

Of Citizenship, State, Society and Politics: Situating Muslim Immigrants after National Register of Citizenship and Citizenship Amendment Act (2019) in Assam

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Abstract:

Citizenship in the Indian state of Assam is a contentious issue and it is generally associated with the illegal Bangladeshi immigrants (popularly known as *Aboidha Bangladeshis*). The “*Aboidha Bangladeshis*” are considered responsible for many problems in Assam. They are also considered as a challenge to the democratic politics of the state. It is widely acknowledged that many illegal immigrants have got registered themselves in the electoral roll and participate in the political process. There has been a long and persistent demand for the detection and deportation of these illegal immigrants to Bangladesh. The National Register of Citizenship (NRC) Assam was initiated to meet this demand of identifying the illegal immigrants. However, Citizenship Amendment Act (CAA) 2019 has diverged from this demand. This act enables granting citizenship to even the illegal immigrants of Hindus, Sikhs, Jain, Parsis, Christians, and Buddhists communities from Afghanistan, Pakistan, and Bangladesh. Muslims have been kept outside the provision of this act. Drawing on public document, media reports and social histography of the region, this article argues that the citizenship issue is communalised now. The illegal immigrants are predominantly perceived to be Muslims and are subjected to various forms of stigmatization in Assam. Although, there are several other immigrant groups in the state, Bangladeshi in particular are treated harshly. Therefore, the communal divide emerging out of the process of documentation of citizenship via NRC Assam and amending citizenship law to favour certain groups have rendered Muslim immigrants more vulnerable.

Keywords: Citizenship, Assam, Illegal Immigrants, Communalism, National Register of Citizenship, Citizenship Amendment Act (CAA) 2019.

Introduction

The issue of illegal immigrants from Bangladesh, known as “*Aboidha Bangladeshi*,” has been a contentious topic in the politics of Assam. The implementation of the National Register of Citizenship (NRC) Assam and the Citizenship Amendment Act (CAA) 2019 has further exacerbated political polarization in the state. A close examination of the issue reveals two different facets. First, Citizenship as a legal status that can be acquired as per the land of law. The second is the lived experience which can be socially constructed through public approval. Marshall ([1950](#)) distinguished citizenship as civil,

political, and social rights. While Marshall's civil and political rights are de-jure in nature, social rights are empirical. Brubaker, (2009) also emphasized that mere legal recognition as a citizen does not guarantee equal participation and inclusion in society.

In Assam, there is always a fault line concerning citizenship. Many Bangladeshi illegal immigrants are able to get de-jure citizenship by enrolling themselves in the electoral roll (Boruah, 2009). This blurriness between citizen and alien often paranoid Assamese people, and has also encouraged the growth of anti-outsider sentiment to a great extent. The Government's effort to find a solution to the problem also remained futile. Over a period of time, the public psyche has developed a sense of disquiet to the governmental efforts in dealing with the issue of illegal immigrants. This discontent led to various protests and movements in Assam. Drawing on public document, media reports and social histography of the region, this article argues that the citizenship in Assam is communalised both as a legal status and lived experiences.

Illegal Immigrants and Response of State

The origin of the illegal immigrant issue in Assam can be traced back to the Mangaldoi Lokshabha by-election in 1978. The addition of new electorates in the revised voter list for the by-election exceeded the natural growth rate of the population. It was perceived that many immigrants from Bangladesh have illegally entered the territory of Assam and have got registered on the voter list. The Chief Election Commissioner of that time, S.L. Shakhder, commented.

“I would like to refer to the alarming situation in some states especially in the North-Eastern region where from disturbing reports are coming regarding large-scale inclusion of foreign nationals in the electoral rolls... Another disturbing factor in this regard is the demand made by political parties for the inclusion in the electoral rolls the names of such migrants who are not Indian citizens without even questioning and properly determining their citizenship status. This is a serious state of affairs.” (Cited in Reddi, 1981, p. 31).

Consequently, Assam Agitation (1979-1985) was initiated by the All Assam Student Union (ASSU) for the detection and deportation of illegal immigrants. In 1983, the Union Government enforced the Illegal Migrants (Determination by Tribunals, IMDT) Act to deal with the issue of illegal immigrants. The Act provides special protection against undue harassment to “minorities” affected by Assam Agitation. Under the IMDT Act the burden of proving citizenship rested on the accuser and police, not on the accused. This was a major departure from the provision of the Foreigners Act of 1946. The IMDT Act was challenged by Sarbananda Sonowal (*Sarbananda Sonowal vs the Union of India*) and it was struck down by Supreme Court in 2005. The cases pending before tribunals constituted under IMDT Act were transferred to the tribunal constituted under Foreigner Tribunals Orders 1964 in accordance with the Foreigners Act (1946). The agitation continued for almost six years and finally culminated with the signing of the Assam Accord on August 15, 1985. On August 16, 1985, a Citizenship Amendment Bill was placed in the Parliament, which subsequently become the Citizenship Amendment Act 1985. The new amendment inserts a new section (6A) in Citizenship Act 1955, specific to the Assam and gives constitutional validity to Assam Accord. The cut-off date for the detection and deportation of illegal immigrants was decided to be 24th March 1971. It was also agreed that the NRC in Assam will be prepared by upgrading the NRC of 1951

to detect and deport illegal immigrants. As per this mandate, the NRC Assam was prepared and published in 2019, which excluded almost 1.9 million people from the list where a huge portion of the left out are Hindus.

In Assam, the people willingly accepted the long-drawn process of NRC. This proactive willingness to be part of the NRC Assam has at least two main evident reasons. Firstly, there is a tendency among the public to project themselves as a genuine Indian citizen and secondly, the Assamese thought that the fresh NRC would meet their demand for the detection and deportation of illegal immigrants. Meanwhile, the CAA 2019 has been enacted by the parliament, which amend clause (b) of sub-section (1) of section (2) of the Citizenship Act 1955 and insert the following entry

“Provided that any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan, who entered into India on or before the 31st day of December 2014 and who has been exempted by the Central Government by or under clause (c) of sub-section (2) of section 3 of the Passport (Entry into India) Act, 1920 or from the application of the provisions of the Foreigners Act, 1946 or any rule or order made thereunder, shall not be treated as illegal migrant for the purposes of this Act” ([The Government of India, 2019](#), p.2).

This opens the possibility that the NRC Assam excluded Hindu, Sikh, Jain, Parsis, Christian, and Buddhist immigrants (even illegal) from Afghanistan, Pakistan, and Bangladesh to get India Citizenship. Moreover, the period for the Naturalization process is reduced to "not less than five years" instead of "not less than eleven years" to grant citizenship to these specified communities. In addition to this, clause (3) of section (6B) of CAA 2019 also abates any proceeding pending against a person in respect of illegal immigration if he is conferred citizenship. This comes in direct conflict with the promises made in Clause (5.8) of the Assam Accord which says that illegal immigrants who came to Assam after March 24, 1971, will be detected and deported in accordance with law. The CAA 2019 is being perceived as a breach of trust and has complicated the citizenship issue in Assam. The public also feels the exercise of the NRC Assam is an utter failure, as it fails to address the intended motive.

Negotiating with Immigrants: Mapping the Social Response

Colonial immigration is crucial in the post-independence politics of Assam. Communities that have immigrated to colonial Assam at a significant level are Marwari, Nepalese, Tea laborers, Hindu and Muslim Bengalis. The Marwari, primarily from the Marwar region of Rajasthan, came to Assam and started establishing ration shops and godowns (also known as *gola*). The anti-Marwari sentiment was seen in 1966 when AASU launched the anti-Marwari campaign. Anti-Marwari sentiment can also be associated with the Assam movement (1979-1985). United Liberal Front of Assam (ULFA), an insurgent group in Assam, is also held responsible for extorting the Marwari businessman. Nepali migrants are mainly associated with cow rearing and milk production in Assam. There is no significant anti-Nepalese movement seen in Assam. Although some anti-Nepalese sentiment was associated with the Assam movement (1979-1985), it was not very prominent.

When the Britishers started establishing tea gardens in Assam, they first tried to engage the natives in tea plantations. However, natives in Assam were not very interested. As a result, the Britishers started bringing

laborers from states like Bengal, Bihar, Jharkhand, Orissa, and Chhattisgarh. These laborers were from diverse communities; however, in Assam, they are known by different names, such as “*Chah Janajati*” and “*Adivasi*”. This “*Chah Janajati*” has become part of the Assamese society in most parts of Assam. However, there are some bitter conflicts between “*Chah Janajati*” and Bodo Community in the Bodo-occupied areas. The Bodo-Adivasi conflict of 1996 and 1998 are two horrifying examples of it.

When the Britishers gradually occupied the territory of Assam, they introduced a new kind of bureaucratic administration. The local Assamese were not very familiar with that new kind of administration. As a result, the Britishers brought many Hindu Bengali from the erstwhile Bengal to work in clerical positions, later known as “*Bengali babu*”. This first wave of immigrated “*Bengali babu*” was held responsible for convincing Britishers to adopt Bengali as the Official Language in Assam in 1836. Although at first this Bengali language hegemony was overlooked, the emergence of the Assamese educated class including people like Anandaram Dhekial Phukon, Gunabhiram Barua, and Hem Chandra Baruah gradually spread Assamese language consciousness among the public. The establishment of the Assamese printing press by American Baptist Missionaries in Sivasagar and the publication of the first Assamese magazine “*Orunodoi*” also influence the growth of Assamese language awareness. Confrontation also emerged from the educated Assamese middle class for jobs under the British. These all created an anti-Bengali sentiment that spread to the larger Assamese society. For Guha (1977) the dissension between Assamese and Bengalis is economic in nature as most of the Assamese middle class resented the influx of Hindu immigrants from Bengal because they threatened their access to resources like land and jobs. Gohain (1985) attributed the cause of this conflict to the chauvinistic mindset of Bengalis. He claims that clerical Bengalis mainly backed the colonial authorities show a chauvinist attitude towards Assamese. Baruah (1991), denies the economic aspect and holds that the local Assamese people and the immigrant Bengali community in Assam clashed because Bengalis were unwilling to assimilate.

The second wave of Bangladeshi immigrants was seen when the British encouraged many immigrants from East Bengal to Assam and settled them in the fallow wasteland of Assam. The Line System that was introduced by the British in 1920 also further encourage immigration to Assam as it demarcated areas for both immigrant settlers and the indigenous people. Most of this wave of immigrants were Muslims. The British motive was to grow the production of agriculture and revenue. The third wave of immigrants from Bangladesh entered Assam during the partition (1947). Most of this third wave of immigrants were Hindus. Finally, the fourth wave of immigrants entered Assam during the Bangladesh War of Independence (1971). However, disregarding these four waves, there is also a continuous flow of immigrants attracted by the pull factors of Assam and forced by the push factors of Bangladesh. The immigrants who entered Assam after the Partition (partition of India and Pakistan) become illegal immigrants as from that time India and East Pakistan (now Bangladesh) were two separate countries.

The Bengali-speaking Muslims of East Bengal origin who are now primarily settled in the Brahmaputra Valley of Assam are called *Miya*. Illegal immigrants from Bangladesh are also sometimes referred to as *Char (river island) Chapori (sandbank) Miya* in the common language (Saikia, 2023). These *Char Chapori Miya* may be seen working in various parts of Assam and neighboring states, where they are engaged in menial economic activities. In Assam, these *Char Chapori Miya* has a crucial role in making post-colonial politics a volatile one.

Among the all-immigrated groups, there is a strong dissension against Bangladeshi illegal immigrants. The logic for this contention is usually attributed to the threat to identity and the scarcity of economic and natural resources. However, there is a possibility that a threat to Assamese identity and pressure on economic and natural resources may be posed by any of the above-mentioned groups. However, Bangladeshi immigrants are always at the center of the discord.

The dominant political narratives consider that these *Char Chapori Miya* has caused political, economic, and cultural crises in Assam. Among all-immigrated communities, it is the Bangladeshi illegal immigrant who has been evaluated most harshly in the politics of the state. Although there is the notion of illegality attached to *Char Chapori Miya*, however, it is not enough alone to explain the strong dissonance against them. One reason for this harsh evaluation is the functional utility of creating others in the state's dominant political discourse. The complexity surrounding the issue of Bangladeshi illegal immigrants in Assam can be attributed to the state's historical development, in which Assamese sentiments have been socially constructed and politically mobilized based on language, resources, and religion. This has led to the stigmatization of Bangladeshi illegal immigrants, which has been a dominant issue in the state's electoral politics for the last five decades. This has also been formalized in the legal-rational system, with the Assam Accord and the subsequent implementation of the Citizenship Amendment Act 1985 providing formal legal backing to the concept of legality and illegality of migrants.

Communalism: The Functional Line of Division

The issue of illegal immigrants in Assam had been a long-standing concern before the implementation of the NRC Assam. Various organizations had estimated different numbers for the presence of illegal immigrants in Assam. The 1998 report by ex-governor S.K. Sinha remained a benchmark for a long time. The issue of Hindu and Muslim immigrants was not as distinct before the NRC Assam, and its implementation has created a religious divide.

Earlier, Bangladeshi illegal immigrants were seen as economic infiltrators and a threat to the national identity of *Jati, Mati, and Bheti* (Nationality, Land, and Foundation). Assamese Muslims, who have been living in the region since the 13th century, try to distance themselves from Muslim immigrants from Bangladesh by identifying themselves as non-*Miya*. This division is also perpetuated by the media, with the local daily "The Assam Tribune" distinguishing between Bangladeshi Muslims and Assamese Muslims as "Fake" and "Genuine" ([Glebova, 2011](#)). The implementation of the NRC Assam and CAA 2019, has further polarized the issue of Hindu and Muslim immigrants.

The demographic growth in Assam is a matter of concern as it remained higher than the national population growth rate for many decades. Illegal Bangladeshi immigrants are often identified as a primary factor in this demographic change, with fears of them posing a threat to the indigenous Assamese identity and natural resources. Some specific issues have been highlighted in this context, including a reduction in agricultural land, increasing population density, changing demographic patterns, susception concerning democratic election, and threats to language identity. Moreover, the occupation of the *Char-Chapori area*, which is home to many Bangladeshi illegal immigrants, is considered a significant threat to the forest land and riverine ecosystems.

The demographic changes that were once initiated by the British colonial period still continued as a major problem in the politics of Assam. Several attempts have been made to address this issue in the post-independence era, but most efforts have been inundated by mismanagement. The issue has often been politicized for the sake of vote-bank politics, with debates revolving around the dichotomy of indigenous versus outsider. While religious politics was not a direct factor (except in some periodical incidences) in the past, the current policies of the government have brought it to the forefront.

The outcome of the NRC Assam has been misused in a majoritarian manner by the CAA 2019, resulting in minorities being rendered stateless by means of identification and exclusion. Such exclusion reduces individuals' human dignity. Furthermore, they are the most vulnerable imagined enemy, which serves to hide the other failures of administrative promises.

Creation of Common Enemy and the Process of Stigmatization

Over the past few decades, if any community has been the most stigmatized in Assam, it is the illegal Bangladeshi immigrants. The term "illegal" has a legal definition as defined by Section 2(b) of the Citizenship Act of 1955, which defines an "illegal migrant" as a foreigner who has entered India-

1. "without a valid passport or other travel documents and such other document or authority as may be prescribed by or under any law in that behalf;" or

2. "with a valid passport or other travel documents and such other document or authority as may be prescribed by or under any law in that behalf but remains therein beyond the permitted period of time"

([The Government of India, 1955](#))

Despite the legal definition of "illegal migrant" as defined by the Citizenship Act of 1955, in the common imagination concerning illegal Bangladeshi immigrants (before the NRC Assam), the determining factor of illegality is not fixed. Any person with a different accent, who lives in *Char-Chapori* areas, who is Muslim, or who practices polygyny may be identified as a Bangladeshi illegal immigrant. It is observed that *Lungi* (sarong), *daari* (beard), and *topi* (skullcap) are some important attributes of stigmatization. However, it has come to light in the recent NRC Assam that a significant portion of illegal Bangladeshi immigrants are Hindu, which is an irony as no Hindu has been identified as an illegal Bangladeshi immigrant with the earlier mentioned identifying marks before the NRC Assam in the common imagination.

The Bangladeshi immigrant community in Assam has been subject to various labels for a long time, such as thieves, child kidnappers, land encroachers, and a threat to society. While some of these labels may have some truth, labelling has become more prevalent than the actual picture. This labelling has created a sense of suspicion around them and continuous fear, leading to a demand to disprove such labels. This fear was also evident during the NRC Assam, where the pressure to provide documentation was immense. The fear of documentation is common among Indians, particularly those from poor socio-economic backgrounds with lower educational qualifications who have been historically excluded from power structures. This fear has been intensified in Assam with the implementation of the NRC Assam, leading to chaos and turmoil in the search for Legacy Data (for enrolling in NRC Assam). Families who were previously fragmented due to inter-community marriages are now coming together to search for Legacy Data. This fear of documentation has been well-documented in various studies. Misra and Srivastava

(2018) provided an example of a person who saved his documents from a fire, saying that if their documents were destroyed, they wouldn't be able to prove they are from India. This fear of documentation was so intense that some individuals even committed suicide. Hanif Khan, for example, committed suicide because he could not find his name on the NRC draft, and his wife reported that he was extremely anxious throughout the entire process (Safi, 2018). While citizenship is important, it should not be used to diminish someone's life. No country should reduce someone's existence to just their citizenship status.

Crisis of Statelessness

The United Nations Convention defines a “stateless person as someone who is not considered as a national by any State under operation of its law” (UNHCR, 1954). India has not signed any international treaty on statelessness and lacks a proper policy for stateless people. This lack of protection for stateless individuals in national laws makes it unsurprising that the Assam government would consider a policy option of statelessness (Paulose, 2019).

The statelessness issue in Assam can be understood within various theoretical and conceptual frameworks, including human rights, child rights, and women's rights at the universal level, and the absence of appropriate policies for stateless people at the national level. However, in the context of Assam, the issue of statelessness is linked to ethnic conflict and communalism, which has been ongoing for the past half-century. This statelessness issue can lead to tensions in India-Bangladesh relations. Deportation is not a unilateral matter and would require bilateral discussion between India and Bangladesh but there has been no evidence of such discussions (Baruah, 2019). Therefore, the focus may be on detention policies, which could further exacerbate the bitterness between the two countries regarding citizenship issues.

The situation of stateless persons in Assam is worse than that of refugees, as they do not have the option to subscribe to the principles of non-refoulement or to force their home country to readmit them under international law. Instead, they may be subjected to detention camps, which has raised concerns about human rights violations, and the death of many people in such camps has made the situation critical. Dulal Paul, a 65-year-old man, died at the detention camp on 12th October 2019 (Scroll Staff, 2019). He was in a detention camp because he could not prove his citizenship while the other members of his family were able to prove their citizenship. So, when Dulal Paul died, authority was willing to give his dead body to his family. Nevertheless, his family now denied accepting the dead body. His family opinioned that if Dulal Paul is an illegal immigrant, how can they take responsibility? This situation created a problem of no decision for the family and the concerned authority. However, at last, at the intervention of the Chief Minister, the family accepted the dead body. Even if Dulal Paul is eventually proven to be a citizen of India, the fact that he died in a detention camp while unable to prove his citizenship raises questions about the fairness and effectiveness of the NRC process and the treatment of stateless individuals in India.

Conclusions

The issue of illegal immigrants is vital in the politics of post-colonial Assam. The issue has created many volatile incidences in the last 70 decades in Assam. Assam Agitation (1979-1885), Nellie Massacre (1983), Bodo and Bengali Muslim conflict (2012 and 2014) are some instances of the cruciality of the issue. Although many efforts have been initiated to resolve the issue, however, in reality, mismanagement inundated it. The vote bank politics, the majoritarianism approach, and populism have never allowed the

problem to get a suitable solution. Moreover, the recent implementation of the CAA 2019 has made the issue more sensitive. While the government has promised to stabilize the situation, in reality, the condition has turned worse. The communal sentiment has been visible in the Act like CAA 2019. The reason behind this might be ideological to safronise Indian Politics and gain a statistical advantage in vote bank politics. The government's efforts that were supposed to be the solution to the problem have created more fragmentation on communal lines. The politics in 80s and 90s were primarily played in the name of illegal Bangladeshi immigrants, now, it is more or less culminating into Hindu-Muslim communal divide.

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