners have clandestinely been trying to pass off as citizens of India and all other relevant circumstances, it is necessary for the protection of the citizens of India to make special provisions for the detection of such foreigners in Assam and also in any other part of India in which such foreigners may be found to have remained illegally; BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:--

CHAPTER I

Preliminary

1. Short title, extent and commencement: (1) This Act may be called the Illegal Migrants (Determination by Tribunals) Act, 1983. (2) It extends to the whole of India. (3) It shall be deemed to have come into force in the State of Assam on the 15th day of October, 1983 and in any other State on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States and references in this Act to the commencement of this Act shall be construed in relation to any State as references to the date of commencement of this Act in such State.
2. **Application.** Nothing in this Act shall apply to or in relation to-- (a) Any person who was in any State and who had been expelled from that State or India before the commencement of this Act in that State or in relation to whose expulsion from such State or India any order made before such commencement under any other law is in force; (b) Any person detected as a foreigner at the time of his entry across any border of India; (c) Any foreigner who, having entered into India under a valid passport or travel document, continued to remain therein after the expiry of the period for which he was authorised to remain in India under such passport or travel document.

3. **Definitions and construction of references.** (1) In this Act, unless the context otherwise requires,-- (a) "Appellate Tribunal" means an Appellate Tribunal established by the Central Government under sub-section (1) of section 15; (b) "Foreigner" has the same meaning as in the Foreigners Act, 1946; (31 of 1946.) (c) "Illegal migrant" means a person in respect of whom each of the following conditions is satisfied, namely: - (i) He has entered into India on or after the 25th day of March, 1971, (ii) He is a foreigner, (iii) He has entered into India without being in possession of a valid passport or other travel document or any other lawful authority in that behalf; (d) " Notification" means a notification published in the Official Gazette; (e) " Prescribed" means prescribed by rules made under this Act; (f) " Tribunal" means a Tribunal established by the Central Government under sub-section (1) of section 5.  (2) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

4. **Overriding effect of the Act.** (1) The provisions of this Act or of any rule or order made there under shall have effect notwithstanding anything contained in the Passport (Entry into India) Act, 1920 (34 of 1920 .) or the Foreigners Act, 1946 (31 of 1946 .) or the Immigrants (Expulsion from Assam) Act, 1950 (10 of 1950 .) or the Passports Act, 1967 (15 of 1967 .) or any rule or order made under any of the said Acts and in force for the time being. (2) In particular and without prejudice to the generality of the provisions of sub- section (1), nothing in the proviso to section 2 of the Immigrants (Expulsion from Assam) Act, 1950 (10 of 1950 .) shall apply to or in relation to an illegal migrant as defined in clause (c) of sub- section (1) of section 3.
CHAPTER II

Establishment of Tribunals

5. Establishment of Illegal Migrants (Determination) Tribunals. (1) The Central Government may, by notification, establish, for the purposes of this Act, as many Illegal Migrants (Determination) Tribunals as it may deem necessary and specify the principal place of sitting of, and the territorial limits within which, each such Tribunal shall exercise its jurisdiction. (2) No person shall be appointed as a member of any such Tribunal unless he is or has been a District Judge or an Additional District Judge in any State. (3) Each Tribunal shall consist of two members. (4) On the establishment of a Tribunal, the Central Government shall appoint one of the members thereof as the Chairman of such Tribunal. (5) Each Tribunal shall sit in its principal place of sitting and in such other place or places as its Chairman may, from time to time, appoint.

6. Filling of vacancies. If, for any reason, any vacancy occurs in the office of the Chairman or the member of a Tribunal, the Central Government may fill the vacancy by appointing any person who fulfils the qualifications specified in subsection (2) of section 5, as the Chairman, or, as the case may be, member of such Tribunal.

7. Staff of the Tribunals. The Central Government shall make available to every Tribunal such staff as may be necessary for the discharge of its functions under this Act.

8. References or applications to Tribunals. (1) If any question arises as to whether any person is or is not an illegal migrant, the Central Government may, whether such question has arisen on a representation made by such person against any order under the Foreigners Act, 1946 (31 of 1946.) requiring him not to remain in India or to any other effect or has arisen in any other manner whatsoever, refer such question to a Tribunal for decision. (2) Any person may make an application to the Tribunal, for its decision, as to whether the person whose name and other particulars are given in the application, is or is not an illegal migrant: (3) "Provided that no such application shall be entertained by the Tribunal unless the person in relation to
whom the application is made is found, or resides, within the jurisdiction of the same police station wherein the applicant has his place of residence.”; 1 Subs. by Act 24 of 1988, s. 2. Subs. by s. 3, ibid. 3 Omitted and rules. by s. 4, ibid. (3) Every application made under sub-section (2) shall be made in such form and in such manner as may be prescribed and shall be accompanied by affidavits sworn by not less than two persons residing within the jurisdiction of the same police station in which the person referred to in the application is found, or residing, corroborating the averments made in the application, and shall also be accompanied by such fee, being not less than ten and not more than one hundred, rupees, as may be prescribed. (4) 1[Every reference under sub-section (1) shall be made to the Tribunal within the territorial limits of whose jurisdiction the place of residence of the person named in such reference is, at the time of making such reference, situated: Provided that where such person has no place of residence, the reference shall be made to the Tribunal within the territorial limit of whose jurisdiction such person is, at the time of making such reference, found. (5) Every application under sub-section (2) shall be made to the Tribunal within the territorial limits of whose jurisdiction the person named in such application is found or, as the case may be, has his place of residence, at the time of making such application.”] 2* [8A.Application to the Central Government for reference. (1) Any person may make an application to the Central Government, for decision by a Tribunal, as to whether the person whose name and other particulars are given in the application, is or is not an illegal migrant, and where any such application is received by the Central Government, it may, on the basis of any information in its possession or after making such inquiry as it deems fit, reject the application on the ground that the application is frivolous or vexatious or it does not comply with the requirements of this section or refer such application to a Tribunal for decision. (2) Every application made under sub-section (1) shall be made in such form and in such manner as may be prescribed and shall be accompanied by a declaration by another person residing within the jurisdiction of the same revenue sub-division in which the applicant resides in such form as may be prescribed to the effect that the particulars mentioned in the application are true to his knowledge, information and belief: Provided that no person shall make more than ten such applications or more than ten such declarations. (3) Every reference under sub-section (1) shall be made to the Tribunal within the territorial limits of
whose jurisdiction the place of residence of the person named in such reference is, at
the time of making such reference, situated: Provided that where such person has no
place of residence, the reference shall be made to the Tribunal within the territorial
limits of whose jurisdiction such person is, at the time of making such reference,
found."

9. **Powers of the Tribunal.** Every Tribunal shall have the same powers as are
vested in a civil court under the Code of Civil Procedure, 1908, (5 of 1908) while
trying a suit, in respect of the following matters, namely:-- (a) Summoning and
enforcing the attendance of witnesses and examining them on oath; (b) Discovery
and production of any document; (c) Reception of evidence on affidavits; (d)
Requisitioning of public records from any court or office; (e) Issuing of any
commission for the examination of witnesses.

10. **Procedure with respect to references under sub-section** (1) Of section 8. On
receipt of a reference under sub-section (1) of section 8 or sub-section (1) of
section 8A the Tribunal shall serve on the person named in such reference, a notice,
accompanied by a copy of such reference, calling upon him to make, within a period
of thirty days from the date of receipt of such notice, such representation with regard
to the averments made in the reference, and to produce such evidence as he may
think fit in support of his defense: Provided that if the Tribunal is satisfied that the
person aforesaid was prevented by sufficient cause from making his representation
and from producing evidence in support of his defense within the said period of
thirty days, it may permit him to make his representation and to produce evidence in
support of his defense, within such further period, not exceeding thirty days, as it
may, by order, specify.

11. **Procedure with respect to applications** under sub-section (2) of section 8. (1)
On receipt of an application under sub-section (2) of section 8, the Tribunal shall
issue a notice, accompanied by a copy of the application, to the prescribed authority
calling upon it to furnish, after making such inquiry as that authority may deem fit, a
report to the Tribunal with regard to the averments made in the application. 1 Subs.
by Act 24 of 1988, s. 4. 2 Ins. by s. 5, ibid. 3 Subs. b s. 6, ibid. (2) If, on a
consideration of the report made by the prescribed authority, the Tribunal is satisfied
that-- (a) the person named in the application is not an illegal migrant or that the application is frivolous or vexatious, or has not been made in good faith, the Tribunal shall, after giving the applicant an opportunity to be heard, reject the application; (b) there are reasonable grounds to believe that the person named in the application is an illegal migrant, the Tribunal shall issue a notice accompanied by a copy of the application, to the person named in the application, calling upon him to make, within thirty days from the date of receipt of the notice, such representation with regard to the averments made in the application and to produce such evidence as he may think fit in support of his defense: Provided that if the Tribunal is satisfied that the person aforesaid was prevented by sufficient cause from making his representation and from producing evidence in support of his defense within the said period of thirty days, it may permit him to make his representation and to produce evidence in support of his defense, within such further period, not exceeding thirty days, as it may, by order, specify.

12. **Determination of the question as to whether a person is an illegal migrant.**

(1) The Tribunal to which a reference has been made under[" section 8, or section 8A, or to which an application has been made under section 8"] shall after taking such evidence as may be adduced before it may think fit and after hearing such persons as it may deem appropriate, by order, decide the question as to whether the person named in such reference or application, as the case may be, is or is not an illegal migrant: Provided that where for the determination of such question in any case the decision on any issue renders any decision on any other issue or issues unnecessary, the Tribunal may not decide such other issue or issues. (2) Where the members of the Tribunal differ in their opinion on any point, the Chairman of the Tribunal shall state the point or points on which they differ and make a reference to the President of the Appellate Tribunal which exercises jurisdiction in relation to the Tribunal who shall refer the case for hearing on such point or points by a member of another Tribunal under its jurisdiction and such point or points shall be decided according to the opinion of that member and such decision shall be deemed to be the decision of the Tribunal."

(3) The Tribunal shall send a copy of every order passed by it to the prescribed authority or authorities and to the parties to the reference, or the application, as the case may be. (4) Every order passed under sub- section (1) shall,
subject to the decision of the Appellate Tribunal, be final and shall not be called in question in any court.

13. **Reference and application to be disposed of within six months.** Every reference made to a Tribunal under[" section 8A or Application made to Tribunal under section 8"] shall be inquired into as expeditiously as possible and every endeavour shall be made to conclude such inquiry within a period of six months from the date of the service, on the person concerned, of a copy of such reference or application. 1 Subs. and ins. by Act 24 of 1988, s. 7. 2 Subs. by s. 8, ibid.

14. **Appeal.** The Central Government, or any person, named in a reference or an application under section 8, or any applicant under sub- section (2) of that section [" or any person named in a reference under section 8"] may, if or he is not satisfied with any order made by a Tribunal under section 12, prefer an appeal to the Appellate Tribunal against such order.

15. **Appellate Tribunal.** (1) The Central Government may, by notification, establish for each State in which this Act is in force an Appellate Tribunal to be known as the Illegal Migrants (Determination) Appellate Tribunal for deciding appeals preferred under section 14 against orders made by Tribunals in the State and specify the principal place of sitting of such Appellate Tribunal. (2) No person shall be appointed as a member of an Appellate Tribunal unless he is or has been a Judge of a High Court. (3) An Appellate Tribunal shall consist of as many members, not being less than two and more than six, as the Central Government may think fit. (4) The Central Government shall appoint one of the members of an Appellate Tribunal to be the President thereof. (5) An Appellate Tribunal shall sit in its principal place of sitting or any such other place or places as the President thereof may, from time to time, appoint. (6) The powers and functions of an Appellate Tribunal may be exercised and discharged by benches constituted by the President thereof from amongst the members thereof[" which may either be single member benches or benches consisting of not less than tow members"]. (7) The Central Government shall make available to every Appellate Tribunal such staff as may be necessary for the discharge of its functions under this Act. (8) Every memorandum of appeal to an Appellate Tribunal shall be made in such form and in such manner as may be
prescribed, and, in the case of an appeal preferred by an applicant under sub-section (2) of section 8, shall also be accompanied by such fee, not being less than twenty-five and more than one hundred rupees, as may be prescribed. (9) Every appeal shall be preferred within thirty days from the date on which the order sought to be appealed against was communicated to the appellant: Provided that the Appellate Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period, admit an appeal after the expiry of the aforesaid period of thirty days.(10) Every Appellate Tribunal shall have the same powers as are vested in an appellate court under the Code of Civil Procedure, 1908, while hearing an appeal.”]. 1 Ins. by Act 24 of 1988, s. 9. 2 Subs. by s. 10, ibid.

16. Order of the Appellate Tribunal. (1) The Appellate Tribunal may, after giving the parties to the appeal a reasonable opportunity of being heard, pass such orders thereon as it may think fit, confirming, modifying or annulling the order appealed against or may remand the case to the Tribunal which had passed such order with such directions to that Tribunal as the Appellate Tribunal may think fit, for fresh determination after taking additional evidence, if necessary. (2) Where an appeal had been heard by the Appellate Tribunal and the members thereof differ in their opinion on any point, the decision on such point shall, where there is a majority, be according to the opinion of such majority, and where there is no majority and the members are equally divided in their opinion, they shall draw up a statement of the facts of the case and the point or points on which they differ in their opinion and make a reference of the point or points or of the appeal, as the case may be, to the President of such Tribunal, and on receipt of such reference, the President of the Tribunal shall arrange for the hearing of such point or points, or the appeal, by one or more of the members of the Appellate Tribunal, and such point or points, or the appeal, as the case may be, shall be decided according to the opinion of the majority of the members of the Appellate Tribunal, who have heard the appeal, including those who had first heard it. (3) The Appellate Tribunal shall send a copy of every order passed by it under sub-section (1) to the parties to the appeal, to the Tribunal concerned and to the prescribed authority or authorities.”]. (4) Every order passed
under sub- section (1), other than an order remanding the case, shall be final and no order passed under that sub- section shall be called in question in any court.

17. **Power of superintendence by Appellate Tribunals.** (1) Every Appellate Tribunal shall have superintendence over all the Tribunals in the State. (2) Without prejudice to the generality of the foregoing provisions, the Appellate Tribunal may-(a) call for returns from any Tribunal;

(b) make general rules and specify forms for regulating the practice and proceedings of Tribunals; and (c) specify the forms in which books, entries and accounts shall be kept by the officers of Tribunals.”] 1 Subs. and Omitted by Act 24 of 1988, s. 11. 2 Subs. by s. 12, ibid.

**CHAPTER III**

**Provisions Applicable to All Tribunals**

18. **Procedure.** Subject to the provisions of this Act and the rules made there under, every Tribunal and every Appellate Tribunal shall have the power to regulate its own procedure in all matters arising out of the exercise of its powers or for the discharge of its functions.

19. **Proceeding before every Tribunal to be judicial proceeding for certain purposes.** Every proceeding before a Tribunal or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code; (45 of 1860.) and every such Tribunal or Appellate Tribunal, as the case may be, shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 . (2 of 1974.)

**CHAPTER IV**

**Enforcement of the Orders made by the Tribunals**

20. **Expulsion of illegal migrant.** 1[(1) Where a person has been determined by a Tribunal, or, as the case may be, by the Appellate Tribunal, to be an illegal migrant, the Central Government shall, by order served on such person, direct such person to remove himself from India within such time and by such route as may be specified
in the order and may give such further directions in regard to his removal from India as it may consider necessary or expedient. (2) [Any police officer not below the rank of a Superintendent of Police shall have such powers as may be necessary, including the power to obtain a bond from any person for the due compliance of an order under sub-section (1) and to arrest such person in the event of his failure to furnish such bond to the satisfaction of such police officer.]

CHAPTER V

Miscellaneous

21. **Delegation of powers.** The Central Government may, by notification, direct that the powers and duties conferred or imposed on it by this Act, other than the powers conferred by section 28, and the powers conferred by this section, may, subject to such conditions as may be specified in the notification, be exercised or discharged also by-- (a) any officer subordinate to the Central Government; (b) any State Government or any officer subordinate to that Government. 21A. [Power to bind certain persons against whom complaint is made under the Act. Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for a police, if he is satisfied that the circumstances so require and for reasons to be recorded in writing, to direct any person against whom a reference or an application has been made under this Act to enter into a bond with or without sureties for making himself available for the inquiry and observance of such restrictions or conditions as may be specified by such police officer: Provided that if such person fails to enter into such bond he may be arrested and detained in such manner as may be prescribed.]

22. **Power to give effect to the orders,** etc. Any authority empowered by or in pursuance of the provisions of this Act to exercise any power, may, in addition to any other action expressly provided for in this Act, take, or cause to be taken, such steps, and use, or cause to be used, such force, as may in its opinion be reasonably necessary for the effective exercise of such power. 1 Renumbered and ins. by Act 24 of 1988, s. 13. 2 Ins, by s. 14, ibid.
23. **Bar of jurisdiction of civil courts.** Where a Tribunal or Appellate Tribunal has been established for any area for the purpose of determining whether a person is or is not an illegal migrant, no civil court shall have jurisdiction to entertain any question relating to that matter in that area and no injunction or any other order in respect of any action taken by, or before, the Tribunal or Appellate Tribunal in respect of that matter shall be granted or made by any civil court.

24. **Transitory provision.** Where in any suit or other legal proceeding pending, whether in a civil court or in any Tribunal established under any other law for the time being in force, immediately before the commencement of this Act, a question arises as to whether a person is or is not an illegal migrant, such court or Tribunal shall, without deciding such question, make an order transferring such suit or other legal proceeding to the Tribunal under this Act within the territorial limits of whose jurisdiction such court or other Tribunal is situate and on such transfer such question shall be dealt with by such Tribunal in accordance with the provisions of this Act.

25. **Penalties.** Any person who,— (a) contravenes or attempts to contravene, or abets the contravention of, any order made under section 20; or (b) fails to comply with any direction given by any such order; or (c) harbours any person who has contravened any order made under section 20 or has failed to comply with any direction given by any such order, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than two thousand rupees: Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than one year or a fine of less than two thousand rupees.

26. **Protection of action taken in good faith.** No suit, prosecution or other legal proceeding shall be against any person for anything which is in good faith done or intended to be done under this Act.

27. **Power to remove difficulties.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order to be published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:
Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act. (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

28. **Power to make rules.** (1) The Central Government may, by notification, make rules to carry out the provisions of this Act. (2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:--

1 Subs. by Act 24 of 1988, s. 15.

(a) the form and the manner in which an application may be made and the fee which shall accompany such application, as required by sub-section (3) of section 8;

(aa) the form and the manner in which an application, and the form in which a declaration, may be made under sub-section (2) of section 8A;

(b) the authority or authorities to be prescribed under section 11, 12 and 16;

(c) the form and the manner in which an appeal to the Appellate Tribunal may be preferred and the fee which shall accompany such appeal, as required by sub-section (8) of section 15;

(ca) the manner of arrest and detention under the proviso to section 21A;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

29. **Repeal and saving.** (1) The Illegal Migrants (Determination by Tribunals) Ordinance, 1983, (8 of 1983) is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act. 1 Ins. and Subs. by Act 24 of 1988, s. 16.
APPENDIX D

Memorandum of Settlement on Bodoland Territorial Council (BTC), 2003

The Government of India and the Government of Assam have been making concerted efforts to fulfil the aspirations of the Bodo people relating to their cultural identity, language, education and economic development. Towards this end, a series of talks were held between Government of India, Government of Assam and Bodo Liberation Tigers (BLT) since March, 2000. As a result, it is agreed to create a self-governing body for the Bodo Areas in the State of Assam as follows:

2. Objectives

The objectives of the agreement are: to create an Autonomous self governing body to be known as Bodoland Territorial Council (BTC) within the State of Assam and to provide constitutional protection under Sixth Schedule to the said Autonomous Body; to fulfil economic, educational and linguistic aspirations and the preservation of land-rights, socio-cultural and ethnic identity of the Bodos; and speed up the infrastructure development in BTC area.

3. Area

3.1. The area of proposed BTC shall comprise all the 3082 villages and areas to be so notified by the State Government. The above mentioned villages and areas shall be divided into 4 contiguous districts after reorganisation of the existing districts of Assam within a period of 6 months of the signing of the agreement on the lines of the proposal given by BLT subject to clearance of the Delimitation Commission.

3.2 A committee comprising one representative each from Governments of India & Assam and BLT will decide by consensus on the inclusion of additional villages and areas in the BTC from out of 95 villages and areas on the basis of the criteria of tribal population being not less than 50%, contiguity or any other agreed relevant criteria within a period of three months of signing of this MoS.

4. Status of Bodoland Territorial Council

The provision of the Sixth schedule and other relevant Articles of the Constitution of India will apply to BTC, mutatis mutandis in terms of this agreement. The
safeguards/modifications for the non-tribals in BTC area, inter-alia, will include the following:

4.1. Provision of para 2 of Sixth Schedule regarding Autonomous Regions will not be applicable to BTC.

4.2. A provision will be made in para 2(1) of the Sixth Schedule for increasing the number of members for BTC up to 46 out of which 30 will be reserved for Scheduled Tribes, 5 for non-tribal communities, 5 open for all communities and 6 to be nominated by Governor of Assam from the unrepresented communities for BTC area of which atleast two should be women. Nominated members will have the same rights and privileges as other members, including voting rights. Election from the 40 constituencies of BTC shall be on the basis of adult franchise. The term of the elected members of BTC shall be for 5 years.

4.3. Safeguards for the settlement rights, transfer and inheritance of property etc. of non-tribals will be suitably incorporated in para 3 of the Sixth Schedule. Any such law as may be made by the BTC in this regard will not, in particular:

(a) Extinguish the rights and privileges enjoyed by an citizen of India in respect of their land at the commencement of BTC, and

(b) Bar any citizen from acquiring land either by way of inheritance, allotment, settlement or by way of transfer if such citizens were eligible for such bonafide acquisition of land within the BTC area.

4.4. Provision will be added in para 6 of Sixth Schedule that in BTC area, language and medium of instruction in educational institutions will not be changed without approval of the State Government.

4.5. Provision of para 8 of Sixth Schedule regarding power to assess and collect land revenue and impose applicable to BTC.

4.6. Para 10 of the Sixth Schedule will not be applicable to BTC area.

4.7. Provision of Article 332(6) of the Constitution will be so modified that the existing status of representation of BTC area in the State Assembly is kept intact. After the creation of BTC, the Parliamentary & Assembly Constituencies shall be
delimited by the Delimitation Commission in accordance with the provisions of the Constitution.

4.8. In the event, Panchayati Raj system ceases to be in force in the council area, the powers of the Panchayati Raj Institutions in such matters shall be vested with the Council.

The Amendments to the Sixth Schedule shall include provisions in such a manner that non-tribals are not disadvantaged in relation to the rights enjoyed by them at the commencement of BTC and their rights and privileges including land rights are fully protected.

5. Power and Functions

5.1. The Council shall have legislative powers in respect to subjects transferred to it as enumerated below. All laws made under this paragraph shall be submitted forthwith to the Governor and until assented to by him, shall have no effect. The BTC shall have executive, administrative and financial powers in respect of subjects transferred to it.

**Subjects to be entrusted to BTC by Assam Government**

and derivatives etc.; 38. Labour and employment; 39. Relief and Rehabilitation; 40. Registration of Births and Deaths.

5.2. There shall be an Executive Council comprising of not more than 12 Executive Members, one of whom shall be the Chief and another one the Deputy Chief of the said Executive Council. There shall be adequate representation for the non-tribal members in the Executive Council. The Chief and the Deputy Chief of the Council shall have the status equivalent to the Cabinet Minister and the other Executive Members equivalent to the Minister of the State of Assam for protocol purposes in BTC area.

5.3. The BTC shall have the full control over the officers and staff connected with the delegated subjects working in the BTC area and shall be competent to transfer officers and staff within the BTC area. ACRs of these officers shall also be written by the appropriated BTC authority.

5.4. BTC shall also be competent to make appointments for all posts under its control in accordance with the rules of appointment followed by the Government of Assam. However, the posts, where recruitment is made on the recommendation of APSC, shall not be covered under this provision. The Council may constitute a Selection Board for appointments to be made by it and may also make rules, with the approval of the Governor of Assam to regulate appointments and to ensure adequate representation for all communities living in the Council area.

5.5. No posts shall be created by BTC without concurrence of the Government of Assam and it shall also abide by the decision of the Government of Assam in respect of abolition of/temporarily keeping vacant any post.

5.6. Development functions and bodies within the competence of BTC shall be transferred to BTC. In respect of DRDA, concurrence of Government of India will be obtained.

5.7. The offices of the Dy. Commissioner and Superintendent of Police will be outside the superintendence and control of BTC.
5.8. The State Government would provide an amount, to be decided every year on population ratio basis, as grants-in-aid in two equal instalments to the BTC for executing development works. The proportionate share for the BTC shall be calculated on the basis of the plan funds available after setting aside the funds required for earmarked sectors and the salary. This amount may be reduced proportionately if the state plan allocation is reduced or there is plan cut due to resource problem. In addition, the Council will be paid a suitable amount of plan funds and non-plan funds to cover the office expenses and the salaries of the staff working under their control. The BTC shall disburse the salaries of the staff under their control and would ensure strict economy in the matter.

5.9. BTC authority shall prepare a plan with the amounts likely to be available for development works, both under State share and Central share, covering any or all the activities of the departments under their control. The Council shall have full discretion in selecting the activities and choosing the amount for the investment under the same in any year covering all groups of people in a fair and equitable manner. This plan will be a sub set of the State plan and would be treated as its integral part. Once the plan of the State, including BTC plan, gets the approval of the Planning Commission the BTC authority will start execution of their plan in the BTC area. Modifications, if any, made by the Planning Commission in the BTC proposal, shall be binding on the BTC authority. The State Government shall not divert the funds allocated to the BTC to other heads and also ensure its timely release. BTC may have Planning Department to prepare the plans for BTC area to be submitted to Planning Commission through the Government of Assam.

5.10. The executive functions of the BTC shall be exercised through its Principal Secretary who shall be an officer of the rank not below of Commissioner/Secretary to Government of Assam. The sanctioning powers of the Government of Assam shall be vested with the Principal Secretary of BTC and sanctioning powers of head(s) of the Department(s) including for technical sanction shall be conferred on the senor most officer of that Department preferably not below the rank of Additional Director, who may be designated as Director of BTC for that department. The Principal Secretary and other officers shall exercise their powers under the overall guidance and supervision of BTC.
6. Law and Order

To strengthen the Police Administration, Government of Assam shall appoint an IGP for 4 districts of BTC and the jurisdiction of the DIG Kokrajhar shall also be modified to cover these 4 districts.

7. Revision of list of ST

Consequent to the inclusion of BTC area into the Sixth Schedule, the list of ST for the State of Assam shall be so modified so as to ensure that the tribal status of Bodos and other tribals living outside the BTC are does not get affected adversely.

8. Grant of ST status of Bodo Kacharis of Karbi Anglong and NC Hills districts

The Government of India agrees to consider sympathetically the inclusion of the Bodo Kacharis living in Karbi Anglong and NC Hills Autonomous Council area in the ST (Hill) List of State of Assam.

9. Development of Bodo Language


9.2. Bodo language shall be the official language of BTC subject to the condition that Assamese and English shall also continue to be used for official purpose.

10. Additional Development Package for BTC

10.1. The State Government, within the limitation of financial and other constraints, may offer or allow the Council to offer, possible and sustainable additional incentives for attracting private investment in the Council area and would also support projects for external funding.

10.2. In order to accelerate the development of the region and to meet the aspirations of the people, the Government of India will provide financial assistance of Rs 100 crores per annum for 5 years for projects to develop the socio-economic infrastructure in BTC areas over and above the normal plan assistance to the State of Assam. The size of the Corpus will be reviewed after a period of 5 years. Suitable mechanism will be built in the system to ensure that the funds are transferred to
BTC in time and at regular intervals. An illustrative list of projects which may be considered to be taken up in BTC given below:

**List of projects:**

1. To establish a centre for development and research of Bodo language; 2. Upgradation of existing educational infrastructure by way of renovation/addition of buildings, providing modern facilities for teaching such as computers, science laboratories etc. from primary level to college level in BTC area; 3. A cultural complex to be established at Kokrajhar to promote and develop Bodo tradition and cultural heritage; 4. To establish a super-speciality hospital with all modern facilities at Kokrajhar Government Hospitals shall be established in all district, sub-divisional and block headquarter; 5. To establish sports complexes in all the district headquarters; 6. Food processing plants and cold storage facilities at Kokrajhar, Kajolgaon, Udalguri and Tamulpur; 7. Construction of a bridge over river Aai to connect Koilamoiola, Amguri etc. with the rest of the district; 8. To build a Bodoland Bhawan in Delhi; 9. To set up integrated agro-processing park and textile-cum-apparel park; 10. Revitalisation of Kokilabari Agricultural Farm; 11. To develop adequate infrastructure to promote Manas sanctuary as an international tourist spot; 12. To complete Champa, Suklai and Dhansiri irrigation projects; 13. To construct a highway on the Indo-Bhutan border from Jamduar to Bhairabkunda to connect remote places located adjacent to the border; 14. To set up model dairy, fishery, horticulture and poultry farms/training centres at different places in all the 4 districts to encourage youth for self-employment; 15. To enhance the existing facilities in veterinary hospitals in BTC area.

10.3. Government of India will provide necessary one time financial assistance required for development of administrative infrastructure in the newly created district headquarters, sub-divisional headquarters and book headquarters, besides the BTC Secretariat Complex at Kokrajhar

**11. Centrally funded University**

11.1. A centrally funded Central Institute of Technology (CIT) will be set up to impact education in various technological/vocational disciplines such as Information
Technology, Bio-Technology, Food Processing, Rural Industries, Business Management, etc.

11.2. The CIT will be subsequently upgraded to a Centrally funded State University with technical and non-technical disciplines to be run by the BTC.

**12. Relief & Rehabilitation**

12.1. The BLT would join the national mainstream and shun the path of violence in the interest of peace and development. After the formation of the interim council of BTC, BLT will dissolve itself as an organisation and surrender with arms within a week of swearing-in of the interim council. The State Government would provide full support to relief and rehabilitation of the members of BLT who would surrender with arms in this process in accordance with the existing policy of the State. Financial support in such cases, however shall be limited to be provisions of the scheme prepared and funded by the Government of India. Withdrawal of cases against such persons and those related to overground Bodo movement since 1987 shall be considered according to the existing policy of the State of Assam.

12.2. The Government of India will initiate steps for review of action against the Bodo employees of Government of India and subordinate officers as well as in respect of Central Government Undertakings. Similar action would be taken by the Government of Assam.

12.3. Bodo youth will be considered for recruitment in Police, Army and Paramilitary forces to increase their representation in these forces.

13. Special Rehabilitation Programme for the people affected by ethnic disturbances:

The Special Rehabilitation Programme (SRP) for the people affected by ethnic disturbances in Assam, who are at present living at relief camps in Kokrajhar, Bongaigaon etc. shall be completed by the Government of Assam with active support of BTC. Necessary funds for their rehabilitation shall be provided by the Government of India and lands which are free from all encumbrances required for such rehabilitation shall be made available by the BTC.
14. Interim Council

Immediately after signing of the agreement, Interim Executive Council for BTC shall be formed by Governor of Assam from amongst the leaders of the present Bodo movement, including the signatories to this settlement, and shall include adequate representation to the non-tribal communities in BTC area. The Interim Council shall not continue for a period beyond 6 months during which period election to the Council shall be held. Government of Assam shall dissolve the Bodoland Autonomous Council (BAC) and repeal the BAC Act.

15. Government of Assam will consider inclusion of all tribals including Bodos in RHAC/MAC/LAC in consultation with leaders of these Councils.

16. The Implementation of the provision of the Memorandum of Settlement shall be periodically reviewed by a Committee comprising representatives of Government of India, Government of Assam and BTC.

Signed on 10th February, 2003 at New Delhi in the presence of Shri L.K. Advani, Hon’ble Deputy Prime Minister of India and Shri Tarum Gogoi, Chief Minister of Assam.

(Hagrama Basumatary)
Chairman
Bodo Liberation Tigers

(P K Dutta)
Chief Secretary, Govt. of Assam

(R C A Jain)
Secretary (BM)
Ministry of Home Affairs
Government of India