

**Citizenship, Nationality and Assam:
A Political History Since 1947**



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**Citizenship, Nationality and Assam:
A Political History Since 1947**

**A Thesis Submitted
In Partial Fulfillment of the Requirements for the Degree of
Doctor of Philosophy**



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STATEMENT

I hereby declare that this thesis, entitled *Citizenship, Nationality and Assam: A Political History Since 1947*, is the outcome of my own research work in the Department of Humanities of Social Sciences, Indian Institute of Technology Guwahati, India which has been carried out under the supervision of Prof. Arupjyoti Saikia in the Department of Humanities and Social Sciences.

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Certificate

It is certified that the matter embodied in the thesis entitled *Citizenship, Nationality and Assam: A Political History 1947-2019*, submitted for the award of the degree of Doctor of Philosophy by Prarthana Saikia, student of the Department of Humanities of Social Sciences, Indian Institute of Technology Guwahati, India has been carried out under my supervision. It is also certified that this work has not been submitted anywhere else for award of research degree.

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Abstract

The thesis probes the question of the history of the making of the Indian citizenship in the context of Assam, the northeastern state of India. In Assam, the idea of citizenship has always been set against the trope of the foreigner. The notion of citizenship originated as a resource and culture specific consciousness much earlier. Assam as a province of the British India developed a distinct nature of discourse about membership. After independence, born out of the tumultuous history of India's Partition at 1947, this idea went through various phases of political and cultural evolution. The citizenship question gradually got shaped within the constitutional and legal framework, but Partition continued to haunt the process. While for large part of India, the highly complex question of the citizenship did not remain a part of popular political discourse, for Assam, 'who will not be an Indian citizen?' came to be highly contested. Since 1950, the process of conferring citizenship in India remained entangled between two categories of people - the (mainly Muslim) migrants and (primarily Hindu) refugees from Pakistan. Assam's embattled journey critically influenced India's citizenship discourse. This redefining of legal citizenship in India was affected through constant reinterpretation of citizenship laws and everyday engagement of Assam's residents. The thesis attempts to unfold this long journey of Indian citizenship in Assam, starting from pre-independence to the most recent time.

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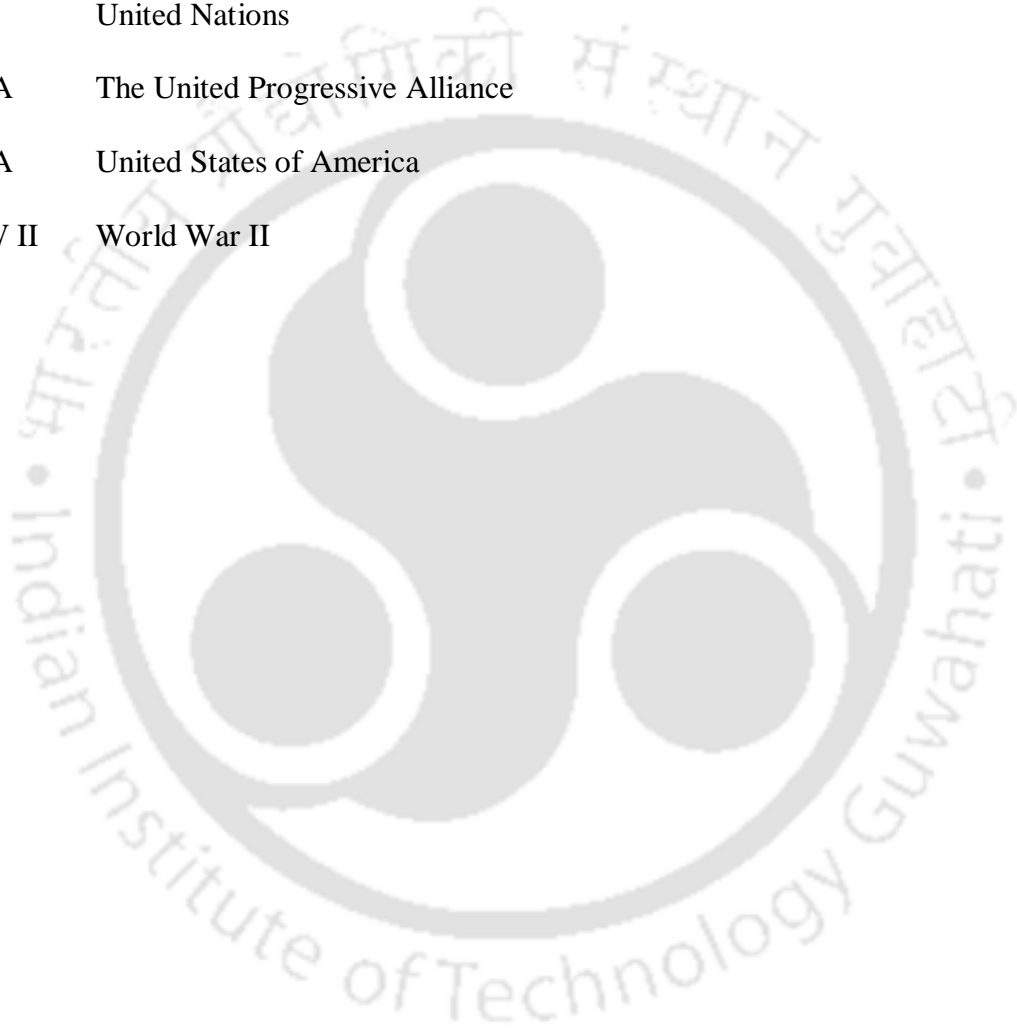
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List of Abbreviations

| | |
|---------|---|
| AAGSP | All Assam Gana Sangram Parishad |
| AAMSU | All Assam Minority Student Union |
| AASU | All Assam Student Union |
| AGP | Asom Gana Parishad |
| AJD | Asom Jatiyatabadi Dal |
| APW | Assam Public Works |
| ASA | Assam State Archives |
| BJP | Bharatiya Janata Party |
| CAA | Citizenship (Amendment) Act |
| CAB | Citizenship (Amendment) Bill |
| CAD | Constituent Assembly Debate |
| CPI | Communist Party of India |
| CPI (M) | Communist Party of India (Marxist) |
| EC | Election Commission |
| ERO | Election Registration Officer |
| FT | Foreigners Tribunal |
| GOI | Government of India |
| IMDT | Illegal Migrants (Determination by Tribunals) |
| NAI | National Archives of India |
| NDA | National Democratic Alliance |
| NMML | Nehru Memorial Museum and Library |
| NRC | The National Registrar of Citizens |
| OUP | Oxford University Press |

| | |
|-------|--|
| PIP | Prevention of Infiltration from Pakistan |
| PIL | Public Interest Litigation |
| PLP | Purbanchaliya Loka Parishad |
| UK | United Kingdom |
| UMF | United Minority Front |
| UN | United Nations |
| UPA | The United Progressive Alliance |
| USA | United States of America |
| WW II | World War II |



Glossary

| | |
|----------------------|---|
| <i>adhi</i> | a form of subletting in which the crop after being harvested is divided equally between the subtenant and the land holder |
| <i>ahu</i> | early broadcast rice |
| <i>bao</i> | late broadcast rice |
| <i>basti/bari</i> | land occupied by a house and the surrounding garden |
| <i>bandh</i> | a shut down or a general strike |
| <i>bhadralok</i> | prosperous, well-educated people, typically Bengalis, regarded as members of a social class |
| <i>bhagania</i> | migrant |
| <i>bhatia</i> | migrant |
| <i>bideshi</i> | foreigner |
| <i>bigha</i> | a traditional unit of measurement of land, equivalent to 0.33 acres |
| <i>bhumiputra</i> | sons of the soil |
| <i>char</i> | sand banks or river islands of Brahmaputra, often sizeable, formed by newly deposited silt in the river, appearing and disappearing seasonally, and typically found in Bangladesh and Eastern India |
| <i>chitha bohi</i> | a land record document or a land survey register showing demarcations of plots/land |
| <i>jamabandi</i> | a term used in India meaning “record of rights” and refers to land records. It contains the name of the owners, an area of cultivation/land, shares of owners and other rights |
| <i>jati</i> | equivalent of caste in Assamese society. Also used for Nation |
| <i>jatiyatabad/i</i> | nationalism/nationalist |
| <i>khet</i> | agricultural land |
| <i>mahajan</i> | moneylenders at the village level cum trader |
| <i>mauza</i> | revenue unit, ranging in area from a few square miles to 200 square miles |
| <i>myadi</i> | land settled with peasants for a long time, usually 10-30 years |
| <i>pam</i> | land for temporary cultivation in riverine tracts |
| <i>rastra</i> | nation |
| <i>ryot sabha</i> | peasant association |
| <i>sali</i> | late transplanted rice |
| <i>swadheen</i> | independent |
| <i>swaraj</i> | self-rule |

Chapter I

Introduction

Everyday life got disrupted in Assam from 1979 to 1985. Almost all major towns and villages were raging with mass street demonstrations, strikes, *bandhs* and blockades. In these demonstrations could be heard a variety of slogans, but at the center of the agitation was the question of ‘immigration’, and the air was smoked with slogans against ‘outsiders.’¹ These protests successfully paralyzed the functioning of the government as well as other state-run sectors. At the forefront of these widespread protests was the All Assam Students Union (AASU). This organization had significant organizational presence in the Assamese medium schools, colleges, and universities in Assam. Political mobilization around the question of immigration was not new in Assam. The province had witnessed several episodes of anti-immigrant political mobilizations in the previous decades. There were also political mobilizations based on the questions of language, for instance the language riots during 1960-61 between the Assamese and Bengali-speaking people. The Assamese speakers faced the political wrath of the tribal communities for the former’s dominance in the political and bureaucratic apparatus of the province. But what was important about the 1980s, compared to earlier, was the scale and impact of the political mobilization as well as the legal context and the political environment of the 1970s. Crucial to this period was the coming in of the question of the ‘citizenship’ into the center-stage of this political mobilization. The idea of the citizenship would continue to remain in the forefront of Assam’s political life.

Globally, the idea of citizenship has had a remarkable career. The French Revolution’s slogan of ‘Liberty, Equality and Fraternity’ shaped the modern ideas of equal rights of citizens in the nineteenth century. Much later, with the withdrawal of colonial rule after World War II across the world, the long process of conversion of the colonial subjects into citizens of various newly born nations began. If WW-II deconstructed the existing structure in multiple ways, it also paved ways for the

¹¹ By ‘outsiders’ the Assamese publicists generally meant anyone who was not typically an indigenous of Assam but the scope of this definition continued to evolve over the period. Disputes and disagreements over who is an indigenous continued to engross public conversations. Even the protesters initially raised voices against anybody who was from outside Assam. It was only after several rounds of discussion with the Indian government that the definition of outsiders came to be reoriented towards ‘illegal foreigners’ from Bangladesh.

emergence of a new rationality. The journey of citizenship in the new nation-states inevitably raised questions about its integration with non-European societies, with distinct trajectory of nationalities and rooting the notion of equal rights in the same. This put the new nation-states in a critical position, where a balance was sought to be brought to achieve its goals, to integrate and unite the diversity making a nation and to promise equal rights to all its citizens. While the issue of rights led to the emergence of certain associated ideas like duty, the integration of diverse nationalities brought various forces together and created a complex network, some with agency and many more without. In this interplay, the nation-states function according to its historically informed situations and give birth to distinct set of citizenship discourses.

Making of the Indian Nation

The imagination about ‘the people of India’ was emerging through the struggle for independence. Though the imagination was not coherent and did not necessarily answer the ways in which heterogeneous cultures would find common resonance, it was getting articulated through British laws and notion of rights, and against the colonial government. Two challenges faced this progress, first, the articulation of the idea of India against the British colonial government, and secondly, to build up a notion of India comprising its diverse population who were affiliated to discrete groups of castes, regions and religions. The colonial writings on citizenship duly recognizing the diversity in Indian society, offered a conviction for citizenship of a united country as, “the ties which ought to unite men as citizens of one and the same country need not be broken or even strained, by the mere fact that they profess different religious creeds or adopt different modes of life...the unity of a society composed of various classes can best be promoted by enlarging their knowledge...and duty as citizens of a common country.”² Though the association of duty to the imagination of one nation was a colonial intervention, acknowledging the imperial government, these notions shaped the trajectory for an imagination of India. This also produced a counter narrative pitching a notion of India against the imperial government.³ Leaders of the Indian National Congress at the same time insisting on its political goal were keeping the social apart from the political, and opted not to

² W. Lee-Warner, *The Citizen of India* (London, Bombay and Calcutta: Macmillan and Co., Limited, 1897), 1.

³ Niraja Gopal Jayal, *Citizenship and Its Discontents: An Indian History*, (New Delhi: Permanent Black, 2015 (2013)), 120-21.

intervene in the social problems of different communities.⁴ The writings of leaders like Mahatma Gandhi and Jawaharlal Nehru would however reflect in a significant way on the emerging idea of Indian nation-state.⁵

Undoubtedly pitching against the western notion of 'nation', Gandhi referred to *Praja*, the people, a parallel, much closer to Renan's people's consent.⁶ Gandhi also referred to *Swaraj*, or self-rule, both in spiritual and political realm, and believed that ideals of *swaraj* can be achieved in modern times only in a united Indian nation or *praja*.⁷ According to Gandhi, this *praja* or concomitant India nation had its existence even before Islamic rule, and it had been developing it since then until modern time. *Praja* India was also characterized by its openness to outside values and its assimilative capacity. Gandhi tried to seek an answer to the Hindu-Muslim conflict of the time and believed that the traditional notion of *praja* offers the basis upon which a new, modern, composite Indian nation-state could be built.⁸ Anthony J Parel introducing Gandhi's historical background to the writing of *Hind Swaraj* maintained that Gandhi's vision of politics as it was emerging by 1909, saw Indians as primary members of a single nation (*praja*) and only secondarily as members of a sect or a caste or a region, Indians whose humanity would be strong enough to enable them to tolerate difference within the context of a deeper national identity.⁹ Gandhi also differentiated between *constitutional swaraj* and *organic swaraj*, which implied differentiation between the state and society. Recent Gandhi scholarship show that though initially Gandhi was seen in complete opposition to the idea of the modern state, later he shifted his stand as he saw the role of the modern state to protect the interest of the vulnerable. Gandhi also believed that in return, the citizenry

⁴ As Jayal maintained that Naoroji asserted the specifically political purpose of Congress on the grounds that every community had its own social problems, and none would want outside interference (Jayal, *Citizenship and Its Discontents*, 2015(2013), 122).

⁵ Mahatma Gandhi, *Hind Swaraj*, (Ahmedabad: Navajivan Publishing House, 1933); Jawaharlal Nehru, *Discovery of India*, (Delhi: Oxford University Press 1986 (1946)).

⁶ Historian Ernest Renan while asking 'What is Nation' gave primacy to the inhabitants as he farther states 'if doubts arise regarding its frontiers, consult the population in the area under dispute. They undoubtedly have the right to say on the matter.' So, the conscience of people and their consent to live a common life is what Renan refers as Nation. (Ernest Renan, and M. F. N. Giglioli. *What Is a Nation? And Other Political Writings*, (New York, Chichester, West Sussex: Columbia University Press, 2018), Accessed February 8, 2021. doi: 10.7312/rena17430).

⁷ M.K. Gandhi, *Hind Swaraj and Other Writings*, edited by Anthony J. Parel, *Introduction to*, (London: Cambridge University Press, 1997).

⁸ Gandhi, *Hind Swaraj and Other Writings*, edited by Anthony J. Parel.

⁹ Anthony J. Parel, *Introduction to M.K. Gandhi's Hind Swaraj and Other Writings*, (London: Cambridge University Press, 1997).

contributed to the legitimacy of the state by holding to the right to resist. As Parel observed, ‘only those who habitually obeyed the law were entitled to disobey it.’¹⁰

Gandhi was a believer in self-rule, and held to a critique of modernity that it ‘ascribed to the low level of culture’ to address contradictions engendered by modern notions like ‘nationalism’ and ‘patriotism’. On the contrary, Rabindranath Tagore ascribed to ‘the upper level of culture’ while seeking an answer for nationality and patriotism. Tagore who is referred as the embodiment of Indian culture and national identity, sought an answer to the philosophical problem of nationality through his three lectures delivered in Japan and America.¹¹ In the backdrop of World War I, Tagore addressed nationalism as a journey towards universal humanism. As stated by Prasanta Mahalanobis, Tagore was a non-believer of nationalism. He believed in serving one’s own country emphasizing on village work, mass education, sanitation and social reform. Patriotism and nationalism overlapped in Tagore’s understanding of nationalism, as E.P. Thompson refers to the Japanese response to his lecture. But broadly, Tagore believed in universal humanism, putting one’s self into a larger canvas of consideration.¹² Tagore is referred as ‘dissenters among dissenters’ as he took a public stand against nationalism. However, Tagore’s idea of serving one’s own country through village works, mass education etc. came along with Lee-Warner’s idea of citizenship associated with duty. Lee-Warner imagined municipality as the ‘centre for life in the Indian empire’ and consider it as a site for performing citizen’s duty.¹³

Swinging across Tagore’s ‘universal humanism’ and Gandhi’s ‘*swaraj*’, India as a new nation state would find a closer expression in Nehru’s aphorism, ‘Unity in Diversity.’¹⁴ Nehru also leaned towards universalism. Duly recognizing the heterogeneous culture of India, Nehru, the closest associate of Gandhi and would be first Prime Minister of India, imagined India as a united nation with all its diversity and hoped, “The Indian people, freed from the terrible sense of oppression and frustration, will grow in stature again and lose their narrow nationalism and

¹⁰ Anthony Parel, *Gandhi’s Philosophy and the Quest for Harmony*, (New Delhi: Cambridge University Press, 2006), 56.

¹¹ Tagore, *Nationalism*, 1992.

¹² Tagore, *Nationalism*, 1992.

¹³ W. Lee-Warner, *The Citizen of India*, (London, Bombay and Calcutta: Macmillan and Co., Limited, 1897), 34.

¹⁴ Jawaharlal Nehru, *Discovery of India*, (Delhi: Oxford University Press, 1985 (1946)).

exclusiveness. Proud of their Indian heritage, they will open their minds and hearts to other peoples and other nations, and become citizens of this wide and fascinating world, marching onwards with others in that ancient quest in which their forefathers were the pioneers.”¹⁵ Nehru’s universal outlook was reflecting well in advance before India penned down the Constitutional provisions for citizenship and starts the nation building process. But the Nehruvian model would shape the preliminary formation of Indian nation state after Independence. India would write a Constitution, frame citizenship laws and hope to bring along the heterogeneous population of India under one rule of law. B. R. Ambedkar, the leading person behind this mammoth work of writing the Constitution of India, would decline to go for an ‘Indian model’ built on the ancient village based polity of India suggested by many and would take inspirations from different western models.¹⁶ After much thought and long debates in the Constituent Assembly, India would adopt an inclusive principle of *jus soli*, promising to confer citizenship to all born in Independent India and would frame laws accordingly. How did these laws in new India nation-state start functioning? Did the law offer a sense of nationality that let India function in all these decades? As Ornit Shani asks, did these laws imply that India affirmed its nationhood?¹⁷ A pertinent question is, did this unification through the nation building process produce a philosophy of Indian nationalism? How far could this philosophy of Indian nationalism direct the trajectory of a new nation in a heterogeneous cultural set up in India? Sudipata Kaviraj points out the need to understand Indian nationalism in its own cultural context.¹⁸ Kaviraj considers ‘politics’ to forward his argument and to understand ‘modern’ Indian politics. As he closely observes, ‘...what we with casual mundaneness call politics today is historically an entirely new activity, unlike its namesakes in earlier times.’¹⁹ So, there is context to this. And culture mostly defines the context. Kaviraj further probes the relationship between the traditional society and the modern state in the cultural context called India, how in a traditional society, state

¹⁵ Nehru, *Discovery of India*, 1985(1946), 523.

¹⁶ *Constituent Assembly India Debate (Proceedings)*, (Vol. VII, 4 November 1948), 1462.

¹⁷ Ornit Shani, “Conceptions of Citizenship in India and the ‘Muslim Question’”, in *Modern Asian Studies*, Vol. 44, No. 1, ‘The politics of work, family and community in India’ (January 2010), 145-173

¹⁸ Sudipata Kaviraj, *The Imaginary Institution of India*, (New York, Chichester, West Sussex: Columbia University Press, 2010).

¹⁹ Kaviraj, *The Imaginary Institution of India*, 2010, 6.

becomes 'indigenous' through the process of democracy or for that matter democracy itself.²⁰

The rise of the idea of nation India couldn't emerge without the varied conception of membership and belongingness entangled with the question of nationality. The question of nationality hence remained integral to the emergence of the idea of citizenship and also got intertwined with the legal articulation of the subject citizenship in new Nation-state India. It also got closely associated with the everyday politics in India. To draw from Kaviraj here, in the cultural context of India, citizenship got shaped according to its political culture of different spatial context. This varied articulation will create a complex network of different culture and society and bring discrete group of people into one platform of legal citizenship. In the interplay, these discrete components will significantly influence the functioning of citizenship laws resulting an evolutionary path for the idea of citizenship in India.

Citizenship in New Nation-state India

As the international scenario changes after the collapse of imperial states and with the emergence of new post-colonial states, a refugee producing process started²¹ and the challenges of the refugee, migration and citizenship began to unfold.²² Independence, the birth moment of the new Nation India, came along with challenges to define her people and bring them within a constitutional framework, which was predominantly a matter of defining citizenship. A Constituent Assembly was formed on 6 December 1946 comprising representatives from discrete groups of people from different parts of India and the task of writing the Constitution of India was bestowed. Jawaharlal Nehru forwarding the aims and objectives of the Assembly stated, "...this Constituent Assembly is not what many of us wished it to be. It has come into being under particular conditions and the British Governemnt has a hand in its birth. They have attached to it certain conditions. We accepted the State Paper, which may be called the foundation of this Assembly, after serious deliberations and we we shall endeavor to work within its limits."²³ There were apprehensions about the character of the

²⁰ Kaviraj, *The Imaginary Institution of India*, 2010, 5.

²¹ Malini Sur, "Divided Bodies: Crossing the India-Bangladesh Border", *Economic and Political Weekly*, Vol.X, No.10, 2014.

²² In 2013, a UN factsheet estimated 3.2 million Bangladeshis residing in India, denied by Bangladesh (Sur 2014, "Crossing the India-Bangladesh Border")

²³ *Constituent Assembly India Debates* (Proceedings), Vol.I, Friday, 13 December 1946, 83.

Constituent Assembly.²⁴ However within its limit as Nehru referred and through long years of Partition turmoil, it completed its task in long three years. The Constituent Assembly followed the western principles and dwelled on the Government of India Act 1935 to a great extent. The diverse claim for framing the Constitution based on India cultural tradition was debated on various grounds like its limitation to address larger issues of modern Nation-state and for being parochial.²⁵ After much parley and significant delay, the provisions on citizenship were adopted and they came into force from the very day of adoption on 26 November 1949. Of these provisions drafted in Part II of the Constitution, clauses 5 to 8 and clause 11-marked significance. Clause 5 to 8 covered the Partition induced migrants and Article 11 bestowed the plenary power on Parliament to decide on citizenship laws.

India would adopt single citizenship following mixed notion from universal and liberal citizenship and take inspiration from various western models like USA, Canada, Australia to name a few. It would promise to grant citizenship without discrimination on the basis of caste, religion, race or class and adopt one law of citizenship under central government's command and would hope to bind with it, its heterogeneous population, with regional disparity. The first law of citizenship i.e. Citizenship Act 1955 defined five ways of conferring citizenship in India- by birth, descent, registration, naturalization and the incorporation of territory. But before coming of this law, India had to pass long 7 years in transition from constitution of the Constituent Assembly on 6 December 1946 until enactment of Citizenship Act 1955 on 30 December 1955.

The framing of the constitutional provision for citizenship will remain transitional and indecisive for a very long period of time and arbitrariness would prevail in different levels while defining and executing the citizenship laws. The defining moment of citizenship came with the burden of Partition when millions of people got displaced and killed. Existing literatures invariably reflect on this burdened constituent moment

²⁴ "The Assembly began as a creature of British statutes, but swiftly declared itself unbound and free to determine its own power. Its composition changed as time went by, and as the country split up. And until the first election it was the same men and women who sat both as the Constituent Assembly framing the national charter and as a provisional Parliament passing law and administering country. (Romila Thapar, N. Ram, Gautam Bhatia, Gautam Patel, *Citizenship and the Constitution on Citizenship*, (New Delhi: Aleph Book Company, 2021), 72.).

²⁵ *Constituent Assembly India Debate (Proceedings)*, (Vol. VII, 4 November 1948), 1462-3.

and its unavoidable consequences in the process of defining citizenship in India.²⁶ Historian Joya Chatterji observes that the process of defining citizens in India was complex, messy and often ugly, and that refugees (immigrants) were active agents in it.²⁷ Nirja Gopal Jayal observed, "...the Constituent assembly...suddenly confronted with the importance of arbitrating the various claims to citizenship that would arise as a consequence of...large scale movements of people, who were coping with fear and violence and even some confusion about their presumed and attributed identities.'²⁸

In partition and borderland studies, migrants, citizens and refugees are much intertwined. Historians and anthropologists through micro-studies are addressing the refugee and the citizenship questions.²⁹ At the same time, in a wide range of scholarship, India's partition came to symbolize the proportion of a 'catastrophe', a 'cultural and personal disaster' which 'divided people and families', or making of 'hostile communities' and a major population movement.³⁰ These narratives significantly raised questions about the designing and functioning of citizenship laws, as the notions of membership and belongingness were greatly disturbed. Partition induced migration is now seen through personal distress and memories of violence. Gautam Ghosh explores Bengali *bhadralok's* household religious practice. These displaced families were shocked and felt humiliated as their everyday rituals were hampered, which was in a way harmed their perception of identity, as Ghosh observed 'prior to the partition the daily religious practice of lineage-deity worship came to

²⁶ Zamindar, *The Long Partition and Making of Modern South Asia*, 2010; Datta, *(B)ordering South Asia: War, Violence and Displacement in 1971*, 2010; Joya Chatterji, *The Spoils of Partition: Bengal and India, 1947-1967*, *Cambridge Study in Indian History and Society 15* (New York: Cambridge University Press, 2007); Sen, Udit, *Citizen Refugee: Forgetting the Indian Nation after Partition*, (UK: CUP, 2018); W. V. Schendel, *The Bengal Borderland: Beyond State and Nation in South Asia*, (London: Anthem Press, 2004); Gautam Ghosh, "God Is a Refugee": Nationality, Morality and History in the 1947 Partition of India, (*Social Analysis: The International Journal of Social and Cultural Practice*, Vol. 42, No. 1, 1998), 33-62; Gyanendra Pandey, *Remembering Partition: Violence, Nationalism and History in India*, (Cambridge: Cambridge University Press, 2004); U. Baxi, Preliminary Notes on Transformative Constitutionalism, in *Transformative Constitutionalism: Comparing the Apex Court of Brazil, India and South Africa*, Oscar Vilhena et al (ed.) (Pretoria: University of Pretoria Press, 2013); Kanika Gauba, Forgetting Partition, (*Economic and Political Weekly*, Vol. LI, No. 39, 2016), 41-47; Malini Sur, *Divided Bodies*, 2014; Urvashi Butalia, *The Other Side of Silence*, 1998.

²⁷ Joya Chatterji, South Asian History of Citizenship, (1946-1970), (*The Historical Journal*, Vol.55, Issue 04/December 2012), 1049-1071.

²⁸ Jayal, *Citizenship and Its Discontents*, 2015(2013), 56-57.

²⁹ Urvashi Butalia, *The Other Side of Silence*, 1998; Zamindar, *The Long Partition* 2010; Sur, *Crossing the India-Bangladesh Border*, 2014.

³⁰ Schendel, *The Bengal Borderland*, 2004; Zamindar, *The Long Partition*, 2010; Datta, *(B)ordering South Asia*, 2010.

overlap with an Indian nationalist moral-historical consciousness'.³¹ Unlike 'elite histories' normalization of the fact of violence, such accounts criticize the assignment of violence on 'others' and unveils involvement of its own citizens (Indians) in such wide spread violence.³² While scholars like Baxi discuss the matter of no reference to partition violence in Indian Constitution³³, Kanika Gauba explores the Constituent Assembly debates probing such silence.³⁴ Arguing around three issues- Citizenship, political rights of minority and the strong unitary features of Indian federalism, Gauba argues that the Partition did influence the framing of the Constitution, hence influencing framing of citizenship to a great extent.³⁵ Niraja Gopal Jayal drawing a detailed history of citizenship in India discussed how the notions of (Muslim) migrants and (Hindu) refugees took form during the Constitutional framing of citizenship provisions.³⁶

Similar instances of violence that unfolded decades after the partition are increasingly being discussed by drawing attention to issues of citizenship, making of national boundaries and migration.³⁷ Very recently, studies on the idea of the borderland have added new dimensions.³⁸ Zamindar's *'The long partition and the making of modern South Asia'* explores a comparatively distanced partition, taking into account the refugee families and their experience.³⁹ Zamindar addresses the 'long partition' of India and Pakistan when in the process of two nation-state building 'economic, bureaucratic, and juridical institutions and inscriptions of both states asserted themselves' on 'displaced people from old ties, and permits, evacuee property legislation, and passports were techniques that sought to secure uncertain and contested relationships between refugees, religious minorities, and citizenship.'⁴⁰ Zamindar had formulated the question of citizenship in the backdrop of refugee. She

³¹ Gautam Ghosh, "God Is a Refugee": Nationality, Morality and History in the 1947 (Partition of India, *Social Analysis: The International Journal of Social and Cultural Practice*, Vol. 42, No. 1, 1998), 33-62.

³² Gyanendra Pandey, *Remembering Partition: Violence, Nationalism and History in India*, (Cambridge: Cambridge University Press, 2004).

³³ U Baxi, Preliminary Notes on Transformative Constitutionalism, in *Transformative Constitutionalism: Comparing the Apex Court of Brazil, India and South Africa*, Oscar Vilhena et al (ed.) (Pretoria: University of Pretoria Press, 2013)

³⁴ Kanika Gauba, Forgetting Partition, (*Economic and Political Weekly*, Vol. LI, No. 39, 2016), 41-47.

³⁵ Gauba, Forgetting Partition, 2016, 42.

³⁶ Jayal, *Citizenship and Its Discontents*, 2015(2013), 57-60.

³⁸ Datta, (*B)ordering South Asia*, 2010; Malini Sur, *Devided Bodies*, 2014; Zamindar, *Long Partition*, 2010; Schendel, *A History of Bangladesh*, 2005.

³⁹ Schendel, *Bengal Borderland*, 2004; Datta, (*B)ordering South Asia*, 2010.

⁴⁰ Zamindar, *Long Partition*, 2010, 229.

refers to the categorization of refugee by the state, which divided people and families.⁴¹ Extracted from European origin, Zamindar claims, the idea of citizenship has raised new issues in the process of modern states formation. In South Asia it led to situation of conflict and violence. Zamindar reiterates that Partition and formation of Bangladesh are two historic events, impacting the narratives on citizenship. After partition of India, there was a complete change in the way the question of citizenship was understood. Zamindar again argues that citizens are the created categories just as the refugees, imposed by the state to legitimize the Partition and boundary. This was also referred as a part of partition politics when two nationalities were promised to assign respective citizenships.

Joya Chatterji refutes this point and suggests that the question of whether full formal citizenship was actually extended to all members and how it was created, qualified, or denied in specific historic locations and circumstances, has not sufficiently been investigated. Chatterji referred to arbitrariness. Derived from the principle in English of *jus soli*, Indian citizenship marks 'every person born in the Union or naturalized according to its laws and subject to the jurisdiction of the Union'. Pakistan on the other hand followed an ethno religious model. Minority citizenship with 'minority rights' are being specially referred as Joya Chatterji advocates that arbitrariness prevailed all along and this led to many of the complex historical incidences. Arbitrariness in understanding 'citizenship' had been prevailing since Partition and it was understood, qualified, executed in different ways. As Chatterji maintained that after partition, the officials on the ground devised a series of 'ad hoc administrative measures' to deal with the pressing problems and exigencies which mass migration brought in. These measures, as much as the acts of migrants themselves, were informed by 'common-sense notions' about citizenship, belonging, justice, and entitlement. In a remarkable series of developments, to state Chatterji further, 'these conceptions swiftly came to push, stretch and reshape policy, and eventually to inform law, constituting a new regime that, once put into place, could not be undone...The 'state of exception', as she refers to Agamben's evocative phrase.'⁴² This 'state of exception' has been in force since Partition in the East Pakistan (now Bangladesh) border till very recently.

⁴¹ Zamindar, *Long Partition*, 2010, 229.

⁴² Joya Chatterjee, *South Asian History of Citizenship 1947-1970*, (*The Historical Journal*, Vol. 55, No. 2, Cambridge University Press: Cambridge, 2012).

Though Partition remained integral as a point of reference to the framing of citizenship laws in India, in the later decades after independence India would develop a unique discourse about citizenship as it would handle varied cultural understanding of belongingness. But the long shadow Partition would not go so soon. Migration will constantly make a point of reference, as India's unsettled Eastern border would witness varied instances. Unlike the western border, exchange of people in Eastern border was not settled and migration continued. This would overwhelm the realm of citizenship law and India would design different measures and administrative policies to handle it. Two decades later, in 1971 at the wake of formation of Bangladesh, fresh wave of migration would worry the Eastern border once more. The year 1971 would mark a benchmark in terms of India's citizenship regime, as developments in bordering states like Assam would press the need to review the citizenship laws. Years long popular protest against (illegal) foreigners raised questions about Constitutional provisions on citizenship leading to important alterations in citizenship laws. The study seeks to examine this long journey of citizenship in India considering the case of Assam in this larger historical plane.

Situating Assam

Unlike the claims to citizenship by varied people from different castes, classes, religions and gender in other parts of India, Assam would orient her claim to citizenship in the counter of nationalism. While the philosophy of the Congressmen was instrumental in giving shape to these claims in different points of time in India⁴³, for Assam, the question of 'membership' was outside such purview of political and legal claims of rights. Instead, the notion of political and social membership in Assam was getting shaped first against the Bengali speakers and later against migrants from different parts of India including Bengal, who would be often referred in the vernacular literatures as *bideshi*, meaning foreigners. The term foreigner however had different connotations in different context. Also colonial Assam's shifting territory impacted the notion of membership. It also ultimately set Assam in a troubled terrain of legal citizenship in Independent India. But initially Assam articulated the notion of membership in different milieu such as language resulting a distinct set of identity. How meaningfully these notions of membership be discussed, as a 'sub-national' or

⁴³ Jayal, *Citizenship and its Discontents*, 2015(2013).

'national' identity is a question well addressed by various scholars.⁴⁴ Assam has drawn extensively from these notions before she articulated a legal notion of citizenship within Indian nation-state and it is essential to discuss this historically informed journey before discussing her journey through the legal notion of membership i.e. citizenship.

Defining two different paths for Nation-State and People Nation Partha Chatterji has argued that against the history of nation-state, the history of the People-Nation in Assam was strongly marked by the struggle of against imposition of Bengali language in Assam under British colonial rule and the contested question of migration from the early twentieth century of the Bengali speaking people into the agrarian regions of Assam. Chatterji referred that Amalendu Guha called this imagination of Nation in Assam as 'little nationalism' opposed to the 'Great Nationalism' of India.⁴⁵ Guha's reference has a larger historical plane. It was during the initial time of popular protest against (illegal) foreigners in Assam Amalendu Guha articulated this term little nationalism and observed that 'Little nationalism' was 'a spiritual sentiment that holds together a group of people claiming a common cultural-regional identity (to distinguish themselves from the other groups) and desirous of a degree of autonomy within the larger nation-state.'⁴⁶ Drawing from this Guha saw the on-going protest against (illegal) foreigners as 'a middle class' movement set forth on the premises of 'little nationalism' and 'class politics.'⁴⁷ He argued that before ascribing finality to any national formation within the larger concept of growing 'Indian nationhood' one had to take note of the flexibility of the situation where several unconsolidated nationalities prevail but simultaneously tend to merge. Guha refers India as 'a melting pot'. Stressing on the process of 'assimilation' he referred to historicity of the concept of 'little nationalism' as 'Asamiya little nationalism began to take shape since the 1850s through political mobilization by the Asamiya middle class on language issue and, later, on the job and the land issue as well.' Little nationalism has its own idealism, Guha puts farther, as 'local patriots' dug up the ancient glory of the land and

⁴⁴ Amalendu Guha, 1980. Little Nationalism Turned Chauvinist: Assam's Anti Foreigner Upsurge 1979-1980, *Economic and Political Weekly* Vol. XV, No. 41-43, 1699-1720; Baruah, *India Against Itself*, 2001.

⁴⁵ Partha Chatterji, *A Relativists View of the Indian Nation*, Distinguished Lecture, (USA: African Middle Eastern and South Asian Languages and Literatures (AMESALL) Rutgers University, December 2020) <https://amesall.rutgers.edu/news-and-events/new-and-noteworthy>

⁴⁶ Chatterji, *A Relativists View of the Indian Nation*, December 2020.

⁴⁷ Guha, Little Nationalism turned Chauvinist: Assam's Anti Foreigner Upsurge, 1979-80, 1980.

rediscovered its literature, art and music. Stressing on the class politics Guha maintains “The theory that the Asamiya national culture is in danger is more a myth than a reality now. The movement is motivated otherwise. It is neither spontaneous, nor a solely student organized movement. Its ideological and organizational roots are in the hands of Asamiya ruling class. Media played a significant role. They planned and began to co-ordinate its preparations since about 1978.”⁴⁸ Indirectly raising a question, Guha carefully starts with the definition of ‘Assamese’ as “we shall mean by the term ‘Assamese’ all inhabitants who have their domicile in the present state of Assam, whether of origin or of choice; and by the term ‘Asamiya’, those amongst them who profess Asamiya to be their natural or acquired mother tongue. Thus, the neo Asamiya, i.e., those immigrants and tribal autochthons who have adopted Asamiya as their language are also covered by the term ‘Asamiya’, unless otherwise stated.” The ‘domicile’ question here as Guha referred has a reference to the idea of citizenship. It is a condition for acquiring citizenship in India. Discussing the context of popular protest, where the leaders of the movement representing the ‘Asamiya’ middle class was putting a demand to consider the National Registrar of Citizenship 1951 as a document of reference to identify the illegal foreigners, Guha argued in the same article that owing to High Court’s judgment in 1960s, NRC couldn’t be considered as valid document to identify illegal foreigners.⁴⁹ This abstracts an important points that little nationalism in Assam was getting entangled with the question of citizenship by 1980s through the popular protest against (illegal) foreigners led by Assamese speaking middle class.

This leads us to the following argument by Sanjib Baruah, as discussing the same context of popular protest Baruah argued that it was a ‘civil society rebellion.’⁵⁰ Sanjib Baruah has eloquently deliberated on questions of nationality.⁵¹ Baruah referred to the Assamese nationality as a ‘sub –nationality’ against the ‘pan-Indian’ nationality.⁵² Supporting his argument borrowing from Gellner as ‘the crystallization of new unites...admittedly using as their raw material the culture, historical and other inheritances from the pre-nationalist past’⁵³, Baruah elaborated on sub-nationalism

⁴⁸ Guha, *Little Nationalism turned Chauvinist: Assam's Anti Foreigner Upsurge, 1979-80*, 1980.

⁴⁹ Guha referred to the case of Bhanbasha Sheikh. The case will be discussed in details in chapter IV.

⁵⁰ Baruah, *Little Nationalism Turned Chauvinist: a comment*, 1980.

⁵¹ Baruah, *Little Nationalism Turned Chauvinist: a comment*, 1980.

⁵² Baruah, *Little Nationalism Turned Chauvinist: a comment*, 1980.

⁵³ Baruah, *India Against Itself*, 2001.

against pan-Indian as ‘modern reconfiguration’, as a ‘postmodern discovery’. He further refers to Michel Walzer⁵⁴ to argue that as the communities are social constructs, imagined, invented put together ...doesn’t make them less real or less authentic than some other. Instead, referring to Etienne Balibar⁵⁵ further claims that “only imaginary communities” are “real” Baruah states that if nation and nationalities are “imagined communities” sub national narratives like national ones are often premised on a poetics about a homeland and its people. He defines sub-nationalism as ‘a poetics that transforms the geography of an area into primal, homelike or sacred space and transforms a people into a collectively with imagined ties of shared origins and kinship.’⁵⁶ Contextualizing sub-nationalism Baruah maintained that the sub national narratives in India arose simultaneously with the narratives of pan-Indian nationality. The foundation of sub-nationalism is referred as the regional languages.⁵⁷ Sub nationalism is being supported by the doctrine of self-determinism concept of ‘ethnicity’ and ‘plural society’ and civil society movement while discussed in the context of popular protest movements and separatist movements in Northeast India. Locating politics of sub-nationalism in ‘civil society’ Baruah defines ‘civil society’ as a ‘social space’ in its relation with the state, claiming anti foreigner movement as a ‘civil society rebellion.’⁵⁸

Theoretically placed on two opposite poles, these arguments ultimately legitimized the formation of a civil society in Assam and undisputedly accepted that the popular protest during 1980s was led by the civil society (middle class for Guha). This marks the significance in the context of the present study. The present study proposes that it was the Assamese civil society (educated middle class) who actively insisted the issue of migration from East Pakistan (later Bangladesh) and built up the notion of membership drawing from its nationalism (little nationalism) in Assam. This educated class in relation with the state would contribute immensely to the interpretation of citizenship law for their national project and expand the endeavor of the state. It is the claim of the civil society about the illegal migrants that brought the migrants into the legal purview to decide about their citizenship status and affirmed state’s intervention.

⁵⁴ Michael Walzer, *The New Tribalism: Notes on a Difficult Problem* in Dahbour and Ishay, (ed.), (Originally published in *Dissent*, 1995 (1992)).

⁵⁵ Balibar, *The Nation Form: History and Ideology*, (London: Verso), 1991.

⁵⁶ Baruah, *India Against Itself*, 2001, 69-78.

⁵⁷ Baruah, *India Against Itself*, 2001, 94-96.

⁵⁸ Baruah, *India Against Itself*, 2001, 98-99.

We will see in our process of argument how civil society in Assam (Assamese middle class) also impacted the execution of citizenship laws in different level.

Right over Resources and Belongingness

Owing to British expansionist policies, Assam became a part of the global economy especially after introduction of tea cultivation. Tea marked a benchmark for Assam both by offering an identity in the global market and redefining Assam's native imagination of her land and people. Expansion of tea brought huge patches of land under cultivation. Labour migration induced by the imperial state was another benchmark in this regard. More than ten million migrants settled in Assam through this colonial intervention and changed Assam's population fabric. Jayeeta Sharma discussing the expansion of 'Empire's Garden' shows how it led to a radicalized construction of other (tea labourers) by the elites of Assam. Sharma further explained how the elites through vernacular printing medium inserted and affirmed their position, defined Assam's identity question and formed a modern civil society in Assam.⁵⁹

In a closer study about the peasant movement in Assam, Arupjyoti Saikia discussed how the power of land in defining the trajectory of the rural politics goes back to the 19th century when the changing agrarian relation defined the course of rural politics.⁶⁰ With the establishment of colonial gardens of tea and the coming of the laborers to fulfill the need of tea gardens and Assam becoming part of the colonial capital nexus, land began to play a significant role. Retained with many elements of its tribal economy, Assam faced major challenges like land alienation, commercialization and indebtedness with the immigration of peasants from east Bengal.⁶¹ Till 1970s, agrarian question remained a major deciding factor in the politics of Assam, which in 1980s turned into a nationalist question.⁶² Arupjyoti Saikia's 'A century of Peasants Protest: Peasants Politics in Assam since 1900'⁶³ provides a detailed ground for this transformation of the Assamese peasantry into a 'nationalist' category. Saikia further claims that changing agrarian relations in the Brahmaputra valley in the 1970s acted

⁵⁹ Jayeeta Sharma, *Empire's Garden: Assam and the Making of India*, (USA: Duke University Press, 2011).

⁶⁰ Debarshi Das and Arupjyoti Saikia, Early Twentieth Century Agrarian Assam: A Brief and Preliminary Overview, (*Economic and Political Weekly*, Vol., XLVII, No.8, 2011).

⁶¹ Das and Saikia, Early Twentieth Century Agrarian Assam, 2011.

⁶² Arupjyoti Saikia, *A Century of Protest: Peasants Politics in Assam Since 1900*, (New Delhi: Routledge, 2014).

⁶³ Saikia, *A Century of Protest*, 2014.

as catalyst for the coming of the peasants into the nationalized political space. This shift would also define the trajectory of citizenship discourse in Assam when the Assamese nationality question emphasizing on cultural and social entities would question the constitutional provision of citizenship during 1980s. Assamese nationality question would find a specific place within the legal framework of citizenship and would have an overall impact rephrasing citizenship laws in India. It was effective in encompassing all is a matter of contestation and is being addressed by conflict and ethnicity studies. But rhetoric on Assamese nationalism or nationality or *Asamiya jati and jatiyatabad* borne out of such agrarian relations had influenced the narrative of popular protest against (illegal) foreigners during 1979-85 in Assam.

The popular protest in 1980s would also revive the question of resource extraction and would question the operation of the federal structure in India. Tillottama Misra had argued how Assam had emerged as a colonial hinterland and how this had significantly disgruntled the Assamese ruling elite in the decades after independence. Misra argued that despite having sources of natural resources like oil, plywood, and tea Assam didn't get the benefit of development. Drawing analogy to the days of colonial rule, Misra, argued that India after independence didn't give proper attention to the development of the region causing enough space for political unrest.⁶⁴

Udayan Misra discussing the broad historical plane of Assam stated a closer outlook. Within the federal structure of India how the peripheral states struggle to ascribe the Indian nationality question is the main focus of this account. Referring to the anti foreigner movement as a 'popular outburst' 'against decades of 'economic neglect' of the state by the Central Government' Misra states that the growing sense of alienation from 'job' and 'land' among the youth of Assam led to such a popular movement, which 'can easily be marked as one of the biggest upheavals in post independent India.'⁶⁵ The increasing influx from neighboring countries landed pressure on land and threatened the socio-political identity of Assamese people.⁶⁶ Misra marks a 'national' interest in the popular protest during 1980s and maintains that it was undoubtedly led by the Assamese middle class, but 'its success was ensured because

⁶⁴ Tillottama Misra, Assam: A Colonial Hinterland, (*Economic and Political Weekly*, Vol. XV, No. 32, 1980), 1357-64.

⁶⁵ Udayan Misra, *Periphery Strikes Back: Challenges to the Nation State in Assam and Nagaland*, (Shimla: IIAS, 2000), 129.

⁶⁶ Misra, *Periphery Strikes Back*, 2000, 132.

of the strong degree of support it received from the rural masses both Assamese and tribal.’⁶⁷

Land holding, agrarian economy and agrarian relation mark distinctiveness in defining both the context of politics and political culture in India after independence, including Assam. The predominant role played by caste in defining the political culture of North, South and West and their agrarian relation is somewhat different in Northeastern region of India not just because this region is predominantly inhabited by various tribal groups but also because the caste system has its own set of functioning rules. The inhabiting tribes have significant differences, which make them difficult to categorize within constitutional terms and they have a different political culture.⁶⁸ But what marks the commonality here is the question of ‘land’. Dipankar Gupta thus observes that ‘the most important demand that tribes make is that non-tribes should not take away their lands and forests from which they make living in the past.’⁶⁹ In a closer geographical proximity to Assam, Karlson explored the Khasi hills and other areas of Meghalaya.⁷⁰ His *Unruly Hills* emphasized the interconnectedness of the land, people and society and claimed that ‘access to land is intrinsically associated with the position of woman in society as well as the politics of ethnic belonging and indigenous sovereignty.’⁷¹ This draws our attention to the relationship between ‘land’, ‘nation’, ‘indigeneity’ and belongingness. Land is intrinsically connected to nation and this comes clearly in a recent work of David Gilmartin who observes that how ‘the very process of environmental transformation was linked with changes in the imagining of the human communities defined by relationships to nature’.⁷² Kimura, while discussing popular protest in 1980s in Assam, briefly discusses about tribal land alienation at the advent of Bengali Muslim peasants.⁷³

Very recently this relationship of land, nation and indigeneity would link the legal citizenship in Assam. Marking a significant reference at this juncture, Assam redefined her people in reference to indigeneity extracting from the 1951 National

⁶⁷ Misra, *Periphery Strikes Back*, 2000, 139.

⁶⁸ Dipankar Gupta, Caste and Politics: Identity over System, (*Annual Review of Anthropology*: Vol. 34, 2005), 409-427.

⁶⁹ Gupta, Caste and Politics, 2005, 419.

⁷⁰ G.S. Karlson, *Unruly Hills: Nature and Nation in Indian Northeast*, (New Delhi. Orient Black Swan, 2011)

⁷¹ Karlson, *Unruly Hills*, 2011, 5.

⁷² David Gilmartin, *Blood and Water: The Indus River Basin in Modern History*, (USA: University of California Press, 2015)

⁷³ Makiko Kimura, *The Nellie Massacre of 1983: Agency of Rioters*, (New Delhi: Sage Publication, 2013)

Registrar of Citizenship. The questions ‘who is an Assamese’ or ‘what makes an Assamese’ which has been appearing in Assam’s public life for long decades are now innovatively answered connecting these two, the right of the indigenous people over land and charting of citizens, drawing from documents like National Registrar of Citizens 1951.

Citizens vs. Migrants in Modern Nation-state

Seen through the prism of the personal accounts of the migrant scholars, the forced labor migration in Europe highlights nuances of migration and its fall-outs.⁷⁴ Such accounts are also available from South Asia. Several distinguished literary personalities who experienced India’s Partition had penned down their experiences.⁷⁵ Popular genres also reflected on Partition and migration.⁷⁶ While migration is celebrated in some global contexts like America, at the same time it has brought into focus issues of national citizenship, culture, community, civilization and identity.⁷⁷ In more recent time, the European refugee crisis is making room for new ways of understanding migration and citizenship claims in the interaction of neocolonial era, national border crisis and ecological crisis.⁷⁸ Bangladesh after two phases of state reorganization had gone through severe problem of migration and citizenship. The partition of Indian subcontinent and the emergence of Bangladesh as an independent Bengali nation state led to internal displacement and international migration within the region at greater scales than any other advanced economies.⁷⁹ The deltaic region is known for the remarkably mobile inhabitants.⁸⁰ In the last century, after independence, Bangladesh faced major problems settling down refugees like half a

⁷⁴ Works of Eugene Kulscher and Joseph Schechtman are being considered as pioneering work in the historiography of forced labor migration in Europe as they were both forced migrants (Ferrara 2011)

⁷⁵ Sunil Gangopadhyay, *Prothom Aalo*, (Calcutta: Ananda,1996); Humayun Ahmed, *Madhyabna*, (Dhaka: Anyaprakash, 2007); Atin Bandopadhyay, *Nilakantha Pakhir Khoje*, (Calcutta: Ananada, 1971); Khuswant Singh, *The Train to Pakistan*, (New Delhi: Penguin, 2016 (1956)).

⁷⁶ Amitabh Ghose, *The Shadow Lines*, (New Delhi: Oxford University Press, 1997(1988)); Sidhwa Bapsi, *Cracking India*, (USA: Milkweed, 2007(1988)); Deepa Mehta, *Earth*, 1999.

⁷⁷ Daniels Rogen, Going to America: Observations on the historiography of Immigration, (*American Studies* 1997); Robert R. Alvarez (Jr.), Maxisan-US border: The making of an anthropology of borderland, (*Annual Review of Anthropology*, 1995)

⁷⁸ Hage Ghassan, Etat de siege: A Dying, Domesticating Colonialism? (*American Anthropologist*, Vol. 43, No.1, 2016), 38-49.

⁷⁹ Chetterjee, South Asian History of Citizenship 1947-1970, 2012.

⁸⁰ Though the rich soils supported dense agricultural population, epidemic disease and natural calamity and change in the river course forced most of them to move out to new settlement (W. V. Schendel 2004).

million Urdu speaking Biharis⁸¹ and also faced issues with other countries like Burma in settling down Rohingya⁸² migrants, which very recently had been a reason of conflict. Internally, Bangladesh had to handle Chakmas⁸³ in the Chittagong Hill Tracts. The Urdu speaking Muslims faced a question of citizenship later in Pakistan as well because of their conflict with Sindhis. Rohingyas experienced citizenship crisis in Burma especially for proof of citizenship (citizenship certificate), which led to fleeing of thousands of Rohingya Muslims to Bangladesh. Migration of the Chakmas, the inhabitants of Chittagong Hill Tracts in Southern Bangladesh to neighboring Indian states like Arunachal Pradesh has raised serious questions about land and citizenship.⁸⁴ A range of literature had shown migration as distress on emerging economies, changing demography and leading to conflict and violence in South Asia.⁸⁵ Such literatures had impacted in shaping the narrative in Assam during 1980s, when Assam rephrased the migration question at the wake of formation of Bangladesh.⁸⁶ Though Weiner's study of migration and ethnic conflict in India was published just before the popular protest in 1977 the phrase 'sons of the soil' (Assamese *Bhumiputra*) became a popular slogan supporting the rights of the 'natives' or *bhumiputras*. Weiner reasserted his argument commenting on the popular protest as he observed the demographic change in Assam caused due to migration from Bangladesh which had to be checked to restore law and order situation in the region in the backdrop of the 'Nativist movement.'⁸⁷

⁸¹ The Urdu speaking Muslims in Bangladesh originally from North India, were not considered as Bangladeshi for their linguistic cultural difference. Under a tripartite agreement in 1974 the Pakistan govt. agreed that all persons employed in Pakistani government service in East Pakistan (except the Railways) could be repatriated to Pakistan. Approximately 1,70,000 Biharis were resettled in Pakistan, another 3,00,000 were left in Bengal. (Weiner, *The Political Demography of Assam's Anti Foreigner Movement*, (*Population and Development Review*, Vol. 9, No. 2, 1983).

⁸² Rohingyas were bilingual Bengali and Burmese speakers, descendants of agricultural laborers who had migrated to Arakan region from Bengal in 19th century when borders were not clearly demarcated (Weiner *The Political Demography of Assam's Anti Foreigner Movement*, 1983).

⁸³ Chakma is one of the largest indigenous tribal groups living in the Chittagong Hill Tracts in Southern Bangladesh, bordering India and Burma. An excluded area during British rule Chittagong Hill Tract was opened for all by the Pakistan government in the year 1964. Culturally different from the Bengalis Chakmas belong to Sino-Tibetan group and Buddhist by religion.

⁸⁴ Chunnu Prasad, Migration and the Question of Citizenship: people of Chittagong Hill Tract in Arunachal Pradesh, (*The Indian Journal of Political Science*, Vol. 67, No. 3 (July - Sept., 2006)), 471-490.^[11]

⁸⁵ M. Weiner, Rejected Peoples and Unwanted Migrants in South Asia, (*Economic and Political Weekly*, Vol. 28, No. 34, 1993), 737-1746; Elahi, Refugees in Dandakaranya, (*The International Migration Review*, Vol.15. 1981).

⁸⁶ M. Weiner, *Sons of the Soil: Migration and Ethnic Conflict in India*, (Delhi: Oxford University Press, 1978)

⁸⁷ Weiner, *The Political Demography of Assam's Anti Foreigner Movement*, 1983, 279-292.

Migration from Bangladesh would make a constant point of reference in India in the context of citizenship. By taking into account of this migration, Antara Datta looks at the Assam's reaction towards the refugees in the light of 'affective' and 'effective' border. This 'affective border' is being understood as one where the host population, develops a feeling of hostility and resentment towards the refugees.⁸⁸ This is viewed as resulting into the creation of 'other'. Also this is how 'refugees' overlaps 'illegal immigrants' and creates political concern.⁸⁹

Assam in the new nation state of India would articulate the issue of migration around the question of Indian citizenship making a departure from her articulation around nationality question. On 1950s onwards migration from East Pakistan (later Bangladesh) into Assam would put Assam in a significant position and Assam would offer remarkable input into the development of the idea of citizenship putting against the migration issue. The formation of Bangladesh in 1971 marked another benchmark as fresh flow of refugees burdened Assam. This marked a major significance as popular protest against illegal foreigners in Assam led to major shifts in citizenship laws in India. This will bring the migrants significantly into a wide legal purview. In recent studies like '*Citizens: How Illegal Immigrants Acquire Citizenship in Developing Countries*', Kamal Sadiq has discussed the (illegal) migrants in the context of documentary citizenship.⁹⁰

Language, Religion and Making of 'Others'

Language played a very significant role in defining the notion of membership in India and for Assam it had been an eminent cultural symbol that differentiated the migrants from citizens. As a colonial territory Assam remained tangled with Bengal. While the cultivators from Bengal became primary contender for their increasing control over land, the Bengali speaking educated migrants became contender for government jobs. The imposition of Bengali language by the colonial government from 1836 to 1873 as the official language in Assam turned the language into a contender for Assamese

⁸⁸ The agreement of Assam government to settle 12,000 refugees was challenged in Lok Sabha by left party members like Dhireswar Kalita and refugees were suggested to settle down in the hill tracts of NEFA (Elahi, *Refugees in Dandakaranya*, 1981).

⁸⁹ The chief concern was that 'Pakistani nationals' who had been deported earlier and had been convicted of illegal immigration and had entered Assam in the guise of 'refugees' (Datta, *Refugees and Borders in South Asia*, 2013.).

⁹⁰ Kamal Sadiq, *Paper Citizens*, 2008.

speakers. In the following decades, the Assamese elites inspired with the notion of modernity would shape the question of Assamese nationality drawing against Bengali language and promote Assamese language in all spheres. Partition politics complicated the issue during separation of Sylhet, a Bengali dominated district and showed significantly how the Assamese speaking ruling class tactfully got rid of their Bengali counterparts to claim political majority for Assamese speakers. But it didn't get over soon. After independence, the Bengali-speaking (Muslim) migrants from Pakistan drained significant attention and continued to bother Assam's politics during 1950s, 60s and 70s. Assam's political trajectory of 1979-85 also witnessed the rebirth of the ideas of language, religion and other cultural symbols, which effectively defined the contours of various shades of political mobilization. Nandana Dutta has explored the question of Assamese identity in the backdrop of Bengali speaking migrants.⁹¹ Dutta draws attention to the ways there were different worlds of perceptions on the migration and the ways the Bengali speaking migrants were received by the others.⁹²

Scholars have addressed how language and religion had become integral to the making of the South Asia's political mobilization. At the same time, it is being shown how in the process of political mobilization, the question of making of 'others' becomes crucial. This brings us back to Antara Datta's work on refugees from Bangladesh into India. She sought for a meaningful explanation for notion of 'others' in and argues how minority migrants are perceived by the host communities as 'others' and become 'a source of official and societal suspicion.'⁹³ Her engagement is also with the government policies of dealing with the refugees and migrants 'through the erection of 'effective' borders including bureaucratic and legal instruments and linguistic maneuvering.'⁹⁴ In fact as the partition takes place Muslims in India emerges as a major group of cultural other. As discussing the 'long partition' Zamindar defines '(Muslims) a constructed category of community and political mobilization that emerged under colonial conditions, and which was to become substantially transformed through the years of the long Partition.'⁹⁵ Zamindar also

⁹¹ Nandana Dutta, *Questions of Identity in Assam: Location, Migration, Hybridity*, (New Delhi: Sage Publication, 2012).

⁹² Dutta, *Questions of Identity in Assam*, 2012.

⁹³ Datta, *Refugees and Borders in South Asia*, 2013.

⁹⁴ Datta, *Refugees and Borders in South Asia*, 2013, 220.

⁹⁵ Zamindar, *The Long Partition and the Making of Modern South Asia*, 2010.

highlights ‘contested histories of how the idea of Muslims as a separate political community came to be mobilized as part of the Pakistan movement.’⁹⁶ Partition obviously shaped the notion of Muslims and even Hindus on a highly communal plane. And it had influenced the politics of these two modern states India and Pakistan immensely.

Historian K. N. Panikkar explaining the phenomenon argues that though the Constitution of India put forth secularism as major principle of Indian democracy, but in practice, ‘the increasing religiosity in Indian society, the decreasing popular base of the Indian National Congress and the ambivalent nature of secularism as practiced by the state’ paved the way for progressive use of religion in political mobilization.⁹⁷ Jaffrelot observes ‘Hindu nationalism runs parallel to the dominant Indian political tradition of Congress party which Gandhi transformed into a mass organization in the 1920s.’⁹⁸ The emergence of the idea of the Hindu nationalism in Indian politics has significantly informed the pattern of political mobilization in the contemporary India. Scholars have also argued how Christianity also marked out a critical space for itself in the consolidation of the ‘nationality’ movements in northeastern Indian states like Nagaland.⁹⁹

These cultural markers not only decide the journey of the modern nation-states in South Asia, they have led to political mobilization of community, produced complex and layered notions of political identity.¹⁰⁰ The power of language is quite embedded in the history of creation of Bangladesh along with the ‘more Bengali, less Muslims’ of Bangladesh.¹⁰¹ In India, imagination settled on regional linguistic cultures, through a fascinating ideational change eventually produced a complex and layered conception of political identity that subsumed without cancelling these regional cultures into a larger, second-order ‘idea of India.’¹⁰² In the southern states of India Dravidian movement marks significance as it evolves as a strong political battle

⁹⁶ Zamindar, *The Long Partition and the Making of Modern South Asia*, 2010.

⁹⁷ K.N. Panikkar, Religious Symbol and Political Mobilization: The Agitation for a Mandir at Ayodhya, (*Social Scientist*, Vol. 21, No. 7/8, 1993)

⁹⁸ Christophe Jaffrelot, *Hindu Nationalism: A Reader*, (New Delhi: Permanent Black, Ashoka University, 2011(2007)), 5.

⁹⁹ John Thomas, *Missionaries, Church and the Formation of Naga Political Identity, 1918-1997*, (JNU, Unpublished PhD thesis, 2010)

¹⁰⁰ Schendal, *The History of Bangladesh*, 2009; Kaviraj Sudipata, *Trajectories of the Indian State: Politics and Ideas*, (New Delhi: Permanent Black, 2010)

¹⁰¹ Schendal. *The History of Bangladesh*, 2009.

¹⁰² Schendal. *The History of Bangladesh*, 2009.

ascribing its ideological onset from language and gave birth to a unique regional politics in South India and in the consecutive periods it gave birth to multiple symbols with political significance.¹⁰³

Unfolding of Citizenship Discourse in Assam: A Political History

Informed with this long historical journey of nation state India and Assam we can see while different cultural markers like language, religion and affiliations like caste had played significant role in defining the political culture of modern nation state in India, Assam's political journey in the Eastern frontier of Indian nation-state got deeply embalmed with the migration issue. Assam's articulation of the notion of membership against control over land and migrants from Bengal during colonial period produced an aspiration for a more autonomous state within Indian nation, with power to handle migration and protect the land, economy and culture. Assamese nationalists like Ambikagiri Roy Choudhury, Jnananath Bora advocated for dual citizenship.¹⁰⁴ This however didn't get translated into reality after 1947. Assam did push her notion through the members of Constituent Assembly, which advocated state's power share for deciding on matters like citizenship and naturalization.¹⁰⁵ But the failure didn't stop her from making a case for herself. Starting from the very first decade after independence Assam represented her unique situation in the eastern border and drew adequate attention of the Center to handle the problem of migration. When control of migration from East Pakistan overwhelmed Assam's political concern immediately after Partition, Immigration (Expulsion from Assam) Act 1950 was implemented. Assam's constant framing of the notion of citizenship against migrants from East Pakistan would lead to innovative citizenship policies in the following decades. In between Assam would also press her claims of right over resources. From 1950 to 1970 two refinery movements would shake the valley and readdress the question of right over resources and also the nationality question.¹⁰⁶ Matter of language would also resurface forcefully during reorganization of states on the basis of language during 1960s. But all these questions would take a back seat as migration from Pakistan overwhelmed the politics of Assam. Assam's constant engagement with this

¹⁰³ Geetha V. and S.V. Rajadurai, 2000 (1998) *Towards a Non-Brahmin Millennium*, 442-490.

¹⁰⁴ Ambikagiri Raychaudhury, Pachayat-Rasthra Gothonor Prathamik Achoni in *Ambikagiri Raychaudhury Rochonawali*, 488; Bora, Jnananath, *Asamot Bideshi*, (Guwahati: Bani Printers, 1996)

¹⁰⁵ Constituent Assembly India Debates, 20 August 1947.

¹⁰⁶ Ditee Moni Baruah 'The Refinery Movement in Assam', (*Economic and Political Weekly*, January 1-7, Vol. 46, No. 1 (January 1-7, 2011)), 63-69.

issue would make Center attentive and to find a solution it would offer citizenship laws and administrative policies. 1971 would mark a sharp turn, as Assam would reinforce her claim against migrants once more at the wake of fresh arrival of refugees from Bangladesh. Popular protest against illegal immigrants would mark a trajectory for the later development of citizenship discourse in India. Assam Accord, signed in the year 1985 would mark another benchmark following the first amendment of Citizenship Act 1955 in 1985.

Anupama Roy in her book *Mapping Citizenship in India* discussed the case of Assam in chapter titled “Citizenship (Amendment) Act 1986: The Policy of Place Making and Suspect Citizens”.¹⁰⁷ Examining the significance of the first amendment of Citizenship Act 1955, which particularly addressed the case of Assam, she maintained that it manifested a politics of place making, marking out an ethno-space for Assam.¹⁰⁸ She also maintained that the ‘chronosophy’¹⁰⁹ of citizenship in Assam remained indeterminate and ambivalently defined, having ramifications for the manner in which the legal and philosophical contour of citizenship in India were envisaged.¹¹⁰ Anupama Roy observed that the ‘chronosophy’¹¹¹ of citizenship in Assam remained indeterminate and ambivalently defined, having ramifications for the manner in which the legal and philosophical contour of citizenship in India were envisaged.¹¹² The moment of transition, the accord, in this context, was a moment of historical choice.¹¹³ Assam accord was a point of transition in the trajectory of citizenship in India, which mightn’t be a part of continuous historical process, but a moment of historical choice with significant impact on the course of citizenship in India.¹¹⁴ The signing of Assam accord did mark importance and invite wide attention-

¹⁰⁷ Anupama Roy, *Mapping Citizenship in India*, (New Delhi: Oxford University Press, 2010).

¹⁰⁸ Roy, *Mapping Citizenship in India*, 2010, 92.

¹⁰⁹ Roy drew from Wallerstein’s use of ‘chronosophy’, which is about theory of possible progress, where historical system marked by cyclic rhythms and secular trends are interspersed with successive moments in which major historical choices have occurred. (Roy, *Mapping Citizenship in India*, 2010, 94).

¹¹⁰ Roy, *Mapping Citizenship in India*, 2010, 94.

¹¹¹ Roy drew from Wallerstein’s use of ‘chronosophy’, which is about theory of possible progress, where historical system marked by cyclic rhythms and secular trends are interspersed with successive moments in which major historical choices have occurred. (Roy, *Mapping Citizenship in India*, 2010, 94).

¹¹² Roy, *Mapping Citizenship in India*, 2010, 94.

¹¹³ Roy maintained that the moment of signing of Assam Accord was a moment of historical choice, which might not be in the continuous historical process in the trajectory of citizenship in India but had effective impact on the entire trajectory. (Roy, *Mapping Citizenship in India*, 2010, 94).

¹¹⁴ Roy, *Mapping Citizenship in India*, 2010, 94.

regionally, nationally and also internationally.¹¹⁵ Though Assam accord was a significant historical choice in the course of citizenship in India, it didn't become a continuous historical process. But Assam accord and the subsequent amendment of Citizenship Act 1955 in 1985 was a major historical moment when the politics around citizenship began to unfold. This was going to impact the future course of defining citizenship in India and would mark an unending affair of tangled nationality and citizenship in Assam. Niraja Gopal Jayal referred the amendment as the most consequential amendment to the statute, while discussing Assam in the context of legal citizenship.¹¹⁶ Considering the case of Assam in reference with the legal framework of Indian citizenship, these studies situate Assam in larger national context. Roy in continuation would further add to the discussion of the case of Assam in more recent contexts.¹¹⁷

A History of Citizenship in Assam

As discussed earlier, a wide range of literatures capture the nuances of political journey of Assam through the lenses like migration, illegal foreigners, nationality question etc.¹¹⁸ Though discussed in the context the question of citizenship didn't find adequate attention except in few research works.¹¹⁹ These works analyze the more recent phenomenon in the context, mostly focusing on the period of 1980s or periods thereafter. Most studies on the political unrests of Assam and her citizenship question chiefly explain a) how an idea of an exclusivist Assamese 'nationality' and 'identity'

¹¹⁵ The matter of fresh arrival of refugees in the bordering states of India at the advent of creation of Bangladesh invited wide international attention. As discussed in the previous chapter in details, India tried to build political pressure on Pakistan before the Indo-Pak war in 1971. Following this, the anti-foreigner movement in Assam and subsequent signing of Assam accord also invited international attention as it necessarily dealt with the refugee issue. At the same time it also impacted the regional politics in India, which again attracted national interest. And regionally, Assam accord and formation of Asom Gana Parishad (AGP) marked immense significant in regional politics in India during 1980s and 1990s.

¹¹⁶ Jayal, Niraja Gopal, 2015(2013), *Citizenship and Its Discontents: An Indian History*, Permanent Black: New Delhi, 63.

¹¹⁷ Anupama Roy, The Citizenship (Amendment) Bill 2016 and Aporia of Citizenship, (*Economic and Political Weekly*, 14 December 2019), 29.

¹¹⁸ Guha, Amalendu, Little Nationalism Turned Chauvinist: Assam's Anti Foreigner Upsurge 1979-1980, *Economic and Political Weekly* Vol. XV, No. 41-43, 1980, 1699-1720; Misra *Periphery Strikes Back*, 2000, 129; Sanjib Baruah, *India Against Itself: Assam and the Politics of Nationality*, (New Delhi: Oxford University Press, 1999(2001)); Weiner, The Political Demography of Assam's Anti Foreigner Movement, 279-292; Tilottama Misra, Assam: A Colonial Hinterland, (*Economic and Political Weekly*, Vol. XV, No. 32, 1980), 1357-64; Hiren Gohain, Cudgel of Chauvinism, *Economic and Political Weekly*, Vol. XV, No. 8, 1980), 418-20; Antara, Datta, *Refugees and Border in South Asia: The Exodus of 1971*, (Routledge, 2013); Jean-Luc Racine, Assam and Its Neighboring State: A turbulent History, in *India Since 1950: Society, Polity, Economy and Culture*, Christopher Jaffrelot (ed.), (New Delhi: Yatra Books, 2012), 311.

¹¹⁹ Jayal, *Citizenship and its Discontents*, 2013; Barua Sanjib, *India Against Itself*, 1999 (2001), 202; Sadiq Kamal, *Paper Citizens*, 2008, 10.

largely shaped the courses of the political mobilization during this period, b) explains the complex dynamics of the Assamese nationality question, c) the idea of depriving Assam from the paradigm of India's course of development after 1947 and how it became critical to bring different sections of the society under the fold of political mobilization, d) that political and economic threats from the 'outsiders'/immigrants as one of the major concern to the idea of the Assamese nationality, e) that the Assamese middle class/elites provided leadership to this movement, primarily to defend their class interests. But this only partially answers this complex political history of Assam.

By drawing insights from an increasing body of works on the subject of citizenship, a study of the political unrest of Assam during 1979-85 as a turning point can throw fresh perspectives on the post-colonial lives of millions of migrants who had settled down in Assam in the 20th century. This will also explore afresh the development of the citizenship discourse in Assam. There are ample numbers of literatures that discuss the recent developments, especially about NRC and Citizenship (Amendment) Bill 2016 in Assam. But no complete account on citizenship and its development is found. By chronicling the significant shifts this research intends to widen the scope of discussion in this regard.

By chronicling and explaining a detailed journey of citizenship discourse in Assam, this thesis examines three inter-related questions. First it examines the shifts in Assam's political life, secondly, it probes how did the issues of citizenship and the rights of 'indigenous' people in a post-colonial nation-making process co-exist; were they parallels or they got entangled many a time? and finally it explains the importance of regional identity based political mobilization which seeks to undo economic and political injustices resulting from the new nation-state making process, marking a shift for citizenship discourse.

The present study attempts to give a comprehensive idea of the development of the content citizenship in India, in context of Assam, situating it in a larger historical context of South Asia. Drawing critically from various observations made in existing literatures, this work argues that set in a periphery of modern Nation-State of India and being at constant exposure to migration, Assam's unique case marks out a significant trajectory for citizenship discourse in India. With several actors in play, local police officers, legal professionals, judges and 'alleged illegal immigrants'

(foreigners), refugees and thousands of civil suits claiming right to citizenship, Assam raises serious questions about content and idea of citizenship bringing significant changes in the matter of legal citizenship. It finally argues that it is Assam's constant intervention, which more recently will bring laws of citizenship closer to the people of India and engage them in matters of legislature. These repeated claims by large number of people, immigrants and refugees and increasing participation in debates around citizenship will re-assert, reaffirm the position of state in India.

This Thesis

This historical study is based on a primary examination of wide-ranges of documents and literature. It has examined archival documents from the major Indian archives. The study also derives from various historical documents in personal archives, autobiographies, biographies, fictional accounts, newspapers and magazines. Though the study didn't rely completely on ethnographic methods in its conventional sense, it had drawn important insights from the field. Fieldworks were conducted in different parts of Assam, including Sonitpur, Nagaon, Morigaon, Guwahati and Nalbari. These areas were witness to contested histories of citizenship. I met individuals during field stays, who experienced many lives of citizenship. I was lucky to explore their tiny personal archives full of torn papers to prove their citizenship.

The study has conceptualized the chapters in a chronological order. Chapter II introduces the development of the idea of membership and belongingness in Assam during colonial time. It discusses the gradual building up of the idea of membership in the colonial India drawing from vernacular writings. The first section discusses the development of the idea of citizenship in colonial India drawing from selected literatures. The second section attempts to situate Assam in this context and examines what parallels could be drawn. Unlike other parts of India, colonial Assam was overwhelmed with the question of migration, as she became a part of the world capitalist economy with the introduction of tea cultivation, and the land got exposed to migrants from other parts of colonial India. Though the perception of the educated class in Assam towards the migrants varied according to their economic interests, by the early twentieth century, the migrants were perceived as economic contenders by the natives of Assam. This found expression in various vernacular texts published in the first decades of the twentieth century. The chapter will discuss these developments

in colonial Assam, giving an idea of the formation of the notion of membership and belongingness in colonial Assam.

The third chapter examines the rise of the idea of citizenship was taking shape in between the purview of universal notion of citizenship and liberal notion of citizenship. While India would make distinct policy for some underprivileged groups through process of reservation, accommodate the Partition induced migrants and offer equal rights to all citizens, it offered a mixed model in the absence of an indigenous model of citizenship.¹²⁰ The chapter argues how after a long unsettling period from 1947 to 1960, Assam continued to struggle with the issues of immigration, refugee settlement, citizenship and the Assamese nationality question. The chapter IV examines how divided by culture and united by law, the citizens of India during 1960s would start becoming members of a new nation-state where illegal immigrants with a strong cultural affinity would raise questions about definition of citizenship and measures to have made a claim on it. Their repeated claims would lead to more and more interpretation of citizenship law, the binding force of the citizens of India. The citizens, on the other hand, would think more in terms of culture as identity marker. Situating the case of Assam in a larger context, this chapter will further argue that both the given situations complemented each other leading to an everyday engagement with citizenship laws in Assam, influencing legislature, defining the evolutionary course of citizenship in the new nation-state in India. The chapter V examines how the creation of Bangladesh in 1971 changed the political dynamics of South Asia in a significant way. Assam, on the eastern frontier of the India nation-state would face a crisis with the fresh arrival of refugees. By now Assam's civil society had successfully floated the migration issue from East Pakistan, and took active role in defining citizenship discourse in the 1960s. By 1979, this would be articulated as a united protest against migrants. This would bring the question within the framework of citizenship and it would induce a major shift in citizenship discourse. The process would be phenomenal, as it would involve repeated interpretation of citizenship laws. By discussing the arguments and discussions around the citizenship question, the chapter will argue how civil society (Assamese middle class) in Assam contributed expanding the citizenship regime in India and

¹²⁰ Niraja Gopal Jayal, *Citizenship and Its Discontents: An Indian History*, (New Delhi: Permanent Black, 2015(2013), 19.

marked out a distinct political culture for her own. The chapter VI explains the years-long popular protests in Assam around citizenship. The chapter, drawing on ethnographic work, discusses how Assam would continue to engage with citizenship laws in this stricter citizenship regime in India and will argue how her engagement made citizenship an everyday affair, expanded its popular reach, engaged diverse people and finally paved a way to re-assertion of the state's position.



Chapter II

Migrants, Nationalists and Foreigners

Often we hear that if India doesn't get united it wouldn't attain Swaraj. What is the meaning of it? How should the different provinces, different languages, different literary traditions and different religions get united? Should we form one nationality, one language, and one literary tradition by losing all variances? Is it practically necessary for Swaraj?

- Jnananath Bora, *Asamot Bideshi* (Translation mine)¹

The transition from imperial subjects to citizens of modern democratic nation-state has had a remarkable history. Like many other young nations, which obtained independence from the colonial rulers in the first half of twentieth century, India too drew its roots in the struggle for independence against the oppressing political authority of the British Empire. Though India reproduced the idea of democratic citizenship prevailing in the western world,² what marked India's case as unique was the sheer diversity in the claims by varied people from different provinces, castes, classes, cultures, religions and gender. Its significance was in attempting to find coherence in heterogeneous populations from different cultural backgrounds variously articulating the notion of 'membership' or 'belongingness'.

While the philosophy of the Congressmen was instrumental in giving shape to these claims in different points of time in India³, for Assam, the question of 'membership' was outside such purview of political and legal claims of rights. Instead, the idea of political and social membership in Assam in the late nineteenth century and early twentieth century was getting shaped as an identity, first against the Bengali speakers and later against migrants from different parts of India including Bengal. Often they were referred as *bideshi*, meaning the foreigners. Unlike greater Indian purview, the sense of political right as citizen did not take shape in Assam against the colonial rulers.⁴ For Assamese speaking people, foreigners were the migrants from other parts

¹ Jnananath Bora, *Asamot Bideshi*, (Guwahati: Bani Printers, 1996), 1.

² Niraja Gopal Jayal, *Citizenship and its Discontents: An Indian History* (New Delhi: Permanent Black, 2015 (2013)), 12.

³ Jayal, *Citizenship and its Discontents*, 2015 (2013).

⁴ Amalendu Guha referred to Ambikagiri Raychaudhury, an Assamese nationalist leader in a similar context, where he blamed the Bengalis for endangering the Assamese language and culture. Raychaudhury in his Presidential address to the Assam Sahitya Sabha Conference held in Margherita in 1950 maintained,

of India and the rights were articulated around resources like land. Introduction of tea altered the economic, social and political landscape of Assam, as it not only introduced a new economy to the terrain, but also induced migration. This had impacted the articulation of the notion of right in two significant ways. First, with large-scale expansion of tea cultivation it put pressure on land and secondly for labor support the British planters started bringing migrant labourers from other parts of India.⁵ Pressure on land became evident in Brahmaputra valley as the percentage of settled area increased and by turning of the decade the labourers settled in the neighboring agrarian areas to the tea gardens.⁶ With the commercial extraction of other mineral resources like oil, coal, Assam got entangled with the larger global capital economy by the opening years of twentieth century.⁷ This initiated new phase of colonial expansion. For extracting these resources, colonial government developed railway tracts. For construction of the tracts, the second wave of migration was induced.⁸ Railways also made Assam accessible to trading communities of other parts of India, and a major mass of such communities migrated during the first half of twentieth century.⁹ Accessibility attracted other communities like Nepali graziers. By the early decades of twentieth century, these communities emerged as economic contenders for the natives. The village dynamics changed as the natives who were

“...that the Bengalis residing in Assam are more hostile than the British to them- this belief of the Assamese is getting stronger day by day, keen as they are on self defense.” (As referred to in Amalendu Guha, *Planter Raj to Swaraj: Freedom Struggle and Electoral Politics in Assam* (New Delhi: Tulika Books, 2006 (1977)), 258).

⁵ Between 1870 and 1970, clearance of forest for tea cultivation converted 1.5 million hectares (one fifth of the state's geographical area) from natural vegetation to agricultural. (Arupjyoti Saikia, “Mosquitoes, Malaria, and Malnutrition: The Making of the Assam Tea Plantations”, RCC Perspectives (No. 3, *Asian Environments: Connections across Borders, Landscapes, and Times* (2014), 71-76)).

Failing to engage the Assamese peasants in the cultivation of tea, the British planters relied on ‘radicalized and displaced migrants.’ From 1860 onwards the planters recruited “coolie” labourers from different parts of British India. (Jayeeta Sharma, “Lazy’ Natives, Coolie Labour, and the Assam Tea Industry” (in *Modern Asian Studies*, Vol. 43, No. 6 (Nov., 2009)), 1287-1324).

(There is a wide range of literature on tea plantations and further consequences. See, Arnab Dey, *Tea Environments and Plantation Culture: Imperial Disarray in Eastern India*, (Cambridge: Cambridge University Press, 2018; Rana Pratap Behal, *One Hundred Years of Servitude: Political Economy of Tea Plantations in Colonial Assam* (Delhi: Tulika Books, 2014); Nitin Varma, *Coolies of Capitalism: Assam Tea and the Making of Coolie Labour* (Berlin; Boston: De Gruyter Oldenbourg, 2017); etc.).

⁶ Jayeeta Sharma observes the plantation management rented out surplus rice-fields near tea plantation to the time –expired labourers. They settled near the plantation after retirement and the management on occasions could take labor service from them. By the 1920s, there were 1,200,000 time-expired coolies in Assam. (Jayeeta Sharma, “Lazy’ Natives, Coolie Labour, and the Assam Tea Industry”, (*Modern Asian Studies*, Nov., 2009, 1318))

⁷ Arupjyoti Saikia, “Imperialism, Geology and Petroleum: History of Oil in Colonial Assam”, *Economic and Political Weekly*, March 19-25, Vol. 46, No. 12, 48-55. Also see Ditee Moni Baruah, “The Refinery Movement in Assam”, (*Economic and Political Weekly*, January 1-7, Vol. 46, No. 1 (January 1-7, 2011)), 63-69.

⁸ B. C. Allen, *Census of India, 1901*, Vol. IV, Part I, Assam, (Shillong: The Assam Secretariat Printing Office, 1902), 13.

⁹ Thomas A. Timberg, *The Marwaris: From Jagat Seth to the Birlas*, (New Delhi: Penguin India, 2014), 40-

primarily dependent on agriculture met challenges from migrant cultivators especially from Bengal. The trading communities, the migrants from other parts of the country emerged as the sole authority controlling the markets for agricultural products.¹⁰ Other migrants like Nepali added to the pressure on land as they settled in the government forests and grazing lands. The hardship borne by the indigenous cultivators however had found expressions in the writings of the Assamese nationalists more frequently. By now the Assamese speaking educated class who got access to western education, ascribed from the idea of modernity and floated an imagination of Assam.¹¹ They also drifted the idea of ‘Asamiya’, those who belong to Assam. Ascribing from language they would soon identify their contenders, who didn’t speak Assamese but had control over land and the local economy. However, this educated class didn’t antagonize the expansionist British government or for that matter the Europeans. Though this class would come into conflict with the government at times, mostly they considered the ‘migrants’ as their contenders. Language emerged as the sharpest tool for this educated class and they gave birth to a literary culture. This literary culture would soon take shape into a tradition and define terms for imagining Assam and Asamiya. The term foreigner, *bideshi* would appear with different connotations in different context. But the vernacular literature of Assam would often use it for the migrants from other parts of (undivided) India.

Another factor that would impact the imagination of Assam during colonial time was the shifting territory of Assam. This also impacted the notion of membership. Until 1912 major areas of Assam and parts of its hill districts were moved around like puzzle pieces. In the course, Assam remained as a very close administrative associate of Bengal. These colonial reorganizations of the province left remarkable impact on the imagination of Assam. It ultimately set Assam in a troubled terrain of legal citizenship in Independent India. This chapter discusses the preliminary phases of the development of these different notions of membership in Assam and its gradual political shaping towards desire for legal citizenship of independent India. The chapter argues that Assam’s literary culture led by the Assamese middle class deeply

¹⁰ Mauza and Village Notes prepared by the revenue department unfold these dynamics. (Village Notes, Mauza Dhing, District Nowgong, A.S.P.O. (Rev.) No.34-3000-5-10-1928-A.E.R., District Revenue Record Room, Nagaon).

¹¹ Jayeeta Sharma has discussed this in details in her account *Empire’s Garden: Assam and the Making of India*. (Jayeeta Sharma, *Empire’s Garden: Assam and the Making of India*, (Durham: Duke University Press, 2011).

impacted its imagination of membership and belongingness during colonial time. This idea of membership, which based on the question of language, necessarily excluded the migrants from other parts of India, whose primary language was not Assamese. In the subsequent decades, this idea of membership would continue to remain in the backdrop while Assam would perceive the idea of legal citizenship as a northeastern state of Indian nation state.

Migrants in the Shifting Terrain of Assam

In the initial years of colonial rule, Assam was a part of Presidency of Bengal. Later in 1874, a separate Province of Assam was created encompassing the Brahmaputra valley and the hill districts. In 1874 Cachar and Sylhet joined the province and the administration of Province of Assam was assigned under a Chief Commissioner.¹² Soon again in 1903 the province was reorganized and formed a part of 'The Province of Eastern Bengal and Assam', which capital was Dacca. This arrangement persisted until 1912. Again, on 1 April 1912 'The Province of East Bengal and Assam' was broken up into two separate provinces and the old Province of Assam was recreated. This colonial administrative formation and reformation was a result of colonial government's expansionist motifs to connect Assam to a port area. After the tea plantation started in the valleys of Assam, the planters felt the need to find an easier route for exporting the production. The Chief Commissioner of Assam also felt that the reorganization of Assam was an administrative necessity. However, the colonial government had larger political intensions to limit the Congress movement. They found a solution in the formula of 'divide and rule.' Discussing the provincial politics of Assam under the colonial rule Amalendu Guha maintained, "these considerations were buttressed by the general desire of the British civilians to aim a blow at the Bengali middle class- the mainstay of the rising Congress movement, and to dislocate it in a vital part of its sphere of influence. The creation of a Muslim- majority province on the flank of a truncated Bengal, which could take care of all these considerations, thus became a political necessity."¹³ Supporting his argument Guha referred to A. Frazer's note of 6 December 1904 which indicated, "that Bengal is very densely populated, that Eastern Bengal is the most densely populated portion, that it

¹² McSWINEY, *Census of India, 1911*, Vol. III, Part I, Assam, (Shillong: The Assam Secretariat Printing Office, 1912) 1.

¹³ Amalendu Guha, *Planter Raj to Swaraj: Freedom Struggle and Electoral Politics in Assam* (New Delhi: Tulika Books, 2006 (1977)), 57.

needs room for expansion and that it can only expand towards the East. So far from hindering national development we are really giving it greater scope and enabling Bengal to absorb Assam.”¹⁴ It was undoubtedly a highly political move to connect the Eastern Bengal to Assam, which would gradually unfold in the valley politics of Assam. Meanwhile the colonial administrators would add another dimension to the reorganization politics, as it would start promoting the cause of the Assamese, as through the Government Resolution on 17 November 1903, the Chief Commissioner of Assam provided that all appointments were to be henceforth limited to the bonafide permanent residents of Assam alone.¹⁵ Such injections of the Assamese national agendas, along with the reorganization of the province were going to impact on the political journey of Assam not only during the colonial rule but also thereafter. But more importantly these moves had deeply impacted on shaping the political imagination of Assam and her people. For instance, the census superintendent C. S. Mullan in the census report of 1931 observed, “Now any ordinary atlas shows the boundary of Assam and hence it is rather surprising to find that many residents in the province when speaking of Assam mean something quite different from the area marked Assam on the map. Thus, a planter living in Sylhet doesn’t ordinarily consider himself to be living in Assam at all but he would refer to a friend of his who lived in the Brahmaputra valley as living in Assam. I have myself often heard a planter in the Surma valley say that he was “going up to Assam”.”¹⁶ Addition of Sylhet into the Province of Assam, formation of ‘The Province of Eastern Bengal and Assam’ and the reformation of the old ‘Province of Assam’ created not only administrative confusions but also obscured the political imagination of its land and people. In the later decades, scattered demands from different section of people to reunite the districts of Goalpara and Sylhet with Bengal would unfold how these reorganizations of territory left an emotional scar in Assam and shaped a highly animated valley politics across Brahmaputra and Surma.¹⁷ It however further supported the argument that the colonial government’s policies of provincial reorganization were highly politically motivated to divide and rule.

¹⁴ Guha referred the note from Sumit Sarkar, *Swadeshi Movement in Bengal (1903-1908)*, (New Delhi: People’s Publishing House, 1976), pp17-18. It was included as a footnote in Guha, *Planter Raj to Swaraj: Freedom Struggle and Electoral Politics in Assam*, 2006 (1977), 58.

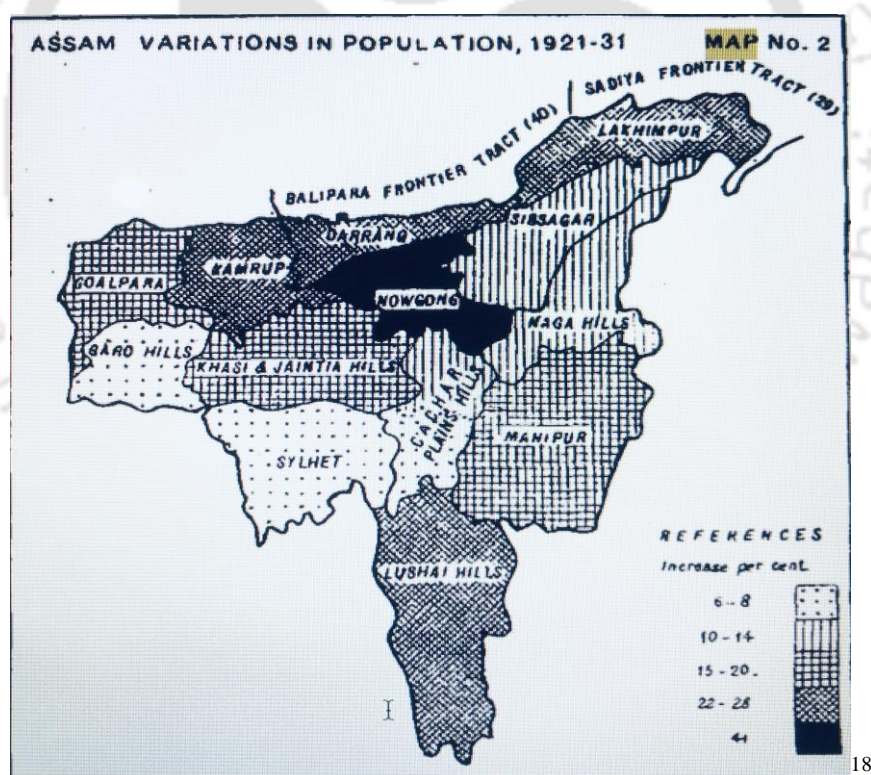
¹⁵ Amalendu Guha, *Planter Raj to Swaraj*, 2006 (1977), 60.

¹⁶ C. S. Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, (Shillong: The Superintendent, Assam Government Press, The Government of India Central Publication (Calcutta) 1932), 1.

¹⁷ Arun Chandra Bhuyan and Sibopada De, (ed.) *Political History of Assam*, Vol. II, (Guwahati: Assam Publication Board, 2019 (1999)), 288-300.

Nevertheless, in the course, Assam remained as a very close administrative associate of Bengal. The introduction of Bengali language by the colonial government as the only recognized language of Assam in 1836 made these administrative arrangements more complex as the Assamese speakers considered the Bengali speakers as their primary contenders. The tactics of administrative reformation by the colonial government blotted many areas of Assam and Bengal and constant migration from these areas created unease for the Assamese nationalists. Though many a time these overlapping areas made one province, yet these parts of Assam and Bengal maintained their separate spatial identities. This reflected more particularly in the context of migration. In the following section we will see how despite having a large number of migrant labourers for the tea gardens from other Provinces, Province of Bengal marked out in terms of migration rhetoric in Assam and shaped the idea of membership by marking out ‘the others’.

Map of Assam: Variations in Population, 1921-31



¹⁸ Map of Assam showing variation of population, C. S. Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, (Shillong: The Superintendent, Assam Government Press, The Government of India Central Publication (Calcutta) 1932).

Migrants and the Colonial Archives

The perception of migration in the colonial Assam was mostly a colonial intervention in the wake of tea plantation and cultivation of cash crops like jute.¹⁹ Documents like census reports made these interventions very apparent. These reports would make frequent references in decades later and shape the narrative about migrants. Various reactions were made for the remarks made in these reports. In this section, we will discuss these reports to see how significantly it shaped the migration rhetoric in Assam and will take a note how it impacted the formative phase of citizenship discourse in Assam.

Two districts of Bengal would occupy significant place in the record books of colonial government in Assam, Sylhet and Mymensingh. Immigration from these places to valleys of Assam had been central to the cause of population increase according to colonial records. The census report of 1901 marked Bengal as the highest sender of immigrants to Assam. Of the total number of immigrants, which was 775,844, 65 percent of the whole came from Bengal.²⁰ In 1903, these areas of Bengal, from where most of the immigrants came and Assam together would make one single province. Just the next Census report would struggle to situate Assam once more as a separate Province as it reads- 'though at the time of Census, Assam formed a part of another province (The Province of Eastern Bengal and Assam), it was decided that it should have a separate report for the purpose of future administrative requirements.'²¹

The 1901 census report reflected, '...there was an increase of 5.3 percent in Surma Valley, of 5.7 percent in Brahmaputra Valley and of 11.1 percent in the Assam range. A considerable portion of the increase in the hill is, however due to presence of over twenty thousand persons in the North Cachar Subdivision, who were engaged on the construction of Assam-Bengal railways and if they are omitted from the calculation, the rate of increase sinks to 6.5 per cent.'²² The increase in Surma Valley was attributed to immigration from the district of Sylhet, as the report said, '...population

¹⁹ Arupjyoti Saikia, Jute in the Brahmaputra Valley: The Making of flood control in Twentieth-century Assam, (*Modern Asian Studies*, 49,5 (2015)), 1405-1441.

²⁰ B. C. Allen, *Census of India, 1901*, Vol. IV, Part I, Assam, (Shillong: The Assam Secretariat Printing Office, 1902), 33.

²¹ McSWINEY, *Census of India, 1911*, Vol. III, Part I, Assam, 1902, 1.

²² Allen, *Census of India, 1901*, Vol. III, Part I, Assam, 1902, 13.

has been increasing in recent years, owing to immigration from Sylhet.²³ Overall half a million emigrants were from then Bengal province of them 22,056 were born in Mymensingh. The report remarked, ‘...persons other than coolies are most numerous from Mymensingh (22,056), Rangpur (17,321), Dacca and Tipperah.’²⁴ While noting the place of birth, it came up with an interesting observation that immigrants from the Central Province, from places like Chotanagpur, Burdwan, Patna, Bhagalpur and Orissa came up to the tea gardens, while those from Dacca, Rajshahi, Chittagong and the Presidency were cultivators, clerks and traders. The former category consisted of 83.6 percent of the population whose birth places were outside Assam and the later consisted of 16 percent.²⁵ It noted that the number of the ‘foreign born’ persons in Assam had increased by 51.9 percent in a decade and the number of persons born in Bengal had increased by 20.4 percent.²⁶ It made another significant observation about the tea garden coolies that around 645,000 people had originally come to work in the tea gardens and it was interesting to trace the extent to which they were being absorbed into the local inhabitants.²⁷ Probing this further the report stated that in a decade there had been an increase of at least a quarter of a lakh in the number of those who worked came to Assam as tea garden labourers and settled down as cultivators. It estimated that no less than 7000 persons per year had passed from the tea gardens to the neighboring villages. The figure also corresponded with the number of land holding by the ex tea garden labourers. It referred to the record from revenue department and maintained that in the Assam valley alone the average increase of land holding by the ex tea garden workers during the last decade of a little over 5000 acres a year. It concluded, “the proportion of foreign born ex-garden coolies amongst the villagers is becoming very appreciable.”²⁸

Bengal remained consistent as the highest sender of migrants in the report of 1911 as well. Deriving from the place of birth data, the report maintained that the majority of people who were born in Rajshahi division of Bengal were enumerated in the district of Goalpara and represented settlers from Rangpur and Pabna. It added that Pabna though not a contiguous district had shared with Mymensingh, which colonized the

²³ Allen, *Census of India, 1901*, Vol. III, Part I, Assam, 1902, 33.

²⁴ Allen, *Census of India, 1901*, Vol. III, Part I, Assam, 1902, 33.

²⁵ Allen, *Census of India, 1901*, Vol. III, Part I, Assam, 1902, 33.

²⁶ Allen, *Census of India, 1901*, Vol. III, Part I, Assam, 1902, 34.

²⁷ Allen, *Census of India, 1901*, Vol. III, Part I, Assam, 1902, 34.

²⁸ Allen, *Census of India, 1901*, Vol. IV, Part I, Assam, 1902, 36.

riverine area of district Goalpara. The people who were born in the Chittagong division hailed from Tipperah and settled in the neighboring district of Sylhet. A major portion of the people migrated from Dhaka division were enumerated in Sylhet and Goalpara and more than two thirds of them came from Mymensingh. The report observed, “they mostly represent inter district movements of settlers: the rest who are scattered over the province, are clerks and shopkeepers.”²⁹ Another observation was about the fast-increasing population of the Muhammadans in the province. The report of 1911 marked- ‘in the whole province Muhammadans have increased by 20.2 per cent since 1901, the contribution of the Brahmaputra Valley being no less than 42.8 per cent while that of Surma Valley is 16.3 per cent. The former rapid rates due to the large immigration of Muhammadan population from Bengal to Goalpara.’³⁰

The Census Report of 1911 made an interesting observation about Nepalis. It stated, “...persons born outside India the large proportion come from Nepal. The Brahmaputra valley contains a large number of Nepalis, who are mostly engaged in breeding buffaloes and making ghee: they also do a certain amount of nomadic cultivation and work as sawyers in the government forest: they are spreading into the hill districts, where they follow the same callings. Many of them are temporary or periodic visitors, but probably the majority are semi-permanent settlers verging towards permanency: there are twice as many men as women amongst the Nepalis censused in the province.”³¹ The report held a consistent view about the tea garden coolies like the earlier report and had a similar observation about increased land holding by the ex tea garden workers. It referred to the Revenue Report and for 1910-1911 and represented that the total area of the government land held by the ex tea garden labourers in both the valleys, the Brahmaputra and Surma was 191,599 acres. It offered a calculation on the basis of revenue statistics, which maintained that amongst Assamese 75 acres would support 80 persons. The report calculated that as new settlers would probably cultivate a smaller area and were not entirely dependent on land, it might be taken in 1901 that 75 acres would support 100 foreigners. It concluded that the foreigners (the ex tea garden coolies) had settled in great numbers and cultivated more largely and added, “it wouldn’t be far from the truth if we

²⁹ J. McSWINEY, *Census of India, 1911*, Vol. III, Part I, (Shillong: Assam Secretariat Printing Office, 1912), 28.

³⁰ McSWINEY, *Census of India, 1911*, Vol. III, Part I, Assam, 1912, 36.

³¹ McSWINEY, *Census of India, 1911*, Vol. III, Part I, Assam, 1912, 28.

allowed 90 colonists for 75 acres: this would give us 230,000 ex-coolies settled on government land. This not improbably represents about two-thirds of the total number of colonists: large numbers hold land on leases from persons other than government land and large numbers are employed as cartmen, servants, labourers and petty traders...in addition to this we must reckon the large number who have been indirectly brought to Assam by the same cause (tea-industry); if we include their resident descendants, it would perhaps not be too much to place their number at half a million. The final result is that there are now one 1.5 million of people in Assam, who wouldn't have been here, if there had been no tea gardens.”³²

A shifting trend for migration would be observed in the Census report of 1921. However, it maintained a similar observation for the tea garden coolies and the Nepalis, as it stated that colonization by ex-garden coolies and by the Nepalis was likely also to increase considerably. The Nepalis who came to the valley as graziers and dairymen were beginning to settle as cultivators in several parts.³³ The census report of 1921 recorded a significant increase in population in the Brahmaputra Valley. An increase of 9,29,000 in the population of the province was recorded and it was maintained that nearly half was due to immigration.³⁴ Unlike earlier census reports, it observed that the increase in population was partly due to the migration of the tea garden workers and partly for ‘the colonization of new cultivators crowded out of their native districts and also partly for grazing, labour and trade.’³⁵ Assam recorded 1,290,157 immigrants in 1921. On the total population of 7,990,246, the figure gave a percentage of 16.1 for the foreign born persons against 12.5 percent in 1911 and 13 percent in 1901.³⁶ The statistics reflected on the attraction of the province by the tea industry and wasteland available for colonization.³⁷ The report observed that the immigration to the tea gardens was not going to stop sooner as though the tea companies adopted restricted output in 1921, a very large labour force was required to supply the share of Assam of the world's demand for tea.³⁸ Observing about the new comers to the valley the report stated, “...the stream of Bengal

³² McSWINEY, *Census of India, 1911*, Vol. III, Part I, Assam, 1912, 30.

³³ G. T. Lloyd, *Census of India, 1921*, Vol. III, Part I, Assam, Shillong: The Government Press, Assam, 1922, 20.

³⁴ Lloyd, *Census of India, 1921*, Vol. III, Part I, Assam, 1922, 20.

³⁵ Lloyd, *Census of India, 1921*, Vol. III, Part I, Assam, 1922, 20.

³⁶ Lloyd, *Census of India, 1921*, Vol. III, Part I, Assam, 1922, 35.

³⁷ Lloyd, *Census of India, 1921*, Vol. III, Part I, Assam, 1922, 35.

³⁸ Lloyd, *Census of India, 1921*, Vol. III, Part I, Assam, 1922, 20.

cultivators settling in the Brahmaputra Valley, it seems that we had only the advance guard in 1911 and that now the main body is just beginning to arrive. The news of the promising land has spread to the other districts besides Mymensingh, the colonist are filling up the riverine tracts of the four lower districts of the valley and spreading inland from the Brahmaputra; their number has increased nearly five fold since the last census.”³⁹ Observing for the district of Kamrup the report maintained, “...immigrants are chiefly Muhammadans from Mymensingh and other Bengal districts. These settled at first at the banks of Brahmaputra but have now spread inland and opened up land which had been out of cultivation since the subsidence due to the earthquake of 1897.”⁴⁰ Similar observations were made for districts like Goalpara and Nowgong. In the concluding remarks the Census superintendent commented that it wouldn’t be surprising if they (Muhammadan immigrants) extend further up the valley and if the number was doubled or even trebled by the next census. It remarked, “they are the industrious cultivators, and Assam is one of the few parts of India where there is still ample land awaiting settlers, and with no need for artificial irrigation.”⁴¹

Despite making a striking observation about the increasing number of Bengali speaking immigrants from the neighboring districts of Bengal, like Mymensingh, the census report of 1921 noted that the Assamese and Bengali speakers remained consisted. It observed, “it should be noted that Sylhet, Cachar plains and Goalpara contain the great mass of the indigenous Bengali speakers and Kamrup, Darrang, Nowgong, Sibsagar and Lakhimpur most of the Assamese. All the districts of the Brahmaputra valley have large numbers of immigrant Bengali speakers.”⁴² Interestingly, the report concluded that the figures showed that Assamese and Bengali held their respective positions in the province.”⁴³ It recorded that the 22 percent of the total population of the province spoke Assamese against 21.7 in 1911, while 48.1 percent returned Bengali as their mother tongue against 45.9 percent in 1911.⁴⁴ The report however, reiterated the observation made in the earlier census reports that enumeration of language in Assam was difficult. Similar to the report of 1911, where confusions reflected clearly in the district of Goalpara, the report of 1921 noted, “our

³⁹ Lloyd, *Census of India, 1921*, Vol. III, Part I, Assam, 1922, 20.

⁴⁰ Lloyd, *Census of India, 1921*, Vol. III, Part I, Assam, 1922, 11.

⁴¹ Lloyd, *Census of India, 1921*, Vol. III, Part I, Assam, 1922, 20.

⁴² Lloyd, *Census of India, 1921*, Vol. III, Part I, Assam, 1922, 120.

⁴³ Lloyd, *Census of India, 1921*, Vol. III, Part I, Assam, 1922, 120.

⁴⁴ Lloyd, *Census of India, 1921*, Vol. III, Part I, Assam, 1922, 120.

returns are certainly vitiated by the real impossibility of diagnosing the language of tea garden coolies.”⁴⁵ There were much apprehensions about the return of the migrated tea garden coolies, as sometimes they had no clue about their mother tongue and sometimes both the Assamese and Bengali enumerator would note them incorrectly.

The following census report of 1931 would significantly alter the narrative of migration in Assam for that matter the notion of foreigner. The report would mark a shift in the existing narrative of the census data in two evocative ways. First by dwelling on the question of language, it highlighted the steady increase of the number of Assamese speakers in Brahmaputra valley, despite having a high population growth and also magnified the migration of Muslim people from neighboring province of Bengal. It had drawn weighty inferences commenting about the present crisis and future drifts on the Assamese people. In the process, it offered interesting observations about the notion of membership amongst the Assamese-speaking people. For instance, while discussing the language data it observed, “Unfortunately in Upper Assam⁴⁶ the word *Bangla* means everyone who is not an Assamese and there is a well-known tendency for the Assamese enumerators to write down a speaker of any foreign tongue as *Bangla* (which simply means something foreign). In fact, a European in more unsophisticated Assamese villages is sometimes known as a *Boga Bangla*- a white Bengali.”⁴⁷ The gap between the Bengali speakers and the Assamese speakers in Assam by now had taken a sharp demarcation centering around the question of language and Assamese nationality was taking shape around the same. Language undoubtedly played a crucial role in forming the idea of ‘other’ in Assam by then. Though its difficult to draw a general conclusion about how far these notions impacted the imagination of people of Assam, Mullan’s observation parallels with various vernacular literary accounts.⁴⁸

⁴⁵ Lloyd, *Census of India, 1921*, Vol. III, Part I, Assam, 1922, 120.

⁴⁶ Places around the upstream of the river Brahmaputra, more specifically the Eastern part of Assam was referred as Upper Assam.

⁴⁷ Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932, 168.

⁴⁸ There are references in various literary accounts to words like *Mlesh*, which particularly referred to the Europeans or any white skinned persons or Christians. On the other hand ‘*Ojati*’ was a term, which appears frequently referring to anyone outside the ‘*jati*’ (Assamese *jati*). It is difficult to comment how the idea of *jati* was taking form in the minds of Assamese people. But mostly it oriented through the question of language. (see Amalendu Guha, Little Nationalism Turned Chauvinist: Assam's Anti-Foreigner Upsurge, 1979-80 SEP *Economic and Political Weekly*, Vol. 15, No. 41/43, Special Number (Oct., 1980)), 1699-1720 SEP)

Though the report of 1931 recorded a record growth of population in the province and attributed to the immigrants from the province of Bengal, for language it tallied with the earlier reports and noted a consistent growth of the number of Assamese speakers. However, it observed that despite a significant growth of population in the Brahmaputra valley since 1901, where Assamese was the dominant language, the percentage of speakers of Assamese to the total population remained very steady.⁴⁹ A percentage of 21.6 was recorded as Assamese speakers in the population of the Assam province against 21.6, 21.7 and 22.0 in years of 1921, 1911 and 1901 respectively. The report remarked, “it is clear from the figures of increase in the speakers of Assamese at this census and from the table that the language is, at present, in no danger of suppression and that the Assamese are determined to preserve their national tongue.”⁵⁰

Mullan’s report made the most provocative statement while it made observations about the increasing migration from Bengal province, particularly from the district of Mymensingh. It wrote, “Probably the most important event in the province during the last twenty five years-an event, moreover, which seems likely to alter permanently the whole future of Assam and to destroy more surely than did the Burmese invaders of 1820 the whole structure of Assamese culture and civilization- has been the invasion of a vast horde of land-hungry Bengali immigrants, mostly Muslims, from the districts of Eastern Bengal and in particular from Mymensingh.”⁵¹ Superintendent Mullan further maintained that the this process began sometime before 1911 and the numbers of the Bengali immigrants enumerated in the *char* areas of Goalpara district during the census enumeration in 1911 was a small hint to the big numbers which followed later. What striking was the language used by the census superintendent Mullan to describe the increasing rate of migration from Bengal. It was notably communal and provocative to invite popular attention of the Assamese nationalists. To support the argument the report used a table showing the number of persons born in Bengal in each district of the Assam valley in 1911, 1921 and 1931. It recorded highest number of people born in Bengal in the district of Goalpara, followed by Kamrup, Darrang, Nowgong, Sibsagar and Lakhimpur. The table also marked out the

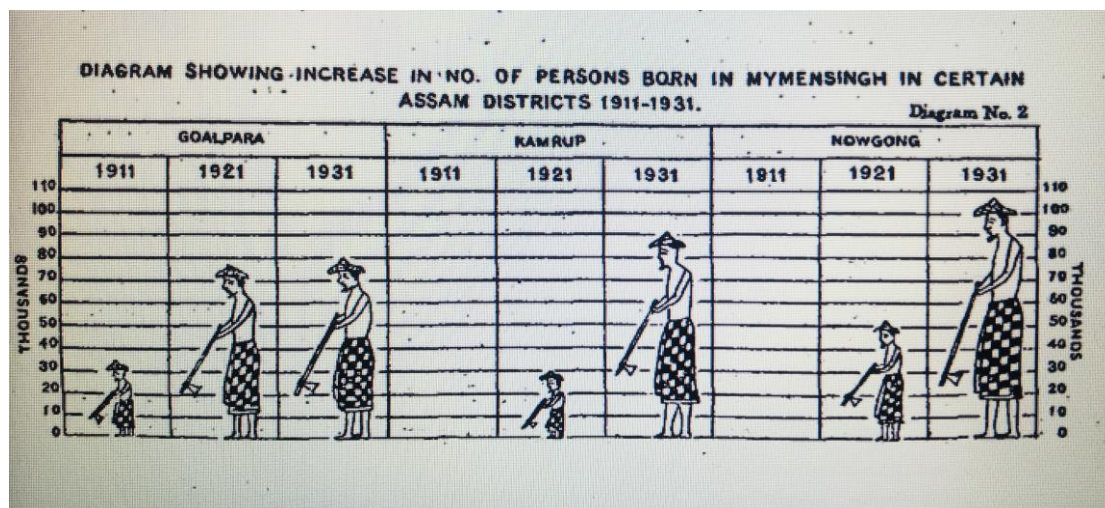
⁴⁹ Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932, 177.

⁵⁰ Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932, 177.

⁵¹ Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932, 49-50.

number of people born in the district of Mymensingh in the brackets as it maintained that Mymensingh was chiefly responsible for the ‘flood of immigrant settlers.’⁵²

Figure 1. The figure of the diagram showing in number of persons born in Mymensingh



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Mullan repeatedly referred to the Bengali speaking peasants from Mymensingh as invaders and inferred that they had occupied district of Goalpara and proceeded to other districts like Nowgong. It reflected notably on the increase of population in Nowgong district as- ‘the population of Nowgong has increased by 41.3 per cent- the largest parentage increase of any district of Assam...due to mostly to the immigration of East Bengal settlers.’⁵⁴ He referred to the reports of district officers of Nowgong, which maintained, “the increase in the population is specially noticeable in Kathowal, Juria, Laokhowa, Dhing, Bokoni and Lahorighat mauzas where it is solely due to the large influx of immigrants settlers mainly from Mymensingh. They have opened up vast tracts of dense jungle along the south bank of the Brahmaputra and have occupied nearly all the lands which are open for settlement in the tracts.”⁵⁵ The following section of the report appreciated the very presence of these migrants as, “these people have brought in their wake wealth, industry and general prosperity to the whole district. They have improved the health by clearing jungles and converting the wilderness into prosperous villages. Their industry as agriculturalists has become

⁵² Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932, 50.

⁵³ To support his argument Mullan wrote about the table as, “These are startling figures and illustrate the wonderful rapidity with which the lower districts of the Assam Valley are becoming colonies of Mymensingh. The diagram below which shows the increasing in certain districts of persons born in Mymensingh only appears even more startling than the figures themselves.” (from census details, Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932, 50)

⁵⁴ Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932, 16

⁵⁵ Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932, 52.

almost proverbial and they extract from their fields the utmost they can yield. Their love and care of cattle is also an object lesson to others. Government revenue has increased...it is expected that with lapse of time and spread of education they will gradually change their mode of life and learn how to enjoy the fruit of their labour wisely and well...⁵⁶ While the report of the district officer went soft on the migrants for the reason that their arrival added to the revenue, Mullan didn't show mercy. He further magnified the migration of the cultivators from Mymensingh, referred them as colonists and induced anxiety through his provocative remark that Sibsagar would be the only part of Assam in which an Assamese would find himself a home.⁵⁷

By now Muslim migration into Assam became politically a vulnerable issue. After the publication of census report of 1931 and Mullan's statement about the migration of the Muslim peasants to Assam as 'invasion',⁵⁸ the matter invited wide attention and had larger political consequences. While for Mullan the migration of the Bengali peasants were making a startling reference, the language used to present the census data was more startling to have striking impacts. It appeared that for political protection, the migrants from Bengal, particularly the Muslim cultivators started extending support to the friendly land reformer Muslim League government.⁵⁹ The report would unavoidably invite wide attention of the Assamese nationalists and many would offer their comments. Lakshminath Bezbarua, one of the most leading literary personalities of the modern Assam considered the language statistics more seriously. Bezbarua argued that the census was actually talking in terms of numbers rather than telling the reality. According to him the increased rate of Bengali speakers in Assam was due to the manipulated enumeration by the Bengali clerks who collected the census data and convinced the tea garden labourers to return Bengali as their first language.⁶⁰ Bezbarua also maintained that illiterate people in parts of Goalpara, Cachar, Dhuburi who spoke various dialects also returned Bengali as their mother

⁵⁶ Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932, 51.

⁵⁷ Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932, 52.

⁵⁸ Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932, 50.

⁵⁹ Jayeeta Sharma observes, "...from the 1920s Muslim immigration into Assam became a politically volatile, communally sensitive topic. Competition between the Congress and the Muslim League, disputes between politicians in Sylhet and the Brahmaputra valley, and inflammatory British official's rhetoric on "Mymensinghias overrunning Assam" had serious consequences for East Bengali settlers. Influenced by...Maulana Bhasani many East Bengali migrants chose to support the Muslim League. They were attracted to League by its liberal land grant policy." (Jayeeta Sharma, 2012(2011), 103).

⁶⁰ Lakshminath Bezbaroa, *Bezbaroa Granthavalee (Vol. II)*, (Guwahati: Sahitya Prakash, 1988 (1970)), 1831-1832

tongue. This finally resulted into enumeration of increased number of Bengali speakers in Assam.⁶¹

If Mymensingh was about the immigration of Muslim peasants, Sylhet was about the government job-seeking middleclass. The Census report of 1901 maintained, “Sylhet loses 23,587 persons, receiving 5,271 immigrants in place of the 28,858 emigrants sent to other parts of the province. As however, this district is the most densely peopled in Assam, it is only natural that it should lose by inter-district migration. Almost the whole of it is carried on with Cachar, though there is a certain amount of movement across the Khasi and Jaintia Hills boundary, and Sylhet, who make good clerks and are enterprising traders are found, though in small numbers, in most of the districts of the province.”⁶² The census report of 1911 also maintained a similar view about people migrated from the Dacca division. It noted, “those who come from Presidency division are found in small numbers in all the plain districts of and are probably mostly clerks. The majority of those born in the Burdwan division come from Bankura and Midnapur and are most in evidence in the tea districts; they and those from Burdwan and Birbhum districts are mostly tea garden coolies; the majority of the remainder are probably clerks.”⁶³

The dominance of educated Bengali speakers and their share in the profit made from resources like tea, coal, oil and in retail businesses was emerging predominantly as an alienating factor for the natives of Assam. The census report of 1921 recorded- “while considerable profits have been made in the tea and other industries, it doesn’t appear that indigenous population has shared much in these. Most of the tea gardens, the coal mines, the local railway, the petroleum wells and the saw-mills are owned by European companies and worked by people from other provinces...A good many of the professional positions are held by Bengalis; wholesale and important retail trades is in the hands of Rajputana and of East Bengal.”⁶⁴

It becomes very apparent that the census reports clearly offered an impactful perception about ‘the others’ in Assam. Setting on the migration question, these

⁶¹ Bezbaroa, *Bezbaroa Granthavalee (Vol. II)*, 1988 (1970), 1831-1832.

⁶² B. C. Allen, *Census of India, 1901*, Vol. IV, Part I, Assam, (Shillong: The Assam Secretariat Printing Office, 1902), 36.

⁶³ Allen, *Census of India, 1901*, Vol. IV, Part I, Assam, 1902, 28.

⁶⁴ Allen, *Census of India, 1901*, Vol. IV, Part I, Assam, 1902.

reports categorically showed who originally belonged to Assam by marking out the migrants. In the process it would identify others as, the migrated tea garden labourers and whose mother tongue was not Assamese, the migrants from Bengal, the Bengali speaking Muslims in particular, the Nepalis and the other trading communities who migrated from other parts of India and whose mother tongue was not Assamese. These reports made important interventions and went further to define “who the Assamese are.” The census report of 1901 wrote, “The Assamese are distinct people, who, far from regarding the natives of India Proper as being closely allied to them, look upon them with undisguised suspicion and jealousy, a Bengali Hindu of whatever caste standing on much the same footing for all social purposes as a European or Muhammadan.”⁶⁵ Elaborating further it observed differences between the Bengalis and the Assamese as, “the manners and customs of are diferent from those of Bengal; their language is different, for though Assamese and Bengali are both derived from Sanskrit, a native of Sibsagar and a native of Nadia would be unable to understand one another; even their caste system differs in many important particulars.”⁶⁶ Allen observed that for the census purpose it was difficult to define “who the Assamese were”, but drew important corollary that the Assamese couldn’t be defined in terms of their birth in Assam, as large numbers of the people born in Assam were the children of the ‘foreign parents’ and who wouldn’t be allowed to enter an Assamese cook-house; they could neither be defined in terms of language they speak, as the report observed that the immigrants who settled in the Eastern Assam had marked themselves as Assamese speakers. The report tried to find to a solution in terms of caste, but mainainted, “There is, in fact, no absolute test by means of which we can divide the inhabitants of Assam into those into those who are Assamese and those who are not.”⁶⁷

It clearly emerges from these coloial archival records that they contributed extensively to the creation of the concept of ‘foreigners’ or ‘others’ in Assam. Then the question was how far the narrative about migrants was reflecting on the ground. Was there any crisis that was a result of these marked large-scale migration from the province of Bengal? In the following section we will see how other records like

⁶⁵ Allen, *Census of India, 1901*, Vol. IV, Part I, Assam, 1902, 16.

⁶⁶ Allen, *Census of India, 1901*, Vol. IV, Part I, Assam, 1902, 16.

⁶⁷ Allen, *Census of India, 1901*, Vol. IV, Part I, Assam, 1902, 17.

revenue reports like *Mauza and village notes* would correspond with the narrative about migrants reflected in the census reports.

Mauza⁶⁸ and Village Notes: The Local Dynamics

While the political dynamic in Assam was roaring around the question of migration and the increasing communal polarization between the Congress and the League, the local dynamics in the level of *mauza* and villages were unfolding the emerging crisis around local economy, which was going to bring the locals and the migrants into conflict in various occasions in the decades to come. Though the educated, gentry class of Assam was articulating the social and cultural notion of membership both around the question of language and against migrants who didn't speak Assamese language, the real crisis was borne by the village dwellers in Assam who primarily depended on agrarian economy. To get a clearer picture of this local dynamics the *mauza* and village notes from revenue record is worth discussing here

The Assamese-speaking people mostly lived in the villages near to their cultivation fields, as they were primarily the farmers. The Census Report of 1901 reflected, "The Assamese are farmers, and not traders or artisans...they remain near their fields instead crowding into the town."⁶⁹ It remarked that the natives of Brahmaputra valley had little or nothing to do with the growth of the towns in the valley and noted as, "in Gauhati, nearly half of the populations are foreigners, only 54 percent of the people census there, using the Assamese language, and only 52 percent having been born in Kamrup district."⁷⁰ This showed the larger picture of Assam's economy as, it maintained that the towns were primarily inhabited by the 'foreigners' and Assamese were farmers, not traders or artisans, which subsequently hinted that the large scale trade and commerce was controlled by the 'foreigners' and Assamese people confined themselves in the villages. The village dynamics hence reflected the greater picture of the valleys of Assam. *Mauza* and Village notes from Nowgong, one of the districts where population increase was recorded at a very high rate, provided a significant reflection in the context. They unfolded a picture of villages in Assam, where the immigrants, Assamese-speaking caste Hindu inhabitants and other communities shared the space and various transections took place. At the advent of large-scale

⁶⁸ Revenue unit, ranging in area from a few square miles to 200 square miles.

⁶⁹ Lloyd, *Census of India, 1921*, Vol. III, Part I, Assam, 1922, 6-7.

⁷⁰ Lloyd, *Census of India, 1921*, Vol. III, Part I, Assam, 1922, 7.

migration as the other records noted, these notes reflected on the socio-economic dynamics in a significant way. Let us pick up the note of Dhing *mauza* for discussion.

As recorded in the note in October 1928, *mauza* Dhing had 21 villages reserved for Assamese speaking inhabitants and 24 villages had Assamese-immigrants line⁷¹ and 19 villages were in the occupation of East Bengal immigrants.⁷² The total area of settlement of the *mauza* Dhing increased by four times than that of the last resettlement, a decade earlier and the reason was attributed to the 'Bengal immigrants.'⁷³ The note stated, "With the influx of the East Bengal immigrants, the cultivation gradually increased and at present the settled area is four times of that of last settlement." It further stated, "The population of old Dhing Mauza increased by a 107 percent between 1901 and 1921. A few years before the last census the immigrants began to come to this Mauza. In next census the percentage of increase is expected to be much more."⁷⁴ The note further stated certain intriguing statements like, "the immigrants almost always grow double crops in their lands. After harvesting *ahu* and jute, either *sali*, mustard or pulse was generally grown. They make the utmost use of their land...unlike the Assamese the immigrants do not confine themselves to one cropping a particular plot or land every year. They select crops for their lands according to the special circumstances of the year. So the class area and the corresponding crop area do not agree in many cases."⁷⁵

A significant observation made in the note was about the local market dynamics. Notably, it was under the control of communities like Marwari and petty Bengali traders. In the village level, the local moneylenders called *mahajans*⁷⁶ used to buy the product from the peasants and sell to the wholesale traders like Marwari. The wholesale market was a Marwari monopoly. The note maintained, "The agriculture produce of the *mauza* is disposed of in the Marwari shop of Upar Dumdumia, Salaguri, Dhingtown and *Nij Dhing*. One Bengali Shopkeeper at Batabari also purchases the produce of the village in the southern part of the Muaza...A

⁷¹ Following the records of increased rate of migration from Bengal and increasing rate of conflict between the Bengali speaking cultivators and Assamese peasants, an administrative measure was adopted as Line system, which demarcated areas for the migrant cultivators.

⁷² Village Notes, Mauza Dhing, District Nowgong, A.S.P.O. (Rev.) No.34-3000-5-10-1928-A.E.R., District Revenue Record Room, Nagaon.

⁷³ *Village Notes, Mauza Dhing, District Nowgong, 1928.*

⁷⁴ *Village Notes, Mauza Dhing, District Nowgong, 1928.*

⁷⁵ *Village Notes, Mauza Dhing, District Nowgong, 1928.*

⁷⁶ Moneylenders at the village level cum trader.

considerable portion of jute, paddy, pulses and mustard is however bought by the *mahajans* from village.”⁷⁷ The village dynamics was extremely complex as people depended mainly on cultivation. Some of the Assamese peasants had *pam*,⁷⁸ production from which supported to meet their everyday expenses. But it was confined to the comparatively richer households who had excess land for *pam* in the riverine areas. The note observed that slowly the Muslim migrant cultivators were occupying these lands, which also led to occasional conflicts.⁷⁹

A note for the *Nij Dhing* village recorded in 1928 provides a clearer picture in a village level. *Nij Dhing* was a lined village, where the immigrants lived in a confined block. It had a mix of population. Of 157 total families, 76 were Koches, 28 immigrant Mussalmans, 1 Assamese Mussalman, 15 Katanis, 6 Hiras, 8 Kaibartas, 2 Mahantas, 2 Brahmins, 3 Muchis, 1 Kalita, 8 Kayasthas and 7 Marwari.⁸⁰ The price of land in the immigrant’s block was higher than the Assamese block. The note recorded that in the immigrant’s block land was sold at Rs.60/- to 100/- per *bigha*,⁸¹ whereas amongst the Assamese the price of *khet* land varied from Rs.10/- to Rs.30/- per *bigha*.⁸² It observed that the immigrants paid exorbitant price for land and considered it as good investment. The immigrants who were more adventurous took loans heavily and repaid in cash in normal years after harvest. They borrowed money to purchase land, good cattle and building houses and it was observed that their litigious and extravagant habits were responsible for their debts, but they were the favorites of the money landers. In contrast to the migrants, the Assamese didn’t borrow much and those who did tried to repay debts sooner after harvest. The note observed that sometimes they took advance on mustard and pulse from the *Mahajans*.⁸³ The *Mauza* note concluded that few years back the *mauza* was full of thick jungle and was not easily accessible. Communication was very bad. But as soon as the immigrants arrived, the jungle was cleared and communication became much easier and destruction of crops by wild animals reduced to a large extend. “Since the last

⁷⁷ *Village Notes, Mauza Dhing*, District Nowgong, A.S.P.O. (Rev.) No.34-3000-5-10-1928-A.E.R., District Revenue Record Room, Nagaon.

⁷⁸ Land for temporary cultivation in riverine tracts.

⁷⁹ *Village Notes, Mauza Dhing*, District Nowgong, 1928.

⁸⁰ *Village Notes, Mauza Dhing, District Nowgong*, 1928, 10.

⁸¹ A traditional unit of measurement of land, equivalent to 0.33 acres.

⁸² *Village Notes, Mauza Dhing, District Nowgong*, 1928, 10.

⁸³ Report of the district officer, Nowgong, as referred in Mullan, *Census of India*, Vol. III, Part I, Assam, 1932, 53.

resettlement the cultivation has extended more or less four times. It is now an established Mauza with keen demand for land,” the note concluded.⁸⁴

The *mauza* and the village notes reflected clearly how the village dynamics was altering with the arrival of the immigrants. These observations were also substantiated by census reports. For instance, the census report of 1931 maintained, “In spite of their income from land the immigrants seldom become rich as they are spendthrifts by habit, are prone to litigation and don’t hesitate to run into debt. Petty disputes drive them to the law of courts when the jute market is favourable. The Marwari *mahajans* are ready to accommodate them with loans at usurious interest so long as crop prospects are good.”⁸⁵ The same report also maintained a similar observation as the village note about the eagerness of the immigrants to hold more land, which in many occasions led to conflict with the locals as, “In their eagerness to grasp as much as they could they not infrequently encroached on Government reserves and on lands belonging to the local people from which they could be evicted only with great difficulty. In the beginning they had their own way and there was frequent friction with the indigenous population who didn’t like their dealings as neighbours. The appointment of the special Colonization Officer and adoption of certain definite rules tended much to regularize settlement and friction. Boundary lines had to be fixed restraining the immigrants from occupying lands near Assamese villages by trespass or purchase but even these steps were often found to be inadequate to protect the Assamese villagers. Many immigrants had been punished with fines and ejections, sometimes with the assistance of the police.”⁸⁶

A crisis was evidently building up in the local level as early as around 1920s. Though this was going to continue for a very long period of time, a need rose to take up some measures to contain the increasing conflict between the immigrants and local inhabitants. The agrarian politics was going to decide the course of politics in Assam and the peasants would be in the driving seat.⁸⁷ With the support of the colonial administrators and with the indulgence of the Assamese gentry class in the matter, the

⁸⁴ Report of the district officer, Nowgong, Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932, 55.

⁸⁵ Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932.

⁸⁶ Report of the district officer, Nowgong, Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932, 52.

⁸⁷ Arupjyoti Saikia’s *Century of Protests: Peasant Politics in Assam Since 1900* discusses in very great details about this agrarian politics in Assam which also comments on the shifting leadership in the later decades of 1980s from the peasants to the students (for more details see Arupjyoti Saikia, *A Century of Protests: Peasants Politics in Assam Since 1900*. (New Delhi: Routledge, 2014))

question of migrant peasants from Bengal particularly the Muslim peasants, was going to have a concrete administrative measure in Brahmaputra valley by 1920.

Winnowing the Migrants: The Line System

Migration from overpopulated East Pakistan didn't only remain in books; it became instrumental to bring some colonial administrative measures. It was after these migrants started pressing themselves farther to the areas occupied by tribal populations, the government felt a need of some administrative measures. Line system was adopted in 1920, a system where a 'line' was drawn in the districts under pressure in order to settle immigrants in segregated areas, specifically for their exclusive settlement.⁸⁸ Following the executive failures this followed 'ceiling' and later in 1928 the 'colonization scheme' to fix land settlement with immigrants. As observed it was '...to protect the Assamese and aboriginal inhabitants-but partly also to avoid breach of peace...government was aware that *a system of racial segregation* was being practiced.'⁸⁹ (Emphasized)

For the commoners, the Assamese in general had mixed reactions towards these administrative measures. Some Assamese Muslims opposed the line system as it was according to them creating barrier for assimilation in the larger Assamese society. They reluctantly welcomed the immigrants with the hope that they would be *Assamized* in the due course.⁹⁰ The land owning Assamese middleclass had no objection engaging the Muslim immigrant peasants as sharecroppers but had reservations their settling down within Assamese line.⁹¹ Meanwhile the *ryot sabhas*, provided a political platform for the Assamese peasants. In occasions they were also used as platforms for raising Assamese nationalistic sentiment.⁹² Political comments contesting the East-Bengali immigrant peasants were also made in conventions of *ryot sabhas*.⁹³ While the mixed reaction towards colonial land policies were shaping, gradually a nationalistic sentiment, started rising from sections of people against

⁸⁸ *Report of the Line System Committee* (1936), Assam Govt. Press 1938. ASA, 167.

⁸⁹ *Report of the Line System Committee* (1936), Assam Govt. Press 1938. ASA, 169.

⁹⁰ *Report of the Line System Committee* (1936), Assam Govt. Press 1938. ASA, 170.

⁹¹ *Report of the Line System Committee* (1936), Assam Govt. Press 1938. ASA

⁹² In the presidential address in the second annual conference of Ryot Sabhas Congress leader Harekrishna Das suggested that Assamese peasants were the basis of the Assamese nationalism and also referred Assamese peasants and Assamese *jati* synonymously. (Arupjyoti Saikia, *A Century of Protests: Peasants Politics in Assam Since 1900*. (New Delhi: Routledge), 83)

⁹³ Arupjyoti Saikia, *A Century of Protests: Peasants Politics in Assam Since 1900*. (New Delhi: Routledge), 83.

policies like line system. In 1936 Khan Bahadur Nuruddin Ahmed put forward a resolution to abolish it. Nuruddin Ahmed however didn't want the colonization scheme to be abolished and believed that there should be some sort of control over immigration.⁹⁴ He stated- "Immigration cannot be stopped and shouldn't altogether be stopped...Just make a rule not to allow anybody to settle on any government land without permission. No immigrant should be allowed to settle on any government land without the permission of the Colonization Officer...reserve some land for the indigenous people."⁹⁵ Following this resolution, a report was prepared reflecting public views, which significantly mirrored the popping crisis not only of land but also of the culture.

The proposal of abolishing the Line system was for better assimilation of the migrants with Assamese, as the Assamese Muslims hoped for. Assamese Hindus, on the other hand became protective about their cultural identity, the Assamese.⁹⁶ For instance, *Asamiya Samrakshini Sabha* (Association of Conservation of Assamese) was floated by Ambikagiri Raychaudhury, who would become one of the national leaders of the Assam. Nilmoni Phukan, a socialite and a politician supported restriction for the immigrants and suggested that they should adopt Assamese language for better assimilation.⁹⁷ There were suggestions to establish Assamese schools in the areas of the immigrant settlers by the Local Boards. Many of the Bengali speaking Muslim migrants accepted that they were willing to adopt Assamese culture, basically the language, although many differed in their individual statements. They opined that for the minors a language other than their mother tongue wouldn't be appropriate for education. And few maintained that initially the immigrants were not unwilling to get absorbed into the Assamese society by adopting Assamese language and culture but they lost interest on the account of the movement launched by *Assam Samrakshini Sobha*.⁹⁸ A strong public opinion for 'line system' and against 'immigrants' reflected as for many of the Assamese caste Hindus the 'Mymensinghians' were 'bad neighbors' and 'good cultivators' hence land seeking immigrants. They were often referred as criminals. The sub deputy collector of Semaguri observed that retention of Line

⁹⁴ *Report of the Line System Committee (1938)*. Assam Govt. Press 1938, Shillong. ASA

⁹⁵ *Report of the Line System Committee (1938)*. Assam Govt. Press 1938, Shillong. ASA

⁹⁶ Guha, *Planter Raj to Swaraj*, 2006 (1977), 116.

⁹⁷ *Report of the Line System Committee*. Assam Govt. Press 1938. ASA.

⁹⁸ Maulabi Amiruddin Ahmed to the committee, Report of the Line System Committee. Assam Govt. Press 1938. ASA.

system is necessary as that's 'the best weapon to combat with the crimes of the immigrants.'⁹⁹

Apart from the caste- Hindu Assamese and Assamese Muslims, the tribal people living in the valleys of Assam also expressed their concern about these policies. The skeptical Tribal League¹⁰⁰ settled down their political demands with ruling parties on the basic premise of protecting tribal lands from the immigrant Muslims. They strongly supported existing policy of Line System as they 'felt that the entire tribal economy and culture would be jeopardized by the unrestrained influx of the immigrants.'¹⁰¹ In both the terms (with Muslim League in 1937 and with Congress in 1938) the League set their agenda clear about the Line system that it should be maintained and the lands belonging to tribes should be protected from the immigrant Muslims.¹⁰²

Simultaneously, the Bengal Legislative Council's motion on 16 July 1943 that 'calling upon the Government of India to take immediate steps to remove all existing restrictions imposed by the Assam Government on cultivators from Bengal was significant. The resolution of Bengal Legislative Council held the message against policies of line system¹⁰³ ceiling¹⁰⁴ and colonization¹⁰⁵. It also marked 'imposed restrictions', the 'line' for the emigrants who ideally had equal claims on its land and resources as unjust; as the Muslim peasants viewed, and Guha maintained "the Muslim immigrants, segregated and pitted against all odds never appreciated the Assamese point of view. If all men were equal in the eyes of Allah, why should thousands of acres of land remain waste, particularly when men in search of a livelihood and *lebenstraum* were available to turn them into smiling field?"¹⁰⁶

⁹⁹ *Report of the Line System Committee*. Assam Govt. Press 1938. ASA.

¹⁰⁰ The All Assam Tribal League was formed in 1933 in Nagaon to safeguard political interests of the Plain tribes of Assam. (Charan Narzary, *Dream for Udayachal and the History of Plains Tribal Council of Assam (PTCA 1967-93)*, (Guwahati: N.L. Publication, 2011), 43.)

¹⁰¹ Saikia, Rajen, *Political History of Assam*, Assam Publication Board, Vol. 3, 312.

¹⁰² Charan Narzary, *Dream for Udayachal and the History of Plains Tribal Council of Assam (PTCA 1967-93)*, (Guwahati: N.L. Publication, 2011), 45.

¹⁰³ To settle land with the immigrants from East Bengal, a line was drawn in the districts under pressure demarcating wasteland exclusively for immigrants.

¹⁰⁴ No land settlement could be made with immigrant family beyond a ceiling of 16 *bigha*.

¹⁰⁵ The scheme offered compact colonization areas outside which immigrants were not allowed to settle.

¹⁰⁶ Guha, Amalendu, 2006 (1977), 170.

It was evident that the question of land was emerging more forcefully in all spheres. But at the same time the question of right over land was bringing the peasants closer to the educated nationalists. With the rallying of the peasants, it was the educated class who would particularly through vernacular literatures would valorize the definition of the Assamese giving a sense for social membership in Assam. In the following section we will see how various vernacular texts would put forward notions of ‘membership’ and ‘other’ or for that matter ‘foreigners’.

Asamot Bideshi: Foreigners in Assam

If the migration rhetoric found defined expressions in colonial government’s documents, a parallel perception about *bideshi*, meaning foreigner was also taking shape. It too, could be attributed to the books of the colonial government. The census report of 1931 maintained, “To tea we owe nothing at this census, so far as migration is concerned, but Eastern Bengal immigrants have added at least 200,000 to the population of Assam Valley and Nepalis continue to find in Assam a land flowing with milk and honey.”¹⁰⁷ However, an increased rate of migration from North Western Provinces was recorded earlier in all census reports. The Census Report of 1901 recorded that second highest number of migrants at the rate of 14 percent from the North Western Provinces, after the highest rate from Bengal.¹⁰⁸ The report maintained that the emigrants from Rajputana were the shrewd Marwari merchants who had monopolized the trade of Brahmaputra Valley.¹⁰⁹ The Census Report of 1911 would maintain a similar observation as, “those from Rajputana represent the Marwari merchants who practically have the monopoly of the trade of the province outside district of Sylhet.”¹¹⁰

The report would further categorize people coming from other parts of the country as ‘immigrants’. It provided a detailed statistics and a map depicting currents of migration into Assam. It proposed to examine in details these currents of migration into Assam and they were, ‘immigration to the Assam tea garden, immigration of Eastern Bengal colonists and immigration of Nepalis.’¹¹¹ It also observed that the

¹⁰⁷ Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932.

¹⁰⁸ Mullan, *Census of India, 1901*, Vol. IV, Part I, Assam, 1902, 33.

¹⁰⁹ Allen, *Census of India, 1901*, Vol. IV, Part I, Assam, 1902, 34.

¹¹⁰ McSWINEY, *Census of India, 1911*, Vol. III, Part I, Assam, 1912, 28.

¹¹¹ Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932.

immigration from other parts of the country was not numerous, but it maintained in the context, “the people from Rajputana are Marwaris- those ubiquitous merchants who control the trade of Assam Valley. Their numbers have risen from 12,000 in 1911 to 16,000 in 1921 and to 22,000 in 1931. It appears that their numbers are expanding with the development of the province. The Punjabis are principally contractors, skilled mechanics, carpenters, and motor *mistris*. As might be expected they might be increased principally in Lakhimpur which is the most advanced industrial district in Assam.”¹¹² Earlier in 1921, the census report maintained, “Most of the tea gardens, the coal mines, the local railway, the petroleum wells and the saw-mills are owned by European companies and worked by people from other provinces...The rice mills and oil mills of Dibrugarh are owned by Marwaris.”¹¹³

However, before these Census Superintendents’ observations, a native of Assam extensively wrote about these ‘immigrants’, the Nepalis, Marwaris, Punjabis, Madrasis and others from other states of India for their control over economy as the basic point of concern for the natives of Assam and he termed them as ‘*bideshi*’ meaning foreigners. Jnananath Bora, an eminent lawyer and intellects of modern Assam, maintained that for the development of Assam, Assam had to take grip on her economy, which was otherwise dominated by these *bideshi*, (foreigners). Bora published a series of essays in *Chetana*, an Assamese magazine edited jointly by Chandranath Sarma and firebrand Assamese nationalist Ambikagiri Raychaudhury in 1920s. These essays were published together as ‘*Asamot Bideshi*’, later in 1925. In these articles Bora elaborately described how Assam needed to have control over its economy to prosper as a developed province of India. Bora conceptualized the national economy of Assam in a unique way and maintained that to prosper in terms of money (economy) was the national need for Assam.¹¹⁴ He stated, “...the need of the hour for the Assamese people is money. Like earlier our primary national duty was to protect our language, now our national duty is to earn money...business is the primary way to earn money. If trade and business remains in the hands of others (we) cannot prosper. Assamese people cannot prosper until they take control of trade and business. If Assamese people intend to safeguard their existence, they have to take

¹¹² Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932, 45.

¹¹³ Mullan, *Census of India, 1931*, Vol. III, Part I, Assam, 1932, 45.

¹¹⁴ Bora, *Asamot Bideshi*, 1996, 8.

complete control of trade and business. (*Translation mine*)”¹¹⁵ By taking control of trade and business, Bora proceeded to the primary discussion, which was about taking control of economy from the hands of Bideshi (foreigners). Bora wrote, “...how to take control of it is the main problem. Bideshi have been rooting in the country (Assam) by establishing thousands of shops, hundreds of factories. They are prospering with the help of our people every day. Many of the Assamese are indebted to them. We have become slaves as we have been long dependent on them.” (*Translation mine*).¹¹⁶ Jnananath Bora tried to get an answer to the question, ‘how to take control of the economy’. Bora offered a conceptual framework for helping each other in business and to create a revolution parallel to the struggle for independence. According to him, prosperity of the provinces was integral to the attainment of *Swaraj* for India. Bora advocated in autonomy of the states in this regard, as he believed that for the development of India, every state had to develop according to its position and each state should take necessary measures accordingly.¹¹⁷

Jnananath Bora observed that Assam was economically backward and lagging behind in compare to other provinces of India and she had to take control of trade and buisness to meet the gap. He observed that though few Assamese had tried to do business with their limited capacity and exposure, but they had failed in front of big *bideshi* businessmen.¹¹⁸ Bora therefore opined that that had to be a united *national struggle* to take complete control of trade and business and all Assamese had to get united for the cause. Notably, while referring to the *bideshi*, Bora categorically mentioned, “All foreigners are included when we refer to *bideshi*, the European tea planters, Keyan (Marwari businessmen), Bengali, Hindustani or Desuwali (those who spoke languages other than Assamese like the Hindi speakers), Nepali and Mymensinghias.”¹¹⁹ He further divided the *bideshi* in two categories, those who were

¹¹⁵ Bora, *Asamot Bideshi*, 1996, 8-9.

¹¹⁶ Bora, *Asamot Bideshi*, 1996, 9.

¹¹⁷ Bora, *Asamot Bideshi*, 1996, 25-26.

¹¹⁸ Padmanath Gohainbaruah, a leading literary personality of Assam and contemporary to Jnananath Bora makes a reference in a similar context about the Assamese businessman from western Assam’s Barpeta. Gohainbarua expressed pride about the indigenous Assamese business skill of the *Barpetias* in local businesses like fireworks and maintained that like the Muslim businessmen of Dhaka who had successfully prevented the rooting of the Marwari businessmen in their region, the Barpetias had also successfully handicapped the growth of ‘foreigner businessmen’ in Barpeta. Notably Gohainbarua also referred to the businessmen other than Assamese (speakers) as foreigners. (Padmanath Gohainbarua, Presidential Adress, 16th Convention of Assam Association, Barpeta, 27 December 1919, in *Gohainbarua Rachanavali*, Guwahati: Publication Board Assam, 2008(1971), 905).

¹¹⁹ Bora, *Asamot Bideshi*, 1996, 19.

not doing harm to the local economy of Assam and those who were harmful. Though the European planters were extracting a huge amount of money through the tea trade, they were not harmful for the local economy as they were extracting from the soil of Assam but not from the Assamese people.¹²⁰ But other foreigners were extracting from the Assamese people as they were holding business in the local areas. Bora felt that there was an urgent need to check such extraction and bring the control of the local businesses into the hands of the Assamese-speaking locals.¹²¹ However, he also mentioned that there was no need to antagonize these traders from other parts of India. He was aware that there would emerge some amount of conflict in the process, but believed that if Assamese people follow the path of non-corporation with these rich traders and businessmen, the situation of conflict could be avoided. Bora also differentiated between the poor foreigners who settled in Assam for their need and the rich and educated class of foreigner businessmen. He hoped that though the first category of people were creating trouble in parts of Assam by migrating in thousands of number, they would gradually adopt the language and culture of Assam and get assimilated. But the rich and educated class wouldn't. Therefore there was an urgent need to handle that class in a different manner.¹²²

Jnananath Bora's articulation of foreigners does correspond with the colonial record books as discussed earlier. This account points out to three basic matters, first it had reflected on the notion of 'foreigners'. Though Bora included the European planters into the category, he later referred to them as not much harmful to the local economy of Assam. This showed how the Assamese speaking educated class constantly shaped the notion of 'other' in the colonial Assam. Secondly, it had treated separately the poor, illiterate migrants. Interestingly as discussed earlier, the migrants from Bengal who migrated in the need of land and settled in parts of villages in Assam were also emerging as economic contender for the local peasants. Bora's hope that these poor migrants would eventually adopt the language and culture of Assam was reflecting on the emerging linguistic nationalism in Assam, which was again shaped by the educated class. The third important point that Bora made was about the rich, educated capitalist foreigners who migrated from other parts of India and whose mother tongue was not Assamese. Bora's primary apprehension about them was the fact that they

¹²⁰ Bora, *Asamot Bideshi*, 1996, 19.

¹²¹ Bora, *Asamot Bideshi*, 1996, 19.

¹²² Bora, *Asamot Bideshi*, 1996, 19.

were not going to adopt the Assamese language and culture and would exploit the local economy. This articulation would have a longer impact on the imagination of membership in Assam, as it would appear as a matter of outsiders. After independence though these ‘foreigners’ wouldn’t make a part of the citizenship discourse, it would continue to have an impact on the nationality narrative in Assam and would later influence the process of tangling of citizenship and nationality in Assam.

Towards a Proposal of Legal Membership: Situating Assam

Prior to independence, the imperial colony of India didn’t have specific law regarding citizenship until 1914.¹²³ The *British Nationality and Status of Aliens Act, 1914*, marked the defining regime of nationality and citizenship in colonial India. The act categorized British subjects into two categories i.e. ‘natural born British subjects’ and persons who had obtained certificate of naturalization from colonial government.¹²⁴ In the next phase came the Government of India Act 1935. Provisions like grant of wide range autonomy to the British provinces, provision of making ‘Federation of India’ encompassing all British provinces and princely states, introduction of direct elections etc. brought new hope for the people of India. Hope for independence and equal rights for all in free India emerged out of euphoria. Anupama Roy, referring to Sadaat Hasan Manto’s short story ‘Naya Kanoon’ argued that citizenship, at the constituent moment in India, was a ‘repository of an identity marking an enduring rupture from the past, which embodied the constitutional promise and vision.’¹²⁵ Naya Kanoon however talks more about the aspiration of the Indians in the advent of independence,

¹²³ “Before 1858 India was administered and governed by East India Company in proxy for British government. The company was granted certain administrative, governing and also judiciary power. During this period there didn’t exist any concrete (statute) Law which somewhat handled the matter of citizenship, two acts- Regulation Act of 1773 and Charter of 1774 addresses matters related to British Subjects. But in these two books the term British subject was not defined. In the second phase of direct British government rule in India, however the British subject found an expression through British Nationality and Status of Alien...” (Ashna Ashesh and Arun Thiruvengadam, Report on Citizenship Law: India, *Global Citizenship Observatory (GLOBALCIT) Robert Schuman Centre for Advanced Studies in collaboration with Edinburgh University Law School*, RSCAS/GLOBALCIT-CR 2017/12 July 2017).

For the period of East India Company, refer- Ramkrishna Mukherji, *The Rise and Fall of the East India Company: A Sociological Appraisal* (Monthly Review Press: New York, 1974); Cyril Henry Philips, *The East India Company, 1784-1834* (Manchester University Press: Manchester, 1961); and Tirthankar Roy, *The East India Company: The World’s Most Powerful Corporation* (Penguin Books: 2012).

¹²⁴ It is maintained that though the *jus soli* principle was taken to define British subjects, the definition of subject was racially biased. Indians were considered as ‘second-class citizens. (Ashna Ashesh and Arun Thiruvengadam, Report on Citizenship Law: India, *Global Citizenship Observatory*, 5).

¹²⁵ Roy, *Gendered Citizenship*, 2017 (2013), 16-18.

for a new constitution which would basically offer freedom and equal rights.¹²⁶ The protagonist Ustaad Mango who earns his livelihood as a *tanga* driver in Lahor, becomes highly optimistic about the Government of India Act 1935 and believes that the ‘new law’ would grant equal rights. This reflected on how by then people of India started perceiving a strong sense of legal membership, as Mango believed that a new law could offer equal right. This is also significant as it reflected how right became a basic premise for the perception of membership. Mango’s optimism however is also read by many scholars as ‘a gap between promise of law and its violent performance.’¹²⁷ Rohit De refers Naya Kanoon in the section of his book titled ‘the Constitution as Illusion’ and maintains that ‘the excitement and despair produced by the Constitution is perhaps best described by Saadat Hasan Manto...in his short story Naya Kanoon.’ Despite the triumph of having a new law and its successful functioning dealing heterogeneous community of a newly born nation India, there were thoughts about it being illusionary.¹²⁸

The idea of citizenship in India by now was also taking shape through certain colonial literatures, which notably paraphrased it in association of rights and duties. Warner-Lee’s book *The Citizen of India* is one of such literature that contributed significantly in the context. *The Citizen of India* was recommended by the Government of India in the government-aided high schools, where English was taught and it was planned to publish in Urdu, Marathi, Gujarati, Hindi and other languages.¹²⁹ The book conceptualized the citizens of India in a heterogeneous setup and proposed to live for a common interest of the country in a society composed of different various classes. Warner-Lee introduced the notion of duty here and maintained, “men who live together in the same land must constantly work for and with each other. They have in fact common interest, and if any one should ask what is meant by common interest, he cannot do better than think of his body.”¹³⁰ Elaborating further on this Warner-Lee referred to Socrates who called the body of human being

¹²⁶ Saadat Hasan Manto, “The New Constitution” in *Bitter Fruit: The Very Best of Saadat Hasan Manto*, ed. Khalid Hasan, (New Delhi: Penguin Books, 2008), 206-15.

¹²⁷ Rohit De, *A People’s Constitution: The Everyday Life of Law in the Indian Republic*, (New Jersey, Princeton: Princeton University Press, 2018), 7.

¹²⁸ De, *A people’s Constitution: The Everyday Life of Law in the Indian Republic*, 2018, 1-8.

¹²⁹ There had been a long history to the publication of this book and its use in the government aided high school. Niraja Gopal Jayal discusses the political dynamic for its publication in length. See Jayal, Niraja Gopal, 2013, *Citizenship and Its Discontents: An Indian History*, Permanent Black: New Delhi, 111-120.

¹³⁰ W. Warner-Lee, *The Citizen of India*, (Glasgow: Macmillan and Co. Limited, 1897).

‘the best order state.’¹³¹ He further elaborated on ‘body politic’ and Socrates’ example of hurt, and arrived at the concluding remarks that if one village suffered, the province should feel the pain in its village; or if the province suffered, the country should suffer with it. “The interests of one class are the interests of all and the best ordered empire is that in which the greatest number of citizens sympathize with each other”, he concluded.¹³² With the intension to introduce the idea of citizenship to the students of India, Warner-Lee handled the question of composite culture of India in ‘body politic’ and elaborated that just like different parts of the body functioned different duties for the perfect order of the body as whole, the Union of India should function with its different cultures. He believed that great populations could exist side by side with differences of creed and habits.¹³³ The composite culture and provincial differences would soon invite attention of the national leaders like Gandhi. While Gandhi conceptualized about the Nation India through *Praja* and *Swaraj*, Nehru imagined it as ‘unity in diversity.’ Both had placed their ideas in very close proximity with Warner-Lee. But the significant difference was the question of a sovereign India. Warner-Lee’s structural imagination was countered by different writings published regionally as they considered Warner-Lee’s ‘The Citizen of India’ as an imperial project for maneuvering interest of the colonial government.¹³⁴ Assam however makes a reference here, by exactly drawing Warner-Lee’s example of ‘body politic’. Jnananath Bora who believed in provincial prosperity to reach the goal of greater national prosperity of India, also expended the example of ‘body-politic’ to support his argument that it was the development of the Provinces that would strengthen India as a whole and for that the units, the provinces should do the needful. He argued that the provinces were like the parts of the body India and if one part (province) was hurt then the entire body (India) would get wounded and likewise if one part (province) was weak then the body (India) would also become weak. Therefore, for him, the prosperity of Assam was the priority and he believed that taking control of the

¹³¹ W. Warner-Lee, *The Citizen of India*, 1897, 1.

¹³² W. Warner-Lee, *The Citizen of India*, 1897, 1-2.

¹³³ W. Warner-Lee, *The Citizen of India*, 1897, 2.

¹³⁴ Niraja Jayal referred to a book titled ‘An Citizen of India’ published from Madras whose writer chose to remain unanimous. Jayal maintained that though the book deployed a template that was broadly imitative of Warner-Lee’s, the content was redolent of dissent. It especially critically saw the idea of ‘benefits of Britain’. (Jayal, *Citizenship and its Discontents*, 2015 (2013), 120).

economy, which was otherwise controlled by the keener trading communities of other parts of India, Assam could prosper.¹³⁵

The aspiration of citizenship in colonial India, on the other hand, was also referred mostly as aspirations of the newly educated class who got an exposure to the western education.¹³⁶ Class and race based hierarchy was basis for the *imperial citizenship*¹³⁷ which was predominantly unequal. The voice of the Indian National Congress for equal rights for the labors in colonies like South Africa and also in India grounded the future notion of citizenship.¹³⁸ With the turning of the century, the aspiration for citizenship got speeded to all spheres of Indians.¹³⁹ The Government of India Act 1935 raised new hope for equal right through new law, as discussed earlier.¹⁴⁰ Meanwhile, the Nehru Report of August 1928 offered equal rights to all, men and women as citizens. It proposed the principle of *jus soli* and offered, ‘anyone born or naturalized, or the child of a father born or naturalized, within the territorial limit of the Commonwealth India.’¹⁴¹ Recommending to keep the residual power with Center, it proposed to formation of federation.

In Assam, the new law, the Government of India Act 1935, introduced a significant amount of excitement in terms of provincial citizenship. By now the political dynamics in Assam had become an intense affair between Bengali speakers and Assamese speakers. A newly formed organization named *Assam Domiciled and Settlers’ Association* in 1935, aiming to bring the Bengali speakers irrespective of religion into one fold marked significance.¹⁴² Mostly organized by the Hindu Bengali urban inhabitants, it campaigned for equal rights of the Bengali-speaking people for domicile in Assam and for socio-economic and political participation. It had renewed the anxiety of the Assamese-speakers significantly. The organization in a memorandum to the Premier of Assam Gopinath Bardoloi in September 1939, where it

¹³⁵ Bora, *Asamot Bideshi*, 1996, 2.

¹³⁶ Jayal, *Citizenship and its Discontents*, 2015 (2013), 27-28.

¹³⁷ It refers to ‘Status of the Indians as members of the British Empire.’ (Jayal, *Citizenship and Its Discontents*, 2015 (2013), 28)

¹³⁸ Jayal, *Citizenship and Its Discontents*, 2015 (2013), 34-35.

¹³⁹ Lala Lajpat Rai wrote in 1914- ‘...the desire, the ambition and necessity of claiming the rights of British citizenship is no longer confined to educated Indians, but is permeating through the uneducated classes and even the masses. (Quoted in Jayal, *Citizenship and Its Discontents*, 2015 (2013), 34)

¹⁴⁰ Manto, Sadaat Hasan, 2012, translation Aatish Taseer, *Manto: Selected Short Stories*, Delhi: RHL.

¹⁴¹ *The Nehru Report: An Anti-Separatist Manifesto*, New Delhi: Michiko & Panjathan, 1975 (1928).

¹⁴² Arun Chandra Bhuyan and Sibopada De, (ed.) *Political History of Assam*, Vol. III, (Guwahati: Assam Publication Board, 2019 (1999)), 320-21.

urged for definite set of rules for provincial domicile or provincial citizenship.¹⁴³ The organization also suggested that the state of Assam must be built upon a conception of common Assamese citizenship applicable equally to all nationality of Assam irrespective of their differences in race, language and religion and suggested that ten years of continuous residence should be taken as conclusive proof for acquiring citizenship rights.¹⁴⁴

The Assamese nationalists reacted forcefully to it. They appealed to the Assamese-speaking people to protect their own interest and endorsed the definition of Assam, earlier propagated by *Asamiya Samrakhini Sabha*.¹⁴⁵ The definition was reflective of intense nationalistic sentiment as it said, “those who irrespective of caste, creed and religion accepted Assamese as their mother tongue and Assam as their motherland.”¹⁴⁶ This clearly echoed in the structural imagination of nationalist Ambikagiri Raychaudhury, who designed a federal structure naming ‘*Pachayat-Rastra Gothonor Prathamik Achoni*’ (Preliminary plan for creation of a Panchayat-Rastra), and planned for a federal nation with independent, autonomous states, based on Gandhi’s idea of *Panchayat*.¹⁴⁷ A follower of Gandhi, Raychaudhury believed in *Swaraj* and articulated it in an Indian federal structure with sufficient autonomy to the federal units. He believed that by achieving unity of different villages in *Pachayat Rastra*, the great Indian Nationality would form in India and identically the great Assamese Nationality would form in Assam.¹⁴⁸ In the very first edition of the ‘*Pachayat-Rasthra Gothonor Prathamik Achoni*’, Raychaudhury wrote a note to the people as, “Those people who have respect and allure for the independence of great Indian nationality as well as Assamese national home should make handwritten copies of this ‘*Pachayat-Rasthra Gothonor Prathamik Achoni*’ (Preliminary plan for creation of a Panchayat-Rastra) and distribute it village to village through their trustworthy persons (*translation mine*).”¹⁴⁹ Charting out different aspects of the *Panchayat Rastra*, Raychaudhury prepared a detailed design categorizing rules, bases including

¹⁴³ The memorandum stated, “so called provincial domicile or provincial citizenship had given rise to a good deal of loose and irresponsible talking and unhappy controversy”. (Assam Tribune 8 September 1939, as referred in Bhuyan and De, (ed.) *Political History of Assam*, Vol. III, 2019 (1999)), 320.)

¹⁴⁴ Bhuyan and De, (ed.) *Political History of Assam*, Vol. III, 2019 (1999)), 321.

¹⁴⁵ Bhuyan and De, (ed.) *Political History of Assam*, Vol. III, 2019 (1999)), 321.

¹⁴⁶ Bhuyan and De, (ed.) *Political History of Assam*, Vol. III, 2019 (1999)), 321.

¹⁴⁷ Ambikagiri Raychaudhury, *Pachayat-Rasthra Gothonor Prathamik Achoni*, in Ambikagiri Raychaudhury, *Ambikagiri Raychaudhury Rachanawali*, (Guwahati: Asom Prakashan Parishad 1986), 488.

¹⁴⁸ Raychaudhury, *Pachayat-Rasthra Gothonor Prathamik Achoni*, 1986.

¹⁴⁹ Raychaudhury, *Pachayat-Rasthra Gothonor Prathamik Achoni*, 1986, 530.

election procedure and other rules for the creation of *Panchayat-Rastra*.¹⁵⁰ Setting the rule, Raychaudhary offered that the units of *Independent Primary Panchayat Rastra* would be formed on the basis of historical notion of *jati*, meaning the nation, based on language and culture and the territory of these units would be defined accordingly.¹⁵¹ He also offered that any original inhabitants of ‘Independent Sub Unite’ within the Independent Nation Panchayat Rastra (*Swadheen Jatiya Panchayat Rastra*) would have freedom of right on their language, culture, economy and polity.¹⁵² Clearly Raychaudhury was offering a model of federal structure where the federal units would maintain their separate cultural identity and would have the right to decide the polity and economy on its own. Gandhi’s notion of *Swaraj* reflected well in this structural imagination, as Raychaudhury defined the election process for these units of Panchayat Rastra. He proposed to accommodate patiently the different notions and proposed for a non-communal mindset as the precondition for membership. He wrote, “In elections, the characteristic of not having any kind of communal (biased) sentiments like Hindu, Muslim, underdeveloped, Tribal, rich, poor, Brahmin, non-Brahmin, male, female etc. will illuminate as the most important consideration of all. Instead, the non-communal and no-biased people will liberally accommodate the biased ones giving them all chance (to correct themselves). (*Translation mine*).¹⁵³

Partha Chatterji’s articulation of Nation-State and People Nation makes a reference here. Chatterji has proposed two distinct understanding of Indian federalism based on two distinct tradition of writings. He maintains that there are two kinds of writing on Indian Federalism, first the legal, Constitutional writings, linked with the federal distribution of power which goes back to the Government of India Act 1935. This genre discusses mainly the Centre-State political role, inequality between advanced and backward states, alleged discrimination of central policy towards the states and similar topics etc. The other genre of writings as Chatterji argues, concerns socio-cultural foundation of federalism. Mostly scattered in wide vernacular writings in different cultural tradition of India, these writings include the debates whether India is a single nation or federation of nationalities and if single then is there distinct cultural identity of each federal unit. Chatterji opines that language becomes a crucial question

¹⁵⁰ Raychaudhury, Pachayat-Rasthra Gothonor Prathamik Achoni, 1986, 531-540.

¹⁵¹ Raychaudhury, Pachayat-Rasthra Gothonor Prathamik Achoni, 1986, 534.

¹⁵² Raychaudhury, Pachayat-Rasthra Gothonor Prathamik Achoni, 1986.

¹⁵³ Raychaudhury, Pachayat-Rasthra Gothonor Prathamik Achoni, 1986, 535.

here.¹⁵⁴ Discussing the case of Assam he argued that against the history of Nation-state, the history of the People-Nation in Assam was strongly marked by the struggle against imposition of Bengali language in Assam under British colonial rule and the contested question of migration from the early twentieth century of the Bengali speaking people into the agrarian regions of Assam. He referred Amalendu Guha here who called this imagination of Nation in Assam as ‘little nationalism’ within the ‘Great Nationalism’ of India.¹⁵⁵ However, Guha’s articulation has a larger historical plane. It was during the early decades of twentieth century the vernacular literatures in Assam made a distinct reference to Assam’s imagination of a People-Nation. Ambikagiri Raychaudhury was one of the pioneers amongst many like Jnananath Bora, as discussed earlier, who clearly wrote about this imagination. Raychaudhury wrote, “...India was not a single unit in terms of language and nationality since the ancient time, though it was an unit of a single religion. However, the base to define the question of nationality was not same as today. Earlier, it was defined on the basis of race, Aryan or non-Aryan. Despite being a predominantly Aryan civilization, India in the process, assimilated different indigenous communities and gave birth to different cultural traditions...within different political boundaries and created diverse nations.”¹⁵⁶ Raychaudhury clearly believed in distinctive political culture of different parts of India (states) and offered an alternative imagination of federalism. He further stated, “Assamese are Indians and other people from other states (Pradesh) of India are also Indians. Hence it is unjust to oppose settlement of Indians from a different part in a particular region and when will the Assamese would understand this well and consider it in a healthy way? They will only understand this when people from other parts of India would not come with the baggage of a regional identity and come to Assam as an Indian and get assimilated with the language, culture, nationality of Assam...”¹⁵⁷ (*Translation mine*).

¹⁵⁴ Chatterji, Partha, December 2020, A Relativists View of the Indian Nation, Distinguished Lecture, African Middle Eastern and South Asian Languages and Literatures (AMESALL) Rutgers University, USA. <https://amesall.rutgers.edu/news-and-events/new-and-noteworthy> (15.12.2020)

¹⁵⁵ Chatterji, Partha, December 2020, A Relativists View of the Indian Nation, Distinguished Lecture, African Middle Eastern and South Asian Languages and Literatures (AMESALL) Rutgers University, USA. <https://amesall.rutgers.edu/news-and-events/new-and-noteworthy>

¹⁵⁶ Ambikagiri Raychaudhury, *Ambikagiri Raychaudhury Rachanawali*, (Guwahati: Asom Prakashan Parishad 1986), 593-594.

¹⁵⁷ Raychaudhury, *Ambikagiri Raychaudhury Rachanawali*, 1986, 593-594.

Jnananath Bora would pose a deeply philosophical question here as quoted in the beginning of the chapter and would ask ‘was the melting down of the discrete cultures necessary to attain *Swaraj* in India.’¹⁵⁸ He would further ask, “will we not attain *Swaraj* until the melting down of different cultures into one doesn’t happen? The provinces of India have been independent since ages. They have been maintaining their discrete culture in terms of language, religion, literature, social customs and have become nations in themselves. These provinces have been gathering everything needed to be a nation through the long centuries even during the rules of Muslims and now British. They have matured over time. These variant languages, literature and religions have rooted within the culture of India; is that possible to uproot them? If melting down of these variant cultures is necessary for the attainment of *Swaraj* in India, it is certain that India will never attain it.”¹⁵⁹ (*Translation mine*).

Raychaudhury was the general secretary of *Asom Jatiya Mahasabha*, which was renamed in 1935 from its origin, *Asamiya Samrakhini Sabha* when he penned down the imagination of the federal structure. The organization had a significant presence among the Assamese nationalists and was used by the Congress at times to balance the Muslim League’s communal politics.¹⁶⁰ It is difficult to say how far these notions reached to the people of Assam. Discussing Ambikagiri Raychaudhury’s constitutional ideas for an ideal Indian confederation, Amalendu Guha maintained, “Neither his concept of dual citizenship nor that of secession, as was suggested by Jnananath Bora, had any general acceptance among the Assamese people. Their commitment obviously was to the Congress ideals of single India citizenship alongside regional autonomy within a federal structure.”¹⁶¹ Though Guha rightly observed the political choice of people of Assam, writings of Ambikagiri Raychaudhury or Jnananath Bora did reflect on the Assamese nationalists’ perception. Many later would think that if Raychaudhury’s concerns about the problems of Assam had been taken seriously by the political actors, the crisis emerged out of the problem of migration wouldn’t have intensify in the near future.¹⁶²

¹⁵⁸ Jnananath Bora, *Asamot Bideshi*, (Guwahati: Bani Printers, 1996), 1.

¹⁵⁹ Bora, *Asamot Bideshi*, 1996, 1.

¹⁶⁰ Amalendu Guha, *Planter Raj to Swaraj: Freedom Struggle and Electoral Politics in Assam* (New Delhi: Tulika Books, 2006 (1977)), 258.

¹⁶¹ Guha, *Planter Raj to Swaraj*, 2006 (1977), 258.

¹⁶² Styendranath Sarma, an Assamese writer and a critic later observed, “if the political decision makers of Assam wouldn’t have ignored the prophetic views of Ambikagiri about Assam’s problems and taken a counter plan to handle those problems, the AASU and the people of Assam wouldn’t have to struggle for

The Path to Partition

The provincial politics of Assam had been primarily centered on the question of migration. We have earlier seen how migration raised concerns for land rights of the indigenous people. In that backdrop land settlement had remained in the constant milieu of the provincial politics and different provincial governments opted different land settlement policies to suit their game of politics. Congress pressed the question of right of the sons of the soil, while the Muslim League went lenient towards the migrant cultivators from Bengal. In the process, the peasants in Assam would have a political voice in defining the trajectory, which would also lead to the shaping of the national question of the peasants of Assam. Toward the decade of 1920s it reflected greatly through the primary question of the Assamese peasants about the 'Line system'. It was more particularly about the Brahmaputra Valley. Amalendu Guha discusses this in great details and remarked, "What loomed large in their minds in the Brahmaputra valley was the big question posed by the Line system. Was it to stay or go?"¹⁶³ The question of land right here marked the significance for the shaping of Assamese nationalism. Land after language would emerge as the most important denominator for Assamese nationalism at this juncture. Guha maintained that the nationality question in Assam was essentially the ideology of the small and unconsolidated middle class, which could successfully rally the peasants through floating its cause as the national cause.¹⁶⁴ It was becoming apparent that the voice of this unconsolidated middle class, which started appearing through organizations like Assam Association in the early decades of twentieth century and which surrendered its platform to the Indian National Congress was finding its way through the politics of Congress only. It was very much reflecting on an account of the Assam Association where it was stated, "The session of the Assam Association the then only political organization of Assam, proved to be its last session, and come to a swanlike end after a span of sixteen years existence from 1905 to 1920,...which for good or evil was the only political body for hope and solace of the people of Assam. It so happened because of the mightier sweep of the Indian National Congress that followed on its irresistible onward march brought under its mighty sway everything

years after just thirty years of independence. (*Translation mine*)" (Sarma, Satyendranath, 1986, Introduction to *Ambikagiri Raychaudhury Rochonawali*, 16.)

¹⁶³ Guha, *Planter Raj to Swaraj*, 2006 (1977), 243.

¹⁶⁴ Guha, *Planter Raj to Swaraj*, 2006 (1977), 243.

parochial or provincial throughout the length and breadth of India, marshaled by Mahatma Gandhi “The Father of the Nation.”¹⁶⁵

While Congress continued as the political voice of the nationalist Assamese middle class, the educated class apt with the writing skill always pushed the language question through vernacular literature. Guha rightly points out here that the ‘Assamese nationalism’ was both agrarian and linguistic in character and it specifically raised the demand for Assam’s administration by its own.¹⁶⁶ The skillful Bengali speakers continued to concern the Assamese nationalists until independence. Earlier, Sayed Saadulla’s government’s slogan- ‘grow more food’ in August 1943 and new resolution on land settlement renewed a major phase of migration of cultivators mainly from the district of Mymensingh. Soon, Assam would get entangled with Partition politics after Cabinet Mission’s proposal for grouping of the states.¹⁶⁷ Sylhet would appear at the center of this politics. Congress, mostly dominated by Assamese Caste Hindu politicians and influenced by the Assamese intellectuals wanted ‘Assamese domination’ hence strongly suggested Sylhet to be a part of East Pakistan. *All Assam Tribal League* believed that ‘Assam with her peculiar position and separate culture and civilization should be left to herself to decide her own course...and the tribal people of Assam were unanimously against the inclusion of Assam with Bengal and fully supported the transfer of Sylhet to Bengal’.¹⁶⁸ Entangled with the land question, the Assamese nationalism based on the ideology of ‘small, unconsolidated Assamese Middle class’¹⁶⁹ relied on the legislative measures. Partition unfolded a fair chance to depart with the strong Bengali counterpart. Within a span of a generation the people of ‘Assam province’ again had to redraw the image of its land and people.

It was a constant confrontation between the Assamese speakers and the Bengali speakers with occasional appearances of parties like Tribal League, Assam would reach on the point of Partition. Arbitrariness would prevail regarding provincial autonomy and the question of citizenship would remain in long transition until 1950.

¹⁶⁵ Prasanna Kumar Barua, *An Account of the Assam Association, the Most Important Political Organization of Assam in the First Two Decades of the Present Century*, Assam Association, No.331/1916, PHA, ASA, 13

¹⁶⁶ Amalendu Guha, *Planter Raj to Swaraj: Freedom Struggle and Electoral Politics in Assam* (New Delhi: Tulika Books, 2006 (1977)), 243.

¹⁶⁷ The Viceroy commented upon the scheme as ‘grow more Muslims (Moslems)’, which indicated the approaching political consequences. (Guha, *Planter Raj to Swaraj*, 2006 (1977)), 229).

¹⁶⁸ *Press release by Rupnath Brahma*. Charan Narzary, 2011.

¹⁶⁹ Guha, *Planter Raj to Swaraj*, 2006 (1977), 243.

After the Cabinet Mission Plan, uncertainty prevailed about provincial constitution and provincial citizenship. In the fourth session of the Second Assam Legislative Assembly, which assembled under the provisions of the Government of India Act, 1935, Gopinath Bardoloi maintained a pertinent point about domicile rule replying to Karka Dalay Miri. Miri asked about the government qualification for obtaining a domicile certificate by non-Assamese. Bardoloi answered it following the existing domicile rules which stated that to obtain a domicile certificate, a non-Assamese must have a homestead in the district where he must live continuously for ten years, desire to live there till his death, the non-possession of any landed property in his native district, the absence of frequent visit to his native place or district and the absence of any interest or connection whatsoever with his native people.¹⁷⁰ In the following debate the question, 'who were the Assamese' and 'who were not' arose. Many referred to the landless ex-tea garden labourers and the migrant peasants and it was roughly concluded that these people were not entitled to domicile if the respective district officers were not convinced about all the relevant conditions mentioned earlier. Seemingly, Assam was hoping to have a say about her residents. But Partition would bring an unexpected turn making further difficult to decide the question of membership in the new Nation state of India. As Niraja Gopal Jayal observes 'the Constituent assembly...suddenly confronted with the importance of arbitrating the various claims to citizenship that would arise as a consequence of...large scale movements of people, who were coping with fear and violence and even some confusion about their presumed and attributed identities.'¹⁷¹

Conclusion

The political dynamics in Assam would swiftly make a shift after independence. The immigrants, the Bengali speaking peasants would soon become minorities losing their political voice. They would lose the leadership of Maulana Bhasani who backed the political rights of the immigrants by articulating land rights.¹⁷² The politics in the legislative assembly would also mark a shift, as the Assamese speakers would attain majority after separation of Sylhet. This would empower the Assamese middle class

¹⁷⁰ Proceedings of the Fourth Session of the Second Assam Legislative Assembly assembled under the provisions of the Government of India Act, 1935, Shillong: 20 March 1948. Assam State Archives (ASA).

¹⁷¹ Niraja Gopal Jayal, *Citizenship and Its Discontents: An Indian History*, (New Delhi: Permanent Black, 2015(2013)), 56-57.

¹⁷² Amalendu Guha, East Bengal Immigrants And Bhasani in Assam Politics: 1928-47, (*Proceedings of the Indian History Congress*, Vol. 35 (1974)), 348-365.

and they would soon gather to fight a political battle in the independent India raising their causes as national causes of Assam. The *bideshi*, the foreigners would soon have a different connotation, as Assam became a part of independent India. The migrants of other parts of India would become co-citizens who would have equal right as the Assamese to live anywhere in India, to do any business they want to pursue and to speak any language of their choice. Yet the 'Line' (system) would continue along, as Amalendu Guha marked Line system as a 'line that divided'. It created a 'border within' both in politics of belongingness and in Assam's mind. Though never after Partition Assam would have 'racial policy in function' as Line system, it would shape the imagination of its people.

Parallel to the political maneuvering, the Assamese vernacular literary tradition would have a significant imprint in shaping the imagination of the people of Assam about its membership. Though after independence, the question of membership would strictly come within the Constitutional and legal definition of citizenship, in popular imagination, the notion of linguistic citizenship, which took a shape during the first decades of twentieth century, would remain to mark a difference. This in the following decades would fix issues of nationalism and citizenship in a bottleneck. Assam would seek a solution for the problem of migration within the Constitutional provisions of federal republic of India. But she would also keep trying to reframe the question of nationality within it. We will see how the question of language would reappear in the context and make a difference. We will also see how Assam would gradually build up a unique case for herself by accommodating the question of nationality within the legal definition of citizenship in India, with constant interventions by the Assamese middle class.

Chapter III

Rise of the Idea of Citizenship

(1947-1955)

The newborn nation-state India envisioned to accommodate its heterogeneous population and their varied claims to membership and propagated the slogan of 'unity in diversity', soon after it attained independence. However the shaping of the idea of legal membership, accommodating these claims would unfold in a complex manner after 1947. After much debate and long delay, the Constituent Assembly of India would define citizenship, giving it a constitutional framework. Drawing from western models it would define citizenship in connection with the related notions like rights and duties. It would also bring into discussion of few related terms like 'migrant', 'refugee' and 'foreigner' giving new directions to the discourse about them. For Assam, until now migration from East Bengal was a concern for agrarian relations, changes in her demographic composition and culture. After Independence it was going to be a question of legality. This shift would, however, not be swift and smooth as it would now involve two newly formed nations- India and Pakistan. For both the countries issues like migration would pose challenges for defining their positions as sovereign nations in the international scenario.¹⁷³ As a frontier state of sovereign India, citizenship would mark a more complex path for Assam. Assam would share a long border with newly formed Pakistan (East Pakistan).¹⁷⁴ Migration (mainly from East Pakistan) would continue to grab her political attention as before. Meanwhile, there would be phases of indecisiveness regarding the constitutional definition of citizenship. The Constituent Assembly was formed as early as in December 1946, but the Constitution of India was adopted only on 26 January 1950. During these three long years, the newborn nation had to confront enormous challenges and also there was a significant period of vacuum without a concrete legal structure. Citizenship was

¹⁷³ While India and Pakistan intended to settle down the immediate problem of population movement after Partition and emergence of communal violence in parts of bordering areas, both the countries actually intended to assert their newly attained positions as new sovereign nations in international platform. So, immigration and moves for its settlement also made a part of new nations diplomatic policies. (Pallavi Raghvan. "The Making of the India-Pakistan Dynamic: Nehru, Liaquat, and the No War Pact correspondence of 1950". *Modern Asian Studies*. (Issue 5 Vol. 50, September 2016). 1645-1678).

¹⁷⁴ Assam shared a total 269 k.m. long border area with East Pakistan. (147 km in South Western Goalpara District and along 122 k.m. in the South Western Cachar district). (Sekhar Gupta. *Assam: A Valley Divided*. (Delhi: Vikas Publishing House Pvt. Ltd., 1984), 157.

one of the matters, which remained highly volatile, especially in the wake of Partition and continuous movement of millions of people across the border.

This was one of the most difficult moments of transition. India was one big imperial colony for long and now divided into two. This virtually provided two new spaces for two new nations, India and Pakistan. But more a complex question remained unresolved for long, i.e. who would constitute them? Defining who would be the citizens was more difficult, especially for India, with its heterogeneous population and two very unsettled borders in east and west.¹⁷⁵ Anupama Roy argues that this ‘constituent moment in India was a moment of interlocution between past and future and it was a moment when promise of a future free from the burdens of the past was to be etched into the constitution.’¹⁷⁶ According to her ‘the figuration of the citizen as an embodiment of this rupture involved an emphatic constitution of the collective political subject.’¹⁷⁷ Roy further argues that ‘we the people’, the very initials of the Indian Constitution, as the source of authority of the Constitution was a forceful assertion. The collective political subject was achieved consciously through ‘deliberately designed procedural error in the adoption of the new constitution.’ Roy quotes Swaminathan here, who maintains that ‘this process of adoption of the new Constitution served the seamless transition of legal authority from its imperial predecessor’.¹⁷⁸

Nevertheless, turning the ‘subjects of British India’¹⁷⁹ into citizens of independent India was the first and foremost task for the government of the Independent India.¹⁸⁰

¹⁷⁵ India under imperial rule not only had different administrative territories, it also had various cultural compositions. The territorial sub- units were ‘Provinces’ and ‘Princely States’. The bigger part was the British India, which was constituted by 54% of territory and 70% of the population, was directly governed by the British government. The smaller part was composed of Princely States, which consisted of 565 princely states governed by local princes, kings and feudal lords who were allowed limited autonomy in exchange of accepting British suzerainty. This territorial administrative difference also made difference in terms of British Subject hood. There were differences of the residence living in Princely States and British subjects living in the provinces. The British Subjects was used only in a restrictive, formalistic sense in the context of native Indians whereas the denizens of the princely states were not entitled to the status of British subjects.

¹⁷⁶ Anupama Roy. *Gendered Citizenship: Historical and Conceptual Explorations*, (New Delhi: Orient BlackSwan, 2017 (2013)), 20.

¹⁷⁷ Roy, *Gendered Citizenship*, 2017 (2013), 20.

¹⁷⁸ Roy, *Gendered Citizenship*, 2017 (2013), 20.

¹⁷⁹ Before Independence, people living in British India were under the Crown and were British subjects, governed by the British Nationality Acts and those from princely states were ‘British protected persons’ (Subhash C Kashyap. *Our Constitution: An Introduction to India’s Constitution and Constitutional Law*. (New Delhi: National Book Trust, 2005 (1994)), 83).

The claim of the Indians to citizenship found a legitimate ground with grant of Independence.¹⁸¹ Now the challenge was to define who would be the citizens and how citizenship would be conferred. The constant movement of large number of people across the borders, in the wake of partition made it fluid and fragile to define the citizens in both the countries. The members of the Constituent Assembly of Indian Constitution had to keep pending the matter to address the citizenship question for nearly about two years.¹⁸² It was extremely difficult to decide over the matter in the wake of displacement and killing of millions of people.¹⁸³ The Constituent Assembly also struggled to give a form to the Indian federal structure accommodating various claims from different provinces.

After ‘Sylhet referendum and long grouping politics’, Assam was also struggling while redefining her people as her legitimate citizens.¹⁸⁴ The desire for ‘dual citizenship’ with intensions to proper Assamese nationality question would soon find

¹⁸⁰ Legalization of citizenship was the first step to define citizens of independent India. However, this attitude would soon change in the course towards securing a more inclusive category of citizenship. It is believed that all the Indian subjects of King George VI didn't automatically become citizens of the new Indian nation, as various claims found no justice immediately after partition. Legality of citizenship could not encompass all claims because of certain biases like religion. (Roy, *Gendered Citizenship*, 20; Niraja Gopal Jayal. *Citizenship and its Discontents: An Indian History*. (New Delhi: Permanent Black, 2015 (2013)), 53)

¹⁸¹ Indians had been repeatedly reminded that their claims to citizenship were dubious because they didn't fulfill the preliminary condition of being a nation. (Jayal, *Citizenship and Its Discontents*, 52.)

¹⁸² Clause 3 of Indian Constitution on citizenship was moved in the Constituent Assembly on 29 April 1947. After long discussions and several amendments it was adopted on 29 November 1949. (*Constituent Assembly of India Debates (Proceedings)*, Vol. III, 29 April 1947, Here after CAD, www.goodgovernanceindia.com/pdf/Constituent-Assembly-Debates.pdf)

¹⁸³ The total figure of the displaced people is not known. Zamindar maintained that around 12 million people got displaced in divided Punjab alone and a total of 20 million people got displaced in the subcontinent, which is considered as the largest displacements of the people in the twentieth century, comparable only to the displacement caused by WW II in Europe. (Vazira Fazila-Yacoobali Zamindar. *The Long Partition and the Making of South Asia*. (New York: Columbia University Press, 2010(2007)), 6); Jayal, on the other hand maintained that approximately fourteen million people crossed the newly created border, of which half of the transfer occurred between the two sides of Eastern province of Bengal after its division into the Indian state of West Bengal and East Pakistan. (Jayal, *Citizenship and its Discontents*, 56). Roughly, a total of 18 million people got displaced and estimated one million were killed in the process of Partition, as Ornit Shani extracts from wide range of literature on Partition. (Ornit Shani. *How India Became Democratic: Citizenship and the Making of the Universal Franchise*. (Delhi: Penguin, 2018).

¹⁸⁴ Cabinet Mission's proposal to include Assam in Group C, was opposed vehemently by the leaders of Assam and this impacted greatly on Assam's political trajectory especially its relation with East Pakistan. Secondly, Sylhet, which was part of Assam province, became part of East Pakistan after Sylhet referendum on 6 July 1947. These two events shaped Assam's imagination as a state of independent India. (For relevant debate about Sylhet and Sylhet referendum and grouping politics see- Sanjib Baruah. *India Against Itself: Assam and the Politics of Nationality*. (New Delhi: Oxford University Press), 40-43; Amalendu Guha. *Planter Raj to Swaraj: Freedom Struggle and Electoral Politics in Assam 1826-1947*, (New Delhi: Tulika Books, 2006); Udayan Misra. *Periphery Strikes Back: Challenges to the Nation State in Assam and Nagaland*, (Shimla: Indian Institutes of Advance Studies), 96-104; Jayeeta Sharma. *Empire's Garden: Assam and the Making of India*. (USA: Duke University Press, 2011), 113-14); Arupjyoti Saikia, "Borders, Commodities and Citizens across Mud and River: Assam, 1947-50s", *Studies in History*. 2016, 32(1), 72-96.).

a place during the Constituent Assembly debate.¹⁸⁵ However, the proposed two tier citizenship, Assamese in the state level and Indian in the national level wouldn't find a way to the legal framework of Indian citizenship. Parallel to this Assam would continue to struggle with the issue of migration, as Partition induced around 487 thousands refugees into Assam.¹⁸⁶ How did Assam handle this difficult phase of transition? The chapter aims to discuss this formative phase of the idea of citizenship, the first decade after Independence, in context of Assam. It will discuss various legislative and administrative measures taken up to handle the problem of migration from Pakistan, international agreement like Nehru-Liaquat agreement, the first census and its innovative step to prepare National Register of Citizens (NRC) for Assam. It aims to situate Assam in the citizenship discourse of the new nation-state India and see how as a frontier state Assam marks out a unique place for herself through the innovative processes like making of NRC in 1951 and legislation like The Immigrants (Expulsion from Assam Act) 1950.

The Citizenship Question and the Constituent Assembly

Post World War II while the colonies declined, the making of constitution became the first task for all. Writing a Constitution for India was not an easy one, as it was to accommodate different political opinions and had to address different and difficult issues of a heterogeneous population. The Constituent Assembly was formed in 1946 with representatives from different parts of India, which also represented diversity in terms of caste, tribe, religion and sex.¹⁸⁷ The Indian Constituent Assembly had tirelessly worked for almost three years from December 1946 to January 1950. The Constituent Assembly took up the subject of citizenship (clause 3 of the draft Constitution) on 29 April 1947, but the matter was kept pending for many times since then.

¹⁸⁵ Ambikagiri Raychaudhary, best known for fiery nationalist writings, proposed this idea in 1942. Before him Jnananath Bora proposed the same. (Amalendu Guha, *Planter Raj to Swaraj: Freedom Struggle and Electoral Politics in Assam*, (New Delhi: Tulika Books 2006 (1977), 317).

¹⁸⁶ Statistical Information relating to the Influx of Refugees from East Bengal into India till 31 October, 1971, Ministry of Labour and Rehabilitation, Department of Rehabilitation, Branch Secretariat, Calcutta: GOI.

¹⁸⁷ Writing a Constitution for India was considered as a 'remarkable achievement' as unlike other colonies like Kenya, Malaysia, Ghana and Sri Lanka, Indian Constitution was not written by British officials but by Indian leaders. The Constituent Assembly of India was well represented by all sections of people and could serve the purpose after years long labor by writing a Constitution. It is also opined that Indian leaders were able to agree upon a constitution. On the contrary leaders of Israel and Pakistan couldn't reach in to consensus and prepare similar document. (Rohit De, *A people's Constitution: The Everyday Life of Law in the Indian Republic* (New Jersey Princeton: Princeton University Press, 2018), 2)

After the Committee on Minority and Fundamental Rights submitted its report on 24 January 1947, Clause 3 of the draft Constitution was taken up for discussion in the Constituent Assembly on 29 April 1947. It suggested ‘every person born in the Union or naturalized in the Union according to its laws and subject to the jurisdiction thereof shall be a citizen of the Union.’ It further proposed to add “provision governing Union citizenship may be made by the law of the Union.”¹⁸⁸ The clause invited significant attention, as many of the Members expressed reservation accepting the clause the way it was formulated. Major criticism came from the President Rajendra Prasad himself as he expressed doubt about conferring citizenship to the progenies of visiting foreigners. It was primarily about the principle of *jus soli*, inspired by the American model, which conferred citizenship on the basis of law of the place of birth. The Committee on Minority and Fundamental Rights adopted this principle to define citizenship in India. Many other members also shared the view of Rajendra Prasad as they expressed reservations about foreign nationals. Defending the Committee’s formulation, eminent lawyer Alladi Krishnaswami Iyer drew from the international law and offered whether India was going to bring in the other principle for conferring citizenship, which was *jus-sanguine* meaning according to blood. Iyer asked the Assembly,

“Are we going to bring in race idea, namely, only those who are born of parents, you call them Indians or other people- are entitled to citizenship or are you going to subscribe to the principle that birth settles citizenship, though necessary exception will have to be engrafted for the purpose of providing for children of Indian nationals who are born abroad?”¹⁸⁹

A Committee member, Vallab Bhai Patel defended the motion. He stated that there existed two ideas about nationality in the modern world, one was broad-based nationality and the other was narrow nationality. While India was claiming South African nationality for the Indians born in there, it was not right for India to take up a narrow view.¹⁹⁰ He also opined that the Constitution was for a period of ten years

¹⁸⁸ *Constituent Assembly of India Debates, (Proceedings)*, (Vol. III, 29 April 1947), 406-416.

¹⁸⁹ *Constituent Assembly India, Debate (Proceedings)*, Volume III, 29 April 1947, 411.

¹⁹⁰ *Constituent Assembly India, Debate (Proceedings)*, Volume III, 29 April 1947, 413.

after, which it was, ought to revision. But the matter didn't reach into a consensus and a motion to postpone the consideration of the clause was adopted.

Along with the challenge to address the question of citizenship, another challenge was to pronounce India as a federal republic.¹⁹¹ The proposed federal structure, based on an idea of a more powerful Centre, was highly inspired by the Government of India Act 1935. It had been pointed out that the Constitution of India almost identically reproduced two third of the texts of the Government of India Act 1935.¹⁹² Defending the position B.R. Ambedkar maintained that various committees constituted under the Constituent Assembly to handle varied matters had suggested that in certain matters, the provisions contained in the Government of India Act 1935 should be followed.¹⁹³ The question of creating provisions for a federal structure and the rights of citizenship was also debated at length in the Constituent Assembly. Referring to the criticism about the proposed federal structure, Ambedkar further maintained, “the Draft Constitution is, Federal Constitution in as much as it establishes what may be called a Dual polity. This Dual polity under the proposed Constitution will consist of the Union at the Centre and the States at the periphery each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution.”¹⁹⁴ Reflecting on the differences of the American federal structure and proposed model for India Ambedkar maintained that unlike American model, where a State had all right to treat unequally a resident and a non-resident, the India model proposes for equal rights for all. He stated, “The proposed Indian Constitution is a dual polity with a single citizenship. There is only one citizenship for the whole of India. It is the Indian citizenship. There is no State citizenship. Every Indian has the same rights of citizenship, no matter in what State he resides.”¹⁹⁵ Ambedkar denied another model, which proposed to represent the ancient village based polity of India. The model proposed that the new Constitution should have been drafted on the ancient Hindu model of a State and that instead of incorporating the western theories

¹⁹¹ Jawaharlal Nehru pressing the need of building up of a Nation argued for a sovereign republic. However, the resolution, which Nehru moved for aims and objectives of the Assembly invited wide criticism on several grounds and it reflected that most of the members wanted the future India to be a democratic and decentralized Republic, in which the ultimate sovereignty lied with the people. (*Constituent Assembly India Debates*, Vol. I, 13 December, 16 December, 1946).

¹⁹² De, *A people's Constitution*, 2018, 7-8.

¹⁹³ *Constituent Assembly India Debates*, 20 August 1947, 1455.

¹⁹⁴ *Constituent Assembly India Debates*, 20 August 1947, 1455.

¹⁹⁵ *Constituent Assembly India Debates*, 20 August 1947, 1455.

it should have been built upon village Panchayats and District Panchayats.¹⁹⁶ This reflected the model suggested by the Assamese nationalist Ambikagiri Raychaudhury, as discussed in the previous chapter. However Ambedkar strongly refuted the idea and stated, “That they (village community) have survived through all vicissitudes may be a fact. But mere survival has no value. The question is on what plane they have survived. Surely on a low, on a selfish level. I am therefore surprised that those who condemn Provincialism and communalism should come forward as champions of the village. What is the village but a sink of localism, a den of ignorance, narrow-mindedness and communalism? I am glad that the draft Constitution has discarded the village and adopted the individual as its unit.”¹⁹⁷

With the increasing claim of citizenship in the wake of massive population movement, the matter of citizenship was taken up with priority.¹⁹⁸ The drafting committee of the Constituent Assembly had to meet series of challenges defining Citizenship.¹⁹⁹ After much parley, the principle of *jus soli*, was adopted as the basic principle.²⁰⁰ *Jus sanguine*, as opposed to the principle of *jus soli* decides citizenship on the basis of descent. While defining citizenship, the Constituent Assembly showed significant reservation to this principle, as Jayal observed that the advocates of *jus sanguine* were reminded that it would be inconsistent for India.²⁰¹ But it made a gradual shift later as the question of citizenship remained deeply imbricated in religion and closely linked to property, in the wake of migration of insecure returning Muslims from Pakistan.²⁰²

After long discussions, the Constitution of India provided a framework for citizenship. On the very day of adoption of the Constitution, the provisions pertaining

¹⁹⁶ *Constituent Assembly India Debates*, 20 August 1947, 1460.

¹⁹⁷ *Constituent Assembly India Debates*, 20 August 1947, 1461.

¹⁹⁸ *Constituent Assembly India, Debate (Proceedings)*, Volume III, 29 April 1947, 57.

¹⁹⁹ B.R. Ambedkar remarked, “I do not think that any other article has given the Drafting Committee such a headache as this particular article. I do not know how many drafts were prepared and how many were destroyed as being inadequate to, cover all the cases which it was thought necessary and desirable to cover.” (*Constituent Assembly India Debate (Proceedings)*, Part IX, Wednesday 10th August 1949).

²⁰⁰ The citizenship of India found a definition, inspired from the definition of citizenship in United States of America. (*Constituent Assembly India, Debate (Proceedings)*, Volume III, 29 April 1947, 406-416)

²⁰¹ Jayal, *Citizenship and its Discontents*, (2015 (2013)), 57.

²⁰² On both sides Jayal observed, as murder and mayhem prevailed, millions of people left their homes and belonging in mortal fear of violence...discouraging the (Muslim) citizen from returning was thus a dominant theme in the formulation of Article 7 of the Constitution, as well the negotiation about evacuee property. (Jayal, *Citizenship and its Discontents*, (2015 (2013)), 61).

to citizenship came into force on 29 November 1949. From 1947 to 1949, in the wake of constant movement of people across the border, there had been a lacuna. Nevertheless, the provisions of citizenship were applicable to all of India except the State of Jammu and Kashmir. The Constitution provided for a singular mode of citizenship, i.e. national citizenship. The proposals on dual citizenship didn't find a place.

Part II of the Constitution - specifically Articles 5-11 - provided the framework for citizenship at the time of commencement of the Constitution. These provisions spelled out detailed processes of acquiring citizenship – birth, domicile and descent, circumstances that bars a person from acquiring Indian citizenship, plenary powers of the Parliament, and the status of those displaced on account of the Partition. This also meant that these provisions were also going to determine the fate of those who would be victims of the Partition. It is also pertinent here to summaries these provisions related to the citizenship to give us a better perspective on this matter. Article 5, the first one in the series of provisions, deals with the issue of 'citizenship at the commencement of the Constitution.' According to this one had to have a domicile in India to attain citizenship and anyone who fulfilled one of the following three criteria would also be a citizen of India: '(a) who was born in the territory of India; or (b) either of whose parents was born in the territory of India; or (c) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement.'²⁰³

Several provisions dealt with the question of the citizenship for the migrants from Pakistan. Article 6, provided 'rights of citizenship of certain persons who have migrated to India from Pakistan.'²⁰⁴ It also ensured that "a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution if '(a) he or either of his parents or any of his grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted); and (b)(i) in the case where such person has so migrated before the nineteenth day of July, 1948, he has been ordinarily resident in the territory of India since the date of his migration, or (ii) in the case where such

²⁰³ The Constitution of India, 1950.

²⁰⁴ The Constitution of India, 1950, Art. 6.

person has so migrated on or after the nineteenth day of July, 1948, he has been registered as a citizen of India by an officer appointed in that behalf by the Government of the Dominion of India on an application made by him therefore to such officer before the commencement of this Constitution in the form and manner prescribed by that Government. For registration, he or she should have been resident in India for at least six months prior to the date of the application.²⁰⁵ Article 7 is for 'Rights of citizenship of certain migrants to Pakistan.' It says that 'a person who has after the first day of March, 1947, migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen of India.'²⁰⁶ Article 8 details the rights of citizenship of persons who reside outside India but are of Indian descent. This category of people, unlike those referred to in Article 5, are required to register to become citizens.²⁰⁷ Article 9 imposes a limitation on people who have voluntarily become citizens of another State and bars them from acquiring Indian citizenship and Article 10, talks about the "Continuance of the rights of citizenship", is a provision detailing the power of the parliament as a limitation to the right of citizenship, rather than a provision that confirms a right.²⁰⁸ Article 11 is a significant provision, which vested the Parliament with plenary power to enact legislation on citizenship and its related aspects, which was going to have significant future references in bringing laws of citizenship.²⁰⁹

These constitutional provisions of citizenship would be applicable to Assam in the eastern border of India like any other states except Jammu and Kashmir. But migration being in the constant backdrop of the frontier states of Assam, these constitutional provisions couldn't bring any relief. Soon there would be legislation for handling the issue. For now, Assam would assert her identity question in the context of citizenship. Assam's representatives in the Constituent Assembly would repeatedly draw attention to the issues of immigration to Assam and her stand on her identity issue.

²⁰⁵ The Constitution of India, 1950, Art. 6

²⁰⁶ The Constitution of India, 1950, Art. 7.

²⁰⁷ The Constitution of India, 1950, Art. 8

²⁰⁸ The Constitution of India, 1950, Art. 9; The Constitution of India, 1950, Art. 10.

²⁰⁹ The Constitution of India, 1950, Art. 11.

Citizenship and the Assamese Question

Assam didn't find an easier way to put her nationality question at the platform of the Constituent Assembly. Niraja Gopal Jayal observed that the Constituent assembly suddenly confronted with the importance of arbitrating the various claims to citizenship that arose as a consequence of large scale movements of people in the were even having some confusion about their presumed and attributed identities.²¹⁰ The confusion about 'obtaining citizenship' and 'presumed and attributed identity' gave birth to obscurity. In the wake of large movement and displacement of people it was completely unclear whether one could become an Indian just by 'obtaining Indian citizenship' and could 'presume attributed identity'. Did registration of citizenship also certified one's nationality? This was to be a long pending question for the next decades. The genesis of this obscurity was in the Constitution itself. The adherence to the *jus soli*²¹¹ as Jayal observes 'couldn't be but premised on a 'delinking' of citizenship to nationality in a territorially defined political community with no singular ethno cultural basis for nationhood.'²¹² In this backdrop it was evidently difficult for Assam to put forward its unique case of identity as a frontier state of India. However, the representatives of Assam would soon find an opportunity to put forward the unique case of Assam during the debates about making India a federal nation.

Desiring to make a strong Centre, the Union Power Committee, which prepared the draft of the Federal List kept citizenship, naturalization and aliens in the federal legislative list.²¹³ The Union List provoked long debate. The Constituent Assembly took up the question of the federal list based on the second report of the Union Powers Committee on 20 August 1947. During the course of the debate, the subject of citizenship also came up. Deliberating on Centre's power in defining matters of citizenship, Omeo Kumar Das, the veteran Congressman (1895-1975), from Assam argued that Assamese people needed protection for their culture and stated,

²¹⁰ Jayal, *Citizenship and Its Discontents*, 2015(2013) 56-57.

²¹¹ *Jus soli* is the principle on which the citizenship of India found a definition, inspired from the definition of citizenship in United States of America. It means 'right of the soil' where a person born gets he right of citizenship of that particular land. (Jayal, *Citizenship and Its Discontents*, 2015(2013))

²¹² *Citizenship and Its Discontents: An Indian History*, New Delhi: Permanent Black, (2013), 60.

²¹³ *Constituent Assembly India Debate (Proceedings)*, 10th August 1949; Appendix, 1060-1062, 20 August 1947.

“Assamese people have a culture distinct from other provinces. Assamese people have a language, which is a separate language and which though ‘Sanskritic’ in origin has got Tibetan and Burma influences and we must protect the Assamese people.”²¹⁴

For Assam a constitutional framework for obtaining Indian citizenship was not an answer to its unique question of membership for her heterogeneous population with distinctive culture. Reflecting on different language speaking groups living in the cultural territory of Assam, Das clearly pointed out that though Assam had a common thread linking it to the rest of Indian cultural terrain, it had distinct cultural variants unlike other parts of India. He also referred to Assam’s contested language issue. Das claimed that the adoption of Bengali as the official language by British in 1837 invited severe criticism from the majority of the Assamese educated class. This started an era of language politics in Assam. This followed the wave of integration of various tribal and non-tribal communities among whom the Assamese had been a lingua franca. Das referred to the leading literary organizations like *Assam Sahitya Sabha*,²¹⁵ which provided a platform for integration. After this brief reflection on Assam’s cultural fabric, Das shifted his attention to the issue of migration. He argued,

“...migration and naturalization... these two subjects also should be put in the concurrent list or the language so altered as to permit the Province to have scope of action in these two subjects. Sir, I do not know how other provinces feel, but it is sore point with us. We know how mass migration into Assam has altered the very complexion of the population. It has disturbed the relative distribution in population. With the Communal Award and the communal representation it was not fair to us to allow mass migration on a large scale and in spite of the evictions that have been carried out in our Province, I still find a large number of people who are not people of the Province but only trespassers into government lands, still hanging on to the province, living with their relatives...”²¹⁶

²¹⁴ *Constituent Assembly India Debates*, 20 August 1947.

²¹⁵ A literary organization of Assam formed in 1917.

²¹⁶ *Constituent Assembly India Debates*, 20 August 1947, 1095, 1096.

Das drew attention to Assam's unique situation in the wake of migration. He pointed out that mass migration into Assam had changed the demographic scenario in a manner causing threat for the 'Assamese people'.²¹⁷ He also added that the Assam was the homeland of Assamese and had a different culture from other provinces, which needed to be protected. He urged for some scope for the state itself in that matter.²¹⁸

Das familiarized his fellow members with Assam's recent political events including the series of eviction programme and referred to its failure to solve the problem of migration. Immediately after Gopinath Bardoloi came into power on 11 February 1946, Assam Government started executing the pending implementation of former Saadulla Government's policy of land settlement, which was outcome of tripartite agreement of 1945.²¹⁹ The Assam Government evicted the unauthorized Bengali-speaking settlers in the grazing reserves, periodically during 1946-47. On the outset of Congress-Muslim League tug of war for India and Pakistan this eviction attracted wide attention starting from Karachi to Delhi. Widespread of communal violence gripped Assam, but the Bardoloi government executed the programme with determination with the support of Assam Maintenance of Public Order Ordinance.²²⁰ Realizing the growing threat for a bigger communal violence, Bardoloi however slowed down the process.²²¹ But the problem of migration remained unsolved with shifting turns of politics.²²² Das lamented how difficult it was to handle migrants. He refers 'people still hanging on to the territory, living with their relatives'. He emphasized the need to allow the provincial government to act upon the matter of migration.

J.J. Nichols Roy, another member from Assam, a leading Khasi leader, also raised question of protection for the tribes in the hill districts of Assam.²²³ Roy insisted on

²¹⁷ *Constituent Assembly India Debates*, 20 August 1947, 1095.

²¹⁸ *Constituent Assembly India Debates*, 20 August 1947, 1095.

²¹⁹ A resolution was adopted by Saadulla government in 1939 regarding land settlement, where eviction of all immigrant squatters from 'protected tribal blocks' was one of the main features. (Guha, *Planter Raj to Swaraj*, 2006 (1977), 262).

²²⁰ Guha, *Planter Raj to Swaraj*, 2006 (1977).

²²¹ Guha, *Planter Raj to Swaraj*, 2006 (1977).

²²² For details see Guha, *Planter Raj to Swaraj*, 2006 (1977), 316-318; Nirode, K. Barooah, *Gopinath Bardoloi: The Assam Problem and Nehru's Centre*, (Guwahti: Bhabani Books, (2010)) 248-263; Report on Eviction, E/12, Political Department, Government of Assam, ASA.

²²³ Debate on Sixth Schedule of Indian Constitution, which extends autonomous status to the tribal states of Northeast India. (J.J. Nichols-Roy, *Constituent Assembly India Debates*, 8 November 1948).

making constitutional provisions for the protection of land owned by the tribes to protect their cultural identity. The tribal question and the protection of their culture were thereby carefully handled through the provisions of the Sixth Schedule of the constitution.²²⁴ Nichols-Roy, acknowledging Jawaharlal Nehru's effort in the matter, however argued that this provision had left other tribal people living in the valleys.²²⁵ A sense of alienation would soon surface in Assam valleys, which would fuel the communal violence in 1950. The tribal people living from the valleys would voice out concern for the differential policies for the hill and the plain tribes. They would argue that why the hill tribes were given constitutional safeguard through Sixth Schedule of the Constitution and plain tribes were left without such safeguard.²²⁶ This would also initiate the debate over crisis of land and resources for continuous migration.

Their arguments however could not play significant role in defining citizenship. His idea of scope of the citizenship in the federal structure was defended by N. Gopaldaswami Ayyangar, a member of the Union Powers Committee, on the ground that 'the Federation is responsible for maintaining the integrity of India, preserving its internal security, providing for its defense and so on. An authority charged with these heavy responsibilities should have absolute power to make laws controlling immigration and expulsion from the territory.'²²⁷ Keeping the security question in mind, he further indicated the Centre would address the question of migration into Assam bringing Immigration Expulsion (from Assam) Act 1950. But what remained striking about Omeo Kumar Das's speech was that the Assamese nationality question surfaced in the national platform of Constituent Assembly. It was during the speeches of Das and other members from Assam surfaced the question of migration and along with it surfaced the question of Assam's cultural identity and the question of her economy. This certainly situated the case of Assam in new Nation-state of India.

Omeo Kumar Das also pointed out that despite Assam being a major source of contribution to the central exchequer²²⁸ in terms of excise and export duty on tea and

²²⁴ *Constituent Assembly India Debates*, 21 July 1947.

²²⁵ *Constituent Assembly India Debates*, 11 February 1947.

²²⁶ A Note on Communal Disturbances in Assam- February-May 1950, ACE 1/50 (part) Assam Secretariat, ASA

²²⁷ Report of the Union Powers Committee to the Constituent Assembly, *Constituent Assembly India Debates*, 11 February 1947, 379, 380, 381.

²²⁸ He maintained a figure of nearly Rs. 8 crore annually. *Constituent Assembly India Debates*, 20 August 1949.

petrol, the subvention that was given to Assam was very less.²²⁹ He felt the need of change in the attitude, which he believed was highly like of a colonial ruler. These observations made a pathway to the future discourse of tangled citizenship and nationality in Assam. It would also magnify the related questions like migration and its impact on changing demography and culture. This necessarily denotes the disconnectedly connected ideas of citizenship and nationality. Das' remark would also raise the question about the Centre's role in handling the question of resource distribution. This would lead to the rise of political discourse about Center-State relationship in Indian federal structure. In near future it would also lead to formation of a popular narrative about Center's role in the exploiting the resources of Assam.

The claims of Omeo Kumar Das couldn't find a resonance in the framing of the definition of citizenship. Ayyangar pushed for federal structure with a stronger Centre. Dual citizenship was already denied on the ground of one nationality. The states were left with limited administrative powers on the virtue of the Centre. Jayal argues that the denial of dual citizenship within India and grant of the right to live freely in part of India and take any livelihood led to future consequences of nativist movements.²³⁰ What Jayal infers here is that the internal migration within the states of India in the consecutive decades of independence led to serious situations. Many a time it would create pressure on the economy of the state. Moreover, cultural differences would trigger identity related questions. Culturally different work groups of people and the created pressure on the economy would lead to situations like nativists movement. Jayal's observation, to put it in the context of Omeo Kumar Das's speech in the CAD would support each other to a great extent. Though Das didn't directly propose dual citizenship, like his friend Ambikagiri Raychaudhury, his argument for protection of Assamese culture supposedly proposed a special constitutional provision. That possibly could be about giving more power to the states to execute on the migrants, which was in the federal list. That could also be about constitutional safeguards like sixth schedule. Nichols-Roy's argument for the protection of the tribal people both in terms of economy and culture got validated through this. Like the hills, the valleys of Assam couldn't get such validations.

²²⁹ Only Rs. 30 lakhs. *Constituent Assembly India Debates*, 20 August 1949.

²³⁰ Jayal, *Citizenship and Its Discontents*, (2015 (2013)), 56.

Neither that was sought for at that point of time. This had future implications for Assam.

However, soon after these debates in the Constituent Assembly, the *Immigrants (Expulsion from Assam) Act 1950* was adopted to prevent migration from East Pakistan in February 1950. The significance marked by this act would be very much in the context of the debate. The Parliamentary debate would echo the voice- whether the power of expulsion should be vested solely on the state administration or the Centre should directly handle.

Migrants and Refugees

While citizenship defined who would constitute the nation, those who couldn't get accommodated within this category posed serious concern. Along with citizens, the fate of migrants and refugees found expression in the process of defining citizenship. The 'transfer of power from the colonial rule to national rule' led to situation of crisis and law and order situation was to restore.²³¹ In the wake of widespread violence in places like Noakhali and also Bihar, officials expected similar situation for Assam as well. A letter dated 12 November 1946 from the intelligence bureau expressed concern that communal clashes might break, especially in western and southern Assam, in districts of Goalpara, Barpeta and Cachar.²³² The Union government admitted that if the Assam government went ahead with the scheduled eviction in December 1946, of the migrants, communal violence would have broken out. It was feared so as most of the migrants, the targeted evacuees were Muslims.²³³

While the newly created western and the eastern frontiers were shaken by violence and both the new nation-states were busy restoring law and order situation, Assam was more concerned with the issue of eviction of the migrants, who were mostly Muslims. Assam government took up eviction agenda in December 1946. Government's concern over Muslim migrants and the proposed eviction reflect on the

²³¹ Both India and Pakistan set up parallel Emergency Committees to restore law and order situation. Both the states also established Ministry of Relief and Rehabilitation for managing the displaced persons. Zamindar referred to as response to establish legitimacy of the new states and Nations. (Zamindar, *The Long Partition*, (2010) 6.)

²³² *Immigrants- Eviction from Assam of those who went from East Bengal*, Political History of Assam, Home Department, NAI File no. 119/46-Poli(I), ASA.

²³³ *Immigrants- Eviction from Assam of those who went from East Bengal*, Political History of Assam, Home Department, NAI File no. 119/46-Poli(I), ASA.

constructed differentiation between migrants and refugees.²³⁴ Jayal observed that the differentiation was based on a highly communal ground and seeded very much on the making of the clauses of citizenship in the Constitution. The consideration of the two principles by Constituent Assembly Debate, as we mentioned earlier- *jus soli* and *jus sanguine* led to long debate. Discussed in length at the floor of Constituent Assembly, *jus soli* principle was justified as ‘enlightened modern civilized, while *jus sanguine* was debated as a contrasted principle which had a racial conception.²³⁵ This also led to emergence of two significant nomenclatures while it came to handle the question of millions of displaced people at both the borders- the creation of the category ‘refugee’ in contrast to the category ‘migrants’.²³⁶ This led to the inclusion of two articles- Article 6 and Article 7 of the Constitution. While article 6 dealt with the migrants from Pakistan, article 7 dealt with those who are the migrants to Pakistan. An official process of registration was introduced for the migrants from Pakistan to India, those who migrated after July 1948, which broadly categorized the Hindu migrants. Jayal maintained that this clause remained mostly uncontroversial, as it was meant to handle the Hindu migrants’ case, which would be referred mostly as refugees.²³⁷ On the other hand, article 7 was highly debated, which dealt those migrated to Pakistan, the Muslims, escaping communal violence and who left their property in India, but returned to India under a permit of resettlement or permanent return issued by an Indian government official.²³⁸ They were categorized as ‘migrants’.²³⁹

These provisions were crucial for Assam. The problem of migration was not new for Assam. Partition gave a new definition to the issue of migration, which also helped to handle the issue legally, after constitutional definition of citizenship. The appearance of two categories of migrants and refugee however couldn’t impact the political narrative in Assam. Within Assam’s political narrative, both the migrants (seen as

²³⁴ Jayal, *Citizenship and its Discontents*, 2015 (2013).

²³⁵ *Constituent Assembly India Debates*, 10 August 1949.

²³⁶ This is derived from the Constituent Assembly Debate, in the long discussion these nomenclatures were used categorically by many of the speakers; which was again used in Parliamentary debates in various occasions in near future. But the Constitution didn’t use the nomenclature. Jayal, *Citizenship and its Discontents*, 2015(2013), 58.

²³⁷ Jayal, *Citizenship and its Discontents*, 2015(2013), 58.

²³⁸ Jayal, *Citizenship and its Discontents*, 2015(2013) 58.

²³⁹ Jayal stated- these people were euphemistically described as ‘migrants’ and this was the most contested article on citizenship in the Constituent assembly. (Jayal, *Citizenship and its Discontents*, 2015(2013), 58.) In a separate account, Zamindar, through oral history accounts and archival sources, showed how the Muslim exodus was shaped by attempts to rehabilitate Hindu and Sikh refugees. (Zamindar, *The Long Partition*, 2010(2007), 60-78).

Muslim) and refugees (seen as Hindu) were considered as unwanted. This communal dichotomy however had expressions in the form of a short-lived communal conflict in 1950. This violence had a third player on role- the plain tribes living in the Brahmaputra valley and who were unimpressed with the making of the constitutional provisions like sixth schedule for hill tribes.²⁴⁰

Conflict was reported from parts of western Assam, in tribal areas nearing the new border. Reportedly 'communal trouble' originated in the tribal areas of northern Goalpara in February 1950. A 'revivalist movement' known as *Deva-doot*²⁴¹ initiated by the Bodo in the backdrop of the government's desire to constitute District Council in Hill Tribal areas (as a consequence of the Sixth Schedule). 'Kacharis wanted to clear their "tribal belt" of the immigrant Muslims'.²⁴² The victims were mostly Muslims. The involvement of other communities like 'Bengalis (Hindu), Rajbansis, Nepalis, Sikhs, Ravas (Rabhas) and workers of the Primary Congress' was anticipated by the authority.²⁴³ The general sentiment working behind was necessarily anti-Muslim and which divided the Bengalis on the basis of religion and also set the valley's political temperament on a communal line. The Assam government claimed that 'the Hindus of the Surma Valley are frightened and the leader of Hindu Mahasabha in Habiganj called a meeting at which it was decided that Hindus would endeavor, where they were in a majority, to send parties to assist Hindus in place in which they were minority.'²⁴⁴ The role of the radical communal groups couldn't be ignored, but government was evidently concerned about 'large number of Muslim immigrants' settling down in the valley.²⁴⁵ The Home department though, categorically expressed concern about 'refugees' arriving in Assam from riot-affected areas of Noakhali and Tipperah. Till November 1946, the arrival rate of refugees was

²⁴⁰ It was believed that the plain tribes had developed a kind of 'natural jealousy' as the 'less advanced hill tribes' were granted Autonomous District Councils under new constitutional provisions. (A Note on Communal Disturbances in Assam- February-May 1950, ACE 1/50 (part) Assam Secretariat, ASA.)

²⁴¹ *Dev-doot* is described as a silent movement that developed among the plain tribes of Assam, especially the Kacharis, at the advent constitutional provisions for autonomous Districts Councils in Hill tribal areas. Reportedly this revivalist movement was secretly propagated from January 1950. (A Note on Communal Disturbances in Assam- February-May 1950)

²⁴² A Note on Communal Disturbances in Assam-February-May, 1950, Report of the Enquiry Committee Communal Disturbances in Assam, 1950 Assam Secretariat, Confidential. ASA.

²⁴³ A Note on Communal Disturbances in Assam-February-May, 1950, Report of the Enquiry Committee Communal Disturbances in Assam, 1950 Assam Secretariat.

²⁴⁴ *Immigrants- Eviction from Assam of those who went from East Bengal*, Fortnightly Report, Home Department, NAI; F.No.119/46-Poll (I), 119/46-Pol (I), Political History of Assam, ASA.

²⁴⁵ *Immigrants- Eviction from Assam of those who went from East Bengal*, Fortnightly Report, Home Department, NAI; F.No.119/46-Poll (I), 119/46-Pol (I), Political History of Assam, ASA.

estimated about 500 per day and it was estimated that around 5/6 thousands have already arrived Assam.²⁴⁶

Expelling the ‘Immigrants’: The Immigrants (Expulsion from Assam Act) 1950

Assam was to face from Indian government wide criticism regarding its poor rehabilitation of the Partition refugees. The Centre observed that Assam was reluctant to accommodate refugees. This led to major political discomfort with the Central government.²⁴⁷ The responsibility of relief to the ‘(Hindu) refugees’ was vested on the local relief committees.²⁴⁸ Correspondence between Jawaharlal Nehru and Gopinath Bardoloi showed significant differences regarding rehabilitation of the refugees in Assam.²⁴⁹ The Indian government observed that the relief and rehabilitation schemes were lagging behind and ‘the fund of public sympathy evinced by the local people in the earlier stages had been largely dissipated.’²⁵⁰ However, Assam government justified its reluctance on the ground of her long ‘contentious relationship’ with immigrants,²⁵¹ which was not only based on its economy, but most of the time it was a cultural battle between ‘Assamese speakers’ and ‘Bengali Speakers’.²⁵² Despite an intense process of integration of the Bengali speaking Muslims who migrated to Assam prior to independence and who ‘found themselves to be more closely integrated with Assamese society than their Hindu counterparts who spoke Bengali’, hostility against the Muslim immigrants became clear.²⁵³

Assam government brought the matter of migration into notice of Central Government as early as in 1948. In December 1949, measures for handling migration

²⁴⁶ *Immigrants- Eviction from Assam of those who went from East Bengal*, Fortnightly Report, Home Department, NAI; F.No.119/46-Poll (I), 119/46-Pol (I), Political History of Assam, ASA.

²⁴⁷ Misra, *Periphery Strikes Back* 2000, 29.

²⁴⁸ Misra, *Periphery Strikes Back*, 2000, 29.

²⁴⁹ Communal Differences and scattered clashes between Assamese speaking people and Bengali counterparts in Guwahati led to some serious law and order situation in Guwahati. In 1949 during his visit to Assam Union Minister for Rehabilitation Mohan Saxena expressed unhappiness about Assam government’s inability to spare land for refugee settlement. Later Nehru wrote strongly to Bardoloi about this as- “...it is patent...that if land is not available in Assam, it is still less available in rest of India which is very heavily populated...what then are we to do with the millions of refugees we have to deal with?” (Nirode K. Barooah, *Gopinath Bardoloi The Assam Problem and Nehru’s Centre*, (2010), 393.)

²⁵⁰ Mohanlal Saksena, *Some Reflections on the Problem of Rehabilitation*, (New Delhi: Progressive Publishers, (1964)), quoted in Antara Datta, *Refugees and Border in South Asia: The Exodus of 1971*, Delhi: Routledge, (2013), 36.

²⁵¹ Datta, *Refugees and Border in South Asia*, (2013).

²⁵² As discussed in the previous chapter in details, the Bengali Muslim migrants were encouraged to adopt the culture at many point of time prior to independence.

²⁵³ Datta, *Refugees and Border in South Asia*, (2013) 229.

into Assam, was proposed in a form of ordinance by Assam. The Assam government claimed that minimum 1.5 lakhs immigrants have entered into Assam till 1948. But within few months the number reached into half a million. This necessitated the government to take urgent steps to stop this flow of population. The government worried that after partition the influx of people into Assam would affect the economy of the province.²⁵⁴

N. Gopaldaswami Ayyangar who was the railway and transport minister at that point of time brought the matter into the floor of the Parliament in 1950.²⁵⁵ Ayyangar, a close associate of Prime Minister Jawaharlal Nehru and a cabinet minister handled the much-disputed Kashmir matter before that.²⁵⁶ Ayyangar, placing the bill, gave grim picture of the situation in Assam and claimed that lakhs of ‘undesirable immigrants’ continued pouring into the land of Assam.²⁵⁷ He observed that it was a matter of great urgency.²⁵⁸

On 8 February 1950, Gopaldaswami Ayyangar placed the *Undesirable Immigrants (Expulsion from Assam) Bill* at the floor of Provincial Parliament. Before that Ayyangar visited Assam. Ayyangar’s visit was instrumental for bringing up the Bill. The Bill proposed that the Central government was to be empowered to order expulsion of certain immigrants (person or class of persons) who came into Assam and their stay in Assam was ‘detrimental to the interests of general public of India or any section thereof or of any schedule tribe in Assam’.²⁵⁹ Ayyangar highlighted how this migration could destabilize the economy, ‘...In the state of Assam, particularly after partition, the influx of persons from outside Assam...has been assuming proportions which have caused apprehensions to the government and the people of Assam as to disturbance that such an influx would cause to their economy’.²⁶⁰

The anxious Assam government proposed a permit system between Assam and East Pakistan but Central government rejected the idea. The latter thought that ‘it (such a license system) would impose on the freedom of the movement of a large number of

²⁵⁴ Datta, *Refugees and Border in South Asia*, (2013) 229.

²⁵⁵ Gopaldaswami Ayyangar, *Parliamentary Debate*, Vol.1, Part II, (New Delhi: Lok Sabha Secretariat, 8 February 1950), 313.

²⁵⁶ Ayyangar also served as minister without portfolio.

²⁵⁷ *Parliamentary Debate*, Vol.1, Part II, 8 February 1950.

²⁵⁸ Gopaldaswami Ayyangar, *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 314.

²⁵⁹ Gopaldaswami Ayyangar, *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 315.

²⁶⁰ *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 314.

persons who even in their ordinary avocations had to pass between East Pakistan and either Assam or West Bengal.’²⁶¹ Meanwhile, the matter of migration was brought into notice to the Pakistan government as well. The government of India had several round of conferences with the government of Pakistan regarding the matter. But nothing fruitful came out of these conferences. After rounds of discussions with the state government, the Central government concluded that the proposed permit system would control the entry of ‘outsiders’.²⁶² The major apprehension was about the free movement Indians across the state borders and also the movement of the refugees who migrated from West Bengal to East Pakistan. Instead it was proposed that governments could take power to expel such foreigners whose continued migration might cause harm to the province’s economy.²⁶³

The *Undesirable Immigrants (Expulsion from Assam) Bill* was accordingly tabled in the parliament. The Bill stated that ‘any person who is not ordinarily a resident of Pakistan...or of any country outside India if he came into Assam and his continuance in that state is considered to be undesirable then the Central Government has the power to direct him to remove itself from Assam and to give such other directions as may be necessary in that context.’²⁶⁴ As the expulsion of the alien was kept in the Union List of Indian Constitution, the supreme power to decide on the subject was decided to keep with Central Government.

The Bill invited long debate. Some members spoke about a criminal, conspiracy of ‘enemies’ to convert Assam into a Muslim dominated area, which was mostly referred as ‘peaceful penetration’.²⁶⁵ Gopaldaswami Ayyangar stated that the migration was possibly planned at one point of time, when Assam was under the spell of grouping politics, but in general the migration couldn’t be termed as planned and targeted.²⁶⁶ Sardar B.S. Man from Punjab, the province that witnessed partition’s largest impact, alleged that the Assam government was unsympathetic and unaccommodating of refugees. He opined that the power of decision and execution should be strictly with the Central Government. He maintained that the police officials of the province might

²⁶¹ *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 314.

²⁶² *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 314.

²⁶³ *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 313-315.

²⁶⁴ *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 313.

²⁶⁵ Biswanath Das (Orissa), Sardar B.S. Man (Punjab), *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 315-318.

²⁶⁶ Gopaldaswami Ayyangar, *Parliamentary Debate*, 8 February 1950, 315.

be sympathizers of the migrants at border and as the Central Government was responsible for Foreign Affairs and Defense, he felt that the matter should be directly handled by the Central Government only. Mann also compared the situation with the western border, and claimed that there was no as such problem at western border. It was the negligence of the Assam government, which led to such a situation in Assam. According to Mann, the genesis of the concern could be traced to Sayed Mahmmd Saadulla and to the Muslim league's strategic 'invasion of Assam' before Partition. Some members also highlighted the conspiracy of Pakistan to convert Assam into a Muslim dominated land was brought up repeatedly.²⁶⁷ At the same time the concern for the Hindu refugees, who on account of disturbances and disorder in Pakistan were taking shelter in Assam, was also highlighted.²⁶⁸ Mann thus stated that

'I want it to be clearly, definitely and expressly understood that the Assam Government would not eject those friends who have come to Assam, who are genuine refugees and who have come seeking refuge in India'. He believed that those 'friends' living in Eastern Pakistan had a genuine claim on 'Bharat Mata' as everyone living in India. It was, he felt, 'through sheer misfortune' and by the 'drawing of a line on the map of India', they were placed on the other side.²⁶⁹

This sentiment came to be reflected in many of the other members' speeches. Accommodation of the (Hindu) refugees, the identification of the 'undesirable' immigrants from Pakistan and differentiation between refugees and undesirable immigrants were three major concerns raised.²⁷⁰

Assam's lawmakers welcomed the Bill. They highlighted refugee burden on Assam. R.K. Chaudhuri told- '...the actual number (of refugees) has been very much minimized...a large number has not been included in the census...for a single refugee who has come to Assam, three times that number have come from East Pakistan who

²⁶⁷ Biswanath Das (Orissa), Thakur Das Bhargava (Punjab), *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 322-

²⁶⁸ *Parliamentary Debate*, 8 February 1950.

²⁶⁹ B.S. Mann, *Parliamentary Debate*, 8 February 1950.

²⁷⁰ B.S. Mann, R.K. Chaudhuri (member from Assam), Biswanath Das, A.C. Guha (Bengal), *Parliamentary Debates*, Vol.1, Part II, 8 February 1950, 314-335.

cannot by any means be called refugee.’²⁷¹ Chaudhuri proposed to make a clear distinction in the Bill by adding a clause between ‘refugee’ and ‘immigrants’. He stated that the refugees would also impact the economy of Assam. Chaudhuri defended the Assam Government’s attitude towards refugee. He also proposed extension of the Bill to neighbouring West Bengal for better functionality. Chaudhuri used term ‘non-refugee immigrants’ to exclude the bona fide refugees and maintained that the immigrants had their own people in Assam and they were being strategically received at bordering region. Chaudhuri claimed that that was a ‘known fact in the province’.²⁷² The case of the eastern border, especially of Assam was unique in the manner that there was an existing narrative about the migrants. Though border was imposed the arbitrariness prevailed, as Joya Chatterji argues, ‘arbitrariness prevailed all along and this led to many of the complex historical incidences.’²⁷³ Chatterji’s observation in terms of understanding the arbitrariness in understanding ‘citizenship’ which according to her had been prevailing since Partition and it was understood, qualified, executed in different ways, can possibly be extended in the case of Assam for the historic (rather extended) problem of migration.

Surendranath Buragohain, another parliamentarian from Assam, also defended the Bill and thus he spoke, ‘Assam deserves to be better known than she is and her problems deserve much appreciation’.²⁷⁴ He spoke his apprehensions about growing Muslim population in the districts bordering Pakistan mainly Goalpara and Cachar. He believed that it wouldn’t be surprising if the Muslim population in the bordering districts rose up to fifty percent. He maintained Bengal famine (1943) induced a major phase of migration into Assam. Eviction was adopted as a measure to handle migration and migrants settled in government lands by the Congress government in 1945, as Buragohain believed that was settled and farther migration started after the Partition.²⁷⁵ He proposed permit system to be adopted as proposed by Assam government.

²⁷¹ Rohini Kumar Chaudhuri expressed apprehension that such non-refugees who have come for economic reasons or for reasons of exploitation, they have large number of their own people already settled in the province as a result of the policy persuaded before partition’. (*Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 318-320).

²⁷² *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 318-320.

²⁷³ Joya Chatterji South Asian History of Citizenship 1947-1970, (*The Historical Journal*, Vol. 55, No. 2. Cambridge: Cambridge University Press, (2012)).

²⁷⁴ Buragohain, *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 321.

²⁷⁵ Buragohain, *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 322.

While the discussion was overwhelmed with two burdened notions of ‘undesirable immigrants’ and ‘refugees’, Sucheta Kripalini, member from Uttar Pradesh pointed out to another vital issue of the outsiders, who were not indigenous people of Assam but had been living for generations in Assam.²⁷⁶ She believed that the position of Assam was particularly delicate, as she stressed ‘because beyond Assam was a territory which was in unsettled and chaotic condition’.²⁷⁷ She raised the concern regarding giving citizenship to those whose loyalty, as she referred was elsewhere (Pakistan). Supporting the Bill she pointed out that there were people who settled down in Assam for their business purpose but were not ‘original inhabitants’ of Assam. 1,40,000 Nepalis, 5,50,000 Bengalis, Marwaris and others were categorized as migrants in the Census Report of 1931, as she refers. She proposed to take up the matter as urgent. Discussing the refugee issue Kripalini maintained that the refugees also became economic competitor at certain points of time after their rehabilitation for the local settlers, which might have referred to its impact on economy. Kripalini’s point was defended by Debakanta Barooah, another member from Assam. He clarified that those who came to Assam from other parts of India were not ‘undesirable’ or detrimental to the state concern. Barooah felt that the bill was only about expulsion of such undesirable foreigners but was not meant to prevent inter state migration.

The matter of provincial power was raised claiming that the state government was not given power to act on the situation.²⁷⁸ Assam should have more power towards its execution, members from Assam demanded. Ayyangar maintained that following the constitutional provisions, the Central Government would reserve the power to ‘controlling immigration and expulsion from its territory’. The Central Government should be satisfied that any person who having been ordinarily resident in any part of Pakistan, had, whether before or after of the commencement of the Act came into Assam and his stay in that province was detrimental to the interest of India, then the Central Government might issue the direction. This power was proposed to delegate to any officer subordinate to the Provincial Government of Assam or to any officer subordinate to that government.²⁷⁹ The proposal added that ‘the penalty for any

²⁷⁶ Sucheta Kripalini, *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 327.

²⁷⁷ Sucheta Kripalini, *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 327.

²⁷⁸ Rohini Kumar Chaudhuri, *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 319.

²⁷⁹ Ayyangar, *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 321.

person who contravenes or attempts to contravene any such direction is that he shall be punishable for imprisonment for three years and he shall also be fined.’²⁸⁰ This was debated by many of the members as they felt those who were helping ‘undesirable’ immigrants to settle down should also be given harsh punishment.²⁸¹ Ayyangar maintained that interference with the constitutional provisions on fundamental rights might affect genuine citizens.²⁸²

The Bill retained its proposal of keeping the power of execution with the Central Government. , as it was defended- ‘the power has been deliberately retained in hands of Central Government...we (Central Government) want to take the entire responsibility.’²⁸³ The execution measures like – how to identify an undesirable immigrant, the legal procedure and most importantly, how to deal with immigrants living for generations in Assam if at all they were identified as undesirable were brought into discussions by various members. The issue of other types of people other than Pakistani immigrants, like Nepalis, who were considered as immigrants in 1931 census was clarified by Barooah as- ‘people of Assam were not opposed to them.’²⁸⁴ He further added that during 1942, when the Muslim League ministry encouraged the immigration from East Pakistan, the Nepali grazers were widely displaced and ‘the people of Assam rallied round them as their brother’.²⁸⁵

Members from Assam like Debakanta Barooah and Rohini Kumar Chaudhury expressed concern over punishment proposed for the Indian citizens who would give shelter to any of the ‘undesired immigrants.’ They urged for punishments like fortification of property for such citizens.²⁸⁶ Expressing his astonishment Ayyangar commented that he quite understood the concern of the members from Assam, but the manner in which the punishment for Indian citizens was sought for was strange. He firmly maintained that no such punishment could be given to any Indian citizen. This however reminds Nehru’s stand on Muslim migrants as he clearly stated that unlike

²⁸⁰ Ayyangar, *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 321.

²⁸¹ Thakur Das Bhargava, Jaspat Roy Kapoor, J.N. Hazarika, *Parliamentary Debate*, 10 February 1950.

²⁸² Ayyangar, *Parliamentary Debate*, Vol 1, Part II, 10 February 1950.

²⁸³ Ayyangar, *Parliamentary Debate*, Vol.1, Part II, 8 February 1950.

²⁸⁴ Debaknat Barooah, *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 329.

²⁸⁵ *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 321.

²⁸⁶ Rohini Kumar Chaudhury and Debakanta Barooah. *Parliamentary Debate*, Vol.1, Part II, 8 February 1950, 318-331.

many other leaders he didn't believe in retaliation and vicious punishment of the Muslims in India as response to the harassment of Hindus in Pakistan.²⁸⁷

The Bill was the first legislation after independence to deal with the gravity of the problem of migration Assam was facing. After a long discussion and some amendments the Bill was finally accepted as Immigrants (Expulsion from Assam) Bill 1950 and passed without voting on 13 February 1950. It got published in the Indian Gazetteers on 6 March.²⁸⁸ Meanwhile the communal outburst spread out to parts of western Assam. The Muslims termed the bill as 'Miyan Kheda Eyen' (tool to expel Muslims, who were referred in Assam as Miya).²⁸⁹ The Census Report of 1951 described the bill as,

'It was applied with wise restraint and great discrimination; cases under it did not exceed a low three figure category, all naturally against the Muslim immigrants. Many occurred in North Lakhimpur because the stay of Pakistani Muslims employed in Digboi oil area was considered to be danger to the safety and security of the country.'²⁹⁰

Though the safety and security issue of the country was pronounced frequently in the context, India was struggling with its position as a newborn democracy in the international platform. The issues of refugee and migrants cornered her in many ways. Pakistan was also grappling with similar issues. Both the countries were gaining international attentions for their relationship and the issue of migration was a fundamental matter, which was to resolve by both the countries. Keeping the international scenario in mind, Nehru tried to handle the matter with patience. After passing of the Immigrants (Expulsion from Assam) Act, 1950, N. K. Barooah claims that Nehru requested Assam Premier Gopinath Bardoloi to go slow with the Act.²⁹¹ This was probably because of Nehru's on going correspondence with the Pakistani counterpart Liaquat Ali Khan. There were proposals of settling down the refugees

²⁸⁷ Pallavi Raghvan, "The Making of India-Pakistan Dynamics: Nehru-Liaquat and the No War Pact Correspondence of 1950", *Modern Asian Studies*, (Volume: 50 issue: (5, June 2016)) 1651.

²⁸⁸ India Gazetteers, (6 March 1950).

²⁸⁹ Anil Roychaudhury, National Register of Citizen, 1951, *Economic and Political Weekly*, (21 February 1981).

²⁹⁰ R. B. Vaghaiwalla, *Census of India, 1951*, Vol. XII, Part I-A, Assam, Manipur and Tripura (Administrative Report) Shillong: The Municipal Printing Press Bombay, 1954, 78.

²⁹¹ Barooah, *Gopinath Bardoloi*, (2010), 248-263.

from both the countries. Refugee issue not only bothered India but also bothered Pakistani provinces. By then, both the countries were trying to make an agreement of many such issues of immediate concern. Immigrants (Expulsion from Assam) Act 1950 would mark significance as the first legislation to address the immigration issue. The Act would solely handle the matter of citizenship in the context of migration in Assam until the coming of the Citizenship Act 1955.

Nehru-Liaquat Agreement 1950

After several months of correspondence and with the onset of communal conflicts in the bordering areas in the East in 1950, the government of India and Pakistan reached on an agreement on 8 April 1950. This was significant as both the countries were making their own cases as independent, sovereign nations and establishing themselves in the international platform.²⁹² International audience was keeping close eyes on India-Pakistan relationship. Both had many matters to settle down with each other like control and occupation of Kashmir, control and sharing of Indus Canal water, evacuee property, division of assets etc. There were frequent correspondence between two governments and apparently both were willing to make peace. But within a span of three months the stands of both the governments kept changing over time and there were high political drama in both the sides of the territory. Now, the inflow of refugees caught significant attention in both the countries. Both the countries were trying to settle it within. But the matter became highly alarming as neither of the countries could handle the millions of displaced people. Along with other unsettled matters, this brought both the governments at par.²⁹³ In India, the eastern border sought desperate attention as the West Bengal and Assam governments demanded immediate measures for settling refugee accommodation problem. There was political anxiety among the international community that India was moving military troupe near borders to Pakistan.²⁹⁴ India was also having tough time handling the provincial governments at the eastern border. Despite all tough situations Prime Minister of India, Nehru took a firm stand regarding the Muslim migrants and stated that his view

²⁹² Raghvan, *The Making of India-Pakistan Dynamics*, 2016, 1645-1678.

²⁹³ It was not only India, but also Pakistan had a tough time handling the refugees. The Central government came into conflict with provincial governments as the provincial government refused to accommodate more refugee. Moreover it attracted wider attention of the international community, as both the countries were members of United Nations. For more details see Raghvan, "The Making of India-Pakistan Dynamics", 2016; S. Ansari, *Migration, Community and Strife in Sindh, 1947-1962*, Oxford: Oxford University Press, (2005).

²⁹⁴ Raghvan, *The Making of India-Pakistan Dynamics*, 2016, 1645-1678.

on them is not similar with other Congress leaders who expressed for retaliation and vicarious punishment of the Muslims for Hindus being harassed in Pakistan.²⁹⁵ Nehru hinted on leaders like Sardar Ballav Bhai Patel, who commented about the progressing correspondence discouraging the progress. He maintained that Pakistan was cleverly trying to commit India to a line of procedure both in regard to outstanding and future disputes, which would give Pakistan a perpetual advantage over India.²⁹⁶ Demands to handle the refugee issue continued putting pressure on the Centre.²⁹⁷ Keeping in the view of the situation in the eastern provinces and the huge number of displaced persons in both the countries it was agreed upon that both the countries would take care of their minorities and safeguard human rights. Nehru-Liaquat Pact marked certain agreements like- the government of India and Pakistan would ensure to the minorities throughout their territory, complete equality of citizenship, irrespective of religion, a full sense of security in respect of life, culture, property and personal honour, freedom of movement within each country and freedom of occupation, speech and worship, subject to law and morality.²⁹⁸ Both the governments agreed upon that members of minority community would have equal opportunity with the members of majority community to participate in public life of their country, to hold political or other office and to serve in their country's civil and armed forces.²⁹⁹ The Pact also made agreements on issues related to property of the migrants. It stated that the rights of ownership in or occupancy of the immovable property of a migrant would not be disturbed. If during his absence, another person occupied his property, it would be returned to him, provided the migrant returned by the 31 December 1950.³⁰⁰ This particular clause made a point of conflict of interest. It was believed that it expanded the time frame for conferring citizenship in India. The Constitution of India promised to confer citizenship to all those who migrated to Pakistan but returned to 'the territory of India under a permit for resettlement or permanent returned issued by authority' before July 19, 1948.³⁰¹ The Constitution of India, hence, extended till 19 July 1948 as the latest date for conferring citizenship for the migrants and the returning migrants. After the No War Pact, it was argued that the

²⁹⁵ Raghvan, *The Making of India-Pakistan Dynamics*, 2016, 1645-1678.

²⁹⁶ Quoted in Raghvan, *The Making of India-Pakistan Dynamics*, 2016, 1645-1678.1661.

²⁹⁷ Raghvan, *The Making of India-Pakistan Dynamics*, 2016, 1645-1678.

²⁹⁸ Agreement between the Government of India and Pakistan regarding security and Rights of Minorities (Nehru-Liaquat Agreement), Delhi: 8 April 1950.

²⁹⁹ Agreement between the Government of India and Pakistan, 8 April 1950. .

³⁰⁰ Agreement between the Government of India and Pakistan, 8 April 1950.

³⁰¹ Constitution of India, 1950.

date got extended till December 31, 1950.³⁰² It was argued that India took much more responsibility than Pakistan at this point. The Pact didn't get popularity in Assam. Sardar Patel came to West Bengal to gain consensus for the Pact and assured all possible help for the settlement of refugee problem. But in Assam, it was argued that Nehru-Liaquat Pact created a friction of settlement in terms of exchange of population.³⁰³ It was claimed that though Hindu refugees went back to Pakistan, the number compared to the Muslims coming into India was much higher.³⁰⁴ A daily statistics by the Intelligence Department in the month of September 1950, after five months of the signing of the Pact stated that a number of 1428 persons, everyday entered into Assam from East Pakistan. Among them 1093 were the returning migrants and 335 were fresh migrants. Reacting to the report by the deputy director of the Intelligence Department, Sardar Patel wrote to Nehru- "Assam's both the hands are tied. In one hand the refugees at the other hand are the sufferers from the earthquake and flood. Now the new Muslim immigrants have added to the situation...we have to prevent them from coming or ask Assam government to expel them."³⁰⁵

Nehru's stand remained the same, accommodating and patient. Nehru showed satisfaction over the outflow of Muslim migrants through the western border following the Pact. Sanjib Baruah stated that the Pact created a 'fiction' that the exchange of population was settled through it.³⁰⁶ But Assam continued struggling with both the questions of refugee and migrants from East Pakistan.

The settlement however was far reaching. There was constant movement of people through the border in the East. The matters related to migrants, refugee and citizens were yet to get settled, as there was no law till 1955. Property related matters in case of returning refugees were claimed to be politically motivated.³⁰⁷ Working through this transition, India conducts its first census in 1951. A National Register of Citizens was prepared under a directive of Ministry of Home Affairs copying details from the

³⁰² Baruah, *India Against Itself*, (2001),119.

³⁰³ Baruah, *India Against Itself*, (2001),119.

³⁰⁴ Barooah, 2010, *Gopinath Bardoloi*, 312.

³⁰⁵ Barooah, 2010, *Gopinath Bardoloi*, 313.

³⁰⁶ Baruah quoted Verghese here and stated that it created a fiction that 'once the clam was restored the refugees would return to their homes across the border.' (Baruah, *India Against Itself*, (2001), 119)

³⁰⁷ Jayal, *Citizenship and Its Discontent*, 2015 (2013), 45.

census report intending registration of all citizens with possible details.³⁰⁸ This in the coming years would serve the purpose of identification of Pakistani migrants in Assam. Checking illegal migrants in the early fifties was difficult as the passport and visa regulations between India and Pakistan came into operation only from October 1952 and only after the amendment of the Foreigner's Act 1946 in 1957 definition of a foreigner covered a Pakistan national. In 1955 the Citizenship Act came into force, which in a comprehensive legal framework to define citizenship.

Registering its Citizens and the Census Report 1951

The Census of 1951 was not only the first general census in independent India but it also guided the discourse of citizenship especially for Assam. Unlike neighbouring states of Tripura and Manipur, Assam's territory was redefined. Along with this Assam's population also altered. After separation of Sylhet, Assam lost an area of 4,769 square miles (which was 1/18 of its old province) and a population of 2,825,282 (which was 1/3 of its total population recorded during Census 1941).³⁰⁹ The Census report agreed that "...it has lost the vast paddy lands and the tea, lime and cement industries of Sylhet; the far-reaching effects of this loss will continue to be felt by Assam as well India for many years to come."³¹⁰ Assam would recall more often than any other parts of India about her loss as both linking (in 1874) and separation of Sylhet would not only impact on her peopling and economy but it would also leave a deep impact in terms of nationalistic sentiment of Assamese speakers and Bengali speakers in the following decades.

Assam would also face new challenge after her new territorial make-up. Khasi and Jaintia Hills would be integrated with Assam. This integration added an area of 3,788 square miles with a population of 213,586 (according to 1941 census).³¹¹ The Census Report 1951 remarks- 'During the last decade the old province of Assam lost a net area of 981 square miles and a population of 2,611,666 souls before emerging into its new status as an autonomous State in the Union of India.'³¹²

³⁰⁸ R. G. Vaghaiwalla, *Census of India, 1951*, Vol. XII, Part 1-A, Assam, Manipur and Tripura (Administrative Report) Shillong: The Municipal Printing Press Bombay, 1954, 1954.

³⁰⁹ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Part I-A, Assam, Manipur and Tripura, 1954, 3.

³¹⁰ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Part I-A, Assam, Manipur and Tripura, 1954, 3.

³¹¹ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Assam, Manipur and Tripura, 1954, 3.

³¹² Vaghaiwalla, *Census of India, 1951*, Vol. XII, Assam, Manipur and Tripura, 1954, 3.

Yet after this new arrangement of territory and loss and addition of population, Assam would continue to show a ‘tremendous growth of population’ in comparison with other states of India. The population of Assam according to 1951 census was 9,043,707, with density of 176 per kilometer. This was higher than the 1941 estimate. For reference see the table below

Table no. 1: Population Growth Rate, 1951³¹³

| Year | Population | Variation | Mean Decennial Growth Rate | Density |
|------|------------|-----------|----------------------------|---------|
| 1901 | 3,814,188 | - | - | 74 |
| 1911 | 4,482,864 | 668,676 | 16.1 | 87 |
| 1921 | 5,316,590 | 833,726 | 17.0 | 103 |
| 1931 | 6,344,456 | 1,027,866 | 17.6 | 123 |
| 1941 | 7,593,037 | 1,248,581 | 17.9 | 148 |
| 1951 | 9,043,707 | 1,450,670 | 17.4 | 176 |

Despite epidemics like Kala-Azar³¹⁴, Cholera³¹⁵ and natural calamities like earthquake and flood, Assam showed ‘overwhelmingly large percentage of increase’³¹⁶ in population. This was calculated as double that of Bombay.³¹⁷ This was attributed to migration of ‘refugees’ and ‘immigrants’ from East Pakistan. People born in foreign countries who were enumerated during census of 1951 in Assam were 894,607. Amongst them 894,607 were born in Pakistan and second highest was born in Nepal numbering 56,572.³¹⁸ Out of the total number of people born in Pakistan 274,455 were refugee and 558,833 were non-refugees.³¹⁹

The refugees who are referred as ‘displaced person’ was separately discussed. The report described them as ‘another stream of migration’ which, ‘went to swell the ever increasing tide of population in Assam.’³²⁰ The report separated the ‘refugees’ from

³¹³ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Assam, Manipur and Tripura, 1954, 3.

³¹⁴ Around 8,677 people were treated affected of Kala-Azar in 1950 (as compared to 11,957 in 1949) in Assam. (Vaghaiwalla, *Census of India, 1951*, Vol. XII, Assam, Manipur and Tripura, 1954, 38)

³¹⁵ Deaths from Cholera showed increase in 1950 (1,869) over 1949 figures of 1,185. (Vaghaiwalla, *Census of India, 1951*, Vol. XII, Assam, Manipur and Tripura, 1954, 38)

³¹⁶ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Assam, Manipur and Tripura, 1954, 39

³¹⁷ Table 1.15, Vaghaiwalla, *Census of India, 1951*, Vol. XII, Assam, Manipur and Tripura, 1954, 39.

³¹⁸ Table 1.21, Vaghaiwalla, *Census of India, 1951*, Vol. XII, Assam, Manipur and Tripura, 1954, 71.

³¹⁹ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Assam, Manipur and Tripura, 1954, 71.

³²⁰ Chapter VIII, Vaghaiwalla, *Census of India, 1951*, Vol. XII, Assam, Manipur and Tripura, 1954, 356.

‘migrants’. It maintained that the influx of Hindu refugees following the riots in 1946 and Partition, constituted the biggest migration stream into Assam.³²¹ The refugee census of 1949 marked that there were 24,600 families of displaced person in Assam (approximately 114,500 persons).³²² The movements of these families were considered as highly political as the report maintained- ‘the people who came away in 1949 mainly belonged to the middle classes-intellectuals who were following the proceedings of the Constituent Assembly of Pakistan or richer classes who could afford to come away.’³²³ The next phase of migration in 1950 of the Hindu refugees were larger and the reason was wide spread violence in parts of Pakistan and bordering areas. In Assam, the largest number of refugees settled down in the district of Cachar (93,177). Refugees settled down in Assam plains was 259,946 and in hill area 14,509.³²⁴ Interestingly there was no system of registration of these refugees till the arrival of large number in 1950. With the coming of the ‘new refugees’ in 1950, who were bigger in number, the state government renewed the existing process of registration by fixing 30 June 1951 as the last date. Before that there were registration camps in the bordering areas for registration and issuing of the refugee certificate, which gradually declined and the camps were shut down. So, the registered refugee families were as follows-

Table 2: Numbers of Registered Refugee Families³²⁵

| | |
|---|-----------------|
| Number of application received | 41,007 families |
| Number of application disposed | 19,548 families |
| Registration card issued to | 17,938 families |
| Number rejected | 1,610 families |
| Number of application pending disposal on 1 July 1951 | 21,464 families |

³²¹ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Assam, Manipur and Tripura, 1954, 356.

³²² Vaghaiwalla, *Census of India, 1951*, Vol. XII, Assam, Manipur and Tripura, 1954, 356.

³²³ The changing scenario in Pakistan impacted this phase of migration of the Hindus to neighboring parts of India. It was maintained that replacement of non-Muslim officers in administration and other government services changed the dynamics. Lessening of prospects for Hindus in trade and business was another reason. Moreover, the repeated declaration of the political leaders that Pakistan would be a purely Islamic state impacted greatly. (Vaghaiwalla, *Census of India, 1951*, Vol. XII, Assam, Manipur and Tripura, 1954, 356).

³²⁴ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Assam, Manipur and Tripura, 1954, 356.

³²⁵ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Part 1-A, Assam, Manipur and Tripura, 1954, 356.

Various government schemes to support these families were initiated. Five schemes for permanent rehabilitation were initiated which covered 5,500 families.³²⁶ Though Assam was criticized for not being welcoming for the refugees, government initiatives were taken to give minimum support to these displaced families.

On the contrary immigration of the Muslim immigrants, continued to be a matter of big worry for the nationalist Assamese and political leaders.³²⁷ Despite long political turmoil after Partition, Bengali Muslim cultivators continued to migrate into Assam in search of arable land, the report remarked.³²⁸ Like the earlier census reports done during colonial rule, report of 1951 also discussed in great length the matter of immigration of Muslim cultivators. Referring to earlier census reports of 1921 and 1931, it was stated that the immigration of Muslim cultivators from East Bengal in the earlier decades had positively impacted on the economy of Assam, but at the same time it had maintained that these benefits were derived at a price. Immigration of these good cultivators who brought 'competitiveness' in terms of commercial cropping and skillful labor amongst comparatively 'lethargic locals', also affected the land economy as they started encroaching government reserves and land of the local people.³²⁹ In the report three headings about communal conflict and Immigration (Expulsion from Assam), Act 1950, marked significance. It was maintained that there were increasing land related conflicts between the tribal people and the Muslim immigrants. The government of Assam established Tribal Belts in 1948 to protect the land of tribal people, which was also aimed to resolve the conflict between the tribes and the Muslim immigrants. This could also be considered as an extension of the Line system, which was there before independence. The factor of the immigration was identified as scarcity of land in East Bengal. Assam being the immediate, less populated neighborhood with some available land, the needy cultivators migrated in. This natural movement of people due to economic reason was later marked as political with the settlement of Partition.³³⁰ This political shift led to communal conflict in parts of Assam, at the wake of independence. As discussed earlier,

³²⁶ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Part 1-A, Assam, Manipur and Tripura, 1954, 356.

³²⁷ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Part 1-A, Assam, Manipur and Tripura, 1954, 356.

³²⁸ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Part 1-A, Assam, Manipur and Tripura, 1954, 356.

³²⁹ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Part 1-A, Assam, Manipur and Tripura, 1954, 77.

³³⁰ The political shift was marked as a major reason of concern about immigration from East Bengal. The census report marked that though Muslim immigration began merely as a result of the interplay of economic forces in East Bengal vis-à-vis Assam, later it took on some political color. (Vaghaiwalla, *Census of India, 1951*, Vol. XII, Part 1-A, Assam, Manipur and Tripura, 1954, 77).

communal tension was reported in parts of Western Assam in the month of February 1950. The census report of 1951 stated that the repercussions of the huge Muslim migration on the socio-political and economic life of Assam were an important cause of the communal incidents in Assam in early 1950.³³¹

Apart from the land-seeking cultivators, there were also the Nepali migrants who settled down in Assam. They were mostly temporary visitors, buffalo graziers and serving soldiers. The Nepali settlers however were marked as declining reading from the number of Nepalese speaking people and people born in Nepal.³³² There was no reported communal tension between the Nepali and the locals. It was remarked that it was doubtful whether Nepali settlers were beneficial to the country as their buffaloes did harm to the local's harvest. But it was also maintained that Assamese were benefited from the Nepali producing saccharine and other dairy products.³³³

Assam as a new state of Indian republic was yet to chart her people. The unsettling border in the east with newly formed Pakistan and with a long history of migration made it more difficult for Assam. The question- who was to be considered as undesirable for her economy surfaced along with the migration issue.³³⁴ This brought another group of people into consideration- the migrants from the adjacent states like Bihar and West Bengal and other remote states of India like Rajasthan. As discussed earlier in the section of Immigrants Expulsion (from Assam) Act 1950, the matter of 'outsider' popped up in the census report of 1951, as they were enumerated in the earlier census with the tag. A good number of people migrated in search of livelihood to Assam, who served as government employees with the British government or did business in Assam. The census report tabulated highest number from Bihar (206,346) followed by Orissa (87,216), Uttar Pradesh (33,463) and West Bengal (23,454). The Marwaris migrated from Rajasthan who did a large scale of trade in Assam, though not considered as 'numerous', it was stated that they were of semi permanent nature.³³⁵

³³¹ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Part 1-A, Assam, Manipur and Tripura, 1954, 78.

³³² The number of people born in Nepal and enumerated during census in Assam was 56,572. It was less than the number in 1931 (88,306; 1941 number was not available as there were no tabulation). The number of Nepalese speaker was tabulated as 125,320 against 140,000 in 1931. Census Report 1951, 79.

³³³ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Part 1-A, Assam, Manipur and Tripura, 1954, 79.

³³⁴ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Part 1-A, Assam, Manipur and Tripura, 1954, 79.

³³⁵ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Part 1-A, Assam, Manipur and Tripura, 1954, 67.

The possible challenges with its new territory and people for Assam were to understand its territoriality with newly formed nation Pakistan and remarking imagination about its own people. For Assam the territorial reorganization marked significance. 1951 census marked another significance as it also prepared the National Register of Citizens (NRC) from the census data. It stated that one of the important innovations of the census was the preparation of National Register of Citizens. It maintained that all-important data was transcribed from the census slip. Significantly the NRC didn't keep record of three important questions- census question number 6 (about displaced persons), 8 (bilingualism) and 13 (indigenous person). The report maintained,

'it (NRC) is compiled in a separate parts, one relating to each village and each town. It will be maintained as a permanent record and kept up-to-date by collecting information through village official. As it was not possible to hand sort for house slips which relate to individuals, the national Register of Citizens giving details of the individuals arranged by households was utilized for sorting and tabulating certain characteristics of the households like their size, ordinary structure and composition.'³³⁶

The guideline for questions to be asked for the purpose of preparing the National Register of Citizens was issued by the concerned authority and was published in Assam Gazetteers dated 6 September 1950. It stated that NRC would be maintained as a continued record and used as a basis for periodical socio-economic survey by random sampling.³³⁷ The essential particulars to be embodied in NRC were charted through questions to be asked. Few significant questions were listed regarding nationality, religion and special group. Apart from that the question about 'indigenous persons' marked important significant. The guideline listed the question as follows-

(13) Indigenous Person-

- (a) Are you an indigenous person of Assam?
- (b) If so, state, in the nearest bigha,
 - i) The land you own
 - ii) The land you have rented in cash or in kind from other.³³⁸

³³⁶ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Part 1-A, Assam, Manipur and Tripura, 1954, XXXIV.

³³⁷ Assam Gazette, (6 September 1950).

³³⁸ Assam Gazette, (6 September 1950).

The inclusion of the question of indigenous people reflected on two major concerns Assam had. There was immense pressure on land in Assam due to migration, as discussed earlier, and Assam's culture and economy was threatened due to immigration pressure. Here the question about indigenous person clearly hints at both the issues- about Assam's economy and culture. The instruction for the questions didn't defined who were the indigenous people. It asked how many bighas of land were under cultivation if the person was living in Assam. Though this it could be calculated how much land were on rents cultivated by tenants. Interestingly these questions were made a part of the chartered questions for NRC, which was about to chart Indian citizens. This would mark the beginning of the long way Assam would go for charting citizens and alien. It started with the preparation of the first census data and NRC in 1951.

National Register of Citizens (NRC) however was debated as non-inclusive. Anil Roychaudhury, a senior writer from Assam wrote that NRC couldn't include all the names of a family or it couldn't register the unsettling immigrants.³³⁹ Moreover NRC was not a public document, unavailable for common persons to know whether his/her name was registered or not. During the unsettling period of 1950s, it was also questionable to consider NRC as the final document about its citizens. Despite all its limitations it was hoped that NRC would be helpful in near future for certain administrative purpose. The report maintained that,

'The National Register of Citizens will maintain (...) continuity, will be useful for electoral and various other administrative purposes and also serve the suitable frame for socio-economic surveys based on random sampling.'³⁴⁰

Making of the Citizenship Act 1955

Indian Constitution set modalities for granting citizenship to the people who were migrating in and out to India from Pakistan through Article 5 and 7. The deadline was fixed between 19 July 1948 and 26 January 1950. To decide on the migrants,

³³⁹ 'In areas inhabited by Immigrant Muslims the household of a rich man may include servants and agricultural workers and others over and above the members of the family. The names of these names might not be included in the register.' (Anil Roychaudhury, 'National Register of Citizens, 1951', *Economic and Political Weekly*, 21 February 1981).

³⁴⁰ Vaghaiwalla, *Census of India, 1951*, Vol. XII, Part 1-A, Assam, Manipur and Tripura, 1954, XXXIV.

refugees and displaced person was important for the matter of citizenship. At the same time the movement of people through newly formed boundaries and their registration of status was impossible to handle with this Constitutional framework. Arbitrariness in this process prevailed all through.³⁴¹ During the intervention period between the enforcement of the citizenship provisions of the Constitution and the Citizenship Act 1955, there prevailed a period of uncertainty and indetermination.³⁴² Anupama Roy called it a 'zone of liminality'.³⁴³ The constitutional provisions about citizenship did come into force on the very day of adoption of Indian Constitution but there was no 'legal provisions' to it. Constitution gave choices by giving timeframe and process of registration and the option for return within a certain period of time, for those who were moving across the border. This was marked as inclusive and a bold and generous provision in 1948.³⁴⁴ At the same time this period lacked the legal guidelines with which the disputes related to citizenship could be resolved legally. The cases of women and religious minority here, as Roy counter argues, their choice and voluntariness was fraught with uncertainty and remained indeterminate.³⁴⁵ Moreover in between these years of liminality, people kept moving across the borders with the support of various documents like entry permit and long-term settlement visa. After nearly five years when the cases of these people came under the legal purview of Citizenship Act 1955, their movement became imputed with 'intention' and subsequent ascriptions of legality and illegality.³⁴⁶

The Citizenship Act of 1955 was enacted by the Parliament under Article 11 of the Constitution to take into account all cases related to citizenship. With an unsettling border and never settling issue of immigration, Assam too went through difficult years between these years of 'legal vacuum'.³⁴⁷ Assam by now got the Immigrants Expulsion (from Assam) Act 1950, which apparently handled immigration. Assam also got a document of citizens, which was the National Registrar of Citizens (NRC)

³⁴¹ Chatterji, *South Asian History of Citizenship 1947-1970*, 2012.

³⁴² Roy, *Mapping Citizenship in India*, 2010, 40.

³⁴³ Defining the etymological roots of liminal and liminality, Roy maintained that it was derived from the Latin word *limen* which means threshold. She also refers to the use of the concept of liminality by Victor Turner in anthropology. (Roy, *Mapping Citizenship in India*, 2010, 34.).

³⁴⁴ Rodrigues argued that giving options to the people was inclusive. Rodrigues maintained that it was a bold and generous provision in 1948 as the vast majority of people to whom such recognition was accorded were indentured labourers and poor emigrants. (Referred in Roy, *Mapping Citizenship in India*, 2010, 40)

³⁴⁵ Roy, *Mapping Citizenship in India*, (2010), 40.

³⁴⁶ Roy, *Mapping Citizenship in India*, (2010), 40.

³⁴⁷ Roy, *Mapping Citizenship in India*, (2010), 34.

along with the census report of 1951. Moreover by now the first electoral roll of India was prepared under the Representation of the People (Preparation of Electoral Rolls) Rules 1950. Though there were legal provisions to revise electoral rolls every year if need occurs, its was significant that the citizenship question was not connected to this document. The fact that before citizenship got its legal tools in 1955, NRC in 1951 in Assam and electoral roll in 1952 were prepared marked significance.

The Constitution of India dealt with citizenship as a defining concept, an idea for newborn India. The *Citizenship Act, 1955* outlined all legal aspects of citizenship after the commencement of the Constitution. The Bill was introduced in the Lok Sabha on 2 May 1955. Later on 5 August 1955, a motion for reference of the Bill to a Joint Parliamentary Committee was moved and after three daylong discussions on 5, 8 and 9 August 1955, Lok Sabha adopted the motion. Rajya Sabha discussed the said motion on 7 and 8 September and adopted it on 8 September.³⁴⁸ The discussions both in Lok Sabha and Rajya Sabha marked significance as India was going to have her first legislation of citizenship. Floating the motion in Lok Sbha on 5 August, G.B. Pant, the Minister of home Affairs maintained, “The subject not only relates to citizenship, but it has also wider bearings. While the citizens of the land will be acquiring all the rights and privileges, which flow from this statute, which is, cherished highly everywhere, the Bill also allows others, in special circumstances, to acquire a similar status. All rights in the state flow from citizenship, and it has far reaching consequences.”³⁴⁹ Referring to the careful drafting of the Constitutional clauses on citizenship by the Constituent Assembly, Pant maintained that though the *primary principal* was the principle of *jus soli*, that stated that a person could acquire the right of citizenship if he was born in India, if either of his parents was born in India or if that person had resided in India for five years or more provided such persons had fulfilled the condition of domicile, the *primary concern* of the Constituent Assembly was the people who had come from Pakistan.³⁵⁰ Pant reminded the Parliament about the provisions made by the Constituent Assembly for

³⁴⁸ The Citizenship Bill, 1955. *Report of the Joint Committee*, (New Delhi: Lok Sabha Secretariat, (21 November 1955), C.B (II), No.22,

³⁴⁹ *Parliamentary Debates*, House of the People, Official Report, (New Delhi: Parliament Secretariat, Friday 5 August 1955), 9462.

³⁵⁰ *Parliamentary Debates*, Friday 5 August 1955, 9463.

the people who migrated from Pakistan and also added that the Constitution gave the supreme authority to the Parliament to pass law, elaborate and complete one for regulating the subject of acquisition and termination of the rights of citizenship.³⁵¹ Pant agreed that there had been some delay in the enactment of law. He stated, “we have been living almost in vacuum. Many children have been born in the country and a large number have also come from Pakistan who have to be given status of Indian citizenship...considering the difficulties we had to face because of the ceaseless flow of our fellow patriots from Pakistan and other problems, if there has been a little delay, one can easily understand the reasons and see that it wouldn't have been politic and advisable to take any step earlier. Now things have almost settled down and we can frame appropriate law for this very vital subject.”³⁵²

The proposed bill covered four points in general- acquisition of citizenship, renunciation of citizenship, termination of citizenship and deprivation of the rights of citizenship. The bill was thoroughly discussed in the Parliament. Certain major points raised were the concern about the refugees and their citizenship rights, the supreme authority of the Parliament over the matter of conferring, terminating citizenship right etc. Highlighting the refugee issue, Parliamentarian Renu Chakravartty from West Bengal pointed out that a fresh wave of influx from East Pakistan to the neighboring states in India like Bengal, Orissa and Assam took place at the wake of biggest riot after 26 January 1950. Chakravartty opined that these displaced people who migrated afresh were uneducated cultivators who had no knowledge about the process of registration and hence should have special consideration for conferring citizenship rights.³⁵³ She further referred to the complex matter of inclusion of names of thousands of refugees in the voters' list. Citing a case of a refugee woman who came to India after 1950 and whose name was included in the voters' list, but was denied passport, Chakravartty argued that a specific clause had be there to justify the matter.³⁵⁴ Elaborating on the Bill, another Parliamentarian, Ashok Mehta suggested intervention of Judiciary in the matter of law making,

³⁵¹ *Parliamentary Debates*, Friday 5 August 1955, 9463.

³⁵² *Parliamentary Debates*, Friday 5 August 1955, 9464.

³⁵³ *Parliamentary Debates*, House of the People, Official Report, (New Delhi: Lok Sabha Secretariat, Friday 5 August 1955), 9497.

³⁵⁴ *Parliamentary Debates*, Friday 5 August 1955, 9497-9498.

instead the suggested discretionary role of the Executive. After long discussions the Bill was finally sent to the Joint Parliamentary Committee (JPC).

The JPC held four sittings in all and took up the Bill clause by clause consideration on 11 and 12 November 1955. After an extension of a period the committee presented the report on 21 November 1955. In one of the significant dissent by Hirendra Nath Mukherjee, M.N. Dads and J.V.K. Vallabhrao, it was maintained, “we are of the view that deprivation of the citizenship should be justiciable and should not be left to the executive discretion. It will be clear from the provisions of clause 10 that the judiciary has been kept out, except in a remotely advisory capacity, the final decision being entirely in hands of the Executive and even appeals to the court precluded. This may well have undesirable consequences.”³⁵⁵

After JPC’s presentation of the report, Lok Sabha took up clause wise discussion of the Bill on 5 December 1955 and passed it on 9 December 1955. It accommodated certain suggestions by JPC, but amendment for intervention of Judiciary was negated. Rajya Sabha passed the Bill on 14 December 1955 and it had come into effect from 30 December 1955.³⁵⁶ Few of its provisions have been made retrospectively applicable.³⁵⁷ These provisions have been made retrospectively applicable from January 1950, whereas the citizenship related provisions in the Constitution are said to commence in November 1949.³⁵⁸ This anomaly creates a situation of indeterminacy of citizenship in the time period between November 1949 and January 1950.³⁵⁹ Also India attained a concrete legal framework through this Act after five years of adoption of its Constitution.

The Act defined various modes of acquisition and loss of citizenship along with other matters. The Section 2 defined ‘various terms thus aiding in the interpretation of the statute’.³⁶⁰ Sections 3 to 7 dealt with the acquisition of citizenship. Sections 8 to 10 deal with loss of citizenship. Sections 11 to 18 dealt with matters of administrative import, offences under the Act. There are three schedules appended to the Act. The

³⁵⁵ The Citizenship Bill, 1955 *Report of the Joint Committee*, (New Delhi: Lok Sabha Secretariat C.B (II), No.22, 21 November, 1955), viii.

³⁵⁶ Gazette Notification, 30 December 1955.

³⁵⁷ Ashesh and Thiruvengadam, “Report on Citizenship Law: India”, *Global Citizenship Observatory (GLOBALCIT)*, 2017.

³⁵⁸ Ashesh and Thiruvengadam, “Report on Citizenship Law: India”, 2017, 9.

³⁵⁹ Ashesh and Thiruvengadam, “Report on Citizenship Law: India”, 2017.

³⁶⁰ Ashesh and Thiruvengadam, “Report on Citizenship Law: India”, 2017.

First Schedule concerning Commonwealth citizenship was repealed later. The Second Schedule contained the oath of allegiance that potential citizens have to take. The Third Schedule talked about the requirements for naturalization. The Fourth schedule listed out the specific countries whose citizens of Indian origin were eligible to apply for overseas citizenship of India.

Assam Through the Decade of 1950

Post independence Assam came across a rough decade. The drawing of new territory and the exchange of population between India and Pakistan following Partition brought challenges to Assam as a frontier state at the Eastern border. Moreover, migration from East Pakistan (erstwhile East Bengal) continued to be major issue for the state. Charting out of the citizens in this part remained critical through out the decade.

In 1953, just after six years of independence, a proposal for creation of a new state comprising North East Frontier Agency areas, parts of Manipur and Tripura and Cachar, Lushai and Naga Hill districts of Assam, invited concerns of Assam government.³⁶¹ An organization named 'Cachar State Reorganization Committee' put forwarded this proposal through a memorandum to the government of Assam. The memorandum stated that in 1947, to get rid of an inconvenient rival, the Bengalis speaking district of Sylhet was maneuvered into Pakistan. The memorandum expressed a deep concern about the manipulation of census data of 1951 Census Report. It stated that the census record of 1951 manipulated the number of Assamese speakers. It claimed that the data shown in 1951 census about the number of Assamese speakers was actually far less than Bengali speakers and there was a large number of people speaking other languages like Hindi. There was also allegation that Assam had a separate national anthem other than 'Jana Gana Mana'. These claims however had its genesis in the long politics of Partition. The separation of Sylhet continued to haunt the sentiments of the Bengali speakers living in Assam. The politics of number soon would take a turn into a cultural battle. There were scattered protests in parts like Dhubri and Goalpara, against introduction of Assamese as the

³⁶¹ Two Part C states of Manipur and Tripura and Chachar. (Appendix to the supplementary Memorandum to the States Reorganizations submitted by Government of Assam, (1953), ASA.)

medium of instruction in Assam. It was claimed that Bengali speaking young students were forced to study in Assamese.³⁶²

The Assamese nationalist leaders, who had been advocating the cause of Assamese language and culture, now propagated for a larger unified culture of hills and the valley. Ambikagiri Raychaudhury, the nationalist leader who often expressed concern for the safety and security of Assamese language and culture and worked for its cause through *Asamiya Samrakshini Sabha*, maintained that the Assamese culture, a conglomeration of hill and valley cultures was also a part of the larger Indian culture. He said,

“It’s (Assamese culture, a conglomeration of hill and valley cultures) a premier creation, which took a form quite naturally through the connection with the great Indian culture or greater human culture. It has expressed its greatest form through the process of assimilation of various human groups who came in different period of time, their exchanging culture and the liberal accommodation of the autochthones of Assam. Hence Assamese culture is very much connected to the universal human culture as it beholds the traits of universal humanism...Assamese cultural pot is formed of the units of hill-valley human culture.”³⁶³ (*Translation mine*)

This was a part of Ambikagiri’s call for ‘save cultural adventure’, broadcasted through the Shillong-Gauhati radio in 1950. This marked significance as Ambikagiri, who had expressed his concern over migrants and worked for safeguarding Assamese culture, now addresses matters of unity and diversity. He called Assamese culture, a cultural mix of hill and valley and he also linked its formation in a natural process in connection with the Indian and universal human culture. While doing so he also addressed the Indian nationalism and its unity as a new nation. He said that the conglomeration of hill and culture of Assam naturally made a part of Indian culture through the very natural process. This asserts Assam as an integral part of India. Coming from a nationalist like Raychaudhury, who proposed principle of dual

³⁶² Protest Against the Introduction of Assamese as a medium of Instruction in Schools. C,282/54, Home Confidential, (1954), ASA.

³⁶³ Raychaudhury, Ambikagiri, *Ambikagiri Raychaudhury Rachanawali*, (Guwahati: Asom Prakashan Parishad, 1986), 591-92.

citizenship and opposed multiculturalism in the provincial level, it perhaps reflected the euphoria of the newly formed nation and its nationalism.

Conclusion

Migration would continue to be on centre-stage of Assam's political journey as a peripheral state of Indian nation-state in the first decade after its birth. We have seen how citizenship made a way to Assam's political trajectory through legislation like Immigrants (Expulsion from Assam) Act 1950 and making of the NRC in 1951. The Citizenship Act 1955 clearly demarcated the execution of Constitutional provision for granting citizenship and guided legal execution of the matter. In this formative phase Assam marked out place in the national context primarily through two significant interventions, first by raising the question of nationality in the platform of Constituent Assembly and secondly by documenting its citizens through NRC. But for fluid border with Pakistan, Assam had to be more vigilant about migration. Disputes regarding theft of cattle and illegal movements across the border found regular attention in the official records. Migration would not stop and neither it would stop becoming significant in the Assam's political affairs. Rather migration would become a larger issue by the turning of the decade.

Chapter IV

Framing Citizens (1961-1971)

Legal measures to define citizens in India and settle the question of citizenship within its constitutional framework would continue to remain arbitrary in the decade of 1960s. Independent India by now had framed laws to define citizenship and rules were set to implement them. The Citizenship Act, 1955 provided the legal framework for the same. The Citizenship Rule, 1956 guided its implementation. Meanwhile amendment of the Foreigners Act, 1946 in 1957 redefined who a 'foreigner' was and brought Pakistani nationals under the purview of its definition.¹ However, riots and conflicts internally within its own territory made the question of citizenship amongst a heterogeneous population even more complex for India. It no longer remained a matter of defining citizenship against foreigners but India would struggle hard to settle the citizenship question within, with its own heterogeneous population. The challenge of handling the problem of infiltration, especially in its eastern border remained critical for a very long period of time. At the turn of the decade, the challenges of becoming a new sovereign nation, of integrating its heterogeneous population didn't get easy for India either. On his end, then Prime Minister Jawaharlal Nehru pushed the idea of 'unity in diversity', aiming to build a multicultural nation, which was respectful of its pluralism.² Christophe Jaffrelot observes that Nehru felt the need for building a nation with 'composite culture' drawing from its history where it brought together the culture of invaders and immigrants with that of the Hindus.³ Nehru continued asserting his stand for the 9.8 percent minorities in India unlike many of his fellow Congressmen, Vallabh Bhai Patel and Rajendra Prasad. They pushed the Hindu traditionalist approach to build one Hindu homogenous nation. According to Jaffrelot, the Hindu traditionalists within the Congress Party took up two major issues as priorities- the representation of minorities in the Parliament and status of Hindi as national language. The Hindu traditionalists wanted to assure

¹ Until then Pakistani nationals were not defined as foreigners according to the Foreigners Act, 1946, as India was an undivided territory till then (1946) and people living within the territory were subjects of the imperial crown.

² Christophe Jaffrelot, "The World's Largest Democracy during the 'Congress System'", in Jaffrelot, Christophe ed. *India Since 1950: Society, Politics, Economy and Culture*, (New Delhi: Cambridge University Press: 2011): 8.

³ Jaffrelot supported his argument drawing from Nehru's 'Discovery of India', where he wrote "Always there is visible an attempt to understand and adapt the new and the harmonies it with the old, or at any rate with parts of the old which were considered worth preserving." Jaffrelot, *World's largest Democracy*, 22.

limited participation of the minorities in Parliament and they equally felt the urge to bind the nation with one language, i.e. Hindi. But in a nation like India where every region had different linguistic culture, the dream of a homogenous culture bound by one language was far reaching. The proposal of Hindi as a national language invited long debates and opposition especially from the southern states of India, the Dravidian speakers.⁴ Though Hindi was declared as official language of India, Nehru handled the matter more sensibly by proposing the use of vernacular languages at the regional level.⁵ But making of a heterogeneous, tolerant and accommodating nation, with the vision of 'unity in diversity' was more challenging and Nehru soon faced criticisms for his language policy.⁶ He went onto realize the complexity of the matter, with the breaking out of communal riots in parts of India during the 1960s. Assam for instance witnessed widespread violence in 1960. Conflict broke out between Assamese speakers and Bengali speakers, leaving many homeless.⁷ This attracted Nehru's utmost concern and he believed that the conflict between the two communities 'shook the foundation of the nation.'⁸ Nehru considered this as one of the most serious challenges for the nation after independence and said that it was a 'stab on India'.⁹

⁴ The opposition didn't remain confined at the Parliament. Soon a very remarkable mass movement would start in the southern states like Tamil Nadu. This would mark the beginning of regional politics in India stemmed from cultural differences. The development in Tamil Nadu with the emergence of 'Non-Brahminism' and 'Dravidian movement' marks significance not only in the regional politics but also in the Indian caste dynamics. (For more scholarship read D.A. Washerbrook, *The Emergence of Provincial Politics: The Madras Presidency 1870-1920*, (Cambridge: Cambridge University Press, 2008); r Christopher Baker, *An Indian Rural Economy 1880-1955: The Tamil Countryside*, (New Delhi: OUP, 1984); David Arnold, *The Congress in Tamil Nadu: Nationalist Politics in South India*, (Delhi: Manohar, 1977).

⁵ Nehru's policy of reorganization of the states on the basis of language is often marked as balanced, which also brought 'symmetry' in otherwise an asymmetrical constitutional makeup. Tillin observes 'the most wide-ranging reorganization of the federal system (India)-the re-organization of states along linguistic line in 1950- was...a symmetrical reform, recognizing minority languages, but on a asymmetrical basis.' (Louise Tillin, "United in Diversity? Asymmetry in Indian Federalism", *The Journal of Federalism*, Vol. 37, no.1 (18 November 2006): 45-67.

⁶ Differences of opinion and approach towards building a new nation did not last for long. Patel, one of the firmest contenders to Nehru's many of the opinions, died in 1950. Nehru manifested his vision for an integrated India through policies like National Integration Council in 1961. This however came as a reaction to the communal conflicts that took place in parts of India.

Jaffrelot maintained that Nehru died with the regret that India could never become a secular state despite of his enormous effort. The murderous riots in the beginning of 1960s invited Nehru's serious concern. (Jaffrelot, *The World's Largest Democracy*, 10.)

⁷ Both the languages were scheduled in the Constitution of India

⁸ Parliamentary Speech by Jawaharlal Nehru on 1 September 1960, 2015, *Selected works of Jawaharlal Nehru*, ed. Madhavan K. Pilat, Second Series, Vol.63 (1 September-31 October 1960), Jawaharlal Nehru Memorial Fund, New Delhi.

⁹ Nehru, *Parliamentary Speech, 1 September 1960*, 143.

Amidst political tensions around the subject of official language, Assam continued struggling with the problem of infiltration from East Pakistan. Everyday conflicts in the bordering areas continued to prevail, like it did in the 1950s. This impacted the measures to handle illegal immigration in a frontier state like Assam. As Immigration from East Pakistan (erstwhile East Bengal) formed the constant backdrop of Assam's political setting, the question of citizenship in Assam remained highly contested and in 1960s, emerged forcefully the question of cultural citizenship. The conflict between Assamese speakers and Bengali speakers further complicated the political atmosphere in Assam. Though the conflict had a historical background,¹⁰ at such a complex juncture, its revival was significant. Notably, the immigrants from East Pakistan were Bengali speakers. The Census Reports of 1951 and 1961 noted that Assamese was the mother tongue of the majority of the people living in Assam. On the onset of language conflict in 1960, this served as the Assamese nationalists' agenda. The Bengali counterparts on the other hand, alleged that the migrant peasants (the Muslims) conceded Assamese as their mother tongue and claimed it as an unjust politicization of the matter. In the national scenario, language had by now raised serious questions in terms of nation and state building. In Assam then, it no longer was the lacuna in legal settlement of the matter of citizenship, but cultural markers like language would also actively impact the this process in Assam.

This chapter will discuss how Assam handled this twinning phase. The decade of 1960s was going to be critical, as it also provided multiple interpretations of the citizenship law. While handling the two groups of people- the (Muslim) immigrants and (Hindu) refugees in two distinctive manners, Assam raised questions about the constitutional provisions to define one's claim to citizenship. While in the early 1960s, the widespread communal tension between Assamese speakers and Bengali speakers¹¹ redirected the attention from the matter temporally towards more cultural interpretations of the subject of citizenship, the publication of the Census Report of 1961, shifted the gaze towards the matter of illegal immigrants from Pakistan. It brought back the attention to the question of legal citizenship. Immediately after the

¹⁰ Nehru observed- "...you may go back, years back, friction between the Assamese and Bengali speaking people. It is a long story..." Nehru, *Parliamentary Speech*, 1 September 1960, 143.

¹¹ It was claimed that by mid of the year 1960 around 42000 people left Assam and took refuge in West Bengal as a result of the violence. (Jawaharlal Nehru, *Selected works of Jawaharlal Nehru*, edited by Madhavan K. Pilat, Second Series, Vol.63 (1 September-31 October 1960), Jawaharlal Nehru Memorial Fund, New Delhi.)

census report invited public attention back to the problem of infiltration, new legal apparatuses were introduced, like- Prevention of Immigration from Pakistan (PIP) scheme, Foreigners (Tribunals) Order, 1964 etc. These would be employed forcefully to determine and settle the citizenship question.

The case of Assam would raise another relevant question regarding the delinking of the nationality question with citizenship in India. The obscurity, however, had its genesis in the very concept of citizenship in India and was not typical of Assam.¹² The administrative and legal measures were unable to address this difficult twinning of the question of nationality and citizenship. This posed a serious question- whether merely addressing the matter of infiltration was enough to handle both the crucial matters of citizenship and nationality or delinking would gradually justify both aspects. On the other hand, practically the legal measures couldn't address either of these.

Meanwhile Assam went onto have a different political setting charged with nationalist ideas. She would seek more state control over its resources and claim more profit from resources like oil and tea. Separation of the hill districts significantly changed the political atmosphere of the valleys. The Sino-India war of 1962 also significantly shaped Assam's political memory as a state of sovereign India. During these delicate situations, how far did the question of citizenship evolve? What changes did it take at the turn of the decade of 1950s? What were the policies adopted for handling the crisis of infiltration during 1960s? How did these policies play out for Assam's handling of the matter of citizenship? Did these policies propagate a stronger notion against immigrants? Did this mark a shift of the public attention from the language question to a stronger anti-immigrant, anti-Muslim sentiment? Could the decade of 1960s be marked as necessarily communal? Where did Assam stand and what did it necessarily lead to by the end of that decade? How far did the actions and developments in Assam influence the evolving course of the subject and content of citizenship in India? How did the repeated interpretations add to the citizenship regime in India? Did 1971 mark a paradigm shift in terms of creating a new narrative

¹² Jayal observes how delinked citizenship and nationality especially when the question of including the Indians living in abroad arose and the claims were denied led to more complex political situations. Also denial of dual citizenship within India, with its heterogeneous population let a space to prevail for farther inclusive claims in Niraja Gopal Jayal, *Citizenship and its Discontents: An Indian History* (New Delhi: permanent black, 2015 (2013)), 56.

about infiltration? Why does the year 1971 mark significance? Did the notion against immigrants turn into notion against refugees after fresh arrival of refugees from East Pakistan at the wake of birth of Bangladesh? And finally how did 1970s make a pathway to a new citizenship regime in Assam? These are some of the more pertinent questions this chapter will address.

Census Report 1961: What language do the immigrants speak?

The Assamese nationalists who claimed ‘Assamisation’ of migrated Muslim cultivators by asking them to adopt Assamese language within Assam province left a substantial legacy in the post independence valley politics. Reorienting slightly under the constitutional provisions of the Indian Republic, the old battle over language took up a new momentum in 1960. The Assamese elites from the Brahmaputra valley demanded to make Assamese the sole official language in Assam. The strategy of the nationalists remained the same; they bestowed pressure on the legislators. Bowing to this pressure, the Assam Legislative Assembly passed an Act towards this effect in October 1960. The Bengali speaking people, who now stood to lose out, protested. Violence broke out and spread to different parts of Assam in districts like Sibsagar, Tinsukia, Dibrugarh, Kamrup, Darrang and Goalpara.¹³ The government of Assam was aware of the challenges of implementing such an Act. In October 1960, Bimala Prasad Chaliha, then chief minister of Assam expressed serious doubts regarding viability of implementing this Act in the hill district and the Bengali-dominated Cachar district. Assamese was a minority language there.¹⁴

The Cachar based organizations like *Nikhil Assam Banga Bhasha Bhashi Samiti* and *Cachar Zilla Sangram Samiti* claimed that the drastic increase in the number of Assamese speaking population from 19.8 lakh in the Census of 1931 to 49 lakh in the Census of 1951 was a ‘biological miracle’.¹⁵ They pointed out that the Bengali speaking peasants living in the *chars* of Brahmaputra declared Assamese as their

¹³ Report to the Secretary, Home, PLA 374/62, Home and Confidential, Government of Assam, Assam State Achieve (Hereafter ASA).

¹⁴ Chief Minister’s Address at Assembly, CMS 37/61, Chief Minister’s Secretariat SGOA, ASA. Amalendu Guha, Little Nationalism Turned Chauvinist: Assam’s Anti-Foreigner Upsurge, 1979-80; *Economic and Political Weekly*, Vol. 15, No. 41/43, (1980), 1699-1720.

¹⁵ Memorandum to the Home Minister, Government of India by the Lawyers Association, Karimganj, File No. PLA 347/62, Home and Confidential, Government of Assam. ASA.

mother tongue during the census enumeration of 1951, which helped Assamese-speaking people to attain majority. The Census Report, 1951 noted,

“With the solitary exception of Assamese, every single language or language group in Assam shows a decline in the percentage of people speaking the same. All the decline has gone to swell the percentage of the people speaking Assamese language. The figure doesn’t fail to reflect the aggressive linguistic nationalism now prevailing in Assam, coupled with desire of many persons among Muslims as well as tea garden labours immigrants to adopt Assamese as their mother-tongue in the state of their adoption.”¹⁶

This ‘aggressive linguistic nationalism’ would intensify in the 1960s. The Census Report would elaborate how the data collection process suffered due to communal violence resulting from such aggressive linguistic nationalism.¹⁷ Assuring a fair enumeration, the census superintendent Pakyntein maintained that the enumerating staffs were cautioned to be tactful and truthful and there was no dislocation at all during the final enumeration. He also maintained that the data produced after tabulation also showed that mostly the people had returned their mother tongue without fear and coercion.¹⁸ Assuring further, Pakyntein said that allegations about pressure from the Assamese nationalists to declare Assamese as mother-tongue came to be true but in most cases, it was found to be false. On the whole, as it was observed, the allegations appeared to have cancelled each other and that the final results might be taken as being largely accurate.¹⁹

The assurance came with certain apprehensions. As discussed earlier, the conflict between Assamese nationalists and Bengali counterparts attracted serious political attention at the national level. India’s national press claimed that by the middle of

¹⁶ R.B. Vaghaiwalla, *Report on Census of India, Vol.12, Assam, Manipur and Tripura*, 1951, Superintendent of Census Operation: Shillong, 115.

¹⁷ “As soon as the preparations for census were taken in 1959, the agitation continued in crescendo till it culminated in the disturbance of July 1960. Fortunately for us, the big count was actually taken, there was lull everywhere.” (E. H. Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, Superintendent of Census Operation, Assam: Delhi, 203).

¹⁸ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964.

¹⁹ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964.

1960, around 42000 people left Assam and took refuge in West Bengal as a result of the violence.²⁰ Reflecting on this crisis, Nehru commented,

“...we have had trouble in India...serious trouble- even since independence on many occasions, but the kind of thing that has happened in Assam is rather of a new type in the big way. It does rather shake the foundations of our country and our unity.”²¹

Amidst such a serious situation, the claim of authenticity of the data collected was not convincing enough. Nevertheless, the census enumeration for language in Assam during 1961 represented similar observation that the number of Assamese speaking people had increased (negligibly) from 56.29 percent in 1951 to 57.14 percent in 1961 whereas number of Bengali speakers decreased around 2 percent against general population. The gain in the Assamese language, observed the report, might be largely due to the registering of their mother tongue as Assamese by Muslims of the Assam valley. It also added that it might be partly due to the ex-tea garden labourers who had settled in Assam for long and had sent their children to Assamese medium schools.²²

Goalpara was one of the districts that showed significant population growth and where it was speculated that the number of Muslim immigrants grew phenomenally. The report verified the district-wise data for principal language of Assam, based on the language spoken by at least 5000 people in the plains districts of Assam and by at least 2000 persons in hill districts, the report maintained,

“The predominant language in this district (Goalpara) is Assamese which has increased from 62 percent of the total population of the district in 1951 to 66.14 percent in 1961. The percentage increase of Assamese in 1961 over 1951 is 48.63 percent. The Muslims in this district have increased by 40.45 percent. Among themselves and 39.32 percent among as against the total general population of the district. This increase in number of Muslims together with the fact that some Muslims who returned their mother-

²⁰ Parliamentary Speech by Jawaharlal Nehru on 1 September 1960, 2015, Selected works of Jawaharlal Nehru, ed. Madhavan K. Pilat, Second Series, Vol.63 (1 September-31 October 1960), Jawaharlal Nehru Memorial Fund, New Delhi.

²¹ *Selected works of Jawaharlal Nehru*, edited by Madhavan K. Pilat, Second Series, Vol.63 (1 September-31 October 1960), Jawaharlal Nehru Memorial Fund, New Delhi.

²² Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 157.

tongue as Bengali in 1951 might have returned as Assamese in 1961, may account for this increase of Assamese speakers in the district.”²³

Similar observations were made for the districts like Kamrup, Nowgong and Sibsagar where the Assamese speaking population increased and it was attributed to the ‘Muslims’ who gave Assamese as their mother tongue.²⁴ In Darrang, where immigration was marked as higher marked a decline in Assamese speakers and had shown an increase in Bengali speakers. This was explained as a result of increased number of Hindu Bengalis in the district.²⁵

Pakyntein, the census superintendent explained the increasing number of Assamese speakers, despite striking increase in the rate of infiltration, “The Assamese people whether Hindu or Muslim returned Assamese as their mother tongue, while Bengali Hindus always returned Bengali as their mother tongue. Bengali Muslim immigrants into Assam Valley, on the other hand, have a tendency to return Assamese as their mother tongue even in pre-independence days...”

The categories of people as Pakyntein extracted here reflected on the political landscape of Assam at that time. Presumably the Bengali speakers, irrespective of their religion were supposed to give their response without any pressure. But clearly the Bengali speaking Muslims, unsecured, without agency, declared differently their mother tongue unlike the Hindu Bengalis. The report very tenderly reflected on these desperate Bengali speakers as it explained the reason for their ‘lie’ about language as,

“...because what they (Bengali Muslims immigrants) want is land in the valley, and if knowledge of Assamese language helps them to become ‘indigenous’, they do not mind about their mother tongue. After independence, the Bengali Muslim immigrants into Assam Valley have, almost to a man, returned their mother tongue as Assamese whether they knew or not. In fairness to them, it must however be said, that all Muslim Immigrants from East Bengal do not speak the soft-spoken Bengali of Nadiya. What they really speak is rough dialect of Bengali, which they call

²³ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 211.

²⁴ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 210, 211, 212.

²⁵ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 213.

‘Bhatiyali’ according to the inquiry report of one of my Deputy Superintendents.”²⁶

The justification was too compelling as it maintained that despite knowing the fact about the needy Muslim peasants, the census enumerators had to note the responses given by the Muslim immigrants. But they sincerely believed that the Muslim immigrants honestly tried to know the Assamese language and send their children to schools where the Assamese language was the medium of instruction.²⁷

Though there was a possibility of manipulation in terms of data collection because of the prevailing law and order situation, what was more significant was the politics of data representation. The census data in the report, in general, was represented very selectively and particularly about the Muslim immigrants, resulting into different narratives about them depending on the need of the hour and was used by different agencies at different points of time. For instance, there were claims that during the 1941 census, ‘Assamese politicians’ persuaded the tribal people to declare Assamese as their mother tongue to secure Assamese majority.²⁸ This was not typical about Assam. Census data in general had been politicized in different points of time. There are opinions that the nature and detail of the data on ethnic, religious and other minority groups is primarily determined by the current political contours of the country; what was relevant here for Assam was the nature and details of the data showing religious differences, which couldn’t be seen out of a political context.²⁹ The Census Report of 1961 which carefully highlighted the ‘fact’ about Bengali speaking Muslims for the language data without marking their ‘lie’ as ‘lie’, would remark them as ‘liars’ for the migration data. It would consider religion data to enumerate migration data, because it would opine that a cultural marker like religion was never responded incorrectly. While language data in the census report marked the Bengali speaking Muslims carefully as a group which assimilated with Assamese speaking people by adopting knowledge of Assamese language, the migration data would mark

²⁶ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 204.

²⁷ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 204.

²⁸ Charan Narzary, *Dream for Udayachal and the History of Plains Tribal Council of Assam (PTCA 1967-93)*, (Guwahati: N. L. Publication, 2011), 43.

²⁹ Gill Mehar Singh, “Politics of Population Census Data in India” *Economic and Political Weekly*, Vol. 42, No. 3 (Jan. 20-26, 2007), 241-249.

them as careful liars. And to find the ‘truth’, they would ask them the tricky question- ‘what religion do you follow?’

The Census Report 1961: What religion do the immigrants follow?

If the Language Movement of 1960 asserted identity question and introduced the issues of cultural citizenship in Assam, the Census Report of 1961 brought back the matter of infiltration into the center of Assam’s political and public sphere. This report served two purposes. First, it recorded Assamese as the language of majority of the people, where (Muslim) immigrants marked Assamese as their mother tongue marking them as patient, accommodating and needy subalterns. Secondly it digressed the attention from the language issue towards the infiltration problem, highlighting Muslim immigrants as ‘liars’.³⁰ Assamese nationalists made use of the first one, which highlighted the Muslim immigrants as silent contributors. The second one immediately antagonized them, leading to reformation of administrative measures to handle the matter of infiltration and citizenship in Assam. With the new narrative about immigrants, the measures to define citizenship would mark a paradigm shift here. In this section I will discuss how the Census Report of 1961 redirected the public attention towards infiltration forming a new narrative about migrants and later about citizenship in Assam. I will also argue how the Assamese-speaking middle class subscribed to the state-crafted data and created a narrative about immigrants.

In 1965, B. P. Chaliha, the then chief minister of Assam issued a statement regarding the problem of infiltration from Pakistan, which claimed, “The problem of Pakistani infiltration has always been engaging the attention of Government as well as the people of our country. The size of this problem became increasingly known after the 1961 census.”³¹ This could be considered as the reflection of a decade-long anti-immigrant rhetoric of the 1960s in Assam. The issue of Infiltration from East Pakistan had returned to take center stage of politics in Assam. Chaliha’s statement was once again specifically about the increasing number of infiltration of the ‘Pakistani Muslim’.

³⁰ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964.

³¹ *Infiltration and Deportation of Pakistanis (Assam Chief Minister Shri B. P. Chaliha clarifies position)*, 27 July 1965, The Directorate of Information and Public Relations, Government of Assam, Prafulla Goswami Papers (I to III, Printed material), NMMML, New Delhi.

I have already discussed earlier how the Census Report of 1961 had created a new wave in the migration narrative in Assam. Parts of Assam, by now, had also gotten reorganized into Nagaland with an area of 6,366 sq. miles formed into a separate state. Already the North East Frontier Agency (NEFA) was also carved out from the administrative control of Assam. Deduction of these two major areas however didn't have significant effects in terms of population growth in Assam. In 1951, after the scraping of a highly populous district Sylhet, Assam still recorded significant growth in its population. In 1961, the census report recorded a 'very big' growth of population in Assam. The report noted that '...it can be seen that there have been a steady rise of both urban and rural population from 1901 to 1951, but from 1951 to 1961, the rise in both the categories has been very big.'³² The report compared the statistical data in many ways. Assam ranked 14th among other states and union territories of India, in terms of population between 1961 and 1951.³³ Growth of population was recorded as highest since 1901, at 34.45 percent.³⁴ The average increase in Assam during 1951-61 was recorded as the highest in India.³⁵

Table 3: Average increase of population in Asam, 1951-61³⁶

| Year | Population | Decade Variation | Percentage Variation | Density |
|------|------------|------------------|----------------------|---------|
| 1901 | 3,712,638 | - | - | 79 |
| 1911 | 4,333,826 | +621,188 | +16.73 | 92 |
| 1921 | 5,157,789 | +323,963 | +19.01 | 109 |
| 1931 | 6,165,612 | +1,007,823 | +19.54 | 130 |
| 1941 | 7,403,396 | +1,237,784 | +20.08 | 157 |
| 1951 | 8,830,732 | +1,427,336 | +19.28 | 187 |
| 1961 | 11,872,772 | +3,042,040 | +34.45 | 251 |

Undoubtedly, the population increase in Assam was the major highlight of the census report of 1961. The data was convincingly presented which was capable of inducing anxiety over the matter of growth of population. While there were mentions about newly explored terrains, newly developed urban spaces with record of highly

³² Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 10.

³³ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, Table 2.1, 45.

³⁴ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 58

³⁵ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 67.

³⁶ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, Table 2.23, 62.

increased rate of population was obvious.³⁷ Despite all objective measures, the report continued to distract. For example, one of the major observations was the theory of population movement from one district to the other on the basis of spread of population in different districts. In terms of population, Goalpara had come up to third position from fifth in 1951 census after Kamrup and Lakhimpur. Pakyntein called for an interesting analysis here.³⁸ It was observed that the percentage change of population in Goalpara was higher during 1901-1911, which was 29.97, but gradually the percentage fell in the following decades. Pakyntein agreed partly with his predecessors' explanation that the increased percentage in 1901-1911 was due to immigration of the Muslims.³⁹ The gradual decrease of population in the consecutive decades in Goalpara district was, according to Pakyntein, more than compensated by the increase in other districts like Kamrup, Nowgong, Darrang and Lakhimpur districts of Brahmaputra valley.⁴⁰ Pakyntein observed that the increased rate of population in Goalpara during 1911-21 went down to 26.92 percent from 29.97 percent (1901-11) whereas Nowgong jumped up from 15.84 to 31.94; Darrang from 11.89 to 27.69; Lakhimpur from 26.29 to 34.07 and Kamrup from 13.88 to 14.2. In the following decades also the same pattern was reflected. Pakyntein concluded that the variation was caused due to increasing immigration of 'Muslims'.⁴¹ He remarked,

'This variation confirms the opinion of my predecessor that Muslim immigration began in the turn of the twentieth century and kept a steady march upward in the valley to 1961. The smallest percentage increase in Goalpara district in the decade 1941-1951, which stands at 9.25 percent, was probably due to communal disturbance, which affected the Goalpara districts and Kamrup district in 1950. However there have been heavy increases of population in Nowgong and Cachar districts whose percentage goes up from 15.95 to 36.65 and 11.38 to 24.66

³⁷ In column 58, in chapter II, it was maintained that during the last decade of 1950s many parts of Assam had been developed under the impact of two Five Years Plans. Roads were built making many inaccessible areas accessible; moreover some development projects were also taken up in rural areas. It was claimed that there had been tremendous improvement in the health through programmes like National Malaria Education Programme, mass vaccination etc. and it was remarked that all these factors had also helped to enlarge the growth of population. (Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 68).

³⁸ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 54.

³⁹ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 55.

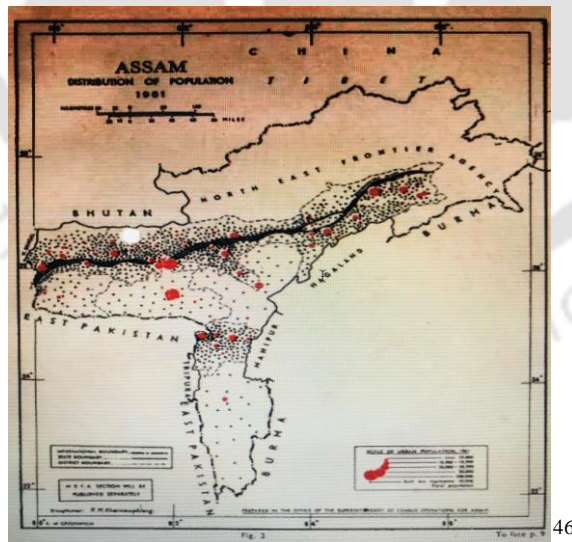
⁴⁰ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 55.

⁴¹ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 55.

respectively. It therefore appears that the displaced Muslims of Goalpara and Kamrup districts have gone not only to Pakistan but also to Nowgong and Cachar.’⁴²

Pakyntein’s observation turned out to be very specific about ‘Muslims’. Whereas refugees (Hindus) appeared in this context in a low light, as the report reflected- ‘the increase in Cachar district during 1941-1951 is however due to the influx of refugees from East Pakistan. To some extent the refugees went to Nowgong district also. This analysis suggests that large scale Muslim influx into Assam from 1901 to 1951 and the curious movement of the population, both Hindus and Muslims, during decade 1941-51.’⁴³ Pakyntein concluded that all such movement of population swelled the overall population of Assam and led to the most spectacular increase of population in 1961 with a high rate of percentage, which was 34.35.⁴⁴ The United Mikir and North Cachar Hill district recorded significant increase at the rate of 69.08 percent, which was explained as a result of accessibility to the inaccessible areas in the district in 1951. Next to this appeared Goalpara, with the highest recorded increase in population at the rate of 39.32 percent. Next followed Kamrup, Lakhimpur, Darrang and Nowgong. This was very briefly attributed to the heavy influx of population to these districts.⁴⁵

Figure 3: Map of Assam: Distribution of Population



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⁴² Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 55.

⁴³ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 57.

⁴⁴ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 57.

⁴⁵ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 58.

⁴⁶ Map of Assam showing distribution of population (Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964).

In one of the columns about density of population in one of the highly populated districts Kamrup, Pakyntein remarked- 'in Tarabari, Baghbor, Barpeta, Nalbari, Rangia and Hajo police stations of Kamrup district, the number of immigrants Muslims is very big and they have cultivated almost every inch of the soil although these areas are liable to flood...'⁴⁷ While discussing the aspects of population growth in Assam, the report made such remarks in all columns about 'Muslims'. The data for net immigration in Assam during the decade 1951-61 exhibited an interesting statistics. It reflected that only 13,437 persons came to Assam during 1951-1961. Pakyntein affirmed it as 'impossible' and explained that the fault laid on the response about 'birth place' statistics. He maintained that in districts like Goalpara and Kamrup where the population growth was recorded as highest among other districts and marked as abnormally high, the birthplace statistics failed to explain the 'expected number of immigrants'.⁴⁸ Pakyntein maintained,

'I personally notice in my tours during the enumeration period that in areas where the increase is abnormal, almost all persons returned their place of birth either as PL (Place of Living) or D (within the district of enumeration) or in some cases, other district of the state of enumeration.'⁴⁹

It concluded that the birthplace statistics for both immigrants and emigrants couldn't be relied for Assam and the recorded unusual growth rate over the natural growth of 34.45 percent during 1951-61 couldn't be explained from the net migration figure.⁵⁰ To evaluate this, the report relied on two criterions- the under enumeration in the last census and unusual increase of Muslim population.⁵¹ This was also maintained along with these observations that the birthplace statistics was considered to be 'fairly accurate' in case of 'displaced persons' i.e. the (Hindu) refugees from East Pakistan and people from other parts of India.⁵² Muslims, on the other hand, were again highlighted as the 'liars' who apparently provided false information about their place of birth during the census enumeration in 1961, who during the 1951 enumeration had

⁴⁷ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 58.

⁴⁸ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 71.

⁴⁹ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 71.

⁵⁰ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 71.

⁵¹ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 71.

⁵² Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 71

otherwise provided the right information. Pakyntein assumed that ‘it appears that the Muslim immigrants who came to Assam from East Pakistan during the decade (1951-61) have not correctly returned their birth place. Perhaps in many cases, such Muslim immigrants who returned their birthplace correctly in 1951 Census, have recorded as Assam during this census (1961).’⁵³ As for the reason behind this, Pakyntein, vaguely maintained that in spite of the number of Hindu displaced persons who came to Assam from East Pakistan during the decade of 1960, birthplace data couldn’t reflect that aspect. According to him, it was because the birthplace data were not cross-tabulated with religion.⁵⁴ This implied a possibility of manipulated information not only by the Muslims but also by the Hindus.

The substantial growth of population between 1951-61 continued to be unexplainable. The report noted that during the census enumeration of 1951, around 60,372 total numbers of persons were left out which was an under-enumeration. Pakyntein in 1961 calculated the natural increase, which was around 74,000. This came out to 180,000 after addition of those left out of count in inaccessible hill districts, the total persons under-enumerated and their natural increase in 1961.⁵⁵ The excess of 7.0 in growth rate over natural growth rate for 1951-61 came to be around 7 lakhs and it was settled therefore that the number of persons who migrated to Assam were around 520,000. After calculations, it was remarked that the number of Muslim immigrants into Assam from East Pakistan during 1951-61 were around 220,000 and the remaining 300,000 were considered as Hindu displaced persons and other non-Muslim persons who came to Assam from other parts of India.⁵⁶

However, Pakyntein was not satisfied with the immigration data. He maintained/opined that the people from East Pakistan, during enumeration didn’t correctly give their place of birth and that interpretation of the data, especially for migration, was very limited; which also was thought to be incorrect. This view came with the observation that the number of persons who recorded their birthplace as born in East Pakistan in 1961 was enumerated to be less than that of 1951. It was 774,869 in 1961 whereas in 1951 it was 831,872. Pakyntein supported his analysis with the

⁵³ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 72.

⁵⁴ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 72.

⁵⁵ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 72.

⁵⁶ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 72.

argument that those who migrated during 1941-1951 were still living in Assam and if the newly migrated people from East Pakistan between 1951-1961 added into this the number enumerated in 1961, should ideally be more than that of enumerated in 1951. It was therefore concluded that the number of people born in East Pakistan was just opposite of natural conclusion.⁵⁷ Pakyntein's observation was based on the numerical evaluation of the data. In the following statement, the report made another observation which was based on an 'indication.'⁵⁸ It stated- '...the slips in my tabulation office 'indicates' that the Hindus generally gave their birth place correctly, but among the Muslims almost everyone gave his birth place as Assam.'⁵⁹ Pakyntein further maintained that such incorrect statements had taken such serious proportions that he couldn't reach into a reliable conclusion for migration data. To do a reliable math/ to affirm to a well-grounded tally, Pakyntein relied on religion data to tabulate the number of Muslim immigrants. This was the first time a census report based on the religion data was used to figure the number of immigrants.⁶⁰ This was the first time a census report's religious data was used to figure the number of immigrants.

The numbers from the Census Report were evoked more frequently in the coming years under different contexts and would be widely used to highlight Muslim immigration into Assam. This would lead to a public paranoia creating an atmosphere of pressure on the legislature to adopt certain measures to check infiltration from Pakistan, mostly targeting the Muslims.

As mentioned earlier, documents like the census reports guided the public narrative in Assam. How far did such narrative influence the policies against illegal immigrants? This chapter suggests contrary to the claim by Sanjib Baruah that the central government were unresponsive to the debates on the issue (infiltration) in the Assamese public sphere.⁶¹ In contrast, the central government had taken into consideration this issue often which many a time impacted the execution of

⁵⁷ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, Chapter V, 123.

⁵⁸ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 123.

⁵⁹ Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 123.

⁶⁰ Pakyntein wrote 'my predecessors used to give the figures of Muslim immigrants from birth place or migration data, but this time I have made my conclusion regarding Muslim immigration into Assam from religion data.' (Pakyntein, *General Report on the Census of India*, Vol. III, Part I-A, Assam, 1964, 123)

⁶¹ Sanjib Baruah maintained that '...in the Assamese public sphere opposition to immigration has been framed by cultural meanings derived from the Indian Constitution and law: focusing only on immigrants whose status falls within, at least a legal gray area.' (Sanjib Baruah, *India Against Itself: Assam and the Politics of Nationality*, (New Delhi: Oxford University Press, 1999): 202.).

citizenship laws in ground and the Assamese speaking educated middle class played vital roles in the process of execution of citizenship laws. It was not a simple balancing game between the state affair and the (Assamese) public sphere. There were several actors in play, including the local police officers, legal professionals, judges and ‘alleged illegal immigrants’, who would through thousands of civil suits claiming right to citizenship, raise questions about the content of citizenship in India.

Interpretative Citizenship

Much before the census report got published and people got access to it, local press in Assam started reporting extensively about speculated (huge) numbers of illegal immigrants into Assam. During the first assembly session in March 1962, the then Governor of Assam, S. M. Srinagesh invited attention of the assembly about the problem of infiltration and encroachment of reserved forests by illegal migrants. Expressing his concern, Srinagesh suggested a politicization of the matter of encroachment by the government itself.⁶² Bimala Prashad Chaliha had only recently formed his government for the second term in 1962. The government was criticized in public platforms and Chief Minister Chaliha being in the leadership for a consecutive second term, had to give explanations on several occasions. Faced with massive public criticism, Chaliha stated that his government was very much aware of the problem of infiltration. He claimed that infiltration from East Pakistan was not a new phenomenon. The state government was given executive power to stop infiltration. Assam government had been identifying, detaining and expelling many such illegal immigrants. Chaliha provided statistics, giving the number of illegal immigrants that Assam government had then detained as- 3638, 3384, 2092, 2621 and 5186 in the years of 1957, 1958, 1959, 1960 and 1961 respectively.⁶³ Chaliha however said that the exact number of persons illegally migrated would be known only after the publication of the census report.

Soon after the publication of the census data, local newspapers started publishing reports highlighting the matter. The catchphrase was ‘increasing number of Muslims in Assam’. One of the leading Assamese daily reported,

⁶² Extract published in the editorial, *Natun Asamiya*, 25 March 1962.

⁶³ *Natun Asamiya*, 1 April 1962.

‘During the Census enumeration in 1951 a total number of 11 lakh 25 thousand Muslim people were enumerated in the total population of 88 lakhs in Assam. This time (census 1961) the number of Muslims enumerated has come up to around 29 lakhs. This implies an extraordinary growth rate of the Muslims.’⁶⁴

Other reports suggested that the increasing number of Muslim population would trouble Assam’s economy. Many of them reported that there were cases of doubtful citizens who had no proof of birth in India but they had attained voting right. The allegation about the alleged illegal foreigners having their names in the voters list however was just a claim coming from unknown sources. But this renewed the narrative about migration. Soon various statements relating the question of ‘infiltration and deportation of Pakistanis’ started appearing in the press frequently.⁶⁵ They didn’t only form a narrative about (Muslim) immigrants but also complicated the political discourse about infiltration and citizenship.

The Central government too was aware about the matter. Just in the previous decade, it had introduced legal measures specifically for Assam to handle the complex matter, which involved serious international negotiations with Pakistan. India was still bargaining matters like Kashmir with Pakistan. The recent Sino-India war had concerned India as Pakistan-China relations developed positively and this specific geopolitics was to affect India in many ways. Possibly keeping all such affairs in mind, Prime Minister Nehru showed little interest in this matter in public. Nehru blatantly denied the press reports.⁶⁶

Meanwhile, the Central government sought an explanation from the Assam government. Chaliha wrote to Nehru in July 1962,

‘...on the basis of the 1961 Census figures, our assessment is that since 1950 about 2 and half to 3 lakhs Pakistani Muslims entered into Assam and are staying here illegally...when the census figures of 1961 disclosed

⁶⁴ *Natun Asamiya*, 28 November 1962. (Original in Assamese, translation mine)

⁶⁵ *Infiltration and Deportation of Pakistanis: Assam’s Chief Minister Shri B.P.Chaliha clarifies position, 1965*, The Directorate of Information and Public Relations, Government of Assam. (Prafulla Chandra Goswami Papers, NMML).

⁶⁶ Nehru was asked about the increasing rate of infiltration from Pakistan into Assam (*Natun Asamiya*, 28 November 1962).

an increase of population in Assam, the people felt very much concerned about this problem of infiltration although the increase is not entirely due to Pakistani infiltration. These have created some amount of excitement and the Hindu communalists both inside and outside are trying to take advantage of the sentiment prevailing in the state and if possible create a riot. We have to tighten up our measures for tackling this problem (and create confidence in our people that the government is alert to this problem) and necessary measures have been taken. At the same time we will have to be particular and see that no injustice is done. Instructions are being issued to the Registration Officers to be very particular so that Indian citizens are not harassed by this operation.⁶⁷

The amount of excitement, as Chaliha would rightly gauge, unfolded in various ways. The Registrar General of India reported that over 10 lakhs of Muslim migrants from Pakistan migrated to the Eastern States of India during 1951-61.⁶⁸ Of this number around 2,20,691 were reported from Assam. By now it was a state endorsed fact that a large number of Muslim infiltrators had crossed the eastern border and settled down in the bordering states of India, including Assam. More importantly this also reached the public sphere.⁶⁹ Measures to handle the matter emerged as an anxious need of the hour.⁷⁰ Officially, India had by then stopped physical ejection of the Pakistani immigrants.

At the same time, following the reports of Intelligence Bureau that the infiltration of Pakistani nationals into Assam without travel documents were still going on at a fairly high rate causing security threat, the Union Ministry of Home Affairs delegated

⁶⁷ Letter from B.P. Chaliha to J.L. Nehru, Pak-infiltration, CMS/NIL/62, Chief Minister's Secretariat, 5 May 1962, ASA.

⁶⁸ Letter from B.P. Chaliha to J.L. Nehru, 5 May 1962.

⁶⁹ Discussing about communal statecraft of Pakistan, an editorial in Assamese daily stated that to examine the public hue and cry and media reporting about increasing Muslim population in Assam, the Central Government sent the Census Commissioner to verify the fact and speed up the process of publication of the census report. Media further reported that the census commissioner varified the matter and stated that it was not a lie that the Muslim population in bordering states including Assam had increased significantly. (Editorial, *Natun Asamiya*, 25 November 1962).

⁷⁰ In statement issued by the Chief Minister Bimala Prashad Chaliha, the pressure built on the Congress government was quite evident. In places it stated that apart from statements published in press relating to infiltration and deportation of Pakistanis, a number of statements and resolutions were also published by some political organizations and the statement came as a response to such publications. (*Infiltration and Deportation of Pakistanis: Assam's Chief Minister Shri B.P.Chaliha clarifies position, 1965, 2*).

powers to the civil authority under Section 3(2) of Foreigners Act, 1946.⁷¹ On 22 March, 1961, the ministry noted that, according to the IB report, there were large number of cases where Pakistani nationals upon entering India (Assam), destroyed their (Pakistani) passports or waited until the document expired making it difficult to apply effective measures under prevailing guidelines of Immigrants (Expulsion from Assam) Act 1950. The Central government concluded that it didn't have any problem issuing deportation order straightaway against the persons travelling without document and regarding the Pakistani nationals whose nationality were in no doubt. Such persons could be deported to Pakistan under Foreigners Act, 1946 without any reference to the High Commissioner for Pakistan. However, the Assam government was asked to furnish full particulars of all such deported individuals along with the evidence on the basis of which they were held to be Pakistani nationals to the Ministry of External Affairs and of Ministry of Home Affairs, simultaneously with the deportation of such individuals.

The Superintendent of Police and the Deputy Commissioner (in charge of Police) under the Assam government were entrusted within their respective jurisdiction the functions of clauses (c) and (cc) of the subsection (2) of section 3 of the Foreigners Act, 1946.⁷² This was conferred under the Clause (1) of article 258 of the Indian Constitution, which enabled President of India with the consent of Government of state (Assam) to entrust either conditionally or unconditionally to that government or to its officers' functions in relation to any matter to which the executive power of the Union extended.⁷³ This empowered the Superintendent of Police and the Deputy Commissioner (in charge of Police) under the Assam government. Within their respective jurisdictions, a foreigner could be ejected as defined in (clause (C) of the subsection 2 of section 3 of the Foreigners Act, 1946. It states in particular and without prejudice to the generality of the foregoing power that order made under this section may provide that the foreigner shall not remain in India.⁷⁴ It arranged all required costs for his removal from India by any means. It also guided to meet from

⁷¹ Express letter No. 1/7/61-F.III dated the 22 March 1961 from the Under Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi to the Chief Secretary to the Govt. of Assam, Home Department, Miscellaneous Branch, ASA.

⁷² Express letter No. 1/7/61-F.III dated the 22 March 1961 from the Under Secretary to the Govt. of India.

⁷³ Express letter No. 1/7/61-F.III dated the 22 March 1961 from the Under Secretary to the Govt. of India.

⁷⁴ Clause (c), Subsection (2) of Section 3, Foreigners Act 1946.

any resources at his disposal, the cost of his removal from India and of his maintenance therein pending such removal.⁷⁵

More importantly, the Central Government also clearly laid down other conditions which stipulated that (a) the functions entrusted should be exercised in respect of Pakistani nationals, (b) in exercise of such functions, the Superintendent of Police and the Deputy Commissioner should comply within such general or special directions as the Central Government might from time to time issued and (c) notwithstanding the entrustment, the Central Government might itself exercise any of the said functions should it deem fit to do so in any case.⁷⁶

The Assam police, entrusted now with all executive powers, started identification and deportation process in Assam. They basically recognized two kinds of Pakistani infiltrators- first, the one who voluntarily surrendered and accepted that they were Pakistani nationals desiring to return home, and secondly, those who were convicted in the court of law. The state government handled the matter under the legal framework provided by the Passport Act and Foreigners' Act, 1946. The official procedure to identify a Pakistani infiltrator was initiated by Indian citizens. In most cases, the rural panchayats and village defense organizations took initiatives. As a next step, the police would be informed and it would carry out a confidential verification to establish the alleged illegal immigrants' nationality.⁷⁷ This would follow the process of gathering documentary evidences like old visa records, any data which the alleged foreigner produced to the police station or border outposts while entering India, census records, voter lists, taxation and property record etc. After examination of such records, the matter would be referred to the Superintendent of Police. The SP had the authority to re-examine all documents including findings of the Enquiry Officer, which was the police personal to whom the case was reported to at first. After verification at this level, if the authorities were convinced that the

⁷⁵ Clause (cc), Subsection (2) of Section 3, Foreigners Act 1946

⁷⁶ Express letter No. 1/7/61-F.III dated 22 March 1961 from the Under Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi to the Chief Secretary to the Govt. of Assam, Home Department, Miscellaneous Branch, Shillong. ASA.

⁷⁷ Shortened text of a booklet produced by the Directorate of Advertising and Visual Publicity, Ministry of Information and Broadcasting, for the Ministry of External Affairs, Government of India, August 1963, reproduced in Shekhar Gupta, *Assam: A Valley Divided*, (New Delhi: Vikas, 1983, 191-200.

alleged foreigners were illegally staying in India, then a Quit India notice would be served giving the aliens time to sort his belongings and business out.⁷⁸

Legally, under the provisions of Foreigners' Act, any foreigners illegally staying in the country could be deported without going to the court of law. Police was bestowed virtually with all powers to settle the matter. Police were given special powers under the same framework of law to deal with the matter of infiltration after the government gauged the pressing need for the same. Accordingly, since 1962, the drive against infiltrators was intensified. Provisions were made for resorting cases to prosecution in the court of law.⁷⁹ In 1964, the Assam government appointed special officers with judicial background to examine the cases of Pakistani infiltrators before issuing Quit India notice.⁸⁰ The infiltrators were given an opportunity to submit representations to the special officers against the issue of a Quit India notice. However, these measures were not sufficient to safeguard the government of Assam from further criticism.

Though the public attention remained concentrated on Muslim infiltrators, the execution measures in practice didn't remain out of question. The state government's reliance on the police, who were not necessarily free from wide range of cultural biases, and the expenses it borne to maintain the department was questioned in the floor of the legislative assembly.⁸¹ Complete reliance on police to stop infiltration was a genuine apprehension as it involved interpretations of citizenship law at different levels. To identify an illegal immigrant and prove her or his nationality needed thorough investigation in accordance with the citizenship laws and constitutional guidelines. The authority to decide who a foreigner was also given to the Superintendent of Police. Ambiguity prevailed during the initial phase as police sought a clarification whether there would be any court decision regarding deportation of an identified foreigner and most importantly, who would determine whether one was a foreigner. Given this ambiguity, the senior most police functionary asked, "the

⁷⁸ Shortened text of a booklet produced by the Directorate of Advertising and Visual Publicity in Gupta, *Assam: A Valley Divided*, 1983, 199.

⁷⁹ Express letter No. 1/7/61-F.III dated the 22 March 1961 from the Under Secretary to the Govt. of India, 3.

⁸⁰ Express letter No. 1/7/61-F.III dated the 22 March 1961 from the Under Secretary to the Govt. of India, 3.

⁸¹ Chief Minister Bimala Prasad Chaliha was questioned in the assembly about the matter. Chaliha opined that the amount of hard work the police was doing at the border to stop infiltration and guard the boundary with Nagaland were the greatest service they were providing without which the civilians in Assam wouldn't have had a secured life. (*Natun Asamija*, 23 March 1962).

authority to deport has now been delegated to the Superintendent of Police. To determine whether a person is a foreigner, the Superintendent of Police is to determine whether he is not an Indian citizen. Under section 9 of the Foreigners' Act, the burden of providing that one is not a foreigner lies on the Superintendent of Police? Doubtful cases may perhaps be referred to Government of India under section 9(2) of Citizenship Act?"⁸²

Legal assistance and guidelines explaining citizenship laws were provided to the police.⁸³ Police, with the aid of their internal field findings had its own reflections about interpretation of citizenship provisions. Few reflections were vital as it interpreted the citizenship laws. For instance, the question of domicile as a prerequisite to Indian citizenship became crucial. Any person falling under clause (a), (b), or (c) of Article 5 of Indian constitution needed to fulfill the domicile rule. According to this, one had to have a domicile in India to attain citizenship and anyone who fulfilled one of the following three criteria would also be a citizen of India: '(a) who was born in the territory of India; or (b) either of whose parents was born in the territory of India; or (c) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement.'⁸⁴ In the field, it found a layered interpretation for different cases. There were persons of Pakistani origin in Assam, as police department would identify, for more than five years. Technically, this fulfilled the guideline in clause (c) of Article 5 of the Indian Constitution. Though the purpose of the stay of such persons was livelihood, they eventually acquired immovable property. In further complex situations, as the police department presented, though entire families of such persons used to stay in Pakistan as a rule, in some instances sons capable of lending hands in business or wives in cases of persons having more than one wife would sometime come and stay in India. Their earnings from business would regularly be remitted to Pakistan. In some cases, such persons with Pakistan origin would obtain voting right listing their names in the voter list or obtain Indian passport and validate their claim for Indian citizenship.⁸⁵

⁸² Office of the Deputy Inspector General of Police, CID Assam, 1962, Pak Infiltration, CMS/NIL/62, Chief Minister's Secretary, ASA.

⁸³ Express letter No. 1/7/61-F.III dated 22 March 1961 from the Under Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi to the Chief Secretary to the Govt. of Assam, Home Department, Miscellaneous Branch, Shillong. ASA.

⁸⁴ Constitution of India, 1950, Art. 5.

⁸⁵ Types of Cases, Office of the Deputy Inspector General of Police, C.I.D., Assam, CMS/NIL/62, Pak-Infiltration (B), CMS, 1962, ASA.

For cases like this, the ‘domicile’ rule was interpreted in connection with the ‘intention’. To the legal assistance to the police, it appeared that the main element of ‘domicile’ was the intention to live in the country of adoption permanently. It was therefore concluded that such cases couldn’t prove their intention for living permanently in India and their claims for citizenship were rejected. But problem, as for police arose, when such claimant came with documentary proof like passport. They concluded that ‘persons who have managed to obtain an Indian passport seem to stand on a different footing. In order to obtain an Indian passport, one had to satisfy the Passport Authority that one was an Indian citizen, and once such an authority was satisfied, it is difficult for others not to recognize such a person as Indian citizen.’⁸⁶

Though the police department acted with legal assistance, in the field, its sole responsibility was to determine that citizenship was not above political bias. Here was a complex web with different actors having their own interpretation of the citizenship law. Of them, some would manage to obtain the right according to their claim and some would be rejected. To understand the dynamics here, we could rewind India’s partition narrative and the postcolonial view about citizenship. Vazira Zamindar suggested that the states of South Asia imposed citizenship from above upon the people disturbing their affiliation to nationality and binding them within the nation-state framework of citizenship.⁸⁷ Her view was supported by Joya Chatterji who had shown that the refugees (migrants) had their own agencies who put significant amount of pressure on the functionary acting accordance with their own norms and beliefs. We observe here a further development beyond the dichotomy of nation-state and citizens and nationals acting on their own. In field, it was a more complex network closer to Chatterji’s observation that citizenship regimes which emerged out of complex interactions were not only different from the leaders’ original blueprint, they were distinct, in critical ways, from models derived from the West.⁸⁸ In Assam, the new citizenship regime was not only different and distinct in terms of its functioning and interpretation; it was also different in terms of agencies involved in different levels of its interpretation and functioning. The players and the actors involved in the

⁸⁶ Legal Assistance, CMS/NIL/62, Pak-Infiltration (B), CMS, 1962, ASA.

⁸⁷ Vazira F. Zamindar, *The Long Partition and The Making of Modern South Asia: Refugees, Boundaries, Histories* (New York: Columbia University Press: 2007).

⁸⁸ Joya Chatterji, “South Asian History of Citizenship, (1946-1970)”, (*The Historical Journal*, Vol.55, Issue 04 (December 2012)), 1049-1071.

process significantly varied at each level of its functioning and they also switched agencies.

The Central Government's bestowing of power to the Superintendent of Police and the Deputy Commissioner (in charge of Police) to identify and deport Pakistani nationals was in the interest of the state that illegal infiltration was posing a threat to its security, to put it plainly.⁸⁹ While acting as a state agent, the police had to rely on the local actors like the local police personals, *panchayat* officials and other members for the initial information about illegal immigrants. There were cases where, such actors, who were supposed to provide information, were being doubted of their action towards accommodating illegal immigrants. For instance, the president of *Hatkhola Gaon panchayat*, both the President and Secretary of *Kainpara Gaon Panchayat* and a member of *Hatkhola Gaon Panchayat* in North Salmara in the district of Goalpara (now Bongaigaon) in northwest Assam, all Muslims, were responsible for bringing in (Muslim) immigrant families and helping them to settle in Mageralgachar under North Salmara police station. It was also reported that they had also been trying to enlist the names of around 9000 Muslims residing in Mageralgachar in the voter list.⁹⁰ It was reported that around 550 new families had joined other 550 (Muslim) families living in Mageralgachar. According to the initial investigation report, the police found that of the 550 new families, 210 had migrated from nearby chars and the migration of the remaining 340 families' was questionable.⁹¹ Here, the actors involved had various role to play; where the police acted as a mere state agent, the people's representatives, who were ideally the state agents also, acted as agents for the migrants, according to the police report. However, the role police played here and the report it produced couldn't be considered without political biases. In an environment where strong public opinions against illegal immigrants and growing numbers of Muslims were building up, for an authority like the police, bestowed with supreme execution power, it was only easy to make a biased statement. The role of the police, in such cases therefore, couldn't be concluded as mere neutral actors carrying out their duties for the state. Acting for the nation-state, many of these police officials

⁸⁹ As discussed earlier, the State had other emerging concerns about its position in the international scenario after Sino-India war 1962 and its relation with Pakistan.

⁹⁰ PPS to Chief Minister, Assam, Office of Deputy Inspector General of Police C.I.D: Assam, CMS/NIL/62, Pak Infiltration, Chief Minister's Secretariat, 1962, ASA.

⁹¹ PPS to Chief Minister, Assam, Office of Deputy Inspector General of Police C.I.D: Assam, CMS/NIL/62, 1962. ASA.

also had their own affinity to their nationality. To support this argument, I refer here to one of the police officers who was witness to these developments. In 1963, Premkanta Mahanta was posted as probationary Deputy Superintendent of Police in Tezpur, a cultural hub, in central Assam in Darrang district (presently Sonitpur). Recalling his experience as a police officer during those troubled years, Mahanta wrote in his autobiography,

During my probationary year at Tezpur as DSP, the process of identification and deportation of Pakistani (illegal) immigrants from Assam, started under the supervision of DIG Bhabanikanta Barua. The SP of Darrang district Debanat Kakati led the process very sincerely. After examining papers and documents many Pakistani infiltrators from Sootea area were deported via Golakganj border into Pakistan. I was given special responsibility, which I accepted as a huge honor and pious work and worked very hard day and night. Sometimes then I used to think that probably God brought me here to the police department do this job.⁹²

An educated upper caste Hindu police officer, Mahanta's expression however couldn't only be seen as an actor in the state agency but it also reflected the Assamese middleclass' narrative about illegal (Muslim) immigrant at that point of time. This also made a part of the public discourse about the increasing number of (Muslim) immigrants in Assam, which was legitimized through documents like the census reports. But acting within the nation-state framework, many such persons also hoped to serve his affiliated (Assamese) nationality. Mahanta in his autobiography warmly recalls his engagement with *Asom Sahitya Sabha*, the leading literary organization of Assam. He remembers how tirelessly he and his friends worked very hard to collect donation for the establishment of a university in Assam and the proposal for which was adopted in annual convention of *Asom Sahitya Sabha* held in Sibsagar in 1944. Mahanta also recalled how anxious he and his friends had felt for Assam not having universities, medical and engineering colleges. Going back further he recalled how he became affectionate about Assam and Assamese language during his teenage years. Mahanta admitted that he was very much influenced by Lakhshminath Bezbarua, the

⁹² Mahanat, Premkanata, *Rajbhaganar Pora Koltbokaboi* (autobiography), (Guwahati: Bandhab, 2018 (1993))

pioneer of modern Assamese literature. As school going boys, they would enact the characters created by Bezbarua and teachers would appreciate them.⁹³ Growing up with the love for Assam and Assamese language, how far did a police officer like Mahanta execute expulsion programs of the (Muslim) immigrants objectively? Illegal immigration threatened Assam's demography, also the economy, Mahanta had little doubt. While executing citizenship laws of India to deport illegal immigrants by a caste Hindu Assamese speaking police officer, could the cause of Assam be handled impartially? As discussed in chapter II, the Assamese gentry many a time would change their opinion about migrants according to their suitability.⁹⁴ What was significant about this time was that now it involved interpretation of citizenship laws and the legality of handling apparatus and a twisted/complex matter of Assamese nationality with it.

There was strong public opinion to augment the views of the police officials. The Assamese middle class argued about the measures to be taken up by the government to handle the problem of illegal immigration. While doing so, they came up with certain interpretations about the citizenship law and foregrounded the need for increased border vigilance. For instance, public meetings were held in Assam to generate pressure on the State and Central governments. One such platform observed *Illegal Pakistani Expulsion Day* on 1 January 1964 in places like Guwahati and Jorhat. Criticizing the government for not taking up aggressive measures to handle the immigration question, the Guwahati committee proposed some measures. The measures were- a) secure the border with Pakistan, b) to start a government initiative to identify and deport Pakistani infiltrators, c) to do away the legal procedure at court of law and give all the power to the Superintendent of Police to deport illegal immigrants d) if the deportation process got delayed, the identified illegal immigrants along with his descendants should be sent out of the state of Assam to any other state. These public meetings expressed concern over the pace at which the 'infiltrators' were getting detected and deported. They further opined that if the government didn't speed up the process, it would take at least 50/60 years to complete the task. At Jorhat, this meeting maintained that the people of Assam should be made aware about the grave situation of infiltration. A committee was formed where influential

⁹³ Mahanat, *Rajbbaganar Pora Kolibokalo* 2018 (1993)), 23.

⁹⁴ For more details refer Jayeeta Sarma, *Empire's Garden: Assam and the Making of India*, (USA: Duke University Press, 2011).

members of legislative assembly like Dulal Baruah and other senior citizens were kept as advisors. Baruah, who was proactive to organize a student association in Assam during 1957-1960,⁹⁵ opined that infiltration was a threat to country's security and it had nothing to do with any particular religion and community, rather it was a 'nationality issue'.⁹⁶

While for Assamese middle class, infiltration was a matter of safeguarding (Assamese) nationality and they felt the immediate urge to inform, educate and make aware the people of Assam, the political leaders also didn't leave the issue unaddressed. On behalf of the ruling party, the Assam Pradesh Congress Committee proposed certain measures to handle the infiltration problem. During an emergency convention of Assam Pradesh Congress Committee held in Shillong, the committee put forward a request to the Central government, asking the immediate shut down of the office of Pakistan High Commissioner in Shillong, owing to dubious activities.⁹⁷

The Committee, led by Sarat Chandra Singha, also put forward other proposals like-i) to deport the Pakistani infiltrators from India, the government should fix a date of identification and that date should be within 31 March 1965; ii) to consider National Register of Citizenship (NRC) of 1951 as the base document to identify Pakistani infiltrators, which was prepared during the census enumeration where data was collected through a house to house survey; iii) to complete the deportation of all identified infiltrators within a fix period of time; iv) to prepare a significant range of wide area at the border as free area with East Pakistan and declare it as 'no man's land'; and v) rehabilitate the displaced persons from there and build a border road and to start developing the bridges on existing roads at the border so that the security personals and the border police could move swiftly while guarding the border.⁹⁸

The committee also expressed grave concern regarding the displaced persons belonging to Hindu, Christian and Buddhist religions from East Pakistan owing to

⁹⁵ Dulal Barua was one of the students who organized meetings of all Guwahati students studying in different educational institutions in Guwahati in 1957. It aimed to reorganize the students of Assam, the way *Chatra Sanmilani* did during decades before independence and provide a platform to the students of Assam to serve the wider society. This initiative marked the beginning of students' politics in Assam with a strong sense of nationality affiliation. Prafulla Chandra Barua, *Asamar Chatra Sangathan aru Andolonor Itibax*, Aank-Baak: (Guwahati, 2016).

⁹⁶ *Natun Asamiya*, 1 January 1964.

⁹⁷ *Natun Asamiya*, 2 April 1964.

⁹⁸ *Natun Asamiya*, 2 April 1964.

communal violence, who were coming into Assam, leading to a serious situation. The committee made a public appeal asking the people of Assam to be patient and to be accommodating towards those refugees.⁹⁹ The proposal of Assam Pradesh Congress committee and the proposals adopted in the public meetings had striking differences. The Assam Pradesh Congress Committee provided substantial advice very much within the legal framework, whereas the measures proposed by the public committees were vague. The idea of citizenship, derived from modern, western model, as Joya Chatterji observed, came into a near confrontation here and were starting to pose new questions.¹⁰⁰ People of Assam were distressed about the issue of infiltration because it posed challenges for (Assamese) nationality, while they sought legal assistance within the framework of Indian citizenship. India's citizenship law didn't address the nationality issue. It offered political membership promising equal rights. It didn't address the matter of social or cultural membership while framing laws for heterogeneous populations. The civil society of Assam, however, didn't realize the inherent limitation of laws of citizenship. It didn't intend to raise questions about it either. But the public narrative about illegal immigrants and increasing numbers of Muslim population in Assam would raise questions demanding new interpretation of citizenship laws.

Refugees-Immigrants: The Nation-State Bargain

Prime Minister Jawaharlal Nehru earlier in 1962 had validated the concern over the emerging refugee situation in Assam. Replying to a question asked by Hem Barua, the parliamentarian from Assam, Nehru stated that it seemed like Pakistan was putting pressure on the Hindus living there as a consequence of deportation of the illegal immigrants from Assam.¹⁰¹ Hindus too had entered Assam. In 1965, India's Deputy Minister of External Affairs Dinesh Singh stated that recently some 14 Hajong (a tribal community living both in East Pakistan and India) families entered Assam, 200 more were following, owing to the growing economic, social insecurity and fearing indignity as citizens. They migrated from the districts of Mymensingh in East Pakistan and settled in Tamulpur, Kamrup district Assam, where their fellow tribesmen were already living. They said that they got attracted towards the bare land

⁹⁹ *Natun Asamiya*, 2 April 1964.

¹⁰⁰ Chatterji, *South Asian History*, 2012, 1051.

¹⁰¹ Census of Muslim in Assam-With Reference to the Check of Infiltration of Pakistanis into Assam, PLB.143/62, Home Confidential, Political Departments, Assam Secretariat, ASA.

in Kumarikata in the same area. Expressing concern over the situation, the chief secretary of Assam wrote to the chief secretary of Dhaka, East Pakistan and brought the matter of discriminatory behavior of the Pakistani officials towards the minorities.¹⁰²

Meanwhile the matter had reached United Nation's Security Council. Pakistan requested for the council's intervention but kept the matter of Kashmir as central agenda. The political atmosphere would soon become highly charged in both sides of the border. Nehru proposed a conference of the Home Ministries of both the countries. The Home Ministries of India and Pakistan met on 7 April 1964 in New Delhi. After Nehru-Liaquat Pact, the two governments were meeting for the second time to discuss the matter of minority issues along with others. Expectations were high. Along with Kashmir issue, immigration and violence against minorities in both the countries were to be discussed. It was expected that this would bring some positive results. People of Assam looked forward to the conference, as along with the refugee matter, the vexed subject of continuing immigration from Pakistan was one of the issues to be discussed. Chief Minister Bimala Prasad Chaliha was among the others in the Indian representative's team.¹⁰³

The inaugural session started with a focus on minority rights in both the countries. Gulzarilal Nanda, India's then Home Minister emphasized on bringing back a sense of security among minorities in both the country. His Pakistani counterpart Habibulla Khan insisted that the eviction of the Muslims from Assam had to be stopped.¹⁰⁴ Both however stressed on the need of safeguarding minority rights. Meanwhile, there were public debates about the Central Rehabilitation Minister Mehr Chand Khanna's earlier remark about going soft with the matter of (Muslim) immigrants issue keeping in view of the increasing number of (Hindu) refugees in the states of the Eastern border.¹⁰⁵ Before the India-Pakistan conference, it was anticipated that Pakistan would push the matter of expulsion of alleged illegal immigrants from India. Khanna's opinion about the expulsion of (Muslim) immigrants also reflected Centre's

¹⁰² PLB.143/62, Home Confidential, Political Departments, Assam Secretariat, ASA.

¹⁰³ *Natun Asamiya*, 8 April, 1964

¹⁰⁴ *Natun Asamiya*, 8 April, 1964.

¹⁰⁵ *Natun Asamiya*, 3 April, 1964.

stand. Nehru was going soft too.¹⁰⁶ Pakistan claimed that the expelled persons from India, whom India claimed as illegal (Muslim) immigrants from Pakistan, were not Pakistani nationals. It denied acknowledging the documentary proofs provided by India and claimed that they were actually Muslim citizens of India.¹⁰⁷

The two governments couldn't arrive at a consensus about the process of deportation and deportees' nationality. According to the Assamese press, Pakistan showed little flexibility about the matter of refugees as well. It maintained that Pakistan neither guaranteed security of property nor the right to mobility to the refugees; it further denied mutually deciding on the matters related to the affected areas and also denied to assure security of property and right to mobility to the refugees. It claimed that Pakistan highlighted the expulsion of Muslims from Tripura, Assam and West Bengal and stressed that the expulsion was causing dissatisfaction among the majority of Pakistan population.¹⁰⁸ Pakistan offered a proposal to set up an international tribunal comprising of one Indian and Pakistani judges and one nominated (with consensus of both India and Pakistan) judge from another country to decide on the matter. India rejected the proposal. Instead, it directed deportation measures in the states of Assam, Tripura and West Bengal to be implemented. It would also go ahead with the already proposed plan to establish some tribunals to take care of the rights issues of the alleged illegal foreigners. Towards that, in September 1964, India passed the Foreigners (Tribunals) Order.¹⁰⁹

Setting up the Foreigners Tribunals

As discussed earlier, in the year 1962, the special powers of Foreigners Act was made use of and police 'resorting to court of law' initiated a drive against infiltrators. To 'scrupulously avoid harassment of any Indian citizen', Government of India arranged an improvement by appointing statutory Tribunals under the Foreigners (Tribunals) Order, 1964.¹¹⁰ It offered executive order following the guidelines under Section 3 of the Foreigners' Act, 1946 (1957). Section 3 of the Act offered powers to the Central Government to make provisions by order either generally or with respect to all

¹⁰⁶ *Natun Asamiya*, 3 April, 1964.

¹⁰⁷ Editorial, *Natun Asamiya*, 16 April, 1964.

¹⁰⁸ Editorial, *Natun Asamiya*, 16 April, 1964.

¹⁰⁹ Foreigners (Tribunals) Order 1964.

¹¹⁰ Foreigners (Tribunals) Order 1964.

foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into India or their departure therefrom or their presence or continued presence therein.¹¹¹ The order aimed to set up the tribunals, akin to quasi-judicial bodies, to decide the nationality of alleged illegal immigrants. The process of identification and determination remained the same with the existing framework. Police was the primary authority to identify illegal immigrants. They could also issue Quit India notice. The order made a difference by giving the authority to the tribunals to decide on the nationality of the alleged foreigner.

Once the tribunal declared the person as foreigner, the person could move to the court challenging the decision of the tribunal. It created a window for the 'alleged' foreigners to prove his nationality in the court of law. A petitioner would be given ten days of time to reply to the reference made against him/her by the tribunal and another ten days to produce evidence to support her/his case. The tribunals were given sixty days from the date of reference against a person for disposing a case.¹¹² The most significant point was that the responsibility to prove one's nationality was given to the person himself. The 'alleged' foreigner was to provide all necessary documentary proof such as certified copies of voter list, land record, marriage certificate etc. Delayed submission of the documentary evidence was held against the person.

The Ministry of Home Affairs directed the Assam government to constitute 4 such tribunals initially in 1965.¹¹³ This number increased later. The move to establish these tribunals were criticized by Assamese speaking middle class on the ground that determination of citizenship was not one of the matters that Constitution decided to be settled by the tribunals. The tribunals were set up under the Article 323(b) of Indian Constitution, which laid down that the legislature might create a tribunal by an appropriate law for the adjudication of trial of any dispute, complaints or offences mentioned in the following clause. The Foreigners' Tribunals were the only tribunals

¹¹¹ Foreigners' Act, 1946.

¹¹² Assam Government Notification, No.PLB.177/64/47, Foreigners Tribunal Order 1964.

¹¹³ Accordingly Govt. of Assam constituted four such tribunals and judicial officers were appointed to these tribunals. (Foreigners Tribunal Order 1964).

in the country formed by an executive body, which performed semi-judicial functions.¹¹⁴

The Assamese public opinion, however, considered the establishment of Tribunals with apprehension. Earlier in the year, in January 1964, the All Assam Legal Professional's convention expressed their apprehensions in this new development. They argued that such initiative would only delay the process of deportation of the illegal immigrants. They opposed the idea of establishing the tribunals with persons with experience at the District Judge level. They claimed that the idea didn't go with provisions under the Foreigners' Act 1946.¹¹⁵ The government, on the other hand, opined that the establishment of tribunals was not only essential but was very much about the spirit of Indian democratic tradition. It stated that reliance only on the police for determining one's citizenship was not just. Addressing the All Assam Legal Professional's convention in Jorhat, Ashok Kumar Sen, union Law Minister, opined that the tribunal would not only be constituted by the judges but anyone with legal experience could be a member. The number of the tribunals would be higher keeping in view the rate of infiltration.¹¹⁶ Chaliha, the then chief minister wanted to assure the people of Assam that these tribunals wouldn't be purely legal bodies; rather they would be quasi-judicial in nature and would function faster than anticipated. Many welcomed this. However, in the field, nothing could be anticipated. Soon, the tribunals would start functioning to begin a new regime of citizenship in Assam. India's citizenship law was whimsically re-interpreted to suit various localized circumstances; would involve more and more authorities bringing law into the center of everyday lives of thousands of immigrants. More and more claims to citizenship were made every day and many were declined, and rarely accepted. Most significantly, this regime of citizenship law unraveled how documents like the National Register of Citizens of 1951 as proof to claim Indian citizenship would be interpreted in the court of law.

Executing Citizenship

¹¹⁴ "Designed to Exclude: How India's Court are Allowing Foreigners Tribunals to Render People Stateless in Assam", (Bengaluru: India Amnesty International Trust, 2019): 22-23.

¹¹⁵ Editorial, *Natun Asamiya*, 2 January 1964.

¹¹⁶ Editorial, *Natun Asamiya*, 2 January 1964.

On 9th October 1969, the High Court of Assam and Nagaland at Gauhati, passing a judgment on one such case of ‘alleged’ unauthorized illegal immigrant Bhanbhasa Sheikh concluded that the “certified to be true copy of the N.R.C.1951” couldn’t be considered as a supporting proof to justify the claim of Indian citizenship.¹¹⁷ The Court further elaborated that the document, which was the ‘certified to be true copy of the N.R.C.1951’, issued by a local branch of the Jamiat-Ulema-e-Hind, Tezpur, was not a public document within the meaning of Section 74 of the Indian Evidence Act 1872.¹¹⁸ The section 74 listed three categories to be considered as public document: i) of the sovereign authority, ii) of official bodies and tribunals, iii) of public officers, legislative, judicial and other executive of Government of India.¹¹⁹ The Court hence concluded that the issued copy of the N.R.C. 1951 by Jaimiat-Ulema-e-Hind couldn’t be considered as a proof for citizenship since it was not a public document It maintained, ‘this document is not a public document within the meaning of Section 74 of Indian Evidence Act. It is granted by private organization and is not sanctioned by any law or rules.’¹²⁰ The lawyers of Bhanbhasa Sheikh argued that the National Register of Citizens was prepared under the provision of Census Act, and the copy produced in the Court was a copy of the entry of NRC 1951. It reminded the Court that Assam’s census superintendent of 1951 noted that “in addition to the printed volume there are National Register of Citizens, prepared simultaneously with the filling up of enumeration slips, giving important census details for each person of every village or ward in a town. These Registers are preserved in manuscript as permanent records in District Offices.”¹²¹ The Court argued that National Register of Citizens was a contemporaneous register prepared by the officers appointed under the provisions of Census Act in the course of census operation. Such documents were not to be made open for inspection or admissible in evidence. The Census Act, the court noted tells that “record of census [is] not open to inspection nor admissible in evidence. No person shall have a right to inspect any boll, register or record made by census officer in the discharge of his duty as such, or any scheduled delivered under section 10, and notwithstanding anything to the contrary in the Indian Evidence Act, 1872, no entry in any such book, register, record or schedule shall be admissible as

¹¹⁷ *Bhanbhasa Sheikh vs. Union of India and others*, 6 October 1969, High Court, Guwahati.

¹¹⁸ *Bhanbhasa Sheikh vs. Union of India*, 1969.

¹¹⁹ Indian Evidence Act 1874, Section 74, Part II, Chapter V (of documentary evidence).

¹²⁰ *Bhanbhasa Sheikh vs. Union of India*, 1969.

¹²¹ R.B. Vaghaiwalla, *Report on the Census of India*, Vol. XII, Assam, Manipur and Tripura, Superintendent of (Shillong: Census Operations, 1953).

evidence in any criminal proceeding other than a prosecution under this Act or any other law for any act or omission which constitutes an offence under this Act.”¹²²

The Court concluded what was directly prohibited under Section 15 of the Census Act couldn't be let in by an indirect method through the agency of a private organization. Moreover, the 'copy of the NRC 1951' looked apparently to the Court as a printed official document giving an impression of a public officer. It seemed to the court that the document was printed from a copy of the original document available at private source.¹²³ Finally, based on these, the court dismissed the claim of citizenship by Bhanbhasa on the ground that he didn't produce the documentary evidence.¹²⁴

This judgment signaled the arrival of a trajectory in the citizenship regime. Court's judgment about invalidity of NRC as a documentary proof of citizenship marked immense significance, as it raised questions about documentary proof of citizenship in India. However a contrary view also prevailed. Kamal Sadiq has observed how the immigrants cross the political boundaries set by the state from above and settle down and functioned like a citizen.¹²⁵ The 'illegal immigrants' would possess all the necessary documents of proof and access state-provided services to the citizens like employment, education and health. Sometime identified by the local citizens as cultural others, they would increasingly act like citizens.¹²⁶ Sadiq's observation is true for the developing countries like India as opposed to the developed countries where the political markers between the 'true' citizens and the 'immigrants' are obtained from sophisticated surveillance capability.¹²⁷ India, in this context, was just in an evolving stage. It was yet to acquire the needed stability for more logical interpretation of citizenship law in the aftermath of Partition during the 1960s. But the above-discussed civil suit reflected how a new regime of citizenship was starting to talk in terms of documents and the legal infrastructure of citizenship. Sadiq maintained, the content of citizenship was about the legal infrastructure of citizenship: norms and practices codified as law, accompanied by supporting cast of disaggregated

¹²² Census Act, as mentioned by the The High Court of Assam and Nagaland at Gauhati, in *Bhanbhasa Seikh vs. Union of India and others*, 6 October 1969, High Court, Guwahati.

¹²³ *Bhanbhasa Seikh vs. Union of India and Others*, 1969.

¹²⁴ *Bhanbhasa Seikh vs. Union of India and Others*, 1969.

¹²⁵ Kamal Sadiq, *Paper Citizens: How Illegal Immigrants Acquire Citizenship in Developing Countries*, (New Delhi: Oxford University Press: 2008).

¹²⁶ Sadiq, *Paper Citizens*, 2008, 4-5.

¹²⁷ Sadiq, *Paper Citizens*, 2008, 5.

institutions such as the judiciary, bureaucracy, legislature and border police. The state would call upon them to identify individuals and groups claiming the right to citizenship, imposing the authority to provide citizenship.¹²⁸ But on the ground, the individuals would have various experiences in negotiating within the structure. This also resonates with Joya Chatterji's argument that there prevailed a wide range of arbitrariness to the claims to citizenship in India.¹²⁹ Assam was entering into a new regime of such kind along with rapid and varied interpretations of citizenship law and claims to it marked a shift. Soon NRC 1951, rejected as a proof leading to rejection of citizenship, would find new interpretations and become an integral document to validate citizenship claims in Assam.

The suit under discussion marks another important reference here. It has already been mentioned how during the legal settlement of Bhanbhasa Seikh's claim to Indian citizenship, the country's citizenship law was interpreted. The suit would continue for a very long period of time (1964-1969) to reach the final judgment. Such cases were numerous and it became an everyday affair for many. This highlighted a major significance: first such instances increased the constitutional engagements of ordinary people, mostly from minority or subaltern groups with claims to citizenship. Rohit De observed that the Constitution didn't descend upon the people, rather a significant number of such constitutional encounters on everyday basis produced and reproduced it.¹³⁰ While Rohit De made this observation in the context of market, Assam's context was the Indian laws of citizenship. Assam would produce more and more meaning to the citizenship laws. Let us discuss Bhanbhasa vs. Union of India and others in greater details.

Bhanbhasa Seikh claimed that he was born in Balapara, a village in the district of Goalpara in western Assam. Arguably, his father, Babar Ali was also born in the district of Goalpara, but Seikh couldn't recall the exact place of his father's birth. Golapjan Bibi, wife of Bhanbhasa Seikh claimed that she was born in the village Fatengapara also in Goalpara district. Bhanbhasa Seikh and Golapjan Bibi must have migrated to the district of Darrang and settled down in a village called Dewdang

¹²⁸ Sadiq, *Paper Citizens*, 2008, 6.

¹²⁹ Chatterji, *South Asian History*, 2012, 1064.

¹³⁰ Rohit De, *A People's Constitution: The Everyday Life of Law in the Indian Republic*, (Princeton: Princeton University Press: 2018), 3.

under Sootea police station. Their children Golapuddin, Aliman Bibi, Jonabuddin, Bano Khatoon and Panu Khatoon were born in the village Dewdang in Darrang district. Among them Bano Khatoon and Panu Khatoon were minors.

On 14 December 1964, the family was served a Quit India notice by the government of Assam, with order of government of India giving them fifteen days of time to quit India. The Superintendent of Police, Darrang district, during the process of identification concluded that Bhanbhasa Sheikh was born and brought up at a village named Bahadurabad, Dewanganj, in the district of Mymensing, East Pakistan. Sheikh continued living in the same village along with other family members as Pakistani nationals and long after the Partition of India. After the introduction of passport system, they migrated to India without papers through an unauthorized route.¹³¹ According to the police records, after detection in November 1964, Sheikh made a statement in front of the Sub Inspector, Intelligent Branch on 13 November 1964, stating the mentioned information and wished to go back to Pakistan.¹³² Following which the Superintendent of Police and R.O. of Darrang district issued 'Quit India' notice. Sheikh's case was sent to the Foreigners' Tribunal in Tezpur, district head quarter of Darrang. After scrutiny, tribunal submitted that Sheikh and others were Pakistani nationals and the Quit India notice was justly and legally served.

Sheikh approached the court of law and filed a civil suit in the court of the Sadar Munsiff at Tezpur on 9 September 1965 and made a claim to Indian citizenship.¹³³ Sheikh, in support of his domicile, produced a settlement of Tauzi lands, which were of recent years. The family claimed that they had migrated from Goalpara to the present place in Darrang district 25 to 30 years back. They also produced three witnesses who his wife claimed that they voted in last two general elections, they couldn't produce any documentary evidence. Significantly, the claim of the Sub Inspector of the Intelligence Branch that Sheikh made a voluntary statement was not proved either in the court of law. The claim of the Sheikh family that they had been living in Dewdang village for 25-30 years and had landed property couldn't be supported with the produced document of settlement of Tauzi lands, which didn't have any legal value,

¹³¹ *Bhanbhasa Sheikh vs. Union of India and Others*, 1969.

¹³² As discussed earlier about the kinds of cases reported by police, such cases were mentioned claiming that there were illegal infiltrators who would accept their Nationality and wanted to go back.

¹³³ *Bhanbhasa Sheikh vs. Union of India and Others*, 1969.

issued by local authority.¹³⁴ The Munsiff Court dismissed the suit on 11 March 1967 stating that they couldn't prove their Indian citizenship with documentary evidence. It had been around two years after the tribunal issued Quit India notice to the Seikh and his family members. They would again file a civil suit at the Subordinate Court in Tezpur. The sub judge would also reject their claim to Indian citizenship.

After rejection in the subordinate court, Bhanbhasa Seikh and his family members went for a second appeal in the High Court of Assam and Nagaland in Gauhati on 23 June 1967. The Court made some vital points regarding the interpretation of documentary evidence, such as NRC 1951. The appeal continued for two years in court. On 6th October 1969, passing a judgment, the court maintained that the case rested on the Article 5 of the Indian Constitution, which was regarding the right to Indian citizenship through birth right and domicile rule. Court observed that the Seikh family couldn't prove their claim to Indian citizenship, as they couldn't give documentary evidence for place of birth and domicile in India.¹³⁵

The suit continued to be on trial for four long years from 1964 to 1969 in three courts. In each trial, Seikh and his family members claim to citizenship was reasserted, debated and finally denied. It involved various people in action- the immigrants, police officials, tribunal members, witnesses, advocates, judges. The suit also clearly hinted that an organization like Jamiat-e-Ulema Hind was instrumental in providing them a certified copy of National Register of Citizens 1951. With this whole nexus in functioning, Seikh's case couldn't be seen as a mere case about an immigrant family claiming for Indian citizenship, but it was unpacking various shades of such claims- legal, political and socio-cultural. In execution however, this was black and white. The court's decision was to be considered final.

¹³⁴ As interpreted by the court of law, *Bhanbhasa Seikh vs. Union of India and Others*, 1969.

¹³⁵ *Bhanbhasa Seikh vs. Union of India and Others*, 1969.

Figure 4: Copy of NRC, Bhasbhasa vs. Union of India

Card no 2072 ANNEXURE -1

National Register of Citizenship Card
(Copy of the N. R. C. 1951)

Vill Somaai
Mouza Biswamath 5/2/67
Ps. Seokha
Dist. Darrang. [Assam]

| House No. 1 | House hold No. 2 | Serial No 3 | Name 4 | Father's/Husband's Name 5 |
|-------------|------------------|-------------|----------------|---------------------------|
| ২৪ | ৩৩ | ১ | বাবা কাটা (বো) | বাবা কাটা |
| | | ২ | ভো (বো) | বাবা কাটা |
| | | ৩ | বাবা কাটা (বো) | বাবা কাটা |
| | | ৪ | বাবা কাটা (বো) | বাবা কাটা |

Certified to be True Copy of the N. R. C. 1951

Signature
EZPUR DISTRICT, JAMIAT-E-
ULEMA-E-HIND.
Rhoikhowa.

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The Assam government was confident of handling the issue of illegal immigration and believed in a 'balanced course of action'. Chaliha claimed that his government had deported a total of 1,22,476 till June 1965. He also equally claimed that the (religious) minorities in India were 'happy and secure' unlike their counterparts in Pakistan; by then reportedly around 1,80,000 refugees 'belonging to different religious groups' from East Pakistan took shelter in Assam. The Assam government explained such continuous flow of the Hindu refugees as due to atrocities on the Hindu minorities in East Pakistan.¹³⁷ For instance, a total number of 1279 refugees from East Pakistan migrated to Assam between January 1966 and October 1966. The government provided financial supports to rehabilitate these refugees.¹³⁸ A total number of 3700 families were granted loan under this scheme.¹³⁹ While Assam was struggling with the accommodating measures of another wave of refugee inflow after

¹³⁶ Copy of the NRC produced by the Bhanbhasa Seikh, provided the Jamiat_E_Ulema_E_Hind. (*Bhanbhasa Seikh vs. Union of India and Others*, 1969).

¹³⁷ Daily Situation Report, File No. PLB 389/66, Home and Confidential, Government of Assam, ASA.

¹³⁸ Daily Situation Reports on Relief and Rehabilitation, File No. RHA 154/67, Home and Confidential, Government of Assam, 1967, ASA.

¹³⁹ Daily Situation Reports on Relief and Rehabilitation, File No. RHA 154/67, 1967.

partition, expelling measures of the (Muslim) immigrants under the Foreigners Tribunals were intensified in the field.

Prevention of Infiltration from Pakistan, 1962

While the Foreigners Tribunals and the police department were given the swiping power to detect and deport 'illegal' immigrants from Assam, the border area (around 430 miles), which Assam shared with East Pakistan, called attention. In 1965, B.N. Mullik, the chief of India's Intelligence Bureau, was given the charge to design a policy to prevent infiltration. Mullik made an important observation,

“Besides preventing future immigrants, there is a problem of the large number of infiltrators who have come and settled down. In several past instances it has been that while they have come and they are making a living in this country, their sympathy lies entirely with Pakistan. This can be illustrated by the attitude of the immigrants in Darrang district during the time of Chinese invasion in November, 1962 and Morajhar area of Nowgong district recently.”¹⁴⁰

Mullik's observation was significant as it referred to the question of sympathy and loyalty of an immigrant. This was similar to what was being practiced by Assam's police department during identification of an illegal immigrant. Nevertheless Mullik also stressed that in the process of identification the Indian Muslims shouldn't be harassed at any cost.¹⁴¹

Mullik's detailed note under 7 subheadings discussed various aspects of the infiltration problem and measures to control the same. Of them 'Border Protection' and 'Keeping Watch on the *chars*, reserve and forest lands' took maximum attention with 20 and 8 elaborated points respectively. He thought that having a secure border would make impossible for Pakistanis to surreptitiously enter India through unguarded tracks. It proposed a total number of 66 border outposts, 10 in Goalpara district, 10 in Garo Hill district, 21 in Khasi and Jaintia Hill district, and 25 in Cachar district. Each of these posts were to be manned by one platoon of Armed

¹⁴⁰ From the text of Prevention of Infiltration from Pakistan (PIP) scheme, drafted by the Intelligence Bureau in 1965, as presented in Appendix 4 in Sekhar Gupta, *Assam: A Valley Divided*. (New Delhi: Vikas Publishing Pvt. Ltd., 1984). 201-202.

¹⁴¹ Gupta, *Assam: A Valley Divided*, 1984, 201-202.

Police requiring 66 platoons of 37 men each including NCOs. Referring to the difficult river/riparian and hill terrain along the border in Goalpara, Garo Hills and Khasi and Jaintia Hills, his proposed scheme suggested increasing the border outposts. It also suggested that the maximum distance between two border posts should be no more than 5 miles and in case of char areas, it should be even less aiming to have effective patrolling.¹⁴² He felt that Goalpara, Garo hills and Khasi and Jaintia Hills needed more numbers of posts because of its difficult terrain. To have a proper idea about the geography, he emphasized the need to have a few local people with knowledge about the area with the platoons. The scheme suggested to have a section of 10 local persons consisting of local tribal and refugees in one platoon. They were to get recruited as home guards to be placed in border posts. A total number of 92 platoons consisting of 920 local tribal and refugees were to be at guard on the border. Having the locals in the platoons with the BSF personals was hoped to be inspiring, as the locals would feel more responsible. Working out all necessary logistics for the arrangement of an increased number of border posts, the scheme also recommended that a deputy inspector general rank official should be in whole-time charge of all these battalions.¹⁴³ The scheme proposed to give executive power to the state police along with the BSF personals. Mullik's scheme indicated that 'as all the recommendations made here are for the single purpose of stopping illegal Pakistani immigration, and as all the measures suggested must dovetail into each other for the whole scheme to be really effective, it is essential that the entire work should be placed under the administrative and executive control of one single officer, and we would recommend the Additional Inspector General of Police to be entrusted with this work.'¹⁴⁴

Recommending to clear belts near the bordering areas of inhabitants, the scheme proposed for a one-mile belt along the entire border. It also proposed sealing of the border permanently with barbed wire. One of the major recommendations it made was about keeping watch on the char, reserve and forest lands, which were the most vulnerable. It maintained that the main attraction for the immigrants was land and it was necessary to discourage the immigrants about land. It made an observation that

¹⁴² From the text of Prevention of Infiltration from Pakistan (PIP) scheme, drafted by the Intelligence Bureau in 1965, as presented in Appendix 4 in, Gupta, *Assam: A Valley Divided*, 1986, Point 7, 203.

¹⁴³ Gupta, *Assam: A Valley Divided*, 1984, 205.

¹⁴⁴ Gupta, *Assam: A Valley Divided*, 1984, 211.

trespassers in these areas could be easily evicted, as it was a criminal offence to settle down in such areas, but because of the corrupted, inadequate and inefficient subordinate revenue staff, the eviction couldn't be practically done. It recommended appointing police watch staff in these vulnerable areas giving them some revenue power. Their main task would be to keep a complete register of all dwellers and continually detect the new settlers.¹⁴⁵ Apart from making recommendations about faster working of the tribunals, it recommended a national registration system and issue of identity cards

The ambitious scheme would however fail for various reasons. One such major reason, as Shekhar Gupta would argue, was the failure of the state government to put its border police and BSF under one unified command.¹⁴⁶ Gupta had shown how the border and chars were impossible to manage in ways the scheme designed it to do so. The very existence of the *chars* in Brahmaputra River, which were ideally thought to be one of attracting land for the immigrants, was incredibly fluid, making them ungovernable. Most of the time, they were beyond the reach of the state as the very idea of border was useless.¹⁴⁷ During the rainy season, the chars would vanish quickly under the river water making policing or any other state functioning impossible. It was difficult to overcome the limitations for the state set by the environment, presumably advantageous for the needy, hardworking skillful immigrants who would row upstream tirelessly to make a living or to get hold of a cultivable land.¹⁴⁸ The scheme designed by high officials with no knowledge of such tricky riverine environment couldn't reach an end for the problem. Moreover, the scheme had a myopic, biased attitude. It didn't demarcate the administrative boundary for the police and BSF personal, leaving aspects like identification and deportation process vague. Most importantly, guided by the constitutional idealism, it left the Hindu refugees outside its purview, leaving unchecked the borders of Tripura with East Pakistan. Soon, a severe refugee crisis would occur in India following the violent developments in East Pakistan and later because of the Indo-Pak war. Meanwhile, Pakistan would

¹⁴⁵ Gupta, *Assam: A Valley Divided*, 1984, 208.

¹⁴⁶ Gupta, *Assam: A Valley Divided*, 1984, 166.

¹⁴⁷ Kuntala Lahiri-Dutt and Gopa Samanta observe how the chars are like a metaphor of borderless state of environment making the existence of the *chars* unreal many of the time in Kuntala Lahiri Dutt and Gopa Samanta, *Dancing with the River: People and Life on the Chars of South Asia*, (USA, Yale University Press: 2013).

¹⁴⁸ Gupta wrote that the hardy Muslim Immigrants were born boatman and knows better than anyone else in the region, the art of living. In Gupta, *Assam: A Valley Divided*, 1984, 157.

express dissatisfaction over the matter of eviction of the Muslims from India. It threatened to raise the matter in the United Nation.¹⁴⁹ Bimala Prashad Chaliha teased Pakistan's concern over the minority issue in India and stated that Government of Pakistan had never appreciated India's genuine feelings and efforts for safeguarding the interest of the minorities in India.¹⁵⁰

The official procedure of identification and deportation of the 'illegal' immigrants didn't seem promising. The local press and many from the public criticized both the Central and State governments for not taking the matter seriously.¹⁵¹ Members of Assam legislative assembly expressed apprehension about harassment of Indian citizens.¹⁵² These claims and counter-claims would lead to an internal conflict among the Congress leaders in Assam. Chaliha faced strong criticism from powerful Congress leaders. The fissures became a matter of public debate.¹⁵³ Though it was often discussed as ideological differences, many a time it helped to push the Chaliha ministry into a corner. Chaliha's tenure was often criticized for promoting Muslim infiltration for vote bank in the public domain. News and editorials in the local press blamed Chaliha for being ignorant about increasing infiltration from East Pakistan and allowing silently to resettle the evicted immigrant settlers in the reserve forests.¹⁵⁴ However, Chaliha, while executing the measures against illegal immigrants would remain firm, and claim that almost all the identified illegal immigrants were deported to Pakistan. Official statistics showed that between 1961 and 1971, around 3 lakh migrants were deported under the Foreigners' Tribunal and PIP scheme. However, a later estimate stated that, of them, 2.5 lakhs returned following the same infiltration route.¹⁵⁵ Another official version claimed that nearly 1,80,000 refugees belonging to

¹⁴⁹ "The Conference of Home Ministers of India and Pakistan held in New Delhi on in 1964 discussed the primarily issues related to deportation. Need was expressed to maintain communal harmony also the minority protection. The matter was discussed in the cabinet during 1964-66 and there was a general consensus till early part of 1964 that any stoppage of deportation would seriously affect the internal situation in Assam." (*White Papers on Foreigners Issue*, Home and Political Department, Govt. of Assam, 2012).

¹⁵⁰ Infiltration and Deportation of Pakistanis (Assam's Chief Minister Bimala Prashad Chaliha clarifies Position), 27 July 1965, The Directorate of Information and Public Relations, Government of Assam, Private Papers, NMML, 5.

¹⁵¹ *The Assam Tribune*, 28 March 1966.

¹⁵² Assam State Legislative Assembly Debate, 5 March 1963.

¹⁵³ Editorial, *Natun Asamiya*, 10 January 1962.

¹⁵⁴ Editorial, *Natun Asamiya*, 18 November 1962.

¹⁵⁵ Gupta, *Assam: A Valley Divided*, 1986, 165.

different minority religion from Pakistan entered Assam during the period from January 1964 to January 1965.¹⁵⁶

But success in terms of reaching its goal to make Assam free of infiltrators would remain questionable. Rather, as opined by journalist Shekhar Gupta, such legal measures would only reinforce an anti-immigrant narrative necessarily communal, against Muslim.¹⁵⁷ The question is- ‘to whom could this be attributed?’ The Assamese speaking educated middle classes’ politicized narrative about (Muslim) immigrants or the problem of illegal immigration itself? In many accounts, this question is being answered, generally, keeping the case of Assam out of national context or putting it in some points of binaries like- the attitude of the Assamese speaking educated class towards minorities and the (Muslim) immigrants. But the subject of citizenship was constantly evolving in India or for that matter in South Asia, making it impossible to put it in any point of binary like this or to see it in isolation. This chapter suggests that the case of Assam in 1960s reflected the complex development of the subject of citizenship in India. It carried the ideas on the constitutional framework that was established for the matter of citizenship, which desired a balanced course of action but ended up with more complex, multilayered interpretations, influenced by multiple factors at different points of time.

Before proceeding further, a brief discussion about the political atmosphere of Assam would be appropriate to understand the situation better. So far, we can establish that the Assamese public sphere put a significant pressure on the government about illegal immigration. The intervention by the Assamese public sphere manifested the emergence of a new educated class, who would renew the Assamese nationality question. The conflict between the Bengali and Assamese speakers in early 1960s would take a cultural form. But the immediate shift towards the illegal (Muslim) migrants added a different aspect to it. This new class got engaged in interpretation of citizenship laws. Saikia observed that India’s eastern Border along East Pakistan gave a new sense of political identity to Assam; a ‘national border helped in fuelling

¹⁵⁶ Infiltration and Deportation of Pakistanis (Assam’s Chief Minister Bimala Prasad Chaliha clarifies Position), 27 July 1965, The Directorate of Information and Public Relations, Government of Assam, Private Papers, NMML, 5.

¹⁵⁷ Gupta, *Assam: A Valley Divided*, 1984.

Assam's uneasiness in the decade old question of migration from East Bengal.¹⁵⁸ However they would soon start questioning in a new way. This time however they would ask about 'their' possession of the resources and would raise concerns about economic insecurity. Though the Assamese speaking and tribal peasants in the valley were the first ones to come into a direct confrontation in terms of economic contestation primarily over land and the issue was worsening everyday, the educated middleclass would start representing them more forcefully by now. A vague term, 'outsiders', started appearing in the public sphere. Public anger turned against policies of the central government. Many a time, the expression would be aggressive, showing signs of a chauvinistic tone.

The Assamese Middle Class

In 1967, reports about Nepalis settling in government owned Reserved Forests in Assam gained attention, especially in the local print media. This further consolidated Assam's xenophobic attitude. For instance, *Dainik Janambhumi*, an Assamese daily, carried a news item entitled '*Seemantabarti Anchalor Mati Bohiragotor Dwara Dokhol Korar Sesta*' (Enchroachment of Frontier Land by Outsiders).¹⁵⁹ In response, the Home Department of GOA explained that the news piece was in reference to the alleged infiltration of Nepalese on the Assam-Nagaland Border area. This, they felt, was part of a bigger problem related to the phenomenal growth of the Nepali origin population in the last few years in these areas. While in 1951, out of 1,22,823 Nepalese speaking people only 17, 551 declared themselves to be Nepali nationals, in 1961 too, out of 2,15,213 only 21,994 declared their Nepali status. This brings the differential growth rate to 73.5 per cent, which was double the overall growth in the state i.e. 34.45. Figures indicated that at least 40,000 Nepalese had entered Assam during that decade while also estimating that during 1961-71, this figure may have run into one lakh.¹⁶⁰

Despite frequent intelligence reports, or at times scattered reports in the local newspapers, the question of Nepalese immigration neither invited much political

¹⁵⁸ Arupjyoti, Saikia, *Borders, Commodities and Citizens across Mud and River: Assam, 1947-50, Studies in History*, Jawaharlal Nehru University, (New Delhi: Sage Publication: 2016), 95.

¹⁵⁹ Calling attention notice by M.L.A. Dulal Chandra Barua, PLA 431/68/Pt, Home Confidential, Government of Assam, ASA.

¹⁶⁰ PLA 431/68/PL, Home and Confidential, Government of Assam, ASA.

attention nor much public debate. Rather, it was the Muslim Immigrants on whom the public invested their attention. Meanwhile, Assam's political trajectory was altered due to the reorganization of states, which brought to the fore questions of ethnicity amidst the overwhelming binary between Assamese educated class and alleged illegal (Muslim) immigrants.

While Assam's hills and valleys were engaged in political and identity issues respectively, the educated class in Brahmaputra Valley developed an economic insecurity which did not ease even with the government's assurance about deportation of illegal immigrants. Stemming from the increasing rate of unemployment among the educated youth, questions about their right on the soil began to rear. Guwahati, the prime commercial hub of Assam, witnessed something of this nature early on, for instance, on 24 January, 1968 when the Assamese ruling class and the youth expressed their anger against outsiders through slogans like 'Assam for Assamese', 'Sovereign Assam' 'We want blood of non-Assamese, 'Marwaris Quit Assam', 'Lachit Sena Jindabad' etc. A protest demonstration, '*Assam Sanghati Dibash*' was observed by a less known organization, the *Federal Assam Gathan Birodhi Karma Parishad*. Complaints of vandalism in areas like Fancy Bazaar, Noonmati Refinery, India Carbon, Railway Station, and Airport because of their affiliation to either non-Assamese ownership or employment were registered.¹⁶¹ Call to boycott the Republic Day celebration was also alleged to have been made by students. Thus the call against 'outsiders' would get support from the Assamese speaking working class along with the educated, unemployed youths and students. The national media however impressed it as inability of the Assamese youth to qualify themselves for the jobs they desired. It impressed they were averse to hard work and the matter of unemployment was an imaginary problem.¹⁶²

However, over the years, a certain pattern emerged, wherein claims around control over native resources like oil were raised, law and order would be ruffled before Republic Day celebrations, students' organization like the Democratic Students'

¹⁶¹ *Sen Commission of Inquiry*, 1968, PLA.45/68/PIII, Home Confidential, ASA.

¹⁶² Recalling his experience, S.D.P.O. Premkanta Mahanta mentioned that police raided homes of some reputed persons in Guwahati, who were thought to be in support of the young, students' sloganeering. They all were referred to be members of a group called 'Lachit Sena' named after the commander of Ahom king who fought and own the battle against Mughals in 17th Century. (Mahanta, *Rajbhaganor Pora Kolihokalo*, 2018 (1993))

Organization or the Assam Yuvak Samaj would demand a second refinery, the extension of the railway broad-gauge up to the Eastern most district, Dibrugarh and rapid industrialization of the state.¹⁶³ Working towards similar goals made some of the students based in the premier education institutions in Guwahati feel the need for a common platform. Accordingly, in 1966 the All Assam Students' Union was formed over the dysfunctional Assam Students' Organization founded in 1957. They basically aimed to serve the student community with demands related to education and literacy and claimed to remain out of any political influences.¹⁶⁴

The Shift in Citizenship Regime

Assam would slowly enter into a long decade. The 1971 war and the formation of Bangladesh would reassert the question of citizenship. India's eastern border once again experienced massive migration after Partition and 'the crisis would bring together a number of different exclusionary discourses into a more coherent strand that would mark out the 'citizen' from the 'foreigner'.¹⁶⁵

All these years, officials of the Assam government regularly speculated that there might be large-scale migration of Hindu refugees to India.¹⁶⁶ They reported regular disputes regarding cattle trade, forest products and land disputes between the citizens of India and East Pakistan.¹⁶⁷ With the massive flow of refugees during the Bangladesh liberation war, severe economic burden haunted India. She tried to secure help for 6 million refugees from international donors.¹⁶⁸ The Ministry of Labour and Rehabilitation, Department of Rehabilitation of India stated that around 298,000 refugees had taken shelter in Assam.¹⁶⁹ The Indian government also allocated 80 million dollars in its total annual budget, which was supported by 30% additional tax

¹⁶³ Law and order situation in the state, 1969, PLA97/69, Home Confidential, ASA.

¹⁶⁴ In a detailed account about students organizations of Assam, Prafulla Chandra Barua, who was an active member and office bearer of the first central committee of AASU provides details about AASU's formation. For more details see Prafulla Chandra Barua, *Asamar Chatra Sangathan aru Andolonor Itihax*, Guwahati: Aank-Baak, 2016.

¹⁶⁴ Students' Movement, CM 39/73, Chief Minister's Secretariat, Government of Assam, ASA.

¹⁶⁵ Antara Datta, *(B)ordering South Asia: War, Violence and Displacement in 1971*, (2010) Unpublished PhD Thesis. Harvard University.

¹⁶⁶ PLB 389/66, Home and Confidential Department, Government of Assam. ASA.

¹⁶⁷ PLB 17/69, Home and Confidential Department, Government of Assam. ASA.

¹⁶⁸ Daily Situation Report, 9 [24]/71-RL IV, M/O Home Affairs, Rehabilitation Division. NAI.

¹⁶⁹ Statistical Information Relating to the Influx of Refugees from East Bengal into Assam till 31st October, 1971, Ministry of Labor and Rehabilitation, Department of Rehabilitation, Government of India.

burden of Indians.¹⁷⁰ Everyday, the number of refugees coming into India was increasing by 80,000. As the refugee question reached a serious stage, in Tripura, the numbers stood at one refugee from East Pakistan to every two local inhabitants. India also constantly pressurized Pakistan to find out a political solution to the question of her citizens leaving the country en masse. Indeed, as a gesture, Pakistan urged all evacuees ‘irrespective of caste creed, religion or communities’ to unhesitatingly return to their homes in East Pakistan. President Yahya Khan in a statement released in Rawalpindi on 25 June 1971 promised them ‘full protection’ and ‘every facility’. Khan specifically assured Hindu refugees and stated that ‘they’ were equal citizen of Pakistan and there was no question of discriminatory treatment. He also pleaded not to be misled by ‘mischievous propaganda being conducted outside Pakistan’. But these assurances hardly helped refugees to return immediately. India set up relief camps with a capacity of 50,000 persons in each.¹⁷¹

The political environment in Assam was already clouded with communal polarization. A local English daily from Assam reported about an incident from Lumding, in central Assam, where Assamese speakers and Bengali speakers had a conflict recently. The report claimed that Assamese speakers had started suspecting that many Bengali speakers living in Assam were becoming more sympathetic for the cause of creation of Bangladesh and were manifesting the dream of greater Bengal (*Brihattar Bangla*).¹⁷² India’s envoy in Islamabad made a similar observation earlier in 1970 that a secessionist East Bengal might seek to create a United Bengal in association with West Bengal and some assumed this idea might cover Assam as well.¹⁷³ A group of Bengali speaking volunteers who were travelling in a passenger train, involved in rendering help to the refugees from Bangladesh, verbally clashed with few Assamese-speaking co-passengers. The latter was returning from a conference of the *Assam Sahitya Sabha*. As this news of the duel became known, widespread protests were

¹⁷⁰ Daily Situation Report, 9 [24]/71-RL IV, M/O Home Affairs, Rehabilitation Division, NAI.

¹⁷¹ Daily Situation Report, 9 [24]/71-RL IV, M/O.

¹⁷² Tension between Assamese and Bengalis at Lumding and Guwahati, 1971, PLA 167/71 PI, Home Confidential, Government of Assam, ASA.

¹⁷³ Srinath Raghavan, *1971: A Global History of the Creation of Bangladesh*, (London: Harvard University Press, 2013): 57.

staged by Assamese social and cultural organizations. Public deliberations sought a concrete refugee policy.¹⁷⁴

Conclusion

The fresh arrival of the refugees and changes in the agrarian relations in Assam resurrected the decreasing tensions between different communities. The local political dynamics was altering fast with the shift in the political leadership, from the peasants to the students.¹⁷⁵ The attitude of Assam towards refugees had always been a matter of political tension since independence. By the early 70s, the government of Assam handled the matter more carefully keeping in view the international atmosphere. Contrary to this, the Assamese public opinion became more restless. Shifting its attention from the (Muslim) immigrants, now it would look at the (Hindu) refugees, their long-term economic contenders and would make them the 'cultural others'.¹⁷⁶

The question of 'illegal immigration' broadly burdened the political, legislative and administrative concern of Assam all through the decades of 1960s. While mostly concentrated on the Pakistani nationals, others like Nepalis and migrants from other parts of India also drew attention. Though the Bengali Muslim peasants were the first target, the Nepalis and other trading groups like Marwari, petty Bengali Hindu businessmen added to those who constituted the other.

Overall, the decade witnessed significant development of citizenship discourse in Assam. The various measures put in place to address the issue of migration resulted in repeated interpretations of citizenship laws. This also rephrased Assam's unique place in India's citizenship regime. While interpreting the legality of the matter of citizenship, Assam also renewed its nationality question. Nationality question would emerge forcefully during 1970s and 1980s, raising serious question to the definition of citizenship in India. However, the inter-twining of the issue of citizenship and nationality would continue to remain the same.

¹⁷⁴ Antara Datta, *Refugee and Borders in South Asia: The Great Exodus of 1971*, (New York: Routledge, 2013), 86-122.

¹⁷⁵ Arupjyoti, Saikia. *A Century of Protest: Peasant Politics in Assam Since 1900*. (New Delhi: Routledge, 2014).

¹⁷⁶ Datta, *Refugee and Borders in South Asia*, 2013, 86-122.

Chapter V

Debating Citizenship and Political Crisis (1971-1985)

The very beginning of the decade of the 70s introduced a new turn in the political trajectory of Assam. One of the significant developments in the 1960s was the shift of leadership from the peasants to the students¹ who, mainly for purposes of higher education, moved out of the rural spaces to urban areas.² Another significant development, as discussed in the earlier chapter, was the anxiety of the Assamese middle class about the migrants from East Pakistan and their possible impact on Assam's economy and culture. The year 1971 added a marked shift in the agrarian relations in Assam as the passing of the Assam (Temporary Settled Extent and Areas) Tenancy Act 1971 and its implementation led to the transfer of a significant portion of land from the Assamese land owning middle class to Bengali (Muslim) migrants.³ These three developments, the shifting of political power, engagement of the educated middle class in the migration issue and transfer of land from Assamese middle class to Bengali speaking (Muslim) peasants transformed the character of Assamese middle class in a significant way. The middle class, which didn't get involved in the long political struggle led by the peasants in Assam in the previous decades, would now take the driving seat bringing the students in the forefront and define the political trajectory of Assam.

With the turn of the decade, the Indo-Pak war in 1971 and subsequent migration of refugees to the states of India bordering erstwhile East-Pakistan, including Assam, added to the migration rhetoric once more. It significantly reoriented the narrative about migration, as the (Hindu) refugees would draw wide attention. For the role played in the formation of Bangladesh, India, on the other hand, had to keep the promises of a supportive, responsible neighbor providing shelter to thousands of

¹ Arupjyoti Saikia, *A Century of Protest: Peasant Politics in Assam Since 1900*. (New Delhi: Routledge, 2014).

² In an analysis by Hitesh Deka about the socio-economic background of the AASU leaders in his PhD thesis, Deka observed that the students, who made a career as a political leader through the platform of AASU, belonged to families of cultivators, teachers and freedom fighters. Their early education was from local schools, for higher education they moved to district town or few came to cities like Guwahati. Deka observed that students from rural places who moved to towns made strong bondages for their cultural background and that proliferated formation of AASU's organization both in urban places and also in rural areas in Assam (Hitesh Deka, *All Assam Students' Union and Its Impact on The Politics of Assam Since 1979*, (Guwahati: Gauhati University, PhD Thesis (2004)), 371-398.

³ The Act assured occupancy right to the tenants who had been cultivating land continuously for three years. (Chapter III, 5 (1), Assam (Temporary Settled Extent and Areas), Tenancy Act 1971)

(Hindu) refugees.⁴ The grim situation in states like Tripura, Assam and West Bengal raised genuine apprehensions for government's welcoming attitude towards refugees.⁵ These significant developments, the reshuffling of the Assamese middle class and its active participation in issues like migration and the new phase of migration of refugees from East Pakistan all together introduced a remarkable shift in the political life of Assam. The Assamese-speaking middle class rephrased the nationality question more forcefully. It evoked a stronger regional sentiment, which paraphrased the issue of migration once more on the background of Assamese nationalism. Towards the later part of the 1970s, migration would become a serious issue of contestation, which would result into popular protest. The years long protest against illegal foreigners during 1980s would entangle the question of citizenship and it would dominate the following years. However the new wave of nationalism would make an impact and successfully inject the nationality issue in the legal framework of citizenship. The process would be phenomenal, as it would involve repeated interpretation of citizenship laws. People from different sections would participate in the discussions and debate around the same and would lead to a phase of transformation of citizenship laws. The case of Assam would challenge the prevailing legal definition of citizenship and raise serious questions about matters like voters rolls, citizens' identity cards, registration system for refugees and foreigners etc. and their integrality for defining claims of citizenship in India. It would also question the existing federal structure and Centre-State relation in it, bringing forth the question of citizenship, which aspired for one nationality in contrast to different regional nationalities. Years long discussions and public debate would finally lead to a phase of significant shifts for citizenship laws in India.⁶ This chapter endeavors to reflect upon this climaxing decade until 1985, when Assam would reorient her questions about illegal migrants and foreigners and would seek answers in the constitutional definition of citizenship.

⁴ India urged the international community for help claiming that it was becoming very difficult day by day as thousands of refugees were entering India everyday, due to unrest Pakistan. (Daily Situation Report, Home Affairs, Rehabilitation Division. (10 [57]/71-RL IV, M/O, National Archive of India (hereafter NAI).

⁵ Daily Situation Report, 10 [57]/71-RL IV, M/O, NAI.

⁶ Anupama Roy, *Mapping Citizenship in India*, (New Delhi: Oxford University Press, (2012)), 92.

Fresh Arrival of Refugees and Assamese Middle Class

Following the large-scale migration during the Indo-Pak war in 1971, India had to put weighty effort for refugee rehabilitations. There were proposals to bring some of the refugees to the interiors as the 'borders were evoked due to heavy influx'.⁷ The question was, 'how far this couldn't affect the economy of India as a whole and bordering states like Assam, Tripura, Meghalaya in particular. After Pakistan Army's crack down in East Bengal (East Pakistan) on 23 March 1971, the states of Assam, Meghalaya and West Bengal reeled under the influx. Between 25 March 1971 and 31 October 1971 a total number of 2,98,000 people took refuge in Assam.⁸ Concerns were expressed by cross-sections of people. For instance, an appeal by the Archbishop Lawrence T. Picachy, S.J. of Calcutta stated 'the economy of the eastern states of India has been ever strained even since partition...millions of refugees have been forced out of East Bengal in the past 25 years into these overcrowded zones where unemployment is great and where political tensions run high, 3 million people have sought shelter.'⁹

But India would emerge as a supportive neighbor of the newly formed Bangladesh. Later in 1974, a Pact was signed between then Prime Minister of India Mrs. Indira Gandhi and newly formed People's Republic of Bangladesh's Prime Minister Sheikh Mujib Ur Rahman, which assured, 'to maintain fraternal and good neighborly relations and transform their border into a border of eternal peace and friendship.'¹⁰ The Indira-Mujib Pact 1974, sought to cover the demarcation of the land boundary between the two countries and other related issues. The Bangladesh Parliament on 28 November 1974 passed the Constitution (Third Amendment) Act 1974¹¹, which ratified the Indira-Mujib Accord, but India didn't ratify the treaty.¹²

Record on growth of population in 1971 census report exhibited Assam's extraordinary rate. The growth rate of population was recorded high from 1901 to

⁷ Antara Datta, *Refugees and Border in South Asia: The Exodus of 1971*, (London: Routledge, (2013)).

⁸ 'Statistical Information relating to the Influx of Refugees from East Bengal into India till 31 October, 1971', The Ministry of Labour and Rehabilitation, Department of Rehabilitation, Branch Secretariat, Government of India.

⁹ 'Statistical Information relating to the Influx of Refugees from East Bengal into India till 31 October, 1971', GOI.

¹⁰ Treaty of Peace and Friendship, Signed by the Prime Minister of India, Indira Gandhi and Prime Minister for the People's Republic of Bangladesh, (Dacca: 19 March 1972).

¹¹ *The Bangladesh Gazette Extraordinary* (Part V, 28 November 1974).

¹² Government of India had ratified the treaty in the year 2013.

1971, from 32.90 lakh in 1901 to 146.25 lakh in 1971 and this was only surpassed by West Bengal.¹³ It noted, “position as obtained in 1961 remains almost unchanged in 1971. Assam has maintained her growth of population at the same rate of 1951-1961...highest among all other state, except tiny states of Manipur, Nagaland and Tripura...”¹⁴ This could be attributed to the influx from Bangladesh. The record on refugee statistics supported the high rate of influx of refugees from Bangladesh. It recorded as,

Table 4: Statistical information relating to influx of Refugee from East Bengal into India til 31 October 1971¹⁵

| | Assam | Bihar | Meghalaya | Tripura | West Bengal | Total |
|--|---------------|-------|-----------|----------|-------------|----------------|
| A. Partition of India, Between 15 August 1947 and 31 March 1958 | 487.00 | - | - | 374.00 | 3256.00 | 4117.00 |
| B. Communal Riots in Pakistan, Between 1 January 1964 and 24 March 1971 | 214.00 | - | - | 143.00 | 757.00 | 1,114.00 |
| C. Civil War and Pak Army atrocities in East Bengal, From 25 March 1971 to 31 October 1971 | 298.00 | 9.00 | 653.00 | 1,413.00 | 7,143.00 | 9516.00 |

The table exhibits that India received the highest number of refugees during the civil war and Pak Army atrocities in East Bengal from 25 March 1971 to 31 October 1971 and Assam received 298 thousand refugees during the same period.¹⁶ Significantly the number of refugees received by the neighboring states of Assam was highest after independence. Tripura recorded 1,413 thousand and West Bengal recorded 7,143 thousand. It sparked a new political debate around the question of migration, this time more particularly around the (Hindu) refugees. Public opinion found its expressions in local media about migration and its impact on the economy. Parallel to this was the anger against the Central Government for its exploitative attitude towards Assam.

¹³ K. S. Dey, Assistant Director Census Operations (Technical) Assam, Census of India, 1971, Series-3, Assam, Part 1A, General Report, Government of India, 1971.

¹⁴ Assistant Director Census Operations (Technical) Assam, Census of India, Series-3, Assam, Part 1A, General Report, 1971.

¹⁵ Statistical Information relating to the Influx of Refugees from East Bengal into India till 31 October, 1971', GOI.

¹⁶ 'Statistical Information relating to the Influx of Refugees from East Bengal into India, GOI.

Writings in Assamese reflected significantly upon this. One such writing was *'Islamabad Bonam Dhaka: Dilli Bonam Dispur'* by Nibaran Bora,¹⁷ a trade union leader who would soon emerge as a leading personality during popular protest against illegal foreigners. *'Islamabad Bonam Dhaka: Dilli Bonam Dispur'* primarily highlighted the geographical distance between North East India specifically Assam, caused by the Partition and the subsequent political gap between *Dilli*, the capital city of India and *Dispur*, the capital city of Assam. Bora compared the situation with the political distance between Islamabad and Dhaka and argued that after Partition the big capitalists from other parts of India, (especially from North India) had been exploiting the resources of Assam.¹⁸ Hinting about the refugee crisis, Bora maintained that the government adopted a discriminatory attitude towards indigenous people as it provisioned reservation for refugees despite not having any constitutional provisions. Bora also discussed the crisis around land and maintained that indigenous people were not getting proper constitutional safeguard to protect their land from 'outsiders.'¹⁹

Meanwhile, the implementation of tenancy act 1971 had a great impact on the agrarian relations generally in Assam and especially in districts like Nagaon, Kamrup, Barpeta, Lakhimpur, where the population growth was extraordinarily high presumably due to settlement of migrant peasants.²⁰ After the implementation of Tenancy Act 1971, there were significantly increased numbers of civil suits.²¹ Both the Muslim and Hindu tenants claimed their rights over land from their Muslim and Hindu land owners. It is a general opinion that many of the Muslim Bengali Migrant peasants got access to land legally after the implementation of the Act. A significant number of tenancy civil suit records could be found with the District Record room of Nagaon. The Tenancy Act 1971 gave the right to acquire land to the sharecroppers

¹⁷ Notably, Bora published a series of articles in *Nagorik*, one of the leading Assamese weekly newspapers, in 1977 (15, 12, 29 December 1977). These articles were republished in the same newspaper in May 1980. The Editorial board commented, "Nibaran Bora concluded this series of articles as, "Guwahati was the base camp for *War of Saraighat*. Guwahati is turning into a base camp once more"...prophetic? We believe no one read these articles with much interest when published first. But the seed of the political cyclone of the current time was inherent in these articles." (*Nagorik*, 22 May 1979).

¹⁸ *Nagorik*, 22 May 1979.

¹⁹ The term 'outsiders' was frequently used by many including AASU and anger was expressed against all who didn't speak Assamese but had been controlling the economy of the region. Nibaran Bora also used it in the similar context, which was not specifically about the illegal foreigners. (*Nagorik*, 5 June 1979).

²⁰ A brief fieldwork of one month (from March to April 2016) was carried out. The focus was to probe agrarian trouble. Land records were examined at district record room of Nagaon.

²¹ Saikia, *A Century of Protest*, 2014.

who had been cultivating a piece of land for three years and more. The pattern was predominantly supportive of the general opinion that lots of Bengali Muslim peasants got land right. Moreover, other land records like *Jamabandi* and *Chitha Bohi* also reflected a similar pattern of transferring land to Muslim peasants. There were substantial numbers of land transfer records showing transfer of land from Assamese Hindu landowners to Muslim peasants. There were records of transfer of land to a Muslim-to-Muslim as well signifying that the transfer of land in many cases it was within the community.²² Assamese-speaking people mostly complained about Muslim settlers intruding into their land and capturing land by any means. They mentioned land disputes and maintained that after the implementation of the Tenancy Act of 1971 a huge amount of land went to Bengali Muslim peasants. Many Assamese peasants lost their land.²³

Some other literature like Myron Weiner's 'Sons of the Soil: Migration and Ethnic Conflict in India' discussed the impact of migration on the local inhabitants, demographic changes and ethnic conflict in India. Weiner discussed the case of Assam.²⁴ The book was published in 1977 but the phrase 'sons of the soil' (Assamese *Bhumiputra*) would soon become a popular slogan supporting the rights of the 'natives' or *bhumiputras*. Weiner would reassert his argument while commenting on anti-foreigner movement as he observed the demographic change in Assam caused due to migration from Bangladesh which had to be checked to restore the law and order situation in the region in the backdrop of the 'Nativist movement.'²⁵

Evidently Assam was rephrasing its nationality question within the federal structure of India. In the early days of 1979, Amalendu Guha observing the political behavior pattern in the Northeast India noticed a problem of integration.²⁶ Guha commented

²² Few *mouzas* like Juria, Dhing showed a wide range of land transfer to Muslims. As discussed in Chapter II, Census Reports of 1921 and 1931 and Mauza and Village Notes during colonial rule noted increasing number of migrants from Bengal to these areas. I have visited few of the villages in these areas. Juria has large settlement of Muslims, especially near riverine areas. Muslim settlers mentioned that they came from nearby areas like Dhing and Barhampur, their ancestral places, in search of cultivable land. They had come and settled down in a flood-affected area near the river Brahmaputra as their ancestral land was not sufficient to support a growing family. As the number of the members of the family kept multiplying, such holdings became economically untenable forcing some of them moved out in search of new land.

²³ Many interviewees mentioned about the 1971 Tenancy Act.

²⁴ Myron Weiner, *Sons of the Soil: Migration and Ethnic Conflict in India*. (Delhi: Oxford University Press, 1978)

²⁵ Weiner, "The Political Demography of Assam's Anti Foreigner Movement", (*Population and Development Review*, Vol. 9, No. 2, 1983), 279-292.

²⁶ Amalendu Guha, Great Nationalism, Little Nationalism and Problem of Integration: A Tentative View, (*Economic and Political Weekly*, Vol. 14, No.7/8, (Feb., 1979), 455-458.

that the spatial political behavior and problems of integration in Northeast India had to be understood in their specific historical context. Guha conceptualized the nationality question in India in two fold, great nationalism in all India plane and little nationalism on a linguistic regional plane.²⁷ Putting Assam's national question on the linguistic regional plane, Guha tried to find a solution to its integration with the Indian nationalism, i.e. the great nationalism and concluded "true nationalism can absorb what is good in little nationalism and stands also for internationalism. It stands for Indian unity within the multinational state of India. It looks forward to a United India organized on the basis of (i) the recognition of Indian multi-nationality, (ii) federal principles of state reorganization with single citizenship and (iii) protection of the democratic rights of all national minorities and their language all over India, including the right of self determination."²⁸ Soon, Guha's observation was going to find a way to the situation in Assam. However, he would observe in the subsequent days how the little nationalism in Assam would turn chauvinist under the leadership of the Assamese middle class.²⁹ Nevertheless led by the Assamese middle class, the popular protest during 1980s was going to substantiate the questions like the recognition of the multi-nationality and protection of the rights of the minorities in the interpretative discussions about citizenship in Assam and would find a way to accommodate these questions within the federal principles of single citizenship in India.

On this backdrop, Assam would paraphrase certain political narratives during the 1970s and by the end of the decade these views would start unfolding during popular protests against illegal foreigners. For instance, Asom Sahitya Sabha, the leading literary organization of Assam, would echo Nibaron Bora's stand. It would emphasize how Assam had been wronged in many ways, "...over the years since independence, Assam has been treated as nothing better than a colony within the republic for exploitation by the rest of the country and by the foreigners...the bulk of the 5.25 million tones of crude oil from Assam is taken out by pipelines to be

²⁷ Guha, Great Nationalism, Little Nationalism and Problem of Integration, 1979, 455.

²⁸ Guha, Great Nationalism, Little Nationalism and Problem of Integration, 1979, 458.

²⁹ Guha maintained that the Asamiya middle class was virtually constituted of small capitalists and other sections of petty bourgeoisie including professionals and service holders; many of them were also simultaneously small landlords. (Amalendu Guha, Little Nationalism Turned Chauvinist: Assam's Anti-Foreigner Upsurge, 1979-80, (Economic and Political Weekly, Vol. 15, No. 41/43, (Oct., 1980)), 1699-1720).

processed at the Barauni Refinery set up against expert opinion.”³⁰ The *Sabha* claimed that resources like tea, coal, and plywood were also being extracted from Assam without much economic benefit for her. Significant rate of unemployment of the local educated youths was also pointed out by the *Sabha*. In addition, the long Congress incumbency and allegation about its policy of admitting and enfranchising foreigners also surfaced. Soon the claim about inclusion of names of illegal foreigners in electoral rolls would provoke the situation.

Citizenship in Practice: The Backdrop

Growing tensions around the issue of migration became apparent earlier in 1978. In September 1978, newly formed Janata government in Assam under the leadership of Golap Borbora alarmingly wrote to the Indian Prime Minister Morarji Desai about an imminent crisis in Assam. The letter stated that because of the rapid growth of population in Assam, due to influx of ‘outsiders particularly from Bangladesh and Nepal’, the pressure of population on land had increased. It maintained that the basis of different economic and political issues had been prevailing mainly centering around the issues of unemployment of the local people & an influx of foreigners from Bangladesh and Nepal.³¹ Borbora also remarks that the ‘younger section of people particularly the unemployed youth have been harboring a feeling of denial of legitimate share of employment facilities in various central government undertakings, departments, nationalized banks and commercial establishments’.³² By 1978, large numbers of students of the schools and colleges, especially of the Brahmaputra valley, were heard speaking against the government. It was not only the Chief Minister Golap Borbora who observed the growing public articulation against infiltration in Assam valley and expressed apprehension but the press in Assam also carried articles, letters, and editorials about the situation. A public opinion was building up.³³

Soon, in 1979 everyday life was disrupted in Assam following demonstration by the student body, All Assam Student’s Union (AASU), on 8 June 1979. The immediate provocation for this call for strike was the apprehension that names of large numbers

³⁰ Assam Sahitya Sabha, *Eclipse in the East: Analysis of the Present Agitation in Assam* (second edition), (Guwahati: Assam Sahitya Sabha, (May 1980)), 6.

³¹ Chief Minister’s letter to Prime Minister, CMS 56/78/Pt-I, Chief Minister’s Secretariat, Government of Assam, Assam State Archive (hereafter ASA).

³² *Chief Minister’s letter to Prime Minister*, CMS 56/78/Pt-I, 1978, ASA.

³³ *The Assam Tribune*, 25 May 1978; *Dainik Asom*, 7 June 1978.

of immigrants had been found listed in the electoral rolls prepared for the Mangaldai parliamentary constituency.³⁴ The strike (*Bandh*) got an unprecedented support in Brahmaputra valley. The government was taken aback. The success of the strike brought disparate social groups together, and in August all of them quickly gave shape to a united platform, to be called *Sodou Asom Gana Sangram Parishad* (AAGSP). Several regional political groups including *Purbanchaliya Loka Parishad*, *Jatiyatabadi Dal*, *Asom Jatiyatabadi Yuba Chatra Parishad* and literary organizations like *Asom Sahitya Sabha* came under the fold of this platform. Though at the grass root level the AAGSP mobilized by forming branches in different parts of the Brahmaputra valley, AASU remained the most dominant amongst them and later emerged as the only deciding force.

Role of the Electoral Roll, Civil Society and Framing of Popular Protest

There are two parallel accounts that correspond to each other and offer a presumed role of two Assamese police officers in bringing to the attention the voters' list, swollen with large numbers of names of 'illegal immigrants' from Bangladesh (erstwhile East Pakistan). Premkanta Mahanta's *Rajbhogonor Pora Kolthokaloike*, which was earlier referred to in chapter IV, and other is '*Ji Katha Nahal Kowa*' by Hiranya Kumar Bhattacharya.³⁵ These two accounts claimed that it was the role of these two police officers that led to the floating of a popular protest under the leadership of AASU. Premkanta Mahanta wrote that they brought the matter of enfranchisement of illegal foreigners into the urgent notice of AASU and other organizations like *Asom Jatiyatabadi Dal* and *Purbanchaliya Loka Parishad* and proposed to bring the matter into popular attention.³⁶

The claim that a large number of 'illegal foreigners' were enfranchised invited wide attention. It was difficult to know exactly when this question surfaced in the 1970s, but undoubtedly, it had a context of illegal immigrants from 1960s. It was as early as in 1962, after the publication of the census report of 1961, that the claim about enfranchisement of illegal foreigners was made³⁷ However, Premkanta Mahanta,

³⁴ A by election was due, due to death of the existing lawmaker.

³⁵ Hiranya Kumar Bhattacharyya, *Ji Katha Nahal Koa*, (Guwahati: Guwahati Sadhughar, 2011); Premkanta Mahanta, *Rajbhogonor Pora Kolthokaloike*, (Guwahati: Bandhab, (2018 (1992)).

³⁶ Mahanta, *Rajbhogonor Pora Kolthokaloike*, (2018 (1992)), 111.

³⁷ Pak-infiltration, 1962, CMS/NIL/62, ASA.

asserted active intervention of the Border Police, following the resurfacing of the matter in 1979. Mahanta recalled in his autobiography that a colleague in the border police invited his attention to news reports about the enrollment of large numbers of foreign nationals in the electoral roll and proposed to send along with the census enumerator a border police personnel. Mahanta later brought the matter to DIG Hiranya Bhattacharya.³⁸ It was after the intervention of DIG Bhattacharyya that the matter reached the chief election commissioner Sakdhar. The Chief Election Commissioner agreed that as that was a matter of a by-election, time for revision of electoral roll could be given.³⁹ The process was however complex. As Mahanta recalled, the State Election Commissioner of Assam informed them that to delete the name of a voter from the electoral roll, another voter from the same constituency had to complain through the form no. 7 (bought for 10 paise) and a voter from the same booth area had to support the claim.⁴⁰

Figure 5: Form 7, for identification of enfranchised illegal Foreigners

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The processes were initiated⁴² and of 46,658 complaints around 36,780 were recognized as foreigners with the registrar.⁴³ However, the matter of re-examination

³⁸ Premkanata Mahanta, *Rajbhaganorpara Koltbokaloike*, 2018 (1994), 95-99.

³⁹ Mahanta, *Rajbhaganorpara Koltbokaloike*, 2018 (1992).

⁴⁰ Mahanta, *Rajbhaganorpara Koltbokaloike*, 2018 (1992), 110.

⁴¹ The form 7 collected during the fieldwork in Jamugurihat, Sonitpur. The informant shared that local police personals distributed these forms along with copies of NRC to expedite the process of identification of illegal foreigners whose names were included in the voter list. (personal archives of Dibakar Saikia)

of electoral roll would go a longer way in Assam. Though the Election Commissioner directed revision of electoral roll, the process was interrupted after the EC's changing position in September 1980. In a press release issued on 18 September the EC maintained that to mark out a name of an alleged foreigner from the voter list, his citizenship status had to be established first. Hiranya Kumar Bhattacharya, in his memoir later opined that it was Mrs. Gandhi who intervened in the matter for the prevailing law and order situation in Assam, intending to bring the matter within laws of citizenship.⁴⁴

Across the Table: Debating Citizenship, 1980-85

After much political intervention, the protest, which initially floated varied demands were brought within a framework, which could be discussed with the Central government. The young students in their late 20s and early 30s would be representing the Assamese civil society and sit face to face with Central government representatives and bureaucrats. This was the first time after independence that India was going to address the question of citizenship on a unique platform like this, where deputies from different sections -- starting from the bureaucrats, politicians, student leaders, members of civil society religious and linguistic minority communities and intellectuals were participating or going to influence the discussion to the extent which would finally lead to a legislation. After the animated debates in the Constituent Assembly and in the interim parliament on the *Immigrants Expulsion (From Assam) Act 1950* and the Parliamentary debate on the Citizenship Act 1955, this would probably be the most detailed discussion about citizenship.

There was a long background to this much awaited discussion. As soon as the slogan aired by AASU in October 1979 got widespread support from cross-sections of people in Brahmaputra valley and law and order got disturbed, the government expressed its concern. That was a time when Assam's domestic politics were taking a serious turn. The Janata Dal government under the leadership of Golap Borbora, who was sympathetic to the general sentiment related to immigration, fell in September

⁴² During field in Jamugurihat, Sonitpur district, I could find copies of form 7 in a personal archive of an interviewee. During interview, the informant told me that a copy of NRC 1951 and form 7 were provided in the area by policemen and many of the voters were identified following the process. (Interview with Dibakar Saikia, 17 April 2016, Jamugurihat, Sonitpur, Assam).

⁴³ Mahanta, *Rajbaganorpara Koltbokaloike*, (2018 (1992)), 112.

⁴⁴ Bhattacharya, *Ji Kotha Nobol Kova*, 2005, 61.

1979. A new ministry was formed on 9 September 1979 under the leadership of Jogen Hazarika, a senior leader of the Janata Dal. Also in Delhi, after the fall of the Morarji Desai government towards the end of 1979, mid-term general elections were announced. This gave a chance to the AASU and its brother organizations to raise concerns against the uncorrected electoral rolls. Hazarika government suggested delaying elections. Meanwhile, public protests against holding any elections in Assam invited more support and instances of street violence were reported from various parts. There were attempts by the government to bring leaders of the AASU and AAGSP to a negotiation table. However, very shortly the Hazarika government fell on 11 December 1979 and following the worsening law and order situation, President's rule was imposed on 12 December 1979.

It was only in 1980 that the new government at the Centre led by Indira Gandhi, showed willingness to listen to the leaders of the protests. Delegates of Assam Pradesh Congress (I) met the prime minister designate Mrs. Indira Gandhi at her residence in New Delhi on 13 January 1980 and 'requested Mrs. Gandhi to defuse the situation in Assam'.⁴⁵ Mrs. Gandhi expressed her concern and anxiety over the developments in Assam and reportedly admitted that 'the fear that foreign nationals might sweep the region of its identity was very much real and genuine.'⁴⁶ After she took oath as India's Prime Minister on 14 January 1980 for the third time, she sent two of her trusted emissaries from the Congress (I) to study the Assam situation. The two Congress (I) emissaries -- Shankar Dayal Sharma, who was then a Member of Parliament and Yashpal Kapoor leader of the All India Congress Committee (I) met various sections of people and organizations in Assam.⁴⁷ Many of them submitted memorandums, which mainly emphasized on the need of urgent deletion of the names of the foreigners from electoral rolls and their deportation.⁴⁸ This visit of Mrs. Gandhi's emissaries was welcomed in Assam but many feared that rather than an honest attempt to resolve the Assam crisis, the primary agenda of their visit was to prepare the ground for forming a Congress (I) party government in Assam.⁴⁹

⁴⁵ *The Assam Tribune*, 14 January 1980.

⁴⁶ *The Assam Tribune*, 14 January 1980.

⁴⁷ Organizations like AASU, Asam Yuvak Samaj, All Assam College Teachers Association, Gauhati Bar Council, Assam Pradesh Congress Committee, All Gauhati Women Vigilance Committee and a group of Muslim MLAs met these two representatives of Mrs. Gandhi and expressed their views on Assam's situation.

⁴⁸ *The Assam Tribune*, 19 January 1980.

⁴⁹ Editorial, *The Assam Tribune*, 21 January 1980.

However one of the emissaries Shri Yaspal Kapoor revisited Assam with a letter by the Prime Minister Indira Gandhi to AASU on 22 January 1980. Till that time, Mrs. Gandhi did not have any doubt about the non-violent and secular character of the protest led by AASU and invited AASU to discuss the matter.⁵⁰ Kapoor pointed out that as a way out to overcome Assam's illegal foreigners' crisis 'the government was contemplating introducing identity cards to the people' in the border states of eastern India.⁵¹

However, Prime Minister Indira Gandhi's invitation for a discussion only to the AASU instead of the umbrella organization AAGSP raised an obvious question and Nibaran Bora, the prominent leader of *Purbanchaliya Loka Parishad* (PLP), a member organization of AAGSP, reacted to the invitation letter by Indira Gandhi to AASU as an 'attempt to mislead the movement by issuing incentives.'⁵² This invited the attention of the Prime Minister. Prime Minister Indira Gandhi maintained that she was willing to talk to all leaders of the anti-foreigner movement, both AASU and AAGSP, but the letter of invitation that she sent to AASU was just in response of AASU's letter to her on 18 January 1980 where she was requested to visit Assam.⁵³ She added that Assam's problem was not unsolvable and expressed her firm willingness to talk to anyone. Speaking in the Rajya Sabha, Gandhi further maintained that the Assam situation required very careful attention and the problem had to be settled at the national level involving all political parties.⁵⁴ She suggested an all-party meeting as a way out.⁵⁵ She submitted, "I am in touch with the concerned people in the state and we are trying to fix a date for such meetings...I understand there is concern among some sections as to why I am meeting only students and not other groups. I am willing to meet anybody who comes here (Delhi)."⁵⁶

⁵⁰ Yaspal Kapoor visited Guwahati on 22 January, which was his fourth visit. He told journalists that the Prime Minister was more interested in finding out a solution to the foreign national issue than forming a ministry in the state'. *The Assam Tribune*, 23 January 1980.

⁵¹ *The Assam Tribune*, 23 January 1980.

⁵² Significantly, a day after the Prime Minister's invitation to the AASU, the PLP held a press conference to stress on the aims and means of the anti-foreigner movement. Speaking in this press conference, Bora maintained that all the organizations fighting for the cause would continue fighting till the process of deportation of all foreigners completed. He demanded that Prime Minister must come to Assam rather than inviting leaders to Delhi. (*Dainik Asam*, 24 January 1980).

⁵³ *Dainik Asam*, 23 January 1980.

⁵⁴ *The Assam Tribune*, 26 January 1980.

⁵⁵ During discussion with the leaders of the opposition, *The Assam Tribune*, 26 January 1980.

⁵⁶ *The Assam Tribune*, 26 January 1980.

Assam and Unwanted Citizens: Reaffirming a Discourse

Though the talk between the Assamese leaders and the government of India started in February 1980, the preparatory ground took shape much earlier. A number of political organizations slowly built the political narrative of illegal entry of foreigners into Assam and widely publicized the matter through pamphlets, leaflets and similar such publications. The primary argument was that illegal immigration of foreigners had been impacting Assam's economy greatly and concrete administrative measures should be taken up for handling the issue.

In 1979, when various political organizations like the *Purbanchaliya Loka Parisad* (hereafter PLP)⁵⁷, the *Asam Jatiyatabadi Dal* (hereafter AJD)⁵⁸ and the AASU started campaigning against illegal foreigners, political rhetoric on the illegal foreigners and outsiders living in Assam attracted wide public attention. As discussed earlier, the question of outsiders (read non-ethnic Assamese) blurred the legal argument about illegal foreigner's issue for sometime until the formal discussion between AASU, AAGSP and the Central Government started. AJD, one of the most vocal organizations about the issue, starting a political campaign against illegal foreigners in 1979 demanded a constitutional amendment for handling the issue of outsiders in Assam.⁵⁹ A rather long pamphlet in Assamese published by the *Dal* discussed threadbare how infiltration of illegal foreigners emerged as a central political and economic question in Assam after Independence. Duly noting the government's legal and political measures against illegal foreigners since the 1960s, it categorized three groups of illegal foreigners: Hindu immigrants, Muslim immigrants and Nepali immigrants. The AJD highlighted how the deported Hindu immigrants from Bangladesh kept returning to Assam even after deportation,

“...Returning to Assam through neighboring states like Tripura and West Bengal...there are examples of forging of identity cards by the foreigners with the help of government officials in these states...(also) many times deported Hindu illegal foreigners under the clause 2 (A) of Foreigners Act

⁵⁷ Purbanchaliya Loka Parishad, PLP, a regional political party was formed in 1977 under the leadership of political leaders like Nibarani Bora, Atul Bora etc.

⁵⁸ Asam Jatiyatabadi Dal was formed in 1977 in July under the leadership of leaders like Dr. Nesar Ahmed, Nagen Hazarika and Girin Barua etc. This political party was later fractioned into many groups.

⁵⁹ Asam Jatiyatabadi Dal, *Byapak Bahiragatar Samashyayai Asamor Janajivanot Saram Bipajoyor Srishti Korise: Asam Jatiyatabadi Dalor Tathyasambalita Pramanik Dalil*, (Guwahati: Pamphlet, Asam Jatiyatabadi Dal, 1979), 1979.

1946, were disowned as citizens by the Bangladesh government.”⁶⁰

(*Translation mine*)

AJD, while discussing the colonial government’s repeated reorganization of the political boundary of Assam, maintained that the process communally pitted indigenous communities against Bengali speakers. It expressed anger against the hegemony of Bengali language in Assam during British rule and termed it as the cultural colonization of Assam by Bengali speakers.⁶¹ The AJD however noted that the Bengali speaking population was the highest in urban areas, considered as a threat to Assamese culture. There were reasons why the Assamese people were highly suspicious about Bengali outsiders. As AJD’s pamphlet argued, ‘11.4% of the total inhabitants of Assam were outsiders, 17.8% of the population spoke Bengali as mother tongue...only 57% speak of the total population speak Assamese.’⁶² The AJD adopted a different yardstick for the Nepali population in Assam. It argued that the Nepali population in Assam needed to be seen in reference to the Foreigners (Restricted Area) Order 1963. The Order withdrew the exemption of Nepali nationals from the requirement of obtaining special permits to enter and stay in protected and restricted areas. It covered the Nepalis living in Assam without permit. It demanded that those Nepali living in Assam without permit under the Foreigners (Restricted Area) Order 1963 and whose names were not in the voter list of 1976 must be deported.⁶³

Interestingly, the *Asam Jatiyadabadi Dal* considered the Hindu and Muslim illegal immigrants as two separate entities. It stated that Muslim immigrants had been a major concern much before independence and the drastic growth of their population in certain districts of Assam had taken a serious turn during the revision of electoral rolls. It claimed that the Congress governments in Assam had always safeguarded the Muslim illegal foreigners for their political interest by using them as vote-banks.⁶⁴ Referring to the Indira-Mujib Pact, AJD demanded that India should abide by the Pact’s agreement that no Bangladeshi citizens who entered India after 25 March 1971 would be conferred Indian citizenship. The Pact’s political mandate was ‘to maintain

⁶⁰ *Asam Jatiyatabadi Dalor Tathyasambalita Pramanik Dalil*, Pamphlet, 1979, 6.

⁶¹ *Asam Jatiyatabadi Dalor Tathyasambalita Pramanik Dalil*, Pamphlet, (1979), 7.

⁶² *Asam Jatiyatabadi Dalor Tathyasambalita Pramanik Dalil*, Pamphlet, (1979), 9.

⁶³ *Asam Jatiyatabadi Dalor Tathyasambalita Pramanik Dalil*, Pamphlet, (1979), 12.

⁶⁴ *Asam Jatiyatabadi Dalor Tathyasambalita Pramanik Dalil*, Pamphlet, (1979), 10.

fraternal and good neighborly relations and transform their border into a border of eternal peace and friendship.’⁶⁵ But AJD argued that Bangladesh was not adhering to the promise, as AJD observed that Bangladesh had been denying to accept identified Bangladeshi on the basis of Foreigners Act 1946.⁶⁶

The Asam Sahitya Sabha, the only literary organization within the umbrella platform of the AAGSP, and which took a pro-active role against the illegal foreigners during the Assam movement, never refrained from building powerful political narrative on the foreigners.⁶⁷ The *Sabha* highlighted the impact of immigration on the economy of Assam. Thus it stated, “The pressure of a high density of population in Bangladesh coupled with an abysmally low per capita income has made infiltration into Assam with its rich fertile soil, a very profitable position for Bangladeshis. In this he has been aided and abetted not only by scheming politicians bent on altering the demographic complexion of the state, but also by the callous and corrupt Border Security Force. Neighboring states like West Bengal and Tripura have colluded in the anti-national act of arming Bangladeshi deportees with Citizen Certificates. As for Nepalis they have free access to India without any passport obligation. As a result the projected foreign population of Assam for 1981 is a staggering 5.1 million!”⁶⁸

The *Sabha*, like AJD, also attributed this to various political parties, including the ruling parties at the Centre. It argued that various political parties had actively encouraged and patronized illegal foreigners in Assam and this had led to intense communalization in Assam.⁶⁹ PLP publicized about the foreigners issue much earlier in 1977. The PLP, during the 1977 legislative assembly election campaign, listed the foreigners issue as one of the major political and economic issues in their election manifesto.⁷⁰ The PLP would further campaign about the issue in the near future and make stronger arguments about citizenship.

This public rhetoric on illegal foreigners, their claim to Indian citizenship would become the central theme for official discussions between the Assamese leaders and

⁶⁵ *Treaty of Peace and Friendship, Signed by the Prime Minister of India, Indira Gandhi and Prime Minister for the People's Republic of Bangladesh*, (Dacca: 19 March 1972).

⁶⁶ *Treaty of Peace and Friendship*, (Dacca: 19 March 1972), 11.

⁶⁷ Asom Sahitya Sabha, *Eclipse in the East: Analysis of the Present Agitation in Assam* (second edition), (Guwahati: Assam Sahitya Sabha, May 1980).

⁶⁸ Asom Sahitya Sabha, *Eclipse in the East*, 1980, 5-6.

⁶⁹ Asom Sahitya Sabha, *Eclipse in the East*, 1980, 11.

⁷⁰ Atul Bora, *Abirata Sangram*, (Guwahati: Maa Publishing, (2007), 27-28.

the government of India. Though the legal framework to define a foreigner and a citizen was quite complex, given India's tumultuous border making process in the aftermath of the Partition,⁷¹ such rhetoric helped Assamese leaders to keep pressurizing the central government and also continue getting public support. By the end of 1979, these matters were widely discussed by the leaders of the popular protest against illegal foreigners.

The First Meeting

The prevailing notions not only found place during discussions between Assamese leaders and the government, but also directed the mood. The talks would bridge the gap between general perceptions about these crucial issues integral to citizenship with the existing legal and constitutional framework. In the first formal meeting in Delhi AASU submitted a memorandum of 119 pages to the Prime Minister.⁷² This meeting in Delhi was sure to raise hopes in Assam. AASU by then had attained the status of an organization that could represent the hope of Assam. Before departing to Delhi, Prafulla Kumar Mahanta, the president of AASU expressing his gratitude towards all sections of people, 'promised to keep the demand of fulfilling all hopes of people of Assam.'⁷³ The AASU's delegation comprised of eight members; Mansing Rongpi, Lalit Rajkhowa, Bhriugu Phukan, Prafulla Mahanta, Bharat Narah, Dhruva Prasad Baishay, Naser Iftikar Hussain and Deba Prasad Bora. The Assamese press gave wide publicity to the AASU delegates' visit to Delhi. The *Dainik Asam* reported that 'A delegation comprising 8 members of AASU had travelled to Delhi to discuss with the Prime Minister about the problems of Assam...they would submit a memorandum of 119 pages to the Prime Minister.'⁷⁴ This '119-page memorandum' was in fact documentation from newspaper cuttings on the months old movement. Kumud Sarma, a senior professor of law from the Gauhati University, accompanied the AASU leaders. Significantly Professor Sarma, designated as interpreter, would soon emerge as a crucial negotiator between the AASU leaders and the government of India. The AASU delegates met Mrs. Gandhi on 2 February 1980; Mrs. Gandhi apparently sympathized with Assam's political crisis as she was quoted saying, "The

⁷¹ Antara Datta, *Refugees and Border in South Asia: The Exodus of 1971* (London: Routledge, 2013); Schendel Van Williem, *The Bengal Borderland: Beyond State and Nation in South Asia*. (London: Anthem Press, 2009).

⁷² Datta, *Refugees and Border in South Asia*, 2013; Van Williem, *The Bengal Borderland*, 2009.

⁷³ *Dainik Asam*, 1 February 1980.

⁷⁴ *Dainik Asam*, 1 February 1980.

question has to be looked into carefully. While nobody was in the favor of foreigners being permitted to pose as Indian citizens, it was equally important to see that genuine citizens were not harassed in any way.”⁷⁵

The AASU leaders placed before the Prime Minister five demands: the Indian government take steps to stop influx from Bangladesh, to delete the names of foreign nationals from the electoral roll, to deport them, to issue identity card to Indian citizens and the Assam government should be empowered to reject any doubtful citizenship certificates issued by the governments of West Bengal and Tripura.⁷⁶ Importantly AASU brought in the matter of ‘Assam’s national identity’ and demanded to provide constitutional safeguards to protect the ‘identity’ of the people living in Assam.⁷⁷ The proposal intended to address the Assamese identity issue through a legal framework. But the government of India insisted in deliberating more on the citizenship issue. The government of India’s apparent refusal to priorities the issue of the Assamese identity faced criticism in Assam. The *Assam Tribune* worriedly wrote ‘how the Assamese be enabled to preserve their identity, culture and heritage and ensure they are not left without a homeland which they truly call their own?’⁷⁸

The AASU demanded concrete legal and bureaucratic measures for solving the problem. Though AASU left it on the government to decide the concrete steps, it did make a clear case for Assam in its memorandum to the Prime Minister. The memorandum explained how the ever-increasing influx of population had been creating immense economic pressure on ‘economically backward Assam.’⁷⁹ The memorandum argued, ‘...it is not difficult to explain migration of Indians from other states into economically developed or developing states...on the other hand Assam is economically backward. Infrastructure and industrialization is virtually non-existent. Resources have only been drained out. Economic stagnancy rules out too large scale migration from other states into Assam to account for staggering growth rate of population.’⁸⁰

⁷⁵ *The Assam Tribune*, 3 February 1980.

⁷⁶ *The Assam Tribune*, 3 February 1980.

⁷⁷ *The Assam Tribune*, 3 February 1980.

⁷⁸ Inder Jit, “Assam: No Safety in Weakness”, *The Assam Tribune*, 14 February 1980.

⁷⁹ AASU, *Memorandum to the Prime Minister of India on Problem of Foreign Nationals in Assam*. 1980.

⁸⁰ AASU, *Memorandum to the Prime Minister of India*, 1980, 5.

AASU concluded that Assam's increasing electorate signified that the growth in population was due to illegal immigration from countries like Bangladesh and Nepal. Drawing on official statistics of the period 1957-1970, the memorandum claimed that within a period of 13 years, electorate increased up to 0.92%, and from 1971-1979 within a period of 8 years electorate increased by 3.5%.⁸¹ The AASU also attributed this to the unholy alliance of corrupt bureaucracy and politicians and illegal foreigners. Like the *Asam Jatiyatabadi Dal*, the AASU also thought that it was the corrupt politicians, who helped foreign nationals to get enrolled in voter list for their political interest. It saw a vote bank incentive in this process,

“The first thing foreign nationals try is to enroll their names in the voters' list with the connivance of anti-social elements, politicians, and officials on this side of the border. The motive is crystal clear. The infiltrators vote for the politicians who protect them in all aspects. In fact politicians encourage infiltration to ensure their political survival.”⁸²

The memorandum pointed out that constitutional provisions have been blatantly violated in Assam by allowing foreign nationals to exercise franchise.⁸³ While concern was raised about the increase in Nepali population in Assam, the increase of Bangladeshi illegal foreigners who had acquired voting rights was the most highlighted. Consequences of such continuous immigration, according to AASU, were social, political, economic and cultural conflicts.⁸⁴ The AASU also claimed that this influx had caused serious threat to the political future of tribal communities in Assam. Thus it wrote, “The problem has badly hit the tribal populations. All the 33 blocks and belts reserved for the tribal people are on the verge of extinction. Pressure on economy has reduced sizes of the reserved tribal blocks. Forest resources are fast disappearing due to indiscriminate felling of trees and occupation of the area by foreign nationals.”⁸⁵ The memorandum concluded that ‘the people of Assam had genuine reasons to believe that foreign nationals would injure regional and national

⁸¹ AASU, *Memorandum to the Prime Minister of India*, 1980, Table 6, 6.

⁸² AASU, *Memorandum to the Prime Minister of India*, 1980, 4.

⁸³ AASU, *Memorandum to the Prime Minister of India*, 1980, 6.

⁸⁴ AASU, *Memorandum to the Prime Minister of India*, 1980, 8.

⁸⁵ AASU, *Memorandum to the Prime Minister of India*, 1980, 9.

interest'⁸⁶ and the governments in the center and state must act as soon as possible. The AASU believed that attempts to develop the region industrially couldn't succeed unless the record population growth due to influx was fully halted.⁸⁷

Briefly the AASU placed seven basic demands before the central government to handle the foreigner's issue. Thus it proposed that i) the NRC of 1951 should be made up-to-date by taking into consideration the additions to number of each family since the time of compilation of Register in 1951, ii) the comparison of the NRC with the successive electoral rolls since 1952 would also be hopeful in making it up-to-date, iii) a free zone devoid of trees and houses should be created all along the border and anyone crossing it without valid documents should be shot at, iv) birth and death register at all block, village, town etc. should be strictly maintained in order to prevent infiltration into voters list and v) number of check posts should be increased so as to enable one check post to be visible from the other.⁸⁸

The AASU's proposals had clearly set a case for Assam and a contested debate on citizenship. In the following rounds of discussions, AASU would build up their anti-foreigner's narrative on the basis of these primary demands and proposals. The central Government would also partially consider some of these demands and would take up certain administrative steps especially in the border areas to check infiltration.

This first round of talks did not go unnoticed nationally. Also, for the newly formed Congress (I) government at the Centre, an efficient handling of the law and order situation in Assam became an immediate priority. But it could not escape the wrath of the opposition parties; on the first day of the meeting, the opposition parties created much uproar in the Parliament. P. Venkatasubbaih, minister of state for Home Affairs, assured a solution of the Assam crisis by the Prime Minister. The home minister further stated that steps had been taken to provide protection to minorities and to stop the influx of foreigners.⁸⁹ The Parliament also approved President's Rule in Assam.⁹⁰ BJP leader Atal Bihari Vajpayee suggested formation of an all-party

⁸⁶ AASU, *Memorandum to the Prime Minister of India*, 1980, 9.

⁸⁷ AASU, *Memorandum to the Prime Minister of India*, 1980, 8.

⁸⁸ AASU, *Memorandum to the Prime Minister of India*, 1980, 15-16.

⁸⁹ *Indian Express*, 3 February 1980.

⁹⁰ *The Assam Tribune*, 3 February 1980.

government in Assam.⁹¹ Two days later India's home minister Zail Singh met AASU leaders and agreed that Assam's 'foreigners problem' was not a regional but India's national problem.

This meeting gave a sense of confidence to the politically little trained AASU leaders. They had reason to be happy about their first meeting with the astute Mrs. Gandhi and maintained that 'for the first time the Centre had admitted the presence of foreign nationals.'⁹² On the other hand, the government of India stipulated that 'normalcy must be restored without delay to facilitate early implementation of their demands.'⁹³ The meeting at least gave a sense that both the government of India and the AASU leaders had reached consensus on three major aspects about foreigners and citizens, that steps would be taken for detention and deportation of foreigners, removal of their names from electoral rolls before any election was held in Assam, need for vigilant election machinery so that foreigners' names did not enter into electoral rolls, need for safeguarding Assam's border with the neighboring countries, need for issuance of photo identity cards to Indian voters living in Assam.⁹⁴ The meeting however could not lead to anywhere in the matter of the process of detection and deportation of foreigners.

Generally, this initiative to resolve Assam's crisis by the government was appreciated. The *Indian Express* was forthright: 'The agreement in principle on most of the demands underlying the tragic turmoil in Assam is a tribute to the spirit of understanding and reasonableness that obviously informed the New Delhi talks between Assam student leaders and the Prime Minister.'⁹⁵ The *Indian Express* did not forget to take a dig on the process of identification of the foreigners. Thus it commented,

'...While there never were and can never be two opinions on the question of permitting foreigners to pose as Indian nationals, the problem of defining an alien is likely to present a host of difficulties. Assam perhaps more than any other region has been the refuge of people from

⁹¹ *The Assam Tribune*, 3 February 1980.

⁹² *Indian Express*, 5 February 1980.

⁹³ *Indian Express*, 7 February 1980.

⁹⁴ *Indian Express*, 7 February 1980.

⁹⁵ *Indian Express*, 8 February 1980.

neighboring areas, particularly from Bangladesh...the ethnic, cultural and linguistic commonality has enabled the immigrants to enter and settle down in Assam without easy detection. Assuming that the scrutiny will be conducted with the utmost efficiency, a dividing line will have to be drawn in deciding which foreigner has to be deported. This question has the potential of causing renewed trouble...'⁹⁶

Contrary to this, the press in Assam believed that the question, 'who was a foreigner' posed no problem as 'The Constitution' and 'the Citizenship Act left no scope for doubt.'⁹⁷ The government of India, however, did not pursue the proposal of the AASU that the Assam government should be given powers to reject any citizenship certificate issued by West Bengal and Tripura governments till further examination. The government of India also insisted discontinuance of the agitation. The student leaders told the union Home Minister that the suspension of the agitation would depend on the implementation of the five accepted points and insisted that the steps be undertaken immediately.⁹⁸

Meanwhile following the Indian Election Commission's order on 30 January for a summary revision of the electoral roll in the country without involving house-to-house enumeration,⁹⁹ the Assam government was asked to initiate immediate steps for 'preparing and maintaining correct electoral rolls.'¹⁰⁰ PLP expressed fears that correction of the voter list on the basis of complaints, without deciding on the citizenship status of the voters would be meaningless. Nibaran Bora, the chairman of PLP, suggested Clause 22 of Representation of People Act to define who is a foreigner.

More Rounds of Meetings

The first meeting opened a highly interactive platform for the coming years until August 1985. There would be several rounds of meetings over these years. In July 1980, CM of Manipur Rajkumar Dorendra Singh would mediate talks between the

⁹⁶ *Indian Express*, 8 February 1980.

⁹⁷ Inder Jit, "Assam: No Safety in Weakness", *The Assam Tribune*, 14 February 1980.

⁹⁸ *The Assam Tribune*, 7 February 1980.

⁹⁹ The voters allotted to each booth were given the space to put forward their claims. *Assam Tribune*, 1 February 1980.

¹⁰⁰ *Indian Express*, 12 February 1980.

Central Government and Assamese leaders, following which, leaders and the Central Government representatives would meet at Shillong. But the talks couldn't bring a solution to the problem. Next rounds would take place at Delhi in the months of September and October, which also couldn't bring any solution to the problem. Following months and years would witness more and more formal and informal meetings at different levels between the leaders of the popular protests and the Central government including bureaucrats. Various leaders belonging to different political parties would also talk to the leaders of the movements in their capacity. In these wide range of meetings, all-party meetings, discussions in the Lok Sabha and Rajya Sabha would unfold certain crucial issues relating to citizenship, which desperately demanded attention. Though these discussions could not immediately provide a meaningful answer to the question of development in Assam, yet would soon shape the citizenship discourse. The following sections will discuss them accordingly.

Who is a Foreigner?

The central question, which dazed the initial days of talks between the central government and Assamese leaders was 'who is a foreigner'. While announcing a visit to Assam, the Home Minister Zail Singh assured the Rajya Sabha that any foreigner found living in the region (Assam) without valid permits would be deported 'following the process of law'.¹⁰¹ He pointed out that the legal apparatus for identification and deportation of foreigners was yet to be discussed but admitted that the critical question 'who is a foreigner' needed examination. Before meeting Assam's student leaders, Mrs. Gandhi maintained that it was very difficult to define a 'foreigner' as several interpretations were being given to the word and an understanding had to be arrived at so that proper steps could be taken to stop the influx.¹⁰² Mrs. Gandhi turned down a suggestion of sending all party delegates to Assam to restore sanity as serious allegations were made about some parties inciting the movement. She further pointed out that the agitation was first directed against those who came from Bangladesh but later others from outside Assam were also included. To quote Mrs. Gandhi, "Different sections were calling different people

¹⁰¹ *Indian Express*, 12 February 1980.

¹⁰² Speech by Chandrajit Yadav (Azamgarh), *Parliamentary Debates*, (Vol.X, No.7, 2 February 1980) 190; *Indian Express*, 3 February 1980.

foreigners. We have to see who is a foreigner and who is not. People who have shared joy and sorrow with us, who have voted in elections and have lived with us and who have been here for a long time couldn't be called foreigners. But if Assam is not prepared to accept them, we have to find other places for them.”¹⁰³

This statement would seemingly set the agenda for all future discussions between the government of India and the Assamese leaders. The Assamese leaders regularly proposed that the bona-fide refugees, who couldn't be identified as illegal foreigners, should be settled in other parts of the country. The government of India insisted that most illegal foreigners were refugees, whom Mrs. Gandhi referred as those 'who had shared joy and sorrow' with India. The government insisted that the refugee's rehabilitation must be pursued according to 'international commitment and humanitarian grounds.’¹⁰⁴

Meanwhile Home Minister Zail Singh informed that all the illegal foreigners would be deported except those who were given permission to live in India under the Nehru-Liaquat Pact and Indira-Mujib Pact.¹⁰⁵ These Pacts continued to influence the legal basis for identification of illegal foreigners from Bangladesh, erstwhile East Pakistan. Nehru-Liaquat Pact, signed between former Prime Minister Jawaharlal Nehru and former Prime Minister of Pakistan Liaquat Ali Khan, on 8 April 1950, at New Delhi ensured to the minorities, 'complete equality of citizenship, irrespective of religion, a full sense of security in respect of life, culture, property and personal honor, freedom of movement within each country and freedom of occupation, speech and worship, subject to law and morality.’¹⁰⁶ Following the post independence communal riots in both countries, many arguably migrated. As discussed in chapter III, a large section of the Muslim population from Assam also left for East Pakistan. To ensure the rights of minorities the Nehru-Liaquat Pact agreed upon that 'rights of ownership in or occupancy of the immovable property of a migrant wouldn't be disturbed.’¹⁰⁷ It ensured, "...if during his absence, such property is occupied by another person, it

¹⁰³ This remark of the Prime Minister marks significance as the Chief Minister of West Bengal Jyoti Basu reacted promptly and asserted that none of the foreign nationals residing in Assam would be acceptable either to Bangladesh or to West Bengal. This invited reaction from various sections in Assam. Quoted in *The Assam Tribune*, 26 January 1980; *The Assam Tribune* 4 January 1980.

¹⁰⁴ *The Assam Tribune*, 26 January 1980; *The Assam Tribune* 4 January 1980.

¹⁰⁵ Homen Borgohain, "Asam Samasyar Samparkot Kedriya Sarkaror Ubhoi Sankat", in *Sadiniya Nagorik*, (14 February 1980).

¹⁰⁶ *Nehru-Liaquat Ali Pact*, 8 April 1950.

¹⁰⁷ *Nehru-Liaquat Ali Pact*, 8 April 1950.

shall be returned to him, provided that he comes back by the 31 December 1950.”¹⁰⁸ While the popular protest against illegal foreigners renewed the argument on citizenship, the Nehru-Mujib Pact, however, invited criticism that India being a secular country did accommodate all who return before 31 January 1950, irrespective of religion. This technically pushed back the date for attaining Indian Citizenship to 31 January 1950 instead of 26 January 1948, conferred by the Constitution of India.¹⁰⁹ By 31st December 1950, reportedly a number of 1,61,360 people migrated into Assam through recognized routes of travel.¹¹⁰

Another major phase when India had to give refuge to millions of people from erstwhile East Pakistan was during 1971 Indo-Pak war. India, in 1974, entered into another agreement with Bangladesh on the question of their borders. This pact is popularly known as the Indira-Mujib Pact 1974, and sought to cover the demarcation of the land boundary between the two countries and other related issues. The agreement was promised to be ratified by the governments of India and Bangladesh. Bangladesh Parliament on 28 November 1974 passed the Constitution (Third Amendment) Act 1974¹¹¹, which ratified the Indira-Mujib Accord, but India had not ratified the treaty till then. It assured, ‘to maintain fraternal and good neighborly relations and transform their border into a border of eternal peace and friendship.’¹¹² This was a significant landmark in the debate, while the foreigners issue came into the forefront during the 1980s. The Government of India while insisting on the international agreement and humanitarian grounds referred to this Indira-Mujib Treaty.¹¹³

The PLP argued caution about the Indira-Mujib Pact. The people of Assam should realize that this Pact might create trouble as PLP considered it as not legal. Unlike the Nehru-Liaquat Pact, the Indira-Mujib Pact was not accepted through Parliamentary procedure. Moreover, the PLP believed that if at all the Indira-Mujib Pact applied in the case of Assam, Article 6 of the Indian Constitution, which provisioned for giving

¹⁰⁸ *Nehru-Liaquat Ali Pact*, 8 April 1950.

¹⁰⁹ Gaurisankar Bhattacharya, *Bhumi-Putrar Marma Bedana*. (Guwahati: Purboday Press, (1985)) 47-49.

¹¹⁰ *White Papers on Foreigners' Issue*, Home and Political Department, Government of Assam, 20 October 2012.

¹¹¹ *The Bangladesh Gazette Extraordinary*, Part V, 28 November 1974.

¹¹² Treaty of Peace and Friendship, Signed by the Prime Minister of India, Indira Gandhi and Prime Minister for the People's Republic of Bangladesh, 19 March 1972. Dacca.

¹¹³ Government of India had ratified the treaty in the year 2013.

Indian Citizenship to persons who had migrated to the territory of India from the territory then included in Pakistan,¹¹⁴ wouldn't be applicable making it unconstitutional. The PLP insisted that the Indian Constitution should be the same for all India, and no exception in the case of Assam would be acceptable.¹¹⁵ This campaign against the Indira-Mujib Pact continued till the Home Minister's visit in February 1980. On the very day of the Home Minister's arrival on 22 February, the PLP called for 'Indira-Mujib Pact Protest Day'.¹¹⁶ The PLP issued a statement, "...the date-line March 2, 1971 has no constitutional *locus-standi* nor does it have any legal basis. The foreign nationals must be dealt with under the provision of the Constitution and the relevant law."¹¹⁷ It further stated that one of the significant points about the Indira-Mujib Pact was that while it did not put any restrictions on Bangladeshi nationals to enter Assam or India. It made deportation of a single Bangladeshi practically impossible. The PLP argued that the Pact was nothing but an inspiration for the illegal entry of people from Bangladesh to Assam as they knew their deportation would be just 'a procedural jungle' and ultimately their stay would be legalized.¹¹⁸

Apart from illegal foreigners from erstwhile East Pakistan, the AASU and other political parties also considered the problem of the Nepali migrants from Nepal. The cattle breeders and the pastoralists from Nepal who migrated into the Brahmaputra valley, along with the land-seeking population from East Bengal had influenced the agrarian economic scenario in the last decades of nineteenth century.¹¹⁹ The Nepali immigrants kept concerning Assam's administration till the 1960s when illegal immigration from Pakistan raised serious political concerns. In 1979, while the

¹¹⁴ Article 6 of Indian Constitution provisioned conferring Indian Citizenships to those person who had migrated from the territory included in Pakistan to the territory of India if a) he or either of his parents or any of his grandparents were born in India as defined in Government of India Act 1935 (as originally enacted) and b) i) in the case where such n the case where such person has so migrated before the nineteenth day of July, 1948, he has been ordinarily resident in the territory of India since the date of his migration, or ii) in the case where such person has so migrated on or after the nineteenth day of July, 1948, he has been registered as a citizen of India by an officer appointed in that behalf by the Government of the Dominion of India on an application made by him therefor to such officer before the commencement of this Constitution in the form and manner prescribed by that Government, provided that no person shall be so registered unless he has been resident in the territory of India or at least six months immediately preceding the date of his application.

¹¹⁵ *Dainik Asam*, 8 February 1980.

¹¹⁶ *Dainik Asam*, 18 February 1980.

¹¹⁷ *The Assam Tribune*, 21 February 1980.

¹¹⁸ *The Assam Tribune*, 21 February 1980.

¹¹⁹ Arupjyoti Saikia, *Forest and Ecological History of Assam, 1826-2000*, (New Delhi: OUP, 2011); Saikia, *A Century of Protests*, 2014.

slogans against enfranchising illegal foreigners were raised, the Nepalis also were a point of concern for various political organizations. *Asam Jatiyatabadi Dal*, *Asam Sahitya Sabha* categorically discussed the Nepalis as illegal foreigners as discussed earlier. There were discussions on public platforms like the local media during the year 1980, when formal discussions about the foreigner issue started between the Assamese leaders and the government of India.

A memorandum submitted by the All India Gorkha League to the Government of India in 1980 reflected their concerns about the citizenship of Nepalis living in India. The memorandum claimed that the Nepalis residing in Assam since long either as grazers/encroachers should be given citizenship or holding of *patta-land* should be insisted upon and that all Nepalis living inside the borders should be considered as Indian Citizens.¹²⁰ Responding to the memorandum, the Central Government stated that granting Indian citizenship or any claim regarding citizenship could only be entertained under the Indian Citizenship Act 1955, which clearly rendered the process of obtaining citizenship in India by registration and other conditions.¹²¹ The note maintained that there couldn't be a separate rule for Nepalis nor their status could be determined in the manner/forum suggested in the memorandum as the committees/bodies/processes would be extra legal bodies or processes.¹²² The note further clarified confusion regarding Restricted Area Permit (RAP) order 1963 according to which Assam was declared a restricted area.¹²³ Bringing an amendment in the year 1976, the same order was reissued which withdrew the exemption for the Nepalis to live without permit in Assam. The government order dated 5 August 1976 stated, "Under the provision of the Foreigners (Protected Areas) order 1958 and the Foreigners (Restricted Areas) order 1963, Nepali nationals are exempted from the requirement of obtaining special permits to enter and stay in the protected and restricted areas, it has been decided that the exemption should be withdrawn."¹²⁴ The amendment order was termed as the Foreigners (Restricted Areas) Amendment Order

¹²⁰ 'Memorandum of All India Gorkha League', *Deportation of Foreigners from the State of Assam (Nepali Foreigners)*, Home Confidential, Assam Government, File no. PLB.166/79. 1979, ASA.

¹²¹ Citizenship Act, 1955.

¹²² Official note regarding the All India Gorkha League's Memorandum. *Deportation of Foreigners from the State of Assam (Nepali Foreigners)*, (Home Confidential, Assam Government: PLB. 166/79, ASA.

¹²³ Restricted Area Permit (RAP) order 1963. Annexure 5.

¹²⁴ 'Letter of the Deputy Secretary to the all-state government and Union Territory administrations, 5 August 1976', *Deportation of Foreigners from the State of Assam (Nepali Foreigners)*, (Home Confidential, Assam Government: PLB. 166/79), ASA.

1976, and stated that in Clause (a) of the first proviso to paragraph 3 of the Foreigners (Restricted Areas) Order, 1963, the words “or the nationals of Nepal” should be omitted.¹²⁵

However, following the anti-illegal foreigner campaign and the political turmoil about the deletion from voter rolls and deportation of illegal foreigners had produced a great fear psychosis in several communities. The *North Eastern Regional Indian Nepali United Front* in a memorandum to the Prime Minister argued that even wearing of traditional Nepali dress entailed harassment, they were denied the opportunity of registering their names in the employment exchange and systematic and forcible eviction of Nepali peasants and working people was taking place from forest, government land and tribal areas.¹²⁶ There were police reports of clashes in the bordering areas and Nepalis fleeing Assam to Nepal through West Bengal.¹²⁷ Instances of these were reported from places like Dayang, Sibsagar and Jorhat where Nepalis were harassed, evicted and detained for living in Assam without permits.¹²⁸ But the government clarified that the whole of Assam was a restricted area under the Foreigners (Restricted Areas) Order, 1963 and the Nepali nationals were subjected to the requirement of permits for Assam.¹²⁹

The Nepali nationals' issue would take a different course in the negotiation process. The Indian government wanted to examine this question according to the Indo-Nepal peace agreement and also as per India's international diplomatic commitments. But for the Assamese leaders the Nepali population also came under the purview of the question 'who is a foreigner?' The communal aspect here worked at a different plane. A memorandum by the All India Gorkha League to the Chief Minister of Assam of 18 November 1979 clearly hinted at this, '...the Indian citizens of Nepali origin are

¹²⁵ Copy of the order No 250022/110/F. (ii) Govt. of India/Bharat Sarkar, Ministry of Home Affairs, 30 July 1976, *Deportation of Foreigners from the State of Assam (Nepali Foreigners)*, (Home Confidential, Assam Government: File no. PLB.166/79), ASA).

¹²⁶ Content of the Memorandum as briefed in the letter to KML Chhabra advisor to the governor of Assam from Ministry of Home Affairs, India. *Deportation of Foreigners from the State of Assam (Nepali Foreigners)*, (Home Confidential, Assam Government: 1979), ASA.

¹²⁷ Daily Situation Report, *Deportation of Foreigners from the State of Assam*, (Nepali Foreigners), (Home Confidential: Assam Government, 1979), ASA.

¹²⁸ *Deportation of Foreigners from the State of Assam (Nepali Foreigners)*, (Home Confidential, Assam Government, 1979), ASA.

¹²⁹ Letter from Home Ministry, Government of India No. D.1403/80-F.I. to the Chief Secretary, Government of India, 22 March 1980. *Deportation of Foreigners from the State of Assam (Nepali Foreigners)*, (Home Confidential, Assam Government), ASA.

bona fide Indian citizens and have been living since undivided India and till now in these parts of your state. It will be a great injustice to mix these people with the unprecedented influx into your state from Bangladesh.’¹³⁰

The discourse was taking a turn towards the Bangladeshi nationals who trespassed the Indian border illegally. This had a reference to the government moves taken earlier against the illegal migrants from Pakistan. In the course of discussion a sentiment was clearly emerging against the illegal foreigners from Bangladesh. New York times made an interesting comment as early as in March 1980, “The 10 month-long agitation in the north eastern state of Assam against immigrants, mainly from West Bengal and Bangladesh, has developed into rivalry between Assam and the neighboring state of West Bengal.”¹³¹

Year of Identification 1951 vs. 1971

After an assumed answer to the question ‘*who is a foreigner*’, another question surfaced about the cut off year for the identification of illegal foreigners. The question was owing to different phases of migration into Assam and until when this migration would be legalized. AASU clearly stated its position for the year 1951. It stated, “considering the refugee question, who would be considered as illegal foreigners, as crisis around the North East led to migration of foreigners (from Bangladesh (Erstwhile East Pakistan)). AASU made a strong case for the year 1951 as the cut-off year and proposed 1951 National Register of Citizens to be used as the base document. Its argument was supported by various government official and legal documents. AASU argued that 1951 NRC was the government record, which listed all Indian citizens at the time of adoption of the Constitution. It quoted from Note (4) in the prefatory Note of Vol. XII of the Census of India, 1951 Part I-B published in 1953 that, “In addition to the printed volumes, there are National Registers of Citizens prepared simultaneously with the filling up of enumeration slips giving important census details for each person of every village or warden in a town. These Registers are preserved in manuscript as permanent records in district offices.”¹³²

¹³⁰ *Deportation of Foreigners from the State of Assam (Nepali Foreigners)*, (Home Confidential, Assam Government, 1979), ASA.

¹³¹ New York Times, 23 March 1980.

¹³² All Assam Students Union, “*Why National Register of Citizens of 1951 Must be Used to Detect Foreign Nationals in Assam?*”, (Guwahati: AASU, 1980), 2.

The AASU on the basis of several official documents argued that NRC of 1951 was being referred and used as a basic document to identify foreigners and also to decide who was a citizen of India after 1951.¹³³ It quoted Union Home Minister G.L.Nanda's letter (No1/36/64-F III), which stated, "What is actually done in Assam is not the preparation of any new register but copying out from the National Register of Citizens of 1951 Census the names and other details to verify whether an individual suspected to be a Pakistani infiltrator was in fact a resident of India at the time of the 1951 census."¹³⁴ In the same argument AASU maintained that on many other occasions government officials were referring the NRC 1951 to be used as the base document for verification of illegal infiltrators. The 1952 electoral roll was also being referred to as a helpful document in the detection process.¹³⁵

Following this, AASU claimed that it had access to National Register of Citizens 1951. The government denied any such public access to these records and maintained that the NRC was not a public document open to inspection under section 15 of the Census Act. This counterargument however was debated by AASU on the ground that the government themselves didn't hold the view that it was not a public document. Otherwise AASU questioned how the two political parties namely the Congress and Jamiat-Ulema-i-Hind received copies of NRC 1951.¹³⁶

The legal feasibility of the year 1951 was also argued on the base of the Nehru-Liaquat Pact 1950. According to this Pact, the date of claiming Indian citizenship was agreed upon as 31 December 1950.¹³⁷ The AASU leadership claimed that following this the Hindu minorities from East Pakistan continued pouring into Assam. The AASU widely published the Assamese translation of the Nehru-Liaquat Pact to gain public consensus on 1951 as the year for identification of illegal foreigners staying in Assam.¹³⁸ It reiterated the adoption of the National Register of Citizenship 1951 as the base document for identification, deletion and deportation of the foreigners.¹³⁹ To recall the NRC was prepared by copying out in registers the census documents

¹³³ AASU, "Why NRC of 1951 Must be used to detect foreign nationals in Assam?", 1980, 2.

¹³⁴ Letter from G.L.Nanda to M.L.A. Sarat Chandra Goswami, as quoted by AASU (AASU, "Why NRC of 1951 Must be used to detect foreign nationals in Assam?", 1980), 2.

¹³⁵ AASU, "Why NRC of 1951 Must be used to detect foreign nationals in Assam?", 1980, 3.

¹³⁶ AASU, "Why NRC of 1951 Must be used to detect foreign nationals in Assam?", 1980.

¹³⁷ Nehru-Liaquat Pact, 1950.

¹³⁸ Rangbhumi, "1951 Chonei Houk Bideshi Sinaktakaranor Samayseema", Asam Sahitya Sabha, pamphlet July 1980.

¹³⁹ AASU, "Why NRC of 1951 Must be used to detect foreign nationals in Assam?", 1980.

containing information on relevant particulars of each and every persons enumerated, so anyone whose name didn't figure can be subjected to inquiry within the meaning of section 2(a) of the Foreigners Act 1946 (amendment 1957).¹⁴⁰

The Indian government continued defending the year 1971. They gave reasons for this as India took a stand for 'a political solution in East Pakistan' and that bounded India to keep its 'international commitments'.¹⁴¹ Mrs. Gandhi was a signatory to the Indira-Mujib Pact of 1972. She reiterated her firm commitment to the year 1971 after the leadership's denial of the year 1967 in April 1980, as the cut off year for identification and deportation of foreigners from India. Though in September 1980, both, the leaders and the Government agreed to discuss the contentions issues within the framework provided by the Constitution of India, Foreigners' Act 1946 and Citizenship Act 1955.¹⁴²

Kumud Sarma, who guided AASU in all legal matters during the course of the negotiation and talks with the government of India pointed out a very significant dimension about the Indira-Mujib Treaty 1972 and Indira-Mujib Agreement 1974. Discussing these in great detail, Sarma maintained that neither of them had mentioned the date 25 March 1971, which the government of India reiterated to accept as the date of identification of foreigners following India's international commitment. Instead the government of India sent an order regarding the refugees coming after 1971. The order maintained that no Bengali or Non-Bengali who came after 25 March 1971 to India would be sent back to Bangladesh.¹⁴³ Only this order, Sarma maintained, mentioned the date 25 March. Sarma also stressed on the point that reference to the Indira-Mujib Treaty 1972 and Indira-Mujib Agreement 1974 didn't justify the Government's stand. Sarma maintained that the Constitution of India had not made the government bound to follow international agreement. The Clause 51 (c) of the Indian Constitution had asked the government to be respectful towards international agreements by considering the matter within state's rules and regulations. Similarly Clause 73 (b) and 253 had explained the power of the State in this regard and about the State government's power to pass bills regarding this. But,

¹⁴⁰ AASU, "Why NRC of 1951 Must be used to detect foreign nationals in Assam?", 1980.

¹⁴¹ *Hindustan Times*, 16 May 1981; *Indian Express*, 16 May 1981; *Assam Tribune*, 16 May 1981.

¹⁴² *Indian Express*, 25 September 1980; *Hindustan Times*, 25 September 1980; *Assam Tribune*, 25 September 1980; *Dainik Asam*, 25 September 1980.

¹⁴³ Kumud Sharma, "Indira-Mujib Sandhiaru Sangbidhan". *Dainik Asam*, 1 March 1980.

the Constitution, Sarma argued, never made it binding for the government to follow international agreements at any cost.¹⁴⁴

Hope for the Minority Organizations¹⁴⁵

In 1981, the talks were resumed in May, after they ended without any decision in October 1980. These rounds of talks were centered around three basic points, identification, deletion of the names of foreigners and deportation of the identified foreign nationals; and that 1951 should be the cut off year for the identification and deportation of foreigners; all refugees coming between 1961-71 should be dispersed to other state.¹⁴⁶

The AAGSP initially agreed to accept 1961 as the year of identification with the condition that the government would agree to identify and deport foreigners entering Assam between 1961 and 1970. On their way to attend the discussion meeting in May 1981, Jatin Goswami, one of the leaders of the AAGSP opined that, “in the event of such an agreement we will, however, demand sufficient safeguards so that the identified foreigners who will be deported or dispersed in other states as the case may be, may not return to Assam.”¹⁴⁷ The Indian government continued stressing to accept all those who entered Assam between 1961-71 as citizens. The government cited India’s ‘national commitment’ towards refugees.¹⁴⁸ It was during those days that Assam’s minority organizations met Zail Singh the union Home minister conveying their concerns. Mr. Singh assured the leaders of the minority communities of Assam stating that the ‘government was alive to the interest of minorities’.¹⁴⁹

Meanwhile Assam’s political dynamic was changing with the establishment of the All Assam Minority Students’ Union (AAMSU) on 31 March 1980. This platform encompassed the Bengali Hindu, Muslims, Nepali and the Ex Tea Garden labourers. The organization also got support from Congress leaders.¹⁵⁰ Immediately after its

¹⁴⁴ Kumud Sharma, “Indira-Mujib Sandhiaru Sangbidhan”. *Dainik Asam*, 1 March 1980.

¹⁴⁵ After failed rounds of talks in 1980, meetings of AASU and AAGSP with the Central government were resumed on 19 May 1981. From May to November there many rounds of talks between government and the Assamese leaders. In November all rounds of talks were declared failed.

¹⁴⁶ *Hindustan Times* 23 May 1981.

¹⁴⁷ *Indian Express*, 16 May 1981.

¹⁴⁸ *Hindustan Times*, 23 May 1981.

¹⁴⁹ *Hindustan Times*, 23 May 1981.

¹⁵⁰ Interview with Abdul Hainagori, First President, AAMSU, 25.8.2018, Interviewed by Prasun Barman and Prarthana Saikia. (“Asom Andolon 1979-1985”, *Ninth Column*, March 2019)

establishment, AAMSU launched a counter protest raising its voice against violence on minorities on 26 May 1980. This was marked by widespread protests and AAMSU emerged as a powerful organization.¹⁵¹ In the following rounds of talks with Home Minister Zail Singh, AAMSU would be called for their opinion about the cut off date. Other organizations like *Assam Gorkha Sammelan*, Tribal Protection Action Committee, Progressive Plains Tribal Council of Assam would also participate in these meetings. Their opinions varied. The Assam Gorkha Sammelan wanted July 30 1976 as the date for identifying the ‘Indian Nepalese’ of Nepal origin. They also sought the revocation of the order excluding Nepalis from the list of protected classes with effect from 1969.¹⁵² The Tribal Protection Committee sought the amendment of Assam Land Revenue Regulation to protect tribal lands from the non-tribals and ensure eviction of encroachers. The *Progressive Plain Tribal Council* delegation sought 25 March 1971 as the cutoff date. The *Citizens’ Forum of Assam* submitted that the entrants from erstwhile East Pakistan and Bangladesh should be put in two categories – those who were minority in Bangladesh had a right to citizenship in India and there ought to be no cut off year for them. Bona fide refugees must be automatically given citizenship. The other category according to them was the ‘infiltrators’ and should be considered separately.¹⁵³

Refugees vs. Migrants

Though these rounds of talks failed on the ground of the cut-off date and the government’s stand on the refugee issue, it legitimized the demands of the Assamese leaders. These leaders sought clarification on three issues: who would be identified as a foreigner, whose stay was unauthorized and proceeded against for detentions, deletion and dispersed outside Assam; who were ‘authorized immigrants’; Citizenship Act section 5(1) A and 5(1) E and their application in determining how a person would be given citizenship rights; and eviction of foreigners from Tribal belts and blocks. It should be noted here that section 5 (1) A of Citizenship Act 1955 entitled persons of Indian origin to get registered as Indian Citizens who had been living in India for five years and more and section 5 (1) E entitled citizens of a

¹⁵¹ Daily Situation Report No. 148, 27 May 1980, Special Branch Assam (Police), ASA.

¹⁵² Daily Situation Report No. 148, 27 May 1980, Special Branch Assam (Police), ASA.

¹⁵³ *Hindustan Times*, 25 May 1981.

country specified in the First Schedule to obtain Indian Citizenship through registration.

During the discussion in May 1981, the government clarified the 'authorized immigrants' as refugees from Bangladesh belonging to the minority community in the following talks. These rounds of talks sharpened the legal dimension of the movement. More rounds of talks followed in 1982. The basic premises of this negotiation remained the same. Four 'categories of people' emerged on the negotiation table with whom the fate of Assam was intertwined: a. The entrants between 1951-1961; b. The entrants between 1961-71; c. The refugees; d. The foreigners and immigrants. The entrants between 1961-71 remained the most complicated to decide on as the Government reasoned 'international commitment' as the basis of their argument. The 1971 Indo-Pakistan war and the refugees who entered into India during that period were supposed to be considered on 'humanitarian ground' and 'international commitment'. Their legalization as citizens or identification as refugees or foreigners continued to be the main point of contention for negotiation meetings. The leaders kept insisting on their identification and deportation and if deportation was not possible, proposed to share with other states. On the other hand the central government had reservations as it included the 'refugees' fleeing on occasions of conflict. As discussed earlier the question of refugees reemerged during the 1971 war, after partition and Assam was one of the major states in the North Eastern region to get exposed to the influx of refugees. The two historic events, Partition and formation of Bangladesh impacted the narratives on citizenship in India significantly as Zamindar has pointed out, the idea of citizenship (European in origin) had raised new issues in the process of modern state formation in South Asia as it led to situations of conflict and violence.¹⁵⁴ The settlement of the refugee issue in the case of Assam was vital as since after partition it raised serious political concerns for the accommodation especially of the Hindu refugees. Assam's attitude towards refugees was renowned to be reluctant.¹⁵⁵ Antara Datta explained

¹⁵⁴ Vazir Zamindar, *Divided Families and the Making of Nationhood in India and Pakistan 1947-65*. Unpublished PhD Thesis, (Columbia University: 2003).

¹⁵⁵ Parliamentary debate on Immigrants (Expulsion from Assam) Bill 1950 reflected widely on the Assam's attitude towards refugees, mainly the Hindus. Fear was expressed if the state government be given the power to expel 'undesirable immigrants' whose stay in Assam was detrimental to India, the 'needy', 'friends', the Hindu refugees might suffer. Speeches of Sardar B.S.Man, member of parliament from Punjab, Biswanath Das Member of Parliament from Orissa, 1950, (*Parliamentary Debates*, 8 February 1950).

how Assam unlike West Bengal had shown a different attitude towards the refugees from Bangladesh during 1971, which in a way led to the creation of the 'other' community, categorizing the refugees as immigrants, creating an 'emotional boundary', a barrier created between communities beyond the physical boundary created by state resulting in a feeling of hostility and resentment towards the refugees.¹⁵⁶

Beyond all legal technicalities, the question of execution came up on the discussion table in 1982. The government offered a modality to determine the foreigners, which identified the base documents for the process as 1951 NRC, electoral rolls including 1952, and land records maintained under Assam Land and Regulation Act. The leaders objected to the consideration of other electoral rolls (except 1952) for the entrants of 1961-71. They also opposed the questionnaire prepared by the government for identification of post 1971 entrants. The Assamese leaders feared that the government could consider policy instructions of 1965, according to which it was feared that it would facilitate all government assistance to accommodate the refugees as citizens and also would confer citizenship to all post 1971 Hindu migrants from Bangladesh.¹⁵⁷ The main snag was the political instruction of 1965, which legitimized the citizenship of refugees who had fled on account of communal disturbances or fear of communal disturbances. The leaders claimed that the Constitution should thoroughly be followed while identifying foreigners, whereas the 1965 policy instructions were clearly indicative of a non-secular attitude. That would accommodate all Hindu refugees but the Muslim refugees would be deprived. Leaders termed that as 'unconstitutional' and opposed the move.¹⁵⁸ The government expressed concern that the attitude of the leaders towards the government's stand on this issue was bringing all discussions to a loggerhead.¹⁵⁹

One proposition met the consensus of both the parties – that the entrants between 1951-1961 would be conferred with Indian citizenship. The government of India wanted 1961-71 entrants to be given citizenship, which the leaders opposed. In his seven points formula to settle the issue Bharatiya Janata Party (BJP) leader A.B.

¹⁵⁶ Datta, *(B)ordering South Asia: War, Violence and Displacement in 1971*, 2010.

¹⁵⁷ *The Assam Tribune*, 10 February 1982.

¹⁵⁸ *The Assam Tribune*, 5 September 1982.

¹⁵⁹ *Hindustan Times*, 13 February 1982; *Assam Tribune*, 13 February 1982; *Dainik Asam*, 13 Feb, 1982.

Vajpayee offered the use of 1951 NRC and other documents to identify foreigners under 'constitutional provisions'. The post 1961 entrants' names were suggested to be deleted from the electoral rolls and their burden to be shared with other states along with Assam. Vajpayee stressed on the 'bona fide refugees' whose cases were to be considered on the basis of policy pronouncement till date. Meanwhile, the government undertook initiatives to check infiltration. As early as in March 1980, the Central Government in an official statement announced that it had taken adequate steps to check infiltration in bordering areas of Assam, Tripura and Meghalaya. The order also stated that the Government had taken up measures to enhance river police to control illegal immigration through water routes.¹⁶⁰

Documents vs. Paper Citizens

The Assamese student leaders at the same time expressed concern that if the government considers all 'relevant documents' as proposed in the formula for identification of foreigners, large number of foreigners would obtain citizenship, illegally enfranchised in the past decades. The term 'relevant document' used by the government potentially would cover documents like school identity cards, ration cards, land records, permanent resident certificate (PRC), which according to the leaders was generally not a proper practice and these documents could easily be obtained by any means.¹⁶¹ The local media had been reporting on issuance of fake PRCs. Reports claimed that doubtful citizens had managed to get such certificates issued from chairmen of the village councils and members of district councils in various places. Allegedly the revenue office staffs and the local revenue officers were faking land records for personal benefits, which were helping the doubtful citizens to obtain land records.¹⁶² This was supportive of the leaders' apprehension.

Arguably around ten million people had 'technically' secured their citizenship by managing such documents, which is referred to as 'documentary citizenship'.¹⁶³ Kamal Sadiq discussed how illegal immigrants acquire citizenship in developing countries by fairly easily obtaining citizenship papers. Referring to such citizens as

¹⁶⁰ *The Assam Tribune*, 6 March 1980.

¹⁶¹ *Dainik Asam*, 9 Feb, 1982.

¹⁶² *Dainik Asam* 12, 10, 13 October 1980.

¹⁶³ Jayal, *Citizenship and Its Discontents: An Indian History*, 2015(2013)

‘paper citizens’ Sadiq raises the question ‘who is really a citizen’.¹⁶⁴ Precisely the question that plagued the years of talks and negotiations was ‘who is really a citizen?’ Now with no consensus ‘who is really a citizen’, the negotiation moved to the mechanism of identification.

The Turning Point

“During the years 1980-1982 Assam has been under President’s Rule for 26 Months. Some form or the other of agitation was on for 293 Days. Representatives of the Government and the agitators had met on 114 days. Why did not the negotiation work? Is there a solution? Who is right and who is wrong? Can elections solve the problem? What should be done next?”¹⁶⁵

By the end of 1982, the most relevant question was ‘could holding an election solve Assam’s political crisis?’ Both the AASU and AAGSP warned the government after talks on 5 January 1983 that if the government imposed election without a concrete decision on the matter of foreigners it would completely alienate the people of Assam.¹⁶⁶ The AASU warned that it would be like sacrificing lakhs of hopeful young people’s lives in the name of election.¹⁶⁷ Its’ warning seemed to be prophetic. The next day, on 6 January, the Indian Election Commission announced elections in Assam for its legislative assembly constituencies and Lok Sabha Parliamentary constituencies on 14, 17 and 20 February 1983.¹⁶⁸ In another statement the Commission announced that the election would be held without correcting the voter list.¹⁶⁹ Bhriagu Phukan and Biraj Sharma of AASU termed this, as ‘a strike on Assamese people’s status and identity and it was extremely disrespectful’.¹⁷⁰

Here, the anti-foreigner movement takes a sharp turn from a discussion mood to anti-government attitude. A strong sense was manifested in AAGSP and AASU’s action plan immediately after the year turn. AASU through its handwritten publishing

¹⁶⁴ Sadiq Kamal, *Citizens: How Illegal Immigrants Acquire Citizenship in Developing Countries*, (Oxford: Oxford University Press, 2008).

¹⁶⁵ T. S. Murthy, *Assam, The Difficult Years: A study of Political Developments in 1979-83*, (New Delhi: Himalayan Books, 1983, 242.

¹⁶⁶ ‘Press Release by AASU and AAGSP’. *Dainik Asam*, 6 January 1983.

¹⁶⁷ ‘Press Release by AASU and AAGSP’. *Dainik Asam*, 6 January 1983.

¹⁶⁸ *Dainik Asam* 6 January; *Indian Express*, 6 January; *Hindustan Times*, 6 January, 1983.

¹⁶⁹ *Dainik Asam*, 7 January 1983.

¹⁷⁰ *Dainik Asam*, 7 January 1983.

newspapers circulated to its branches in districts and sub divisional committees that the student leaders should get prepared to go underground and start working on the strategies how to prevent election as AASU realized that the if the talks failed the government would start taking repressive measures by arresting leaders of the movement.¹⁷¹ The handwritten leaflet also informed the leaders of its committees of different measures to be taken to prevent election at booth and constituency levels.¹⁷² It asked to collect all official details about election, prepare booth wise lists of voters and identify the locations etc. It also strategized to stop the possible candidates to file nomination for the election.¹⁷³

Communal clashes in different parts of Assam jeopardized the entire process of elections. 'Election was imposed' as popularly believed. The incident in Nellie embarrassed the Government of India in front of the International community. New York Times reported, "As she (Indira Gandhi) spoke to a foreign correspondent here, the often acerbic Prime Minister adopted a gentle tone in answers to repeated questions that implied criticism of her decision to go ahead with elections in Assam in the face of popular protest against the voting...at the news conference she was poised between the prospects of humiliation and glory."¹⁷⁴

However Mrs. Gandhi insisted that she bore "no direct responsibility" for massacres. She commented that India lacked the resources of richer countries to quell violent rampage or thoroughly prosecute wrong doers. Mrs. Gandhi expressed her belief that the Assam elections were held due to Constitutional obligations.¹⁷⁵ Acknowledging the technical possibility of overriding constitutional commitment by a two-thirds vote in Parliament, she asserted that it was the obligation to the Constitution for which the decision was taken to go for election in Assam. Moreover she believed that no group of people irrespective of their demands should dictate how the natural process of

¹⁷¹ AASU, *Prak Nirbachani Kalot Lobo Logiya Byabashtha*, Leaflet No 1, 1 January 1983.

¹⁷² AASU, *Prak Nirbachani Kalot Lobo Logiya Byabashtha*, Leaflet No 1, 1 January 1983.

¹⁷³ AASU, *Prak Nirbachani Kalot Lobo Logiya Byabashtha*, Leaflet No 1, 1 January 1983.

¹⁷⁴ Replying to the question about failure of intelligence, Gandhi said '...the government has the responsibility for providing security...and we provided tremendous security, though India is a very big country and we do not have the resources that more affluent nations have.' (The New York Times 26 February 1983. <https://www.nytimes.com/1983/02/26/world/mrs-gandhi-rejects-blame-for-killings.html>)

¹⁷⁵ She referred to the Constitutional tenure of the Presidential rule in Assam and maintained that Assam had to meet the deadline, which was March 1983. (The New York Times 26 February 1983. <https://www.nytimes.com/1983/02/26/world/mrs-gandhi-rejects-blame-for-killings.html>)

government should be carried on. Gandhi expressed doubt about the assumption that if the elections were not conducted the violence would have been averted.¹⁷⁶

After a violent February, a new Congress (I) government was formed under the leadership of Hiteswar Saikia on 28 February. This marked a turning point. The protest turned violent leading to a strong anti-government sentiment. The incident of Nellie reiterated the decades old narrative that commonly the Assamese sentiment was against (Muslim) migrants. However, the *Report of Commission of Enquiry on Assam Disturbances 1983* held the view that the widespread violence during the election process of 1983 was not necessarily communal in nature and it also maintained that the election couldn't be blamed for outbreak of violence of 1983.¹⁷⁷ In a significant observation, the Commission remarked that the conflict had a historical genesis and in many cases they arose out of land disputes.¹⁷⁸ It stated, "Occupation of land by the migrants is one of the greatest irritants. Any settlement of land in the name of tiller, irrespective of his status as a citizen, will be inadvisable."¹⁷⁹

IMDT and Foreigners Tribunals

The Hiteswar Saikia government would soon take control of violence-ridden Assam. Though there would be no negotiation meeting in 1983, the Central government would take up some very significant legal measures to handle the foreigners issue.

¹⁷⁶ The New York Times 26 February 1983. <https://www.nytimes.com/1983/02/26/world/mrs-gandhi-rejects-blame-for-killings.html>

¹⁷⁷ Tribhuban Prasad Tewary (Chairman), *Report of The Commission of Enquiry on Assam Disturbances*, (Dispur: Assam, 1983, May 1984), ASA. 393-397.

¹⁷⁸ This corresponds with my reflections from the field from Jamugurihat, Sonitpur. At the backdrop of the violence which occurred in the Laltapu *char* in Jamugurihat in February 1983, was a land dispute of a *pam* neighboring the *char*, between an Assamese peasant and a Muslim peasant, a resident of Laltapu. The broader agrarian relation of Jamugurihat also reflected how the local land dynamics between migrant Muslim peasants, Nepali migrants and Assamese peasants often came into conflict. What was most striking was the transfer of ownership of land from the upper caste Hindu Assamese peasant families. Some of them sold off their holdings to the Nepali grazers. My examination of *Jamabandi*, book of official land records, reveals this. Many rented out to the Bengali Muslim peasants. The later produced jute in these lands. The Assamese peasants mainly cultivated sugarcane in these areas. The Bengali Muslim peasants introduced cultivation of jute and vegetables. Profits earned from these cash crops allowed Bengali Muslims to buy more lands. Over a period of time, the Assamese peasants turned absentee landowners. Years of disengagement with the landed property, and under duress these absentee landowners over the years disposed off their lands to their sharecroppers. With the introduction of jute cultivation, several Assamese landowners rented out their riverine lands to the Bengali Muslim peasants. The latter were enterprising jute cultivators. The Assamese landowners tried their hands in the trading of jute. On one end, the Bengali Muslim peasants cultivated jute on the lands rented in from the Assamese absentee landowners, and on the other hand, the Assamese landowner cum petty traders (*Bepar*) supplied jute to the Marwari merchants. Very few Assamese landowner-cum-merchants could survive in their new endeavor. (from the field note, Jamugurihat, Sonitpur, March 2016)

¹⁷⁹ Tewary, *Report of The Commission of Enquiry on Assam Disturbances*, 1983, May 1984, 399.

Taking charge, the Chief Minister Hiteswar Saikia assured that measures would be taken to handle the illegal foreigners problem and following the Prime Minister Indira Gandhi's proposal to consider 1971 as cut off year, the process of determination of illegal foreigners would be started.¹⁸⁰ Saikia's assurance would soon come true, as the Illegal Migrants (Determination) Tribunals (IMDT) Act 1983 would be implemented.

What Ravindra Verma, the Janata Dal leader suggested in the tripartite meeting of 25 August 1982 was not new but redrawn in the line of foreign tribunals, which existed prior to 1971 in Assam to check migration and which were renewed in 1979 and were proposed to be revived by the movement's leaders during the discussion in 1981. The AASU leaders proposed that the foreigners tribunals could be revived according to the Foreigners Tribunal Order 1964 by amending Article 323B of the Indian Constitution.¹⁸¹ The suggested legal documents to identify foreigners were: the Citizenship Act 1955, NRC-1951, electoral rolls 1952, Passport Act 1952 and Foreigners Act 1946. Setting up of an official machinery under the PIP scheme was also suggested.¹⁸² Extracting from such prior discussions quasi-judicial tribunals functioning at the assembly constituency level were proposed for handling the issue of identification of foreigners. The National list was to be the basis for determination and any citizen could complaint to the authority that a particular person in the national list is not an Indian citizen following which inquiry should be conducted. Verma reportedly suggested a three-member tribunal at the assembly constituency level and one appellate authority at the state level and only one appeal per case to be allowed to the appellate body. A period of one month was suggested to prove one's citizenship and if one failed to do so, he should be sent to a three-member tribunal. Any citizen could question another's citizenship and report to the tribunal as per the suggestion. Verma also suggested a way out of the question, whether the 1971 electoral rolls should be considered as the basic document for the identification of foreigners.¹⁸³ Whether the government would approach the tribunal for identification was left for further discussions.

¹⁸⁰ Assam Legislative Assembly Debate, 25 March 1983,178, ASA.

¹⁸¹ According to F.T. Order 1964, the setting up of the Foreigners Tribunals 1964, the State Government set up 4 tribunals through an executive order to cover the cases of suspected infiltrates who claimed to be Indian. Special officers with judicial background who were appointed to scrutinize cases of infiltrators before issuing Quit India notices headed these tribunals.

¹⁸² *Hindustan Times*, 31 October 1981; *Assam Tribune*, 31 October 1981; *Dainik Asam*, 31 October 1981.

¹⁸³ See for instance, *Indian Express*, *Assam Tribune*, *Dainik Asam*, 27 August, 5 September, 1 September 1982.

The central government conceded that it had powers under other relevant laws to detain any foreigners without moving to the tribunals. The leaders on the contrary demanded the government machinery to be involved in the process of identification of non-citizens and filing objections about them, as they believed that the process was a ‘stupendous one’ and wouldn’t be possible without the government’s involvement.¹⁸⁴ Leaders demanded ‘door to door inquiry’ to identify non-citizens. Meanwhile, the central government also proposed the electoral roll of 1977 for parliamentary election to be considered as a ‘national list’ to identify non-citizens. It also wanted the tribunals to take complete responsibility of identifying foreigners. It constrained itself in conferring non-citizen and citizen status and also introduced ‘anyone could report to the tribunal’ instead of ‘any citizen’ on the suggestion. Leaders opposed as ‘anyone’ could include foreigners as well.

Who will be given citizenship among immigrants, how to detect non-citizens and the composition of tribunals were the issues to be resolved. The necessary amendments to tackle the legality of setting up of the tribunals were discussed.¹⁸⁵ Towards the later phase of the talks, the government seemed to be on a war footing to hold assembly elections. Verma revised the earlier formula stating that before deciding anything about their fate on citizenship the identified foreigners wouldn’t be granted voting rights in the assembly elections. The leaders were opposing any move to hold elections without deciding on the 1961-71 entrants and the setting-up of the tribunals. On September 5 the government made it clear that it wouldn’t deny responsibility of the refugees fleeing in the wake of communal violence from Bangladesh and they would be conferred full citizenship. The cases of foreigners of 1961-71 period were to be referred to the tribunals and those found ‘eligible’ to become citizen would be granted citizenship certificates and enrolled as voters in Assam before the assembly election.¹⁸⁶

Meanwhile, the Illegal Migrants (Determination by Tribunals) Act (IMDT) 1983 was promulgated by the President on 15 October 1983 and after much parlay it was passed

¹⁸⁴ *The Assam Tribune*, 28 August 1982.

¹⁸⁵ It was noted that if tribunals also had to have power to delete the names of the detected non-citizens from electoral rolls, a suitable amendment to the Representation of the People’s Act would be necessary. It was also felt the possible necessity of Constitutional amendments if the tribunals were to be established under Foreigners Act, as in that case the civil courts couldn’t be barred from hearing appeal against tribunals decisions. (*Assam Tribune*, 28 August 1982).

¹⁸⁶ *The Assam Tribune*, 5 September 1982.

in the Lok Sabha on 15 December 1983. The Bill was brought with the intention, “to provide for the establishment of tribunals and to decide the question of illegal migrants in an impartial and fair manner”¹⁸⁷ and despite reservations among many of the protesting organizations about the cut-off year, the government opted to go with the Illegal Migrants (Determination by Tribunals) Bill (IMDT) 1983. Acknowledging the problem of illegal migrants from Bangladesh (Erstwhile East Pakistan), the Minister of Home Affairs P.C. Sethi maintained, “The main question with regard to foreign nationals is how to deal with those who came over from Pakistan or Bangladesh and have since been living in Assam and other parts of the country. Detection and deportation of the migrants has been a continuing process. For various reasons, however, the process of detection and deportation has been rather slow...there has been a consensus about detection and deportation of entrants who came after 24 March 1971. After taking into account the need for speedy detection, protection of genuine citizen of India and public interest, the President promulgated on 15 October 1983 the Illegal Migrants (Determination by Tribunals) Ordinance 1983 to provide for establishment of tribunals. The Bill seeks to replace the ordinance.”¹⁸⁸ After a two-day long discussion and clause wise amendments the Bill was passed on 15 December 1983 and came into force on 28 December 1983. Soon the Assam government was given approval to establish twenty tribunals to function under the IMDT Act. As Jayal observes the ‘natural choice of the vulnerable’ doubtful citizens were ‘avowedly secular Congress Party’ and which possibly encouraged the passing of the act creating an ‘Assam specific exception to Indian law on foreigners’.¹⁸⁹ Unlike the Foreigners’ Act, IM(D)T didn’t place the burden of providing one’s Indian citizenship on the person accused of being a foreigner. It defined an illegal immigrant as a person who entered into India after March 25 1971 without any valid travel document or authority.¹⁹⁰ It covered the persons who overstayed the period entitled. The tribunal’s order could be challenged in the Appellate Tribunal within thirty days. The High Court might be called for the record if any case decided by the Appellate Tribunal for satisfying the legality of the

¹⁸⁷ Statutory Resolution Re: Disapproval of Illegal Migrants (Determination by Tribunals) Ordinance 1983; and Illegal Migrants (Determination by Tribunals) Bill 1983, Parliamentary Debate, 14 December 1983, Vol.VI.

¹⁸⁸ *Lok Sabha Debate (Thirteenth Session)*, Vol. XLIII, No.16, (New Delhi: Lok Sabha Secretariat, 14 December 1983), 426.

¹⁸⁹ Jayal, *Citizenship and Its Discontents*, 2013.

¹⁹⁰ IMDT Act, 25 December 1983, Assam Gazette.

order.¹⁹¹ The clause explaining that the complainer must be within the range of three kilometers distance i.e. “no such application shall be entertained by the tribunal unless the person in relation to whom the application is made is found at or resides, at a place of residence of the application” raised much apprehension.¹⁹²

Prime Minister Indira Gandhi’s ‘non-committal reply’ about resumption of negotiation on 16 October 1983 clearly hinted that the Assamese leaders were defensive. Mrs. Gandhi affirmed that had the Assamese leadership agreed to 1971 as the cut-off date much ground could have been covered by now (October 1983).¹⁹³ This once again reaffirmed the government’s stand on 1971 as the cut off year. The ball was clearly in the government’s court. Meanwhile, the newly sworn in Hiteswar Saikia government to a great extent could restore the law and order situation and control the wide spread violence. Time approached slowly for reaching an understanding on Assam’s political crisis.

The Final Days of Negotiation: 1984-1985

The year 1984 started with Prime Minister Mrs. Gandhi’s non-negotiable mood towards the Assamese leaders’ violent agitation. She warned that violent agitation might open the door for ‘outsider’s’ interference.¹⁹⁴ Gandhi stressed on strengthening the law and order situation under Assam’s chief minister Hiteswar Saikia.¹⁹⁵ The Saikia government also could effectively act on various administrative and legal measures taken up by central government. The IMDT was one such example. Despite strong public opinion against the Tribunal, the state government established the Tribunal.¹⁹⁶ Advisory committees for these tribunals were also set up as per the Union Home Ministry guidelines.¹⁹⁷ Saikia was upbeat with his government’s complete control on Assam’s political situation. On his government completing a year, Saikia briefed the press that the last twelve months had seen Assam’s recovery from a period

¹⁹¹ *The Assam Tribune*, 16 October 1983.

¹⁹² Later in 2005, Sarbananda Sonowal, one of the leaders of the movement would file a write petition in the Supreme Court claiming that the Act was *ultra vires* the Constitution, because it made it impossible for citizens in Assam to secure detection and deportation of foreigners. (Jayal, *Citizenship and Its Discontents*, 2013.)

¹⁹³ *The Assam Tribune*, 16 October 1983.

¹⁹⁴ *The Assam Tribune*, 1 January 1984.

¹⁹⁵ Gandhi stressed on strengthening Party’s hold and for that she wanted Party’s various wings like student wings, women front, majdoor and kisan front and also the intellectuals to play effective roles. (*The Assam Tribune*, 1 January 1984.)

¹⁹⁶ *The Assam Tribune*, 18 February 1984.

¹⁹⁷ *The Assam Tribune*, 18 February 1984

of turbulence. He noted how, “The euphoria that gripped a vast section of our people was fast fading out...agitators’ desperation was eloquent in their shift from a professed non-violent strategy to one of extreme violence.”¹⁹⁸

Mrs. Gandhi also reposed full faith on the Saikia government and opined that “Assam is now well on its way to reconstruction. The performance of its programs for welfare of the people is notable. These efforts must be intensified so that the benefits of development can be enjoyed by all sections of the people.”¹⁹⁹ The AASU and AAGSP were losing their grip over public sentiments. Though they continued to mobilize political programs occasionally, the political environment was quite out of their control. The national political scenario also had an influence over the political environment. The political situation in Punjab had fast deteriorated.²⁰⁰ The country’s primary concern shifted from its regional disparity to national security. On the republic day of 1984, the President and former Home Minister, who was a keen witness to Assam’s situation during its initial days urged the people of India ‘to rise above regional, communal, linguistic or religious considerations and work for a united and strong India.’²⁰¹ In this situation the hope of the government holding talks was very thin. Now the whole attention was drawn to the developmental dimension of the state. Hiteswar Saikia’s control on Congress politics in Assam was also complete with much help from the Centre.²⁰² But Mrs. Gandhi’s assassination marked a shift in the approach to Assam.

The Assam Accord

Indira Gandhi’s assassination in October 1984 marked a significant shift on the Assam question. There was a shift in the outlook of the central government towards the movement as Mr. Rajiv Gandhi the new Prime Minister wanted a solution on Assam, Punjab and Mizoram.²⁰³ Along with the Punjab problem the foreigner’s issue in the north eastern state had been on the priority list of Mr. Gandhi.²⁰⁴ In January 1985, giving such an indication, the PTI reported that the Centre was likely to take a

¹⁹⁸ *The Assam Tribune*, 25 February 1984.

¹⁹⁹ *The Assam Tribune*, 25 February 1984.

²⁰⁰ Virginia Van Dyke,, “The Khalistan Movement in Punjab, India and the Post Military Era: Structural Changes and New Political Compulsions”, in *Asian Survey*. (Vol. 10, Issue 49, (2009)), 975-997;

²⁰¹ *Assam Tribune*, 26 January 1984.

²⁰² *Assam Tribune*, 5 May 1984.

²⁰³ R.D. Pradhan, *Working With Rajiv Gandhi*, 1995.

²⁰⁴ *Assam Tribune*, 6 January 1985.

fresh initiative soon to resolve the Assam tangle deadlocked for about two years.²⁰⁵ Things began to roll out since early 1985. Recalling this, the then Home Secretary R.K. Pradhan later wrote, “At the beginning of April 1985, Rajiv Gandhi asked me to handle Assam. In Punjab Arjun Singh has already started his political moves and the PM wanted to make progress in Assam as well”.²⁰⁶ In March 1985, the dialogues were resumed leading to the signing of the Assam Accord on 15 August 1985.

The air in Delhi, the capital city of India around Independence Day i.e. 15 August of 1985 was filled with suspense and high drama. The Congress government with the new leadership under Rajiv Gandhi put a significant effort to reach a solution on the problems of Punjab, Assam and Mizoram.²⁰⁷ The Government of India signed the accord with Punjab on 24 July 1985. Assam came next and around 14 August 1985 Delhi’s air was thickened with a mounting political pressure and tension.²⁰⁸

The Accord’s central premise was founded on the citizenship question. Clause 1 (4) of Accord stated the background of this dispute, “Government have all along been most anxious to find a satisfactory solution to the problem of foreigners in Assam...the AASU through their memorandum dated 2 February 1980 presented to the late Prime Minister Smt. Indira Gandhi, conveyed their profound sense of apprehensions regarding the counting influx of nationals into Assam and fear about adverse affects upon the political, cultural and economic life of the state.”²⁰⁹

Clauses 3 & 4 further stated- “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 Prime Minister and Home Minister levels during the period 1980-83. Several rounds of informal talks were held during 1984. Formal discussions were resumed in March 1985.”²¹⁰ Clause 4 maintained that keeping in

²⁰⁵ *Assam Tribune*, 6 January 1985.

²⁰⁶ R.D. Pradhan, *Working With Rajiv Gandhi*, 1995. 95.

²⁰⁷ R.D. Pradhan, *Working With Rajiv Gandhi*, (New Delhi: Indus (HarperCollins), 1995), 95.

²⁰⁸ Leading journal *Economic and Political Weekly*, in its political commentary wrote-“There was high drama and tension in the capital throughout the night of the 14th and 15th of August...the details of the Accord were, in fact, being thrashed out till the early hours. Which were these details which needed such a last-minute sorting out we wondered...?” (G.P.D., “The Unwanted Assam”, in *Economic and Political Weekly*, Aug. 24, Vol. 20, No. 34, 1418).

²⁰⁹ Clause 1& 2, Assam Accord (Accord between AASU, AAGSP, Central and State Government on the Foreigner Problem Issue) Memorandum of Settlement. 15 August 1985.

²¹⁰ Clause 3, Assam Accord, Memorandum of Settlement. 15 August 1985.

mind all aspects of the problem including constitutional and legal provisions, international agreements, national commitments and humanitarian consideration, certain measures had been taken.²¹¹ Clause 5 dealt with the larger question of citizenship.²¹² Accordingly, all those who migrated before 1966 would be treated as Indian citizens, foreigners who came after 1966 (inclusive) and up to 24 March 1971 would be detected in accordance with the provisions of the Foreigners Act, 1946 and the Foreigners (Tribunals) Order, 1939. The Accord also agreed that names of the detected foreigners would be deleted from the electoral rolls and they would register themselves before the registration officers of respective districts in accordance with the provisions of the Registration of Foreigners Act 1939 and the Registration of Foreigners Rule, 1939. The Accord also stipulated that after ten years of following the date of detection, the names of all such persons, which have deleted from electoral rolls, would be restored; e. if one enters illegally after expulsion, he/she would be expelled; f. those who entered Assam after 25 March 1971 would be considered as foreigners and they would be detected, deleted from electoral rolls and deported in accordance with the law.²¹³

After signing of the accord, the IM(D)T co-existed with the Foreigners Tribunals. The cases of doubtful citizens entered after March 25, 1971 were taken up by the IM(D)Ts. The existing Foreigners Tribunals were entrusted with the responsibility of disposing of cases pertaining to pre-March 25th 1971 stream of suspected foreigners.²¹⁴ Among other issues, the issue of citizenship certificate was kept with the Central government; the complaints of the irregular issuance of Indian Citizenship Certificate were promised to look into. To control infiltration, the international border was to be guarded by physical barriers and strict security patrolling was to be ensured.

Successful End?

The suspense and the tension that arose out of the signing of the Assam accord in the dramatic early hours of 15 August 1985, expectedly evoked dissatisfaction from

²¹¹ Clause 4, Assam Accord, Memorandum of Settlement. 15 August 1985.

²¹² Clause 5 (1-9), Assam Accord, Memorandum of Settlement. 15 August 1985.

²¹³ Assam Accord, Memorandum of Settlement, August 1985.

²¹⁴ After striking down of IM(D)T in 2005, the Tribunals and Appellate Tribunals were ceased. Cases were transferred to the Tribunals constituted under the Foreigners (Tribunals) Order 1964 and would be decided according to the Foreigners Act, the Rules made there under and the procedure prescribed under the Foreigners (Tribunals) Order, 1964. *White Papers on Foreigners issue*, 2012, Home and Political Department, Assam Government.

different sections of people in Assam as well as in India. These dissenting opinions claimed that first, the accord pushed the date of identification and deportation of the foreigners to 25 March 1971; apparently though the accord said that the foreigners who came to Assam between 1 January 1966 and 24 March 1971 would be disenfranchised, but it was also said that later, after ten years they would be given full citizenship rights. Secondly they claimed that the accord didn't specify clearly about the process of deportation of the identified foreigners who came to Assam after 25 March 1971. Thirdly they claimed that the accord didn't give a specific timeframe for its implementation.²¹⁵ Forth, it pointed out that the process of scrutiny of the voter list was delayed and the assembly election in Assam in 1985 would be held on the basis of 1985 voter list prepared for Parliamentary election in the same year.²¹⁶

The All Assam Minority Students Union termed it 'biased' and 'undemocratic'.²¹⁷ The Bengal legislative assembly passed a resolution terming the accord as 'violation of democratic principles' as it could not meet the assurance given to the minorities in Assam. It was also termed as a serious departure from the international agreement between Indira Gandhi and Mujib ur Rehman in 1975.²¹⁸ Violence broke out in Barak valley protesting the basic premises of the Accord. The Accord was mostly anticipated as a point of fissure between Assamese and Bengalis in the future. Assam's tribal leaders also expressed dissatisfaction. The terms of the settlement on citizenship question as it was outlined in the Accord also faced severe criticism. Some of those criticisms were because of apparent leniency shown towards illegal foreigners. Leaders of the AAGSP, one of the signatories criticized the clauses on citizenship, as they believed that the Accord provided for only temporary disenfranchisement of foreign nationals who had entered the state between 1966-1971.²¹⁹ They argued that the Accord just gave a window of ten years, after which the disfranchisement would be regularized.²²⁰ The central government also assured that those foreign nationals who were going to be disenfranchised in Assam as a result of

²¹⁵ Purbanchaliya Loka Parishad (PLP), *Dilli Suktit PLP e Kio Sanmoti Jonabo Nuwarile: Asom Andolon Sandorbhot Natun Dillit Swakhoritobova Sultipotror Bisboye PLP r Bibriti*, August, 1985.

²¹⁶ PLP, *Dilli Suktit PLP e Kio Sanmoti Jonabo Nuwarile*, 1985, 2.

²¹⁷ *Indian Express*, 17 August 1985.

²¹⁸ *Indian Express*, 17 August 1985

²¹⁹ *Indian Express*, 14 August 1985.

²²⁰ *Indian Express*, 14 August 1985

the accord wouldn't be harassed or shifted out of the state. The union Home Minister S.B. Chavan made it clear that their right to vote would be restored after 10 years.²²¹

Congratulating the 'youthful AASU' and 'mature AAGSP', the *Indian Express* opined that, "The 1966 cut-off year gains legitimacy in view of the national commitments made by the Government of India to displaced persons from East Pakistan in 1964 and 1965. In view of the fact that similar refugees and DPs are widely scattered over the entire North-East region as well as in West Bengal, Bihar, Madhya Pradesh it was necessary that whatever principle of settlement was evolved in Assam should be universally applicable."²²² This principle of settlement of foreigners beyond the scope of the Citizenship Act 1955 as it came to be implemented in the case of Assam wouldn't be however extended to other parts of the country. Soon preliminary implementation of the Accord was initiated. Election in Assam was proposed at the earliest after the new electoral roll was prepared according to the Accord.²²³ The process of identification of foreigners who came to Assam between 1966 and 1971 was expedited and legislation for disenfranchisement was expected to be adopted in the next parliamentary session.²²⁴ The zeal of the Central Government reflected well in 1985. The first amendment of the Citizenship Act 1955 would be adopted in 1985. In Assam, a new government was formed in 1985, under the leadership of P.K. Mahanta, the president of AASU. A separate ministry would be formed to implement the Assam Accord. The debate on citizenship would take a new turn after Citizenship (Amendment) Act 1985.

Conclusion

Despite all criticisms, the Accord undoubtedly held historic significance in the course of Indian citizenship. In contrast to Sanjib Baruah's observation that ability to challenge the question of citizenship 'was a major reason the Assam movement was successful in mobilizing popular support',²²⁵ the chapter suggests that it was the redirection of the movement towards the citizenship question, which turned people's attention from the nationality question to the question of legal citizenship in Assam.

²²¹ *Indian Express*, 14 August 1985.

²²² Editorial, *Indian Express*, 16 August 1985.

²²³ Editorial, *Indian Express*, 16 August 1985.

²²⁴ Baruah, *India Against Itself*, 2001 (1999), 61.

²²⁵ Baruah, *India Against Itself*, 2001 (1999), 61.

And which later invited ever-greater engagement of the people in matters of legal citizenship in India. Rajiv Gandhi questioned the clause 6 of the Accord, about ‘constitutional, legislative and administrative safeguard to protect, preserve and promote the cultural, social, linguistic identity and heritage of the Assamese people.’²²⁶ This clause uniquely positioned the question of nationality and clubbed it with citizenship. This was a result of constant interventions made by the Assamese middle class, which debated the question of citizenship over these years. Another significant development during these years was the linking of the resource oriented national sentiment with legal citizenship. Land emerged as a striking symbol, encompassing cross-sections of people. In the process the Assamese little nationalism²²⁷ found an expression within a document like the Assam Accord marking a significant shift in the citizenship discourse in India.²²⁸ These long years of 1980s had witnessed how with the active participation of the Assamese middle class,²²⁹ the legal terms of citizenship were constantly discussed, interpreted and given new meanings. These years would also be a witness to how such correspondences between the middle class and the state around the question of citizenship would broaden the participation of people in the matter and would make assertion of the state obvious in the following time.

²²⁶ Pradhan quoted Rajiv as, “there cannot be anything like Assam’s (Assamese) identity. For Indians, there is one national identity. I do not want every state to think in terms of a separate identity for its people.” (R.D. Pradhan, *Working With Rajiv Gandhi*, 1995)

²²⁷ Amalendu Guha discussed the popular protest as a movement led by the middle class and referred to Assamese little nationalism within the great Indian nationalism. (Amalendu Guha, Little Nationalism Turned Chauvinist: Assam’s Anti Foreigner Upsurge 1979-1980, *Economic and Political Weekly*, Vol. XV, 1980, 41-43, 1699-1720; Baruah, *India Against Itself*, 2001.)

²²⁸ Anupama Roy referred it as marking out an ‘ethno-space’ for Assam. (Anupama Roy, *Mapping Citizenship in India*, (New Delhi: Oxford University Press, 2012)

²²⁹ Sanjib Barua discusses the popular protest during 1980s as ‘civil society rebellion.’ (Sanjib Baruah, *India Against Itself: Assam and the Politics of Nationality*, (New Delhi: Oxford University Press, 2001)). The chapter has shown it was not a rebellion but how the civil society, (which can also be referred as middle class, discussed by Amalendu Guha) played a crucial role in integrating the nationality question with the question of citizenship by playing their conventional role in the nation-state.

Chapter VI

Making and Unmaking of Citizenship, 1985-2019

Thirty years after the signing of the Assam Accord, in April 2016, Rahmat Miyan¹, a resident of *Nij Dhing* village in Nagaon district, Assam, went to the District Revenue Record Room to gather land records of his grandfather. It was for the purpose of establishing his lineage to his grandfather, who was an immigrant from East Pakistan, and had settled in Nagaon. His search for these documents was occasioned by Assam gearing up the process of updating the National Register of Citizenship (NRC), which was last undertaken sixty three years back in 1951. Rahmat Miyan had a voter identity card, a *jamabandi*, a record of his land holding which stated that he had fifteen *bighas* of *myadi* land, a ration card and a distorted copy of the NRC, 1951 where names of all of his family members appeared, he claimed.² But he was under stress as his grandfather's name was recorded incorrectly in the NRC copy and he had no other documents to tally his name. To find a solution, he came to the district revenue record room, to gather a copy of his grandfather's land record. Rahmat Miyan claimed that his grandfather won a civil suit under Tenancy Regulation Act 1971 and he had the *dag* number of his land.³

In another instance, in 2005, the forwarding of the case of Gauhar Bibi⁴, by the Deputy Superintendent of Police (Border) Dhuburi, stated- "the case was received at this end...for deciding his/her nationality status under the Foreigners Act, 1946 and Foreigners Rules made there under. As per report of Electoral Regional Officer (ERO) there is reasonable doubt whether the person is a citizen of India or not. Hence the case is forwarded to the Foreigners Tribunal for adjudication."⁵ Subsequently, Gauhar Bibi was marked as D voter (Doubtful Voter in the electoral roll) and was debarred from casting her vote in all elections. By rule she was also debarred from contesting elections.

¹ Name changed.

² Interview with Rahmat Miyan, Dated 15.3.2016, District Revenue Record Room, Nagaon, Assam.

³ Interview with Rahmat Miyan, Dated 15.3.2016, District Revenue Record Room, Nagaon, Assam.

⁴ Name changed, documents collected from a lawyer in personal capacity during my fieldwork at Guwahati.

⁵ Documents of the case of Gauhar Bibi, Personal achieve, collected from a private collection of lawyer during my fieldwork at Guwahati. (Year of the case: 2004, Year of collection: 2019).

These two seemingly unrelated cases unfold the evolutionary path of citizenship in Assam after the signing of the Assam Accord in 1985. While the case of Gauhar Bibi hints on a transitional phase of citizenship, where a definite link was being established between voting rights and citizenship status, Rahmat Miya's case on the other hand, reveals more of recent developments where strong linkages are being established between documentary proof of citizenship and citizenship status. During this long period between 1985 and 2016, the question of citizenship in India made various significant shifts and critical transitions. One of the first of these transitions, the Citizenship (Amendment) Act 1985 was implemented in pursuance of the Assam Accord.⁶ As the first amendment of Citizenship Act, 1955, it was significant.⁷ It carved out a specific place for Assam in the larger legal framework of citizenship in India. Within a year, in 1986, another amendment was made to the Citizenship Act, 1955. The Citizenship (Amendment) Act, 1986 introduced a stringent move towards tightening the process of conferring Indian Citizenship by asserting elements of the principle of *just sanguine*. This marked a shift from original *just soli* principle. Another significant amendment in 2003 introduced stricter regulations to exclude illegal immigrants, by definition and prohibition to acquire Indian citizenship. These laws and documents together- the Assam Accord, the Citizenship (Amendment) Act 1985, Citizenship (Amendment) Act 1986 and Citizenship (Amendment) Act 2003 introduced a stimulating period in defining the idea of legal citizenship in India. However, the domestic politics and fate of citizens in Assam would be determined by

⁶ Examining the significance of the first amendment of Citizenship Act 1955, which particularly addressed the case of Assam, political scientist Anupama Roy maintained that it manifested a politics of place making, marking out of ethno-space and setting in motion of a process whereby citizenship's association with descent was affirmed, in Anupama Roy, *Mapping Citizenship in India*, (New Delhi: Oxford University Press, 2010), 92.

Niraja Gopal Jayal referred the amendment as the most consequential amendment to the statute, in Jayal, *Citizenship and its Discontents*, 63).

⁷ Anupama Roy has discussed this particular amendment under the chapter 'Citizenship (Amendment) Act 1986: The 'Politics of Place Making' and Suspect Citizenship', in Roy, *Mapping Citizenship*, 2010, 92. Kamal Sadiq in a chapter titled 'Paradox: Illegal Immigrants as Citizens' also referred to it as the amendment of 1986 and as the first amendment of citizenship law, in Sadiq Kamal, *Paper Citizens: How Illegal Immigrants Acquire Citizenship in Developing Countries*, (New Delhi: Oxford University Press, 2008), 10. As a matter of fact, inclusion of section 6 (A) was done by the Citizenship (Amendment) Act 1985 in December 1985, which was the first amendment of Citizenship law in India and a year later in 1986 another amendment was introduced by Citizenship (Amendment) Act 1986, which marked a shift from *jus-soli* principle to *jus-sanguine* principle of acquiring citizenship in India.

the Assam Accord and the Citizenship (Amendment) Act 1985 in more specific ways.⁸

This chapter discusses how far these legal interventions, that redefined the idea of Indian citizen and by creating an ‘ethno-space’⁹ in the larger citizenship discourse in India, affected Assam’s political trajectory. It will examine how politics of ‘place-making’ led to a new phase of citizenship reign in Assam; how these interventions would increasingly polarize the question of citizenship by differentiating the illegal foreigners from Bangladesh, the Muslim migrants and the Hindu refugees in the aftermath of 1985. This chapter also examines how the idea of legal citizenship was eventually reimagined through a process of people’s participation. It claims that a process of constant interpretation of the citizenship law brings constitutional frameworks closer to people, by making constitution the ‘people’s constitution’.¹⁰

Arrival of the Citizenship (Amendment) Act 1985

A bill for the amendment of the Citizenship Act, 1955 was introduced in the Lok Sabha on 18 November 1985. The aim of this Bill was to settle the foreigners’ issue, particularly the matter of citizenship of the ‘illegal’ migrants who came between 1 January 1966 to 24 March 1971, from Bangladesh (erstwhile East Pakistan) into Assam.¹¹ India’s Union Home Minister S.B Chavan, while introducing the Bill argued that the core of the Assam Accord was the clauses related to the foreigners issue and legislation was required to give effect to these clauses.¹² The Bill sought to insert a

⁸ Mover of the Citizenship (Amendment) Bill 1986, P. Chidambaram clearly stated that the Bill didn’t affect the Assam accord, which had been taken care of by introducing section 6A through 1985 amendment. 6 A was a self-contained scheme.

⁹ Anupama Roy argues that the Citizenship (Amendment) Act 1986 marked out an ‘ethno-space’ as the Act specifically addressed the case of Assam within citizenship law of India. (Roy, Anupama, 2010, *Mapping Citizenship in India*, 92).

¹⁰ Rohit, De, 2018, *A People’s Constitution: The Everyday Life of Law in the Indian Republic*, Princeton University Press: Princeton.

¹¹ S.B.Chavan, the Minister of Home Affairs (*Parliamentary Debate*, Fourth Session, Vol. X, (New Delhi: Lok Sabha Secretariat, 20 November 1985), 248. <https://eparlib.nic.in>.

¹² These clauses stated- “5.1 for purpose of detection and deletion of foreigners 1.1.1966 shall be base date and year; 5.2. All persons who came to Assam prior to 1.1.66, including these amongst them whose names appeared on the electoral rolls used in 1967 election, shall be regularized; 5.3. Foreigners who came to Assam after 1.1.1966 (inclusive) and up to 24 March 1971 shall be detected in accordance with the provision of the Foreigners Act 1946 and the Foreigners (Tribunals) Order, 1964; 5.4. Names of the foreigners so detected will be deleted from electoral rolls in force. Such persons will be required to register themselves before Registration Officers of the respective districts in accordance with the provisions of the Registration of Foreigners Act 1939 and the Registration of Foreigners Rule, 1939; 5.6. On the expiry of a period of ten years following the date of detection, the names of all such persons, which have been deleted

new section i.e. 6 (A) in the principal Act. The Bill aimed to deal with two categories of people: a) those who came prior to 1 January 1966 and b) Those who came between 1 January 1966 and 24 March 1971. It broadly proposed that all persons of Indian origin including those whose names were in the 1967 electoral rolls and who came before 1 January 1966 to Assam from Bangladesh, and who have been ordinarily resident in Assam, since the date of their entry into Assam should be deemed citizen of India as from 1 January 1966 and persons of Indian origin who came to Assam between 1 January 1966 and 24 March 1971 from Bangladesh and who had been ordinarily residents in Assam since then and who had been detected as foreigners, would register in accordance with the rules. If their names were included in any electoral roll in force on the date of detection, it would be deleted from the electoral roll for ten years.¹³

The Bill intended at creating specific categories of citizens on the basis of time of entrance of the immigrants from Bangladesh into Assam. Many lawmakers feared that the Bill would create categories of citizens among the 'universal we'. K.P. Unnikrishnan, from the Congress Party worriedly expressed his concern,

...After much prolonged parleys and the accord and this Bill has failed in this respect to allay the fears and apprehensions or misapprehensions of a large section of the population of the state of Assam...it has failed to allay the fears...who feel that they are citizens and the position would be changed because the union government has abandoned them to a section who would be hounding them out.¹⁴

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. (Memorandum of Settlement, Assam Accord, 15 August 1985).

¹³ They would however have all the rights and obligations as a citizen of India (including the right to obtain passport), but shall not be entitled to have his name including in any electoral roll before the expiry of a period of ten years from the date of his detection as a foreigner and after the expiry of a period of ten years from the date of detection as a foreigner, every person so registered shall be deemed to be a citizen of India for all purpose.

¹⁴ *Parliamentary Debate*, Seventh Session, Vol.XXI, (New Delhi: Lok Sabha Secretariat, 12 November 1986), 163-64.

While the government was confident that the religious and linguistic minorities in Assam was in favour of this legal redefinition of the Indian citizens,¹⁵ many argued that the government was in haste to bring this bill and make the amendment, keeping in view of the approaching Assembly election in Assam, despite the many legal complexities. H.A. Dora of the Telegu Desam Party questioned the government for only prioritizing only a portion of the Assam Accord, while other important commitments in the same accord were not being pursued. He further hinted that the purpose of the Bill was only to gain some political advantage in the coming legislative assembly election in Assam.¹⁶

Most members criticized the scrapping of the voting rights for ten years of those who came into Assam from Bangladesh between 1 January 1966 and 24 March 1971. They thought that voting rights were integral to citizenship rights and saw it inseparable.¹⁷ Saifuddin Chowdhury of the Communist Party of India (CPI) argued that owing to prior international commitment, which India had with Bangladesh and where India had committed to naturalize all who came into India before the war situation, the voting right couldn't be taken away.¹⁸ Similarly, Indrajit Gupta from the CPI also argued that scrapping of the voting right could be a cause of genuine apprehensions, especially for people belonging to minority groups in Assam. He pointed out that the process of preparation of voters list in India was not without defects, and not always correct and accurate.¹⁹ There were fables about how the process of deletion of the names of identified foreigners was highly exploitative in Assam.²⁰ He also felt that

¹⁵ Chintamani Panigrahi, a congress member claimed that vast number of minorities, almost all sections of minority in Assam. (*Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, (New Delhi: Lok Sabha Secretariat, 20 November 1985, 5).

¹⁶ *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985.

¹⁷ Saifuddin Chowdhury argued that Assam accord didn't mention about taking away of any other right but the voting right. However in Citizenship (Amendment) Bill 1985, there were mentions about safeguarding of the property right or Passport right etc. Chowdhury argued that it had to be mentioned as they were inseparably linked with the voting right. (Speech by Saifuddin Chowdhury, *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 307).

¹⁸ He maintained that the character of the anti foreigner movement was necessarily communal, where genuine Indian citizens were harassed. He opined not to entertain the unjust demands. (*Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 250).

¹⁹ *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 271.

²⁰ P. Namgyal from Ladakh narrated an interesting story about how the process of deletion of the names of the identified foreigners was dubious in Assam. He said that at the time of scrutiny of the electoral rolls, the Asom Gana Parishad (AGP) people handed over the rolls to the students of sixth, seventh, eighth, ninth and tenth classes. From those list, the young students would delete the names of those who didn't appear to be Assamese. To give an example he said that, if the students saw Mukherjee or Banerjee against a name, they would delete it immediately thinking that the person was not an Assamese. Namgyal claimed that similarly names of the people from other parts of India like from Bihar, Uttar Pradesh were also

there was a gap in translation of the clauses regarding restoration of the names of the deleted persons' names into the voter list and which could be misleading for their claim as voters.²¹ He further asked,

...there will be people who will be detected as foreigners by the tribunals. They will continue to remain in Assam and they will enjoy full rights of citizenship and after ten years their names will be restored. Then *inso facto* by the provision of the accord itself they are not being treated as foreigners at all. How can a foreigner be allowed to continue live here without citizenship?²²

Gupta reminded his fellow parliamentarians that India's earlier stand not to send the refugees back on humanitarian ground should be maintained. The Bill was a complete hotchpotch and could be successfully challenged in court, he warned.²³ G.M. Banatwala of the Indian Union Muslim League also shared Gupta's view on delinking the right to vote with other rights under citizenship.

Amongst others who opposed the Bill was Amar Roy Pradhan of the All India Forward Bloc. He termed it as 'unconstitutional and undemocratic'.²⁴ He drew attention to the fact that the electoral roll for upcoming Assam assembly poll was already prepared and was published on 7 November 1985 after revision.²⁵ Thus he asked 'what would be the fate of a person, who after 16 December becomes a member of the assembly and be subsequently found to be a foreigner.'²⁶ He also pointed out that there were no statistics available about how many people would get affected by

deleted. He also claimed that deletion was being done without any scrutiny and around 22 lakhs complaints had been filed this way. (*Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 264)

²¹ Though the (Assam) accord mentioned about 'restoration', but the Citizenship (Amendment) Bill 1985 didn't talk about it. It considered them as 'deemed citizens'. (*Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 271).

²² *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 273.

²³ *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 274.

²⁴ Roypradhan maintained that the Bill was introduced just to get electoral benefit in the upcoming election in Assam and termed it as 'vote catching net Bill'. According to him it was just to appease the voters and stated '...the people particularly the minorities, whether linguistic or religious know it better that just after the elections, just like a fish, they will be put to the frying pan and they will be fried and the chauvinists will eat them.' (Speech by Amar Roypradhan, *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 292).

²⁵ Replying to Roypradhan's question earlier, the Home Minister Chavan stated that electoral roll for all 126 constituencies in Assam were published and with 1 January 1985 as the qualifying date, and was published after intensive revision. (Quoted by Amar Roypradhan, *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 292).

²⁶ Amar Roypradhan, *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 292.

the clause of the Bill. The government maintained that no precise information as to the number of people who came in during this period was available.²⁷ Roy Pradhan drew attention to the fact that the new law would not affect the refugees who were already settled in different parts of the country, like the Andamans and Danakaranya.²⁸ According to him, the Bill was indulging in discrimination on the backdrop of Article 14 of the Indian Constitution. Balawant Singh Ramoowalla from Akali Dal also agreed that voting right was the basis of representation in India and was integral to the citizenship right.²⁹

Bholanath Sen, a Congress member, argued that the Bill was not against the Indian Constitution. According to him, full citizenship right was conferred on those who came before 1 January 1966 on humanitarian ground based on international practice. The second category of people, i.e. the foreigners who came between 1 January 1966 and 24 March 1971 were put under a process in order to grant them citizenship rights. Sen argued that giving citizenship right to foreigners was not a new phenomenon and the Indian government had the discretionary power to decide on the matter.³⁰ Discussing about the third category of people, i.e. those came on and after 25 March 1971, he maintained that the bill clearly defined them as foreigners and they would be detected and deported accordingly. Sen agreed that it was rather a unique proposition where persons who came before 1966 were deemed citizens and those who came between 1966 and 1971 were put into a process of claim to citizenship in India.³¹

The subject of documentary proofs of citizenship was also a matter of confusion and disagreement across party lines. Abdul Hannan Ansari of the Congress felt that the methods adopted for the identification of the foreigners were discriminatory to the minorities.³² He highlighted how the government offices had no proper mechanism or provisions for providing required documents like citizenship or birth certificates. Production of this kind of written certificates by the refugees who fled their home in a war situation was not easy either. Indrajit Gupta gave his own example of not having

²⁷ In the Financial Memorandum, attached with the bill, government maintained that it was not possible to estimate the volume of work of detection and registration, as no statistics was available of the persons entered between 1 January 1966 and 24 March 1971. (*Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985).

²⁸ *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 294.

²⁹ *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 279.

³⁰ Bholaram Sen, *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 255-258.

³¹ Bholaram Sen, *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 257.

³² *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 258.

a birth certificate and claimed that that did not make him a foreigner.³³ He also argued that the NRC of 1951 shouldn't be considered as proof of citizenship as it was not updated since 1951 and names of a large number of people were not registered in the same. Moreover, he argued that those who came and took refuge were poor and illiterate people who didn't have much knowledge of law and they didn't know how to get hold of these papers and certificates. His advice was not to consider papers as proof of citizenship.³⁴

The government was not convinced of this entire range of criticisms. Chavan asserted that Article 11 of the Constitution gave the government, within its own powers to enact legislation conferring or terminating the citizenship or any of the rights, which a citizen could possibly have. He also avowed that that was not only the Article 326 and Article 327, which supported the legislation, but Entry 17 of the Concurrent List also laid down the powers of Central Government to make such legislations. Chavan thought that there was no question of any infirmity under the Constitution or any other law, hence the bill couldn't be challenged in the court.³⁵ Chavan also stated there were no precise figures on those 'who have crossed over from East Pakistan or Bangladesh to India' but asserted that 'the majority happens to be who are not minorities.'³⁶ The Home Minister further emphasized that everyone should note that the number of (Hindu) majority people who crossed the border were higher than the (Muslim) minority populations. This was an indication of the government's stand on the Hindu refugees who came from Bangladesh. Chavan underlined, "...but foreigners are foreigners. There is no question of one community or the other. Whether they are Hindus or Muslims, they have been status less people so far and that is why we thought that a legal status has to be provided to them..."³⁷ He further argued that

...minorities in the context of the total Assamese population, is a totally different matter, but among the foreigners also, to consider that he belongs to minority is not a correct interpretation of the facts. Correct

³³ Gupta argued that even most of the Members of Parliament wouldn't be able to show proof like birth certificate. But that didn't make them foreigners. (*Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 274.)

³⁴ *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 274.

³⁵ *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 298.

³⁶ *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 299.

³⁷ *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 299.

position will be that irrespective of whether he is a Hindu or a Muslim. So as long as he is not given a status he is a foreigner. We cannot make any distinction between one and the other. The question was to give some kind of a legal status to all these people...the major part of the people are covered up to 1966. It might be that very correct estimates of those who came there between 1966 to 1971 are not available, but at the same time their number is not very large compared to those who came up to January 1966.³⁸

Chavan's estimation was technically correct yet in the absence of a clear picture of the number of people who entered Assam from Bangladesh at different points of time, his argument that 'the number of people who were going to be affected was not very large' was elusive. His statement that 'irrespective of whether one was a Hindu or a Muslim, a foreigner was a foreigner' practically marked a sharp demarcation between Hindus and Muslims. And his tricky statement that 'it was not only the minorities who had crossed over, there were others also who have crossed over...the majority happens to be who were not minorities', summarized it all. Chavan reminded that if the interests of the minorities were to be safeguarded, they were the Muslims. The Hindus (refugees) were actually the majority that he implied about and reminded the House of. Further he reiterated a very significant comment that no international agreement promised citizenship rights like franchise for those who came into India and took refuge during unsettling environment in Bangladesh, rather that there were considerations humanitarian grounds that they wouldn't be disturbed and India would try to give them shelter.³⁹

Official numbers of refugees from East Pakistan into Assam between 1 January 1966 and 31 October 1971 was a total of 538 thousand.⁴⁰ The number was higher than the number of persons who came into Assam between 15 August 1947 and 31 March

³⁸ *Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 299.

³⁹ As discussed in the previous chapter the Indira-Mujib Pact didn't say anything in concrete about accommodating refugees from Bangladesh. Chavan asserted this point and said 'it is said that some international commitments were made etc. as if we are trying to go back. It is not a fact. I have the copies of the agreement with me...I don't think that any such stipulation was there that, those whom we accept as refugees are also entitled to all the right of franchises, which were promised to them. (*Parliamentary Debate*, Fourth Session, Vol. X, Nos.1 to 10, 20 November 1985, 303).

⁴⁰ 'Statistical Information relating to the Influx of Refugees from East Bengal into India till 31 October, 1971', The Ministry of Labour and Rehabilitation, Department of Rehabilitation, Branch Secretariat, Government of India.

1958, which was 487 thousand.⁴¹ During communal riots in Pakistan, between 1 January 1964 and 24 March 1971, a total 214 thousand persons came into Assam against 298 thousand during the Civil War and Pakistan army atrocities in East Bengal from 25 March 1971 to 31 October 1971.⁴² Another report of the United Nation's Commission on Refugee claimed that by the end of 1971, there were 255,642 refugees staying in 28 camps in Assam and another 91,913 were staying with relatives.⁴³ Evidently, at least 214,000 refugees were going to get affected if the statistical data was considered.⁴⁴

Though the Bill was going to have deeper impacts in the trajectory of Assam's political life, the public opinion in Assam on the Bill remained silent. Assam had no representatives in the Lok Sabha as the general elections of 1984 could not take place owing to popular unrest in the state. The local press in Assam was mostly busy reporting the exercises of various political parties for the upcoming Assembly election at that time. The Bill probably didn't attract much public attention. One leading English daily from Assam opined that an ordinance wouldn't have the same popular base like the (Assam) Accord, particularly on the eve of the much awaited state election.⁴⁵

After an animated debate and prolonged dissection of the much talked about Assam Accord, the Lok Sabha passed the Bill on 20 November 1985. It was introduced in the Rajya Sabha on 2 December 1986. After discussing the Bill for two days, the Rajya Sabha passed the Bill on 3 December 1986. The Upper House debated the Bill on similar grounds like the Members of Lok Sabha had raised. The most debated aspect pertained to the scraping of voting rights to those who came to Assam between 1 January 1966 and 31 March 1971, and after March 1971.⁴⁶ Supporting the Bill, Jashwant Singh, the lawmaker from Bharatiya Janata Party (BJP) claimed that it was BJP who first proposed disenfranchisement against deportation.⁴⁷ Despite BJP's support to both the Accord and the Bill, Singh debated the clause about scraping of

⁴¹ 'Statistical Information relating to the Influx of Refugees from East Bengal into India till 31 October, 1971', The Ministry of Labour and Rehabilitation, Department of Rehabilitation, Branch Secretariat.

⁴² *Statistical Information relating to the Influx of Refugees from East Bengal into India till 31 October 1971*.

⁴³ Rupture in South Asia in *The State of The World's Refugees 2000: Fifty Years of Humanitarian Action*, United Nations High Commissioner for Refugees (UNHCR), 1 January 2000).

⁴⁴ *Statistical Information relating to the Influx of Refugees from East Bengal into India till 31 October 1971*.

⁴⁵ Editorial, *Assam Tribune* 25 November 1985.

⁴⁶ *Rajya Sabha Debate*, Session 136, Part 2 (other than question and answer), 2 December 1985, 304-408.

⁴⁷ *Rajya Sabha Debate*, Session 136, 2 December 1985, 316.

voting right of a category of entrants (who came to Assam between 1 January 1966 and 31 March 1971) on the basis of Article 14 and 19, which was about Fundamental Rights. Congress member from Assam, Baharul Islam highlighted the tricky position of Bangladesh and technical difficulties to deport the ‘illegal’ migrants from Bangladesh, as it didn’t exist before 25 March 1971.⁴⁸ The matter of paper proofs like birth certificates and National Registrar of Citizenship was also brought forth and suggestion were made to the government that detection and identification of the foreigners on the basis of such documents should be entrusted to judicial tribunals.⁴⁹

P.A. Sangma, the Union Minister of State for Home Affairs while defending the Bill pointed out how the Indian Parliament had the supreme authority to enact laws about citizenship in India.⁵⁰ Sangma referred to the section 12 of Citizenship Act, 1955 which was about the Commonwealth countries and which entrusted the Central Government to make provisions on the basis of reciprocity for conferment of all or any rights of a citizen of India or the citizens of such countries by a simple order notified in Official Gazette.⁵¹ Sangma reminded that had Bangladesh been listed as a Commonwealth country, the Central Government could have brought Citizenship (Amendment) Act 1985, by a simple gazette notification.⁵²

After long discussions and Central government’s assertion of its authority to enact citizenship law, the Citizenship (Amendment) Act, 1985 came into force with effect from 7 December 1985. The Citizenship (Amendment) Rules, 1986 and amendment to the Foreigners (Tribunals) Order, 1964 were notified on 15 January 1986.⁵³

What was the outcome of this decisive change in the history of India’s journey with citizenship? Part of the answer could be found in Anupama Roy’s argument that the amended law established a ‘hierarchized model of citizenship’ constituted by the ‘universal we’ whose claims to citizenship were beyond any legal disputation. This universal ‘we’ was superimposed on residual citizens, whose citizenship was rendered

⁴⁸ *Rajya Sabha Debate*, 2 December 1985, 322-25.

⁴⁹ Dr. Mohd. Hashim Kidwai, *Rajya Sabha Debates*, 2 December 1985, 220.

⁵⁰ *Rajya Sabha Debates*, Session 136, Part 2 (other than question and answer), 3 December 1985, 226-231.

⁵¹ *Rajya Sabha Debates*, 3 December 1985, 229.

⁵² *Rajya Sabha Debates*, 3 December 1985, 229.

⁵³ Statement regarding implementation of the Assam Accord from the Ministry of Home Affairs, India, Presented by Home Minister S. Buta Singh, *Parliamentary Debates*, Seventh Session, Vol. XXI, (New Delhi: Lok Sabha Secretariat, 12 November 1985), 163-64.

https://eparlib.nic.in/handle/123456789/17650?view_type=search

ambivalent by their linguistic identity or their religion.⁵⁴ Roy also maintains that Citizenship (Amendment) Act, 1985 provided an ‘ethno-space’ for Assam as from here onwards, as 6(A) of Citizenship Act 1955 was going to specifically address the case of Assam.⁵⁵ However, later developments reveal how the creation of an ‘ethno-space’ would isolate the case of Assam in the larger legal framework of citizenship in India and will place Assam in a more complex terrain. But notably the Act embodied the successful entanglement of the question of Assamese nationality with the legal framework of Indian citizenship. It avowed how the long discussions between the leaders of the popular protest during the initial years of 1980s resulted into a significant shift in laws of citizenship and offered Assam a unique position.

Another Beginning: The Citizenship (Amendment) Act 1986

Within a year, another amendment was introduced in the Parliament on 10th November 1986. The amendment aimed at tightening the process of granting Indian citizenship in view of migration of large numbers of Indian origin persons from countries like Bangladesh, Sri Lanka and other neighboring countries as well as from other African and Asian countries. It proposed to bring five amendments to sections 3, 5 and 6 of the Citizenship Act.⁵⁶ Assam was having her first batch of representatives from the newly formed Asom Gana Parishad (AGP).⁵⁷ Dinesh Goswami, member from Assam, one among the first batch of Parliamentarians from AGP, despite being in opposition, expressed his happiness on introduction of the Citizenship (Amendment) Bill 1986 and conferred support.⁵⁸ He was happy that after six years of struggle Assam had been able to get the statement from Government of India that a large number of persons of Indian origin had ‘illegally’ entered the territory of India from Bangladesh, Sri Lanka and some African and Asian countries.⁵⁹

⁵⁴ Roy, *Mapping Citizenship in India*, 2012, 21.

⁵⁵ Roy, *Mapping Citizenship in India*, 2012, 23.

⁵⁶ *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, (New Delhi: Lok Sabha Secretariat, 10 November 1986), 419.

⁵⁷ All Assam Gana Sangram Parishad (AAGSP), the umbrella organization to lead the protest against illegal foreigners in Assam, during 1979-1985, was dissolved after the signing of Assam Accord and a new political party named Asom Gana Parishad (AGP) was formed on 14 October 1985. AASU remained as an independent, apolitical organization of students of Assam. Leaders like Prafulla Mahanta, Bhigu Phukan, Digen Bora resigned from AASU and joined AGP.

⁵⁸ Chidambaram maintained that India was trying to tell the world that it would grant citizenship only under very strict conditions. “Our laws are being made more stringent” (*Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986)

⁵⁹ *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986, 458.

Members from the Communist Party of India, Marxist (CPI-M)) however opposed the introduction of the Bill on the ground that it was discriminatory and was against the spirit of the Indian Constitution.⁶⁰ P. Chidambaram, India's junior minister of Home Affairs argued that paramount power had been given to the Parliament to enact any law regarding citizenship and asserted that this power could not be questioned.⁶¹

The Bill sought to bring five basic amendments to sections 3,4 and 5 of the Citizenship Act, 1955. Section 6(A), which was introduced during the 1985 amendment, was left untouched implying Assam was not going to get affected. But the newly proposed amendments in 1986 marks another significance as India would enter into a stricter citizenship regime and this had implications for Assam in the long run. First, the Bill proposed that persons born in India after the amendment would become citizen of India by birth only if at the time of their birth, either of their parents were citizens of India as against the existing provisions of acquiring citizenship of India to every person born irrespective of their parentage.⁶² It also proposed to raise the qualifying period of stay for obtaining citizenship from six months to five years for persons of Indian origin and ten years for persons other than from Commonwealth countries, thereby tightening the process of acquiring citizenship. The Bill also proposed to amend the definition of Indian origin in a manner where the person would derive Indian origin if he or either of his parents were born in undivided India, as against the earlier provision of providing not only parents but also any of his grand parents having been born in India.⁶³

Members, especially from the CPI (M) opposed the creation of categories on the basis of date of birth as discriminatory. They criticized the Bill as an exclusionary step against India's existing inclusive laws on citizenship. H.A. Dora argued that the Bill was not going to provide any solution to the problem of clandestine entry of people of Indian origin and rather, argued that this would breed corruption. As the Bill's basic proposition was based on date of birth, the production of certificates would lead to a deeper network of corruption. Dora argued that it was very easy in a country like

⁶⁰ The Bill was published in Gazette of India Extraordinary Part II, Section 2 on the same date i.e.4 November 1986. Somnath Chatterjee, Manik Sanyal, Basudeb Acharia, Amal Datta and Anand Pathak from CPI (M), all from the state of West Bengal rose to oppose the introduction of the Bill. (*Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 4 November 1986, 376-381).

⁶¹ *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986, 379.

⁶² Citizenship Amendment Bill 1986, Gazette of India (Extraordinary) 4 November 1986.

⁶³ Citizenship Amendment Bill 1986, Gazette of India (Extraordinary) 4 November 1986.

India to get such a certificate at smaller price.⁶⁴ Countering this opposition, Bholanath Sen, an eminent Congress leader from West Bengal stated that the provisions to acquire citizenship had to be made more stringent.⁶⁵ There had been a large influx from Bangladesh to West Bengal especially during the time of elections. They were provided ration cards and they acquired the right to vote quickly. He gave an example of his own constituency, Malda in West Bengal, where there had been a steady rise in population and the political leaders were helping them to get voting rights through issuing documents like ration card.⁶⁶

One could notice strong aversion towards migrants. Sriballav Panigrahi thought that migration had not only directly impacted the economy of these bordering states in India but also pointed out that those refugees who took shelter in India were giving birth to children and that these children were acquiring Indian citizenship by birth. He felt that such a process of acquiring Indian citizenship should be tightened. Somnath Chatterjee argued that the Bill actually aimed at two things: first, it intended to control population in the country and secondly it aimed to stop influx of refugees. But by putting restrictions on acquiring citizenship, population couldn't be controlled, he opined. Rather it was going to deny ordinary human rights. Chatterjee referred to the earlier amendment in 1985 which was in pursuance of Assam Accord and maintained that that was a product of 'unholy compromise and brought untold misery to thousands of people in Assam pertaining to the question of citizenship.'⁶⁷

Syed Shahabuddin from Janata Dal opined that the Bill was 'against a particular community' and though looked innocuous on the face of it, was going to have long-term implications.⁶⁸ He opined that the Bill was not an answer to the problem of infiltration, and rather, it would only perpetuate the disease of statelessness. Pointing out to the absence of proper registration process of birth, a system of registering foreigners and system of issuing identity card for every citizen, he questioned how a Bill which was based on date of birth could be implemented.⁶⁹ He added "...lakhs of citizens will be subjected to continuous harassment at the hands of the executive,

⁶⁴ *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986.

⁶⁵ *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986, 385.

⁶⁶ *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986, 442.

⁶⁷ *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986, 443.

⁶⁸ *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986, 444.

⁶⁹ *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986, 448.

particularly an executive which is politically motivated or politically inspired or if it has a communal tendency.”⁷⁰

But the biggest defense came from P. Chidambaram who insisted on India’s need to tighten up her Citizenship law. He said,

...not that we are not generous to people who want to come to this land. But we cannot be generous at the cost of our own people, at the cost of our own development and we cannot bear the burden of clandestine entry of a large number of people. You call them refugee, you call them deprived people. We cannot bear the burden for long. Therefore I think, the time has come to tighten up our citizenship law.⁷¹

Chidambaram further argued that the amendment was just the beginning of many things that had to be done with regard to citizenship law.⁷² The Bill had introduced a paradigm shift in the functioning of citizenship laws in India by introducing a move from *just-soli* to *just-sanguine* principle.⁷³ Defending this monumental ideological shift in the idea of Indian citizenship laws, Dinesh Goswami opined that India should have a National Register of Citizens.⁷⁴ Goswami maintained that the need of such a register of citizens had become more relevant.⁷⁵ He noted that “let us know who are the citizens of this country”⁷⁶ and argued that the existing NRC of 1951 was never updated in the case of Assam and that rest of India did not even have one because there were vested interests in not having one for reasons of vote.⁷⁷ He stated,

...the government do not do it because sometimes a Damocles sword is kept hanging over the heads of the people. The government of the Centre do not bring out the list but take up the position, “if you support one

⁷⁰ *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986, 447.

⁷¹ *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986, 470.

⁷² *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986, 470.

⁷³ *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986, 475.

⁷⁴ I am fully agreement with Shri Shahabuddin that there should be a National Register of Citizen. (Dinesh Goswami, *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986, 462).

⁷⁵ *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986, 460.

⁷⁶ He made a reference to states like West Bengal and Punjab. (*Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986, 462)

⁷⁷ *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986, 462.

party you are a citizen; if you do not support us, you are not a citizen". Let the names of those people who acquired citizenship be entered into NRC, so that they can say, yes, we are citizens and there is a documentary proof of our citizenship.⁷⁸

Goswami's appeal for India's national register of citizenship only found lukewarm response from fellow lawmakers. Jaswant Singh, Rajya Sabha member from the BJP however thought that the time had not come for the government to think about the introduction of a National Register of Citizens. The Bill was placed in Rajya Sabha on 18 November 1986. There were opposition from some members of CPI and CPI (M). The debate centered around similar points of opposition as in the Lok Sabha that India was shifting from its inclusive citizenship law to a stringent one and that it was against the interest of (Hindu) refugees. The Bill was passed in the Rajya Sabha on 19 November 1986 and came into effect from 1 July 1987.⁷⁹

Both the Citizenship (Amendment) Act, 1985 and the Citizenship (Amendment) Act, 1986 impacted the trajectory of Indian citizenship significantly. Though the government could not provide any estimated statistics of the number of people going to get affected by these laws, many realized that they could make large numbers of people stateless. Many of them were going to lose voting rights for a decade and were going to live with apprehensions about their citizenship status or were going to be deported. The Bangladesh government meanwhile asserted that there was not a single Bangladeshi in Assam.⁸⁰ In the absence of any international agreement or consensus on the matter between India with Bangladesh, India's proposition to deport people brought anxiety to many. Representatives of stands similar to that of P. Chidambaram opined very assertively about (Hindu) refugees that India could no longer be keen to take their burden as it was adding to the problems of population explosion and economic constrains. India had no refugee policies and was not a signatory to any UN policy on refugees. At the same time, documentary proof of citizenship and the idea

⁷⁸ *Parliamentary Debates*, Seventh Session (8th Lok Sabha), Vol. XXI, No. 1-10, 10 November 1986, 462.

⁷⁹ Gazette of India, Extra ordinary, Notification no. S.O. 9 (E).

⁸⁰ Bangladesh claimed that the population of Bangladesh was basically homogenous and stable. There was seasonal shortage of labor in various parts of the country during harvesting season due to lack of population mobility. So it argued that in such a background, where seasonal internal migration was so limited how would permanent out migration in a scale of millions be possible. Furthermore it claimed that Bangladesh had a good growth rate of economy and there were no communal disharmony; so there were no reasons for outmigration to Assam, in that background (Letter to the Editor, Abdul Hannan, the Counselor (Information) Mission of Bangladesh to the U.N. (New York Times, 18 January 1986.))

of having a National Register of Citizens (NRC) slowly began to gain political attention.

Implementation of the Assam Accord

The implementation of the Assam Accord got some fillip after the amendments to the Citizenship laws. The clauses on foreigners issue, i.e. clause 5 of Assam Accord into the Citizenship (Amendment) Act, 1985 helped the union government to acquire a grip on the political climate in Assam immediately. But these laws alone could not settle the case of Assam. Despite all criticisms, certain points of clause 5 of the Accord would continue to gain political attention. One such was the question of the implementation of Illegal Migrants (Determination by Tribunals) Act, 1983. This continued to impact the citizenship discourse in Assam.⁸¹

While amendments to the Citizenship Act, 1955 gave a sense of marking out of a particular place for Assam, with the legalization of a 'hyphenated citizenship'⁸², the simultaneous functioning of the Illegal Migrants (Determination by Tribunals) Act, 1983 (IM(DT)) worked for the balancing of the citizenship claims in Assam. Though the IMDT Act, 1983 was proposed for the entire nation, it was forcefully implemented only in Assam. AASU believed that the IMDT was more protective of the interests of the immigrants, as it vested the responsibility to prove one as a foreigner on the person who claimed and identified a person as foreigner.⁸³ This worked as a balancing force in the power equation between the state and the Central Government however actually assured authority to the later in deciding on the claims of citizenship in Assam. This also worked as an electoral bargain for vote bank and marked the beginning of a new phase of politicization of the matter citizenship in India.⁸⁴

Clause 5.9 of Assam Accord provided that the government would give due consideration to difficulties regarding the implementation of the Illegal Migrants

⁸¹ Anupama Roy observed that for Assam the illegality/alien-ness of the migrants was central to the construction of Assamese identity. She further argued that the code of citizenship marked out the 'others' (migrants and refugees), continually reproducing and re-inscribing within the field of citizenship, in a relationship of contradictory cohabitation, in Roy, *Mapping Citizenship in India*. 93-121.

⁸² Anupama Roy, The Citizenship (Amendment) Bill, 2016 and the Aporia of Citizenship, (*Economic and Political Weekly*, 4 December 2019), 28-34.

⁸³ Roy, *Mapping Citizenship in India*, 2012, 93.

⁸⁴ Roy, *Mapping Citizenship in India*, 2010 and Jayal, *Citizenship and Its Discontents*, 2015 (2013).

(Determination by Tribunals) Act, 1983.⁸⁵ Soon after signing the Accord, AASU formed its new executive in a convention held in Lakhimpur during 6-7 October 1985. Welcoming the Assam Accord, AASU exhorted the new executive to watch over the implementation of the Accord and take necessary measures.⁸⁶ The new executive of the AASU met the then Prime Minister of India on 25th October and submitted a memorandum seeking amendment to the IMDT Act, 1983.⁸⁷ Days later, the AASU sent their 15-point suggestions to the Indian government in this regard.⁸⁸

The AASU suggested certain changes such as change in the base year of identification from 25 March 1971 to 1 January 1966. It proposed to have at least one tribunal for every assembly constituency with its office at sub divisional headquarters level and wanted the lifting of the restriction of 3 kilometers limit for filing objection, dropping of the provision relating to payment of fees for filing applications against the stay of foreigners and submission of affidavits by second persons, sending a copy of the order passed by the Tribunal to the Electoral Registration Officer for necessary action, removal of application fees, etc.⁸⁹

The state government on various counts contested these suggestions. The suggestion of lifting the restriction of 3 km limit for filing objection was prescribed to minimize possible harassment and need for normal familiarity of the applicant and the person objected to, while widening the area for restrictions or doing away with it might lead to more scope of harassment.⁹⁰ That the IMDT Act, 1983 did not provide the police with the powers to arrest, search and seize was seen with apprehension. By November 1985, altogether 8292 inquiries were instituted by police against the ‘suspected illegal immigrants’ under the IMDT Act, 1983, of which only 1411 were completed and

⁸⁵ Accord between AASU, AAGSP and Central Government on Foreign Nationals Issue, (Assam Accord) 15 August 1985, Memorandum of Settlement (Government of Assam, Implementation of Assam Accord)

⁸⁶ *The Assam Tribune* 11 October 1985.

⁸⁷ Memorandum by AASU, 26 October 1985, (Implementation of Assam Accord clause relating to Police (B) Deptt., PLB.245/85/PC, Political Department, Government of Assam, Assam State Achieve (ASA)).

⁸⁸ Letter by AASU to the Union Home Ministry, 2 November 1985, (Implementation of Assam Accord clause relating to Police (B) Deptt., PLB.245/85/PC, Political Department, Government of Assam, Assam State Achieve (ASA)).

⁸⁹ Letter by AASU to the Union Home Ministry, 2 November 1985, (Implementation of Assam Accord clause relating to Police (B) Deptt., PLB.245/85/PC, Political Department, Government of Assam, Assam State Achieve (ASA)).

⁹⁰ Suggestions to the State Government by the IG (Border) (Implementation of Assam Accord clause relating to Police (B) Deptt., PLB.245/85/PC, Political Department, Government of Assam, Assam State Achieve (ASA)).

6881 were still under inquiry.⁹¹ A senior police official suggested that the police should be empowered to arrest an 'illegal' migrant, identified by a tribunal.⁹²

The newly formed AGP government in Assam under the leadership of Prafulla Kumar Mahanta, the former AASU president, came into confrontation with the Central Government regarding the implementation of the Assam Accord.⁹³ Mahanta alleged that though the then Prime Minister of India assured a delegation of the AGP in November 1985 that necessary amendments to the Illegal Migrants (Determination of Tribunals) Act, 1983 would be brought in, the promise was not kept.⁹⁴ It was only much later than the Mahanta led AGP government had expected and after many rounds of discussions between the Center and the state, a Bill was introduced in the Lok Sabha on 28 March 1988 for amending the Illegal Migrants (Determination by Tribunals) Act 1983. Many of the amendments suggested earlier by AASU found its place in the Bill. P. Chidambaram, while introducing the Bill argued, "In pursuance of the clause 5.9 (of Assam Accord), the State Government of Assam had submitted a proposal suggesting number of amendments to the Act. Experience gained in the implementation of the Act for last four years has also indicated the need for bringing about some changes in order to streamline the working of the Act."⁹⁵

Major amendments proposed by the Bill included reduction in the number of members of an IMDT Tribunal from 3 to 2, relaxation of residence restriction in case of private complaints from 3 km to residences within the same police station area, reduction of minimum fee in case of private complaints from Rs.25 to Rs.10, enabling any persons living beyond the limits of the same police station to make an application

⁹¹ Suggestions to the State Government by the IG (Border) (Implementation of Assam Accord clause relating to Police (B) Deptt., PLB.245/85/PC, Political Department, Government of Assam, Assam State Achieve (ASA)).

⁹² Amongst various suggestions, IG (Border) suggested for strengthening of the river police in bordering districts with Bangladesh like Dhubri, Goalpara, Karimganj and Cachar to dictate the persons fleeing from B.S.F. vigilance. It also maintained that there was need for better training of the riverine police especially in swimming, life securing and machine repairing etc. For the purpose a budget was also proposed. (Suggestions to the State Government by the IG (Border) (Implementation of Assam Accord clause relating to Police (B) Deptt., PLB.245/85/PC, Political Department, Government of Assam, (ASA)).

⁹³ On 8 December 1986, AGP, the ruling party of Assam called for a twelve hours statewide *bandh* protesting against 'the Central government's insincere and apathetic attitude in the implementation of Assam Accord. AGP strongly protested proposal of Home Minister that half of the 18 Registration Officers to identify the foreigners should be from outside the state. The *bandh* was reportedly successful. (*The Assam Tribune*, 3 December 1986).

⁹⁴ *The Assam Tribune*, 3 December 1986.

⁹⁵ Parliamentary Debate on IMDT Amendment Bill 1987, *Parliamentary Debates*, Tenth Session, Eighth Lok Sabha, Vol. XXXVII. No. 24, New Delhi: Lok Sabha Secretariat, 28 March 1988.

to the Central government for reference to a Tribunal, reduction in minimum number of members of an Appellate Tribunal from three to two, deletion of the existing provision relating to revision by High Court in view of the powers of the High Court under article 226 and 227 of the Constitution, conferment of the power on the Appellate Tribunal to exercise superintendence over all determination Tribunals in a State, empowering a police officer not below the rank of Superintendent of Police to bind certain persons, providing for a minimum punishment for offence under the Act etc.⁹⁶ As regard the question of burden of proof, it was agreed to abide by the advice of the Attorney General that no change need be made in the act.⁹⁷

The members in support of the Bill expressed their concern about the Act's inefficiency for declaring more illegal migrants as expected and opined that the Act was a hindrance. The data referred by the Congress leader and parliamentarian from Assam, Bipin Pal Das stated that the enquiries under Foreigners' Act 1946, up to 29 February 1988 against 3,85,103 persons were initiated, of which 21,501 enquiries had been referred to the foreigners tribunals for opinion. The Foreigners Tribunals had declared 3,854 people as foreigners of the 1966-71 stream, whereas of the 1,17,472 enquiries initiated under IMDT Act 1983, for the entrants after March 1971, only 639 persons were declared as foreigners and of them 140 persons were deported.⁹⁸ Though Pal supported the Bill on the ground that the proposed amendments were not big and important, he argued that despite the AGP government's repeated claims that the IMDT was a hindrance for solving the problem of illegal foreigners in Assam, a large number of people were being harassed in the process of identification by the tribunals. He said that "...lakhs of people have been notified in front of the Tribunals and only 3994 persons have been found so far as aliens within two years. That means thousands and lakhs of people have been harassed for nothing. They have been asked to move to the court for nothing. Some people from one district have been asked to go and appear before tribunals in another district...there shouldn't be harassment of innocent people who are citizens of India...the process of identification of foreigners should be precede in accordance with the law."⁹⁹ Standing on the opposite camp, Janata Dal leader and Parliamentarian Syed Shahabuddin also referring to the

⁹⁶ *Parliamentary Debates*, Tenth Session, Eighth Lok Sabha, Vol. XXXVII. No. 24, 28 March 1988, 781-782.

⁹⁷ *Parliamentary Debates*, Tenth Session, Eighth Lok Sabha, Vol. XXXVII. No. 24, 28 March 1988, 784

⁹⁸ *Parliamentary Debates*, Tenth Session, Eighth Lok Sabha, Vol. XXXVII. No. 24, 28 March 1988, 785.

⁹⁹ *Parliamentary Debates*, Tenth Session, Eighth Lok Sabha, Vol. XXXVII. No. 24, 28 March 1988, 789.

cumbersome procedure said, "...you create a doubt through executive action about the status of lakhs of citizens. Finally you dig a mountain and come out with a mouse."¹⁰⁰ The primary concern was regarding possible harassment of genuine citizens in the process and many believed that the minimum safeguard which the IMDT Act, 1983 had for not harassing genuine citizens and interest of the refugees and minorities were being diluted by bringing the amendment.¹⁰¹ Many claimed this as a political tactics by the Congress government to continue its vote bank politics, cutting out AGP's sentimental share.¹⁰²

The members from AGP however felt that the presumptions about the harassment on minorities and refugees were baseless as the proposed amendments were very simple without any unjust principle.¹⁰³ Reasserting his unique position in support of the Bill, despite being in opposition, Dinesh Goswami argued that the difficulties to implement the various points of clause 5 of Assam Accord were interconnected. The argument that identification of illegal immigrants by the tribunals was a process like "digging a mountain and coming out with a mouse" was not as simple as it appeared. Pointing out to the electoral rolls, Goswami argued that there were lakhs of names of persons in the 1971 electoral roll whose names were not in 1966 electoral rolls. The initial cases referred to Tribunals couldn't come out with expected number of identified illegal migrants as, certain documents integral to the citizenship question were not taken into account. The electoral rolls were not revised to delete the names of the migrants from Bangladesh between 1 January 1966 and 25 March 1971. Goswami further maintained that no 'Quite India' notice had been served on any foreigners. No person was harassed in the process and he believed that the proposed amendments by the Bill were minor and couldn't cause any harm to anybody. But he asserted strongly that though the Central government didn't agree to the proposal of amending the clause of IMDT Act, 1983 regarding the proof of burden, the clause had been a hindrance in the identification of illegal migrants of post 1971 stream. He also suggested the amendment while the Bill was put on vote clause wise on 29 March

¹⁰⁰ *Parliamentary Debates*, Tenth Session, Eighth Lok Sabha, Vol. XXXVII. No. 24, 28 March 1988, 793.

¹⁰¹ *Parliamentary Debates*, Tenth Session, Eighth Lok Sabha, Vol. XXXVII. No. 24, 28 March 1988.

¹⁰² Syed Shahabuddin maintained that Congress lost its vote bank and was trying to recreate. Congress was trying to cut into the AGP's constituency by taking guardianship of the Assamese sentiment. (*Parliamentary Debates*, Tenth Session, Eighth Lok Sabha, Vol. XXXVII. No. 24, 28 March 1988, 795).

¹⁰³ *Parliamentary Debates*, Tenth Session, Eighth Lok Sabha, Vol. XXXVII. No. 24, 28 March 1988.

1988, which was negated.¹⁰⁴ After two day long highly animated discussions in the Lok Sabha, the Bill was passed on 29 March 1988 as ‘IMDT Amendment Act, 1988’. The Bill came into force with effect from 25 April 1988. Rules were published on 25 May 1988. The amendment of 1988 however couldn’t balance out the Centre-State bargain about the clause 12 of IMDT Act, 1983, which was about the burden of proof. By 1988, politics around the matter of citizenship became prominent.

After various parleys between the Central and the State government, the Central Government again assured repeal of the IMDT Act, 1983 by 28 February 1991, on a document signed on 27 January 1990 by the Union Home Secretary and the Chief Secretary of Assam.¹⁰⁵ Thereafter Central Government would keep renewing its assurance in various occasions. In 1998, All India Lawyers Forum For Civil Liberties filed a PIL to repeal the Act. Ashok H. Desai, appearing for the writ petition referred to an affidavit on behalf of the Government of India where in section “updated status position,” argued, “The Government is of the view that the Illegal Migrants (Determination by Tribunals) Act, 1983 in its application to the state of Assam alone is discriminatory. The proposal to repeal this Act under active consideration of the Government.” The Assam government also shared a similar view. “The State Government has thus been insisting upon the Central Government for repeal of the IMDT Act. Now, in the counter affidavit filed by the Central Government it has admitted that the Act is ‘discriminatory’ in nature and on such admission, the Act is liable to be struck down as unconstitutional.”¹⁰⁶

Despite such long bargains, negotiations and various conclusions, the Act remained in function until 2005. In 2005, the Supreme Court by an order to a PIL filed by former AASU president Sarbananda Sonowal, repealed the long disputed Act.¹⁰⁷ The principal grievance of the PIL was that the IMDT Act was wholly arbitrary, unreasonable and discriminates against a class of citizens of India, making it impossible for citizens who are residents in Assam to secure the detection and

¹⁰⁴ *Parliamentary Debates*, Tenth Session, Eighth Lok Sabha, Vol. XXXVII. No. 24, (New Delhi: Lok Sabha Secretariat, 29 March 1988), 275.

¹⁰⁵ Roy, *Mapping Citizenship in India*. 2010, 106-115.

¹⁰⁶ A.I Lawyers Forum For Civil Liberties and Another vs. Union of India and others, <https://www.casemine.com/judgement/in/58117ed72713e179478c29cc>.

deportation of foreigners from Indian soil.¹⁰⁸ The PIL largely reflected the politicization of the issue of citizenship in India. Starting from Sonowal's filing of PIL up to its repeal, Assam would witness intense political contestation over this issue. The positions of the governments would keep changing for and against the IMDT Act. The AGP in an affidavit on 28 August 2000 supported Sonowal's petition and stressed on Assam's demographic change and rise in Muslim population and termed IMDT as discriminatory. While changing its position, the Congress government in Assam in 2001 termed the IMDT as constitutional and maintained that it safeguards the interest of genuine Indian citizens in Assam.¹⁰⁹ The NDA government at Centre maintained that the IMDT Act was the most important factor responsible for aggravating the situation in Assam, however allowed its continued application. This arguably amounted to preferential protection of the illegal migrants in the state.¹¹⁰ The UPA in contrast maintained that IMDT Act was necessary to protect the genuine citizens of India living in Assam.¹¹¹ Evidently, IMDT Act fell prey to the political power struggle.¹¹²

The Supreme Court judgment reasserted certain prejudiced view about illegal migrants to a great extent.¹¹³ The judgment would once again revisit the past references to migration into Assam and highlighted the changes in Assam's demographic composition and increase in Muslim population as against Hindus. Highlighting the statistics from census reports, it maintained, "All India percentage of decadal increase in population during 1981-1991 is 23.85 percent whereas in the border districts of Assam, namely, Karimganj shows decadal increase of 42.08 percent, Cachar district 47.59 percent and Dhubri district 56.57 percent. It further added, "in absolute terms, the number of Muslims crossing into India is likely to be much larger than that of non-Muslims."¹¹⁴ Referring to former Home Minister Inderjit

¹⁰⁸ Sarbananda Sonowal vs. Union of India & Anr, 12 July 2005, (20.2) www.indiakanoon.org.

¹⁰⁹ Sarbananda Sonowal vs. Union of India & Anr, 12 July 2005, (20.2) www.indiakanoon.org.

¹¹⁰ Sarbananda Sonowal vs. Union of India & Anr, 12 July 2005, (20.2) www.indiakanoon.org.

¹¹¹ Roy has discussed in detail about the politics around IMDT Act, 1983, particularly referring to the governments' stands, in Roy, *Mapping Citizenship in India*, 2010, 100-103.

¹¹² Jayal maintained that politics of nationalism played no small part in these positions in Jayal, *Citizenship and Its Discontents*, 2015 (2013), 64-65.

¹¹³ Sarbananda Sonowal vs. Union of India & Anr, 12 July 2005, (20.2) www.indiakanoon.org.

¹¹⁴ Sarbananda Sonowal vs. Union of India & Anr, 12 July 2005, (20.2) www.indiakanoon.org.

Gupta's statement in the parliament on 6 May 1997, the judgment opined that among the huge number of illegal immigrants, Muslims outnumbered.¹¹⁵ It thus observed,

The silent and invidious demographic invasion of Assam may result in the loss of the geostrategically vital districts of lower Assam. The influx of these illegal migrants is turning these districts into a Muslim majority region. It will then only be matter of time when a demand for their merger with Bangladesh may be made. The rapid growth of international Islamic fundamentalism may provide for driving force for this demand. In this context, it is pertinent that Bangladesh has long discarded secularism and has chosen to become an Islamic State. Loss of lower Assam will serve the entire land mass of North East, from the rest of India and the rich natural resources of that region will be lost to the Nation.¹¹⁶

Observing the role of IMDT, the judgment maintained that "A deep analysis of the IMDT Act and the Rules made thereunder would reveal that they have been purposely so enacted or made so as to give shelter or protection to illegal migrants who came to Assam from Bangladesh on or after 25 March 1971 rather to identify and deport them."¹¹⁷ The Court struck down the Act as *ultra vires*, stating beyond Constitution of India. It pointed out that citizens were unlikely to initiate proceedings for identification and deportation of illegal migrants. Marking the Act as the savior of the illegal migrants, it stated that it had only done expulsion of less than one percent of all cases initiated.¹¹⁸ The cases pending with the Tribunal was directed to transfer to the Foreigners Tribunals constituted under the Foreigners (Tribunals) Order, 1964 and to be decided under the manner provided in Foreigners (Tribunals) Order, 1964.¹¹⁹

Scraping of IMDT however didn't ease out the case for Assam. The number of foreigners identified and deported by the Foreigners Tribunal would also not reflect a significant change in number. Of total 112791 referred cases, IMDT declared 12846 persons as foreigners until 2005, where 88770 cases remained pending and 24021

¹¹⁵ Sarbananda Sonowal vs. Union of India & Anr, 12 July 2005, (16) www.indiakanoon.org

¹¹⁶ Sarbananda Sonowal vs. Union of India & Anr, 12 July 2005, (24) www.indiakanoon.org

¹¹⁷ Sarbananda Sonowal vs. Union of India & Anr, 12 July 2005, (24) www.indiakanoon.org

¹¹⁸ Sarbananda Sonowal vs. Union of India & Anr, 12 July 2005, (57) www.indiakanoon.org.

¹¹⁹ Sarbananda Sonowal vs. Union of India & Anr, 12 July 2005, (57) www.indiakanoon.org.

were disposed and 1547 declared foreigners were pushed back.¹²⁰ While until July 2012, the Foreigners Tribunals declared 42338 persons as foreigners of 108219 total referred cases; 895 declared foreigners were pushed back, 73062 cases were disposed off and 35157 remained pending.¹²¹ The numbers reflected the complicated process of identification of illegal foreigners and also raised questions about the legal definition and the process of claiming citizenship right. As discussed in chapter IV, the process was introduced in Assam during the 1960s. Yet that couldn't provide a solution to the illegal foreigners problem in Assam. The long protest against illegal foreigners during the 1980s and introduction and scrapping of the IMDTs further raised questions in terms of the politicization of the idea of citizenship in India.

The Unmaking of Citizenship

Amidst all political snips and resulting wide range of public opinion about the identification of illegal foreigners in Assam, the process of identification and deportation continued. The process engaged a wide range of claims to citizenship and connected different regimes. With the highly politicization of the matter, voter's list appeared as crucial. Understanding the process through which Gauhar Bibi, as discussed earlier, became a D-voter will help to understand the dynamics of the revision of the voter roll in Assam. The Deputy Superintendent of Police, after having doubts about the nationality status of Gauhar Bibi, first sent the case to the IM(DT) in 2004, just few months before its scrapping. After scrapping of IM(D)T on 12 July 2005, it was redirected to Foreigners Tribunal. Gauhar Bibi's name appeared in the electoral roll published in 2004.¹²² A house-to-house enumeration was done during the period from 2 August 2004. The formatted reference document states 'the ERO for the said Assembly Constituency, seeing doubt about the citizenship of the said person, got the matter verified by an on-spot local verification (Officer).'¹²³ Following the procedure, Gauhar Bibi was identified as a 'doubtful voter' by Foreigners Tribunal.¹²⁴

¹²⁰ *White Papers on Foreigners Issue*, Home and Political Department, Government of Assam, 20 October 2012, 24. ASA.

¹²¹ *White Papers on Foreigners Issue*, 20 October 2012.

¹²² *Annexure B*, 'For Making reference to the competent authority (in case of *suo moto* local verification, Documents of the case of Gauhar Bibi, Personal achieve, collected from a lawyer in a personal capacity during my fieldwork at Guwahati.

¹²³ *Annexure B*, local verification, Documents of the case of Gauhar Bibi, Personal achieves.

¹²⁴ After publication of rolls in draft, the EROs caused verification through Local Verification Officers (LVOs) in respect of those in the draft rolls where linkages could not be established with the earlier rolls but were provisionally included. After due verification, the LVO submitted his report in a specified format to the ERO, who in turn forwarded the cases, where he had reasonable doubt about the citizenship of any

Gauhar Bibi would go a long way after the referral of her case to the Foreigners Tribunal to establish her claim to Indian citizenship from one courtroom to the other. Yet her claim would keep looming large between wrong spells of two names- her father's and her brother's. Her journey could have been shorter or possibly she could have been able to make it to a supplementary draft roll, before the unique invention of the category of 'D voters' in Assam in 1997. The journey of lakhs of people like Gauhar Bibi had been long anyways. The process of revision of electoral roll and its linking with the citizenship question, after 1985 would go through a long journey involving lakhs of alleged foreigners by the IMDTs and Foreigners Tribunals, hundreds of members of the tribunals, judges, lawyers and advocates of different levels of courts and an enormous amount of public anxiety.

Gauhar Bibi's unique status as 'D voter' was result of the measures promised in Assam Accord and was given a legal shape by the Citizenship (Amendment) Act, 1985. Public opinion expressing dissatisfaction regarding revision of electoral roll was expressed immediately after the publication of the electoral roll for assembly election in November 1985.¹²⁵ Assam voted based on the electoral roll scrutinized with reference to the 1971 electoral roll.¹²⁶ However, the Citizenship (Amendment) Act, 1985 offered a separate legal procedure for those migrants from Bangladesh between 1 January 1966 and 25 March 1971. Until 1987, there were no such steps taken up by the Election Commission to revise the rolls. The newly formed AGP government in a series of confrontations with the Central Government regarding irregularities and delay in implementation of Assam Accord also kept raising the matter of intensive revision of the electoral rolls. In 1987, it objected the summery revision of the rolls, as 1985 rolls as reference roll proposed by Election Commission and demanded an intensive revision of the rolls considering 1966 rolls as the basic

person, to the Competent Authority under the IM(D)T Act or the FT Act for further reference to the concerned Tribunal. (*White Paper on Foreigners Issue*, Government of Assam, 2012).

¹²⁵ *The Assam Tribune*, 2 November 1985.

¹²⁶ There were intriguing stories about the revision of electoral rolls in Assam. Reporting about the scrutiny and examination of the electoral roll, Journalist Shekhar Gupta wrote about the surprising experience of R. Malik, a young probationer, who worked an assistant electoral registration officer (AERO) to assist in the revision of electoral rolls at Nowgong. He was intrigued by the frequency with which the police verification reports on voters whose citizenship was suspect turned out to be incomplete as Gupta described, in hundreds of cases even the column stating the age of the elector was not filled up. Malik wondered if he was supposed to include the names of such people, since there was no knowing for sure that they were over 21 years of age. He approached the Deputy Commissioner, C. Babu Rajiv, with the query and he was advised to include all names sent by the Superintendent of Police. ((Gupta Shekhar, Election Commission offers intensive revision of electoral rolls in Assam, *India Today*, 15 July 1985).

document for linkages instead of 1971 rolls.¹²⁷ In 1989, an intensive revision was conducted with the 1966 electoral rolls as the basic reference document.¹²⁸ The Election Commission directed preparation of two lists. The List I was prepared with the names of the enumerated persons about whom the Election Registration Officer (ERO) had no doubt about their eligibility and the List II was for persons enumerated with doubts about eligibility, including but not restricted to citizenship.¹²⁹ However, the ERO was advised to prepare a smaller list in case of doubtful cases, which included points like: a. electors in 1985 Electoral rolls but without linkages to 1966 roll; b. Persons whose claims were rejected during revision of electoral rolls in 1985; c. list of persons served with Quite India notice, and d. refugee registration list prepared in 1971 of persons migrating to Assam in the wake of Bangladesh war.¹³⁰ After this revision, the electoral roll was published in 1990 and the general election of 1991 was held on the basis of this roll. The revision invited wide political attention including opposition from the Congress (I), the United Minority Front (UMF) and the CPI(M).¹³¹

On 8 May 1992, a conference of the Chief Election Commissioners held at New Delhi decided for intensive revision of electoral rolls of all states (except Jammu and Kashmir) and Union Territories. The decision came as a result of the apprehensions about the presence of 'foreign nationals' in some of the states and this was to ensure that names of foreign nationals were not included in the electoral rolls.¹³² The Election Commission directed for another round of revision of the electoral rolls. The revision instructed 1 January 1993 as qualifying date and it prescribed a new procedure for verification of names enumerated and arguably it was for excluding all foreign nationals from the electoral roll.¹³³ The new procedure suggested that names of all persons enumerated after house-to-house visits and polling station wise consolidation would be sent to the District Administration for verification of status as Indian citizen. The instruction was significant as it guided to establish the citizenship

¹²⁷ *White Papers on Foreigners Issue*, 20 October 2012, 24, ASA.

¹²⁸ *White Papers on Foreigners Issue*, 20 October 2012, 24, ASA.

¹²⁹ *White Papers on Foreigners Issue*, 20 October 2012, 24, ASA.

¹³⁰ *White Papers on Foreigners Issue*, 20 October 2012, 24, ASA.

¹³¹ Politics of Electoral Rolls: Congress (I)'s Two Faced Role, *Economic and Political Weekly*, Vol. 24, No. 29, (22 July 1989): 1631-1632.

¹³² Relevant facts as stated by the Election Commission, *Mustafa Kamal Passa & Eight others vs. Union of India and The Election Commission*.

¹³³ *White Papers on Foreigners Issue*, 20 October 2012, 24, ASA.

status through prevailing laws and linkages to 1966 rolls and NRC etc.¹³⁴ The EROs were given supreme authority over the District Magistrate for deletion of names from List II on the grounds of citizenship. To minimize the biasness, observers were appointed from other states.¹³⁵

The linkage of citizenship status of a person and the right to vote was becoming legally stringent. This was becoming further complicated due to the absence of a systematic registration process of birth and death. The revision of electoral rolls in 1997 revealed newer interpretations of constitutional and legislative measures connecting voting right and the question of citizenship. Election Commission of India had issued instruction for intensive revision of electoral rolls in Assam, 1 January 1997 as the qualifying date. The instructions also contained guidelines for the cases of the persons whose citizenship status was in doubt and wanted such cases to be referred to appropriate tribunals for determination of their citizenship status.¹³⁶ The guidelines stated that the Election Registration Officer should on receipt of the verification reports from the Local Verification Officers consider these cases. The ERO was given the authority to decide about the inclusion of the names of such persons after verification of the available material or information. For the cases which wouldn't satisfy him and have reasonable doubts about citizenship, he should refer them to competent authorities like IMDT or FTs as the case may be. The ERO was directed to furnish to the competent authority the entire documentary and other evidence collected in the verification process. The Election Commission further directed through an order on 5 January 1998 that those persons whose names had been provisionally entered in the electoral rolls in Assam and also against whose names the letter 'D' had been indicated to denote their citizenship status as doubtful/disputed should not be allowed to cast their vote in the election.¹³⁷

The United Front of Minority (UMF) and Congress (I), both of whom were critically dependent on these voters for their electoral victory opposed the Commission's

¹³⁴ *White Papers on Foreigners Issue*, 20 October 2012, 25, ASA.

¹³⁵ *White Papers on Foreigners Issue*, 20 October 2012, 25, ASA.

¹³⁶ The instructions were contained in paragraphs 3.8, 3.9 and 3.10 of the guideline annexed to the communication dated 17 July 1997. (H.R.A. Choudhury & Others vs. The Election Commission of India & Others, www.indiakanoon.org).

¹³⁷ H.R.A. Choudhury & Others vs. The Election Commission of India & Others, www.indiakanoon.org.

direction. Three writ petitions were filed.¹³⁸ These petitions argued that the Commission had no such power as under Article 326 and 327 of the Constitution, that only the Parliament was empowered to make such a law. The Representation of People Act, 1950 and 1951 provide for the preparation of electoral roll.¹³⁹ In a judgment, the Gauhati High Court held that the power of the Commission under Article 324 of the Constitution had to be exercised consistent with constitutional scheme and provisions of the Representation of People's Act, 1950 and 1951. The Commission could exercise the power and issue instructions, guidelines and orders regarding preparation of electoral rolls and conduct elections.¹⁴⁰ For the marking of 'D' against any person whose citizenship status was in question, the High Court ruled that as per the constitutional scheme, a person who was not a citizen of India, was not entitled to be registered as voter and couldn't be conferred with any right on a person who was not a citizen of India to vote or to contest in a election.¹⁴¹ The Court dismissed the writ petitions. However it directed the Government of India and Government of Assam to ensure that sufficient numbers of Tribunals were constituted for deciding the citizenship status. It observed,

...the gradual manner in which the references are being decided in the State of Assam by the Tribunals, such persons whose cases are referred to Tribunals constituted under IMDT Act, 1983, and Foreigners' Act, 1946, may suffer great prejudice if the said Tribunals take years to decide the references made to them...we are of the view that the Tribunals constituted under the IMDT Act, 1983 and Foreigners Act, 1946, functioning within the jurisdiction of this court must expeditiously enquire into and decide the references made to them.¹⁴²

By July 2012, out of the 231657 referred cases, only 6590 persons were identified as foreigners by the foreigner's tribunal. The question of the D voter would capture much attention of human right activists including various political parties like CPI

¹³⁸ H.R.A. Choudhury & Others vs. The Election Commission of India & Others, www.indiakanoon.org.

¹³⁹ H.R.A. Choudhury & Others vs. The Election Commission of India & Others, www.indiakanoon.org.

¹⁴⁰ H.R.A. Choudhury & Others vs. The Election Commission of India & Others, www.indiakanoon.org.

¹⁴¹ H.R.A. Choudhury & Others vs. The Election Commission of India & Others, www.indiakanoon.org.

¹⁴² H.R.A. Choudhury & Others vs. The Election Commission of India & Others, www.indiakanoon.org.

and CPI (M), which raised concerns about the uncertain status of these voters and possible harassment of genuine citizens.¹⁴³ The statistics of the number of cases referred and settled were also reflecting serious concern of harassment. From 1998 to 2012, the number of cases where no opinion could be expressed were 37382.¹⁴⁴ This was an indication of the serious consequences of this process.

Table 5: Numbers of D Voters (1998-July, 2012)¹⁴⁵

| Cases Referred | Cases Disposed | Cases Pending | Persons declared as foreigners | Persons Declared as Indians | Cases where no opinion could be expressed |
|----------------|----------------|---------------|--------------------------------|-----------------------------|---|
| 231657 | 88192 | 143465 | 6590 | 44220 | 37382 |

The entire process also involved complex legal steps requiring submission of proofs. In the making and unmaking of citizenship, the documentary proof came to play a vital role here. Kamal Sadiq observes that multiplicity of documents added layers to acquiring citizenship status, which could often be manipulated. By 2006, twenty-one alternate documents including student identity cards could be used as proof in Assam.¹⁴⁶ The production of the electoral rolls would make a major strand of citizenship narratives in Assam. With the gradual emergence of a documentary regime, it would further influence this narrative about both citizens and illegal immigrants.

The Citizenship Question versus the Idea of the Assamese Identity

It was not only the disputed voters, alleged foreigners, tribunal members and the judges and lawyers of the courts who were overburdened with the question of citizenship, the people living in Assam, who were apparently out of the everyday court room scenarios, also got anxious on many occasions about the same. For most of them, however, citizenship was about the question of nationality, obscured in many ways in Assam and entangled with the legal status of citizenship in India.

¹⁴³ *Times of India*, Guwahati, 12 August 2012. In the wake of Citizenship (Amendment) Act 2003, CPI (M) expressed serious concern about the D voters, as they expressed in a Party congress as the Tribunals were classifying genuine citizens as foreigners. *The Hindu*, 10 April 2012.

¹⁴⁴ *White Papers on Foreigners Issue*, 20 October 2012, 23, ASA.

¹⁴⁵ *White Papers on Foreigners Issue*, 20 October 2012, 23, ASA.

¹⁴⁶ Sadiq, *Paper Citizens*, 2008, 144.

The entry point for them to participate in this debate was Clause 6 of the Assam Accord which promised that Constitutional, legislative and administrative safeguards shall be provided to protect, preserve and promote the culture, social, linguistic identity and heritage of Assamese people.¹⁴⁷ While implementation of Clause 5 of the Assam Accord captured most of the legislative and political attention, implementation of Clause 6 came next, because it dealt with the entanglement of citizenship and nationality question. As discussed earlier, while defining citizenship in independent India, the leaders of the new nation opined that citizenship and nationality should be the same.¹⁴⁸ I will argue from here onwards how the tangled questions of nationality and citizenship, which were a result of the initial formulation of the Article 8 of Indian Constitution,¹⁴⁹ would further obscure the case of Assam.

In 1986, the Central Government asked the Government of Assam to submit suggestions for implementation of Clause 6 of the Assam Accord. In October 1986, a memorandum to the Central government was submitted in this regard.¹⁵⁰ Two suggestions were offered. The first batch of suggestions about constitutional safeguards contained ten suggestions. One of the suggestions recommended that after the proviso to Article 11, the following proviso should be added “provided that any amendment made to any existing law relating to citizenship, shall not have any effect in respect of the State of Assam, unless approved by the legislature of the said State.”¹⁵¹ The other suggestions addressed issues like employment of permanent residents of Assam, tax levied and collected from resources like tea etc.¹⁵² One of the points suggested that a number of articles be added after Article 371-B. This was to address important issues like ownership and transfer of land and registration of deeds and documents, settlement of displaced persons in the state and detection and expulsion of foreigners, parliamentary provisions for protection of the rights and interests of the Assamese people, provisions for reservation of seats in the Assam

¹⁴⁷ Accord between AASU, AAGSP and the Central Government on the Foreign National Issue, Assam Accord, 15 August 1985.

¹⁴⁸ While deciding about the matter of citizenship of the Indians living in other countries, it was concluded that if a person from Indian.

¹⁴⁹ Article 8, which, confers citizenship to the persons of Indian origin living outside India, with no domicile in India if they are not citizens of other countries. As discussed earlier this article came into being in the context of the claims to Indian citizenship of Indian diaspora and which actually left twisted questions of citizenship and nationality in India, in Jayal, *Citizenship and its Discontents*, 2015(2013), 55-56.

¹⁵⁰ Letter from J.C. Nagpuri, Chief Secretary to the government of Assam to the Secretary to the government of India, Ministry of Home Affairs, dated 20 October 1986. (from personal archive)

¹⁵¹ Letter from J.C. Nagpuri, 20 October 1986.

¹⁵² Letter from J.C. Nagpuri, 20 October 1986.

legislative Assembly and in Parliament to the candidate belonging to the Assamese people of the state of Assam, use of the state language i.e. Assamese for all and any of the official purposes of the state of Assam etc.¹⁵³

The suggestion to add the proviso to Article 11 was a bridging statement of the entangled questions of nationality and citizenship. It was only recently that the Government of India asserted the plenary power provided by the Article 11 to decide on the matters related to citizenship in Parliament. But it was appearing that Assam's unique question of cultural, social and linguistic identity couldn't be handled without pushing the question of citizenship.

However, the suggestions by the government of Assam didn't find any favour. In 2006, the government of Assam took another initiative for the implementation of Clause 6. It constituted a committee of ministers to examine the issues related to the clause including finding a definition of "Assamese People".¹⁵⁴ By then, the Clause was facing wide criticism from various groups, especially from tribal organizations in Assam as it involved the termed "Assamese people".¹⁵⁵ Meanwhile, Assam witnessed discontent amongst tribal communities, like the Bodos, which demanded separate state on the basis of their ethnic identity. As AASU increasingly emerged as the saviour of the "Assamese identity" for its role played during the anti-foreigner movement, other student bodies of ethnic groups in Assam perceived it as dominance.¹⁵⁶ The AASU innovatively defined an Assamese as "people irrespective of religion-language-ethnicity, whose names are included in the Citizenship Registrar of 1951 based on the first population census of post-independence India in 1951, and their subsequent generations."¹⁵⁷ Linking of the NRC 1951 to the definition of "indigenous people of Assam" by the AASU affirmed the ideological question of

¹⁵³ It also suggested formation of a committee consisting of members of both the Houses of Parliament and Assam Legislative Assembly and persons having special knowledge and practical experience in different disciplines with the order of President which would suggest measures for Constitutional, legislative and administrative safeguards to protect the Assamese people and also to promote their culture, social and linguistic etc. (Letter from J.C. Nagpuri, 20 October 1986)

¹⁵⁴ *White Papers on Foreigners Issue*, 20 October 2012, ASA.

¹⁵⁵ All Bodo Students Union (ABSU) opposed the clause immediately after signing of Assam Accord, whereas Plain Tribal Council of Assam (PTCA) initially held the view that it could be benefited from the promised Constitutional safeguards. (*The Assam Tribune*, 6 November 1985)

¹⁵⁶ Kaustubh Deka termed it as "consensual dominance at best and authoritarian coercion at worst." (Deka, Kaustubh, 2013, *From Movements to Accords and Beyond: The Critical Role of Student Organizations in the formation and performance of identity in Assam*, Occasional Paper, Perspectives in Indian Development, New Series 9, (New Delhi: Nehru Memorial Museum and Library (NMML), 11.)

¹⁵⁷ AASU souvenir, 2005, 50.

citizenship in India and posed a question about ‘delinking citizenship and nationality in India.’

Niraja Gopal Jayal observed that delinking of citizenship and nationality continued challenging the idea of a unified singular citizenship in India through various nativist movements.¹⁵⁸ The previous chapter showed how long years of protests against illegal foreigners (1979-1980) in Assam raised this question forcefully. Assam Accord rephrased the problem of illegal migration from Bangladesh within the framework of legal citizenship in India. But Assam continued pressing the question of nationality. AASU’s new definition of the Assamese people, bringing the question of ‘indigeneity’ marks significant shift. The prevailing notions of Assamese people, which mostly drew from linguistic nationalism,¹⁵⁹ was integrating the legal definition of citizenship here. AASU’s reference to the NRC 1951 was a significant move in the context. This primarily questioned the constitutional framework of the idea of singular citizenship in India.

The Making of a Citizens Register

Meanwhile, as the citizenship question was about to take critical legal and political turn, more amendments to the Citizenship Act, 1955 was introduced in 2003, which would have lasting impact on the citizenship discourse in India. The Citizenship (Amendment) Bill, 2003 sought to amend the Citizenship Act, 1955 to make provisions for the grant of dual citizenship and to introduce a scheme for the compulsory registration of every citizen of India, and to issue national identity cards for this purpose.¹⁶⁰ Amongst various objectives, few important were, making acquisition of Indian citizenship by registration and to make the process of naturalization more stringent; preventing ‘illegal’ migrants from becoming eligible for Indian citizenship; providing for the grant of overseas citizenship of India to persons of Indian origin belonging to specified countries; providing for the compulsory registration and issue of national identity card to all citizens of India etc.¹⁶¹ The

¹⁵⁸ Jayal, *Citizenship and Its Discontents*, 2015 (2013), 56.

¹⁵⁹ As discussed in chapter II, before independence, the definition of Assamese people by the nationalists drew particularity from language spoken. The conflicts around the language issue continued after independence as well and that remained central to the nationality question in Assam.

¹⁶⁰ Website, Ministry of Home Affairs,

http://164.100.47.5/rs/book2/reports/home_aff/107threport.htm

¹⁶¹ http://164.100.47.5/rs/book2/reports/home_aff/107threport.htm

Citizenship (Amendment) Act, 2003 mandated the Indian government to maintain a national register of citizens.¹⁶² The amendment defined ‘illegal migrants’ who could be detained or deported and made an illegal migrant ineligible for citizenship claim. It also curtailed the provision of acquiring citizenship by birth for those children, whose either parent was an illegal migrant.¹⁶³ By now, the citizenship laws in India were made more stringent. The shift from *jus soli* to the *jus sanguine*, the principles on which the idea of citizenship rested, led to a possible legal extraction of politically desired citizens in some corrupted manner.¹⁶⁴ The shift, which arrived during the 1986 amendment of Citizenship Act, 1955, was also about the registration system and documentary proof of citizenship in India. Towards this end, the Indian government also approved a ‘scheme for issue of identity cards in the specific areas in states of Assam, Mizoram, Tripura and West Bengal to check ‘illegal’ migrants.¹⁶⁵ However, as creating a database for 1 million people was a gigantic exercise, the project remained pending.¹⁶⁶ Later in 2003, the Indian government launched a pilot project under National Identity Card Scheme (NICS) for granting multipurpose identity cards in few selected districts in 14 states including Assam.¹⁶⁷ It aimed to cover a total population of 30.5 lakh, but implementation in Assam couldn’t be completed. The same scheme, NICS envisaged granting identity cards to all citizens above 18 years of age and continuous updating of the NRC by linking it up with Birth and Death registration system.¹⁶⁸ The project was provided legal sanction through amendment of Citizenship Act, 1955 in 2004. Basing it on a pilot project for the same, the Central government also decided to go for a National Population Register (NPR) with the aim to provide each citizen an identity card. Scheme ‘AADHAR’ was introduced in 2010 with these intentions in mind.¹⁶⁹

¹⁶² Citizenship (Amendment) Act, 2003.

¹⁶³ Citizenship (Amendment) Act, 2003.

¹⁶⁴ Jayal, *Citizenship and its Discontent*, 2015 (2013), 14.

¹⁶⁵ Government of India, Annual Report 1991-1992, Ministry of Home Affairs, as referred in Das, Pushpita, 2016, *Illegal Migration from Bangladesh: Deportation, Border Fences and Work Permit*, IDSA Monograph Series, No.56, Institute of Defense Studies and Analysis: New Delhi, 79.

¹⁶⁶ Das, Pushpita, 2016, *Illegal Migration from Bangladesh: Deportation, Border Fences and Work Permit*, IDSA Monograph Series, No.56, Institute of Defense Studies and Analysis: New Delhi, 79.

¹⁶⁷ Das, Pushpita, 2016, *Illegal Migration from Bangladesh: Deportation, Border Fences and Work Permit*, 79.

¹⁶⁸ Das, Pushpita, 2016, *Illegal Migration from Bangladesh: Deportation, Border Fences and Work Permit*, 79.

¹⁶⁹ Das, Pushpita, 2016, *Illegal Migration from Bangladesh: Deportation, Border Fences and Work Permit*, 79.

The citizenship discourse in Assam would take a new turn when the idea of upgrading the NRC of 1951 was proposed by the Assam government in 2005.¹⁷⁰ The document which was innovatively prepared by the census superintendent R. B. Vaghaiwalla, and which was debated on many occasions since its publication relating to the migration issue in Assam was going to mark shift here. The proposal of its updation came very much in line with the Central Government's move towards tightening of citizenship claims. Despite this and Indian government having a blueprint for a citizenship database, the idea to update the NRC in Assam didn't find a smooth way. In 2009, several Assam based organizations representing different ideological interests sought Supreme Court's intervention in the process.¹⁷¹ The Supreme Court of India, by drawing inferences from various official narratives of migration into Assam laid down a guideline to update the NRC in Assam.¹⁷² Public opinion generally agreed that this would bring relief to the issue of illegal migrants in Assam. The process took off after 2014. Detailed guidelines for who is a citizen and nature of documentary proofs were also agreed upon. The first draft NRC was published in 2017, which excluded 19 million people out of 32.9 million applicants. The second draft was published in 2018, which excluded 4 million people. And the final draft, published in August 2019, excluded 1.9 million people.

The final publication of NRC invited wide criticism from various groups. It was argued that it didn't include names of many of genuine citizens. APW, a non governmental organization, suspected flaws in the technical process and claimed that the software was not capable to handle such huge data. Earlier, it had submitted five memorandums to the Supreme Court as the primary petitioner requesting re-verification of the draft NRC.¹⁷³ Internationally, NRC project in Assam gained attention for a different reason. Curious observations were made about how India was going to deal with the 1.9 million stateless persons.¹⁷⁴ At a deeper level, the NRC project in Assam introduced two significant changes. First, it infused the intertwined

¹⁷⁰ Summary of the Tripartite Meeting, Assam Accord Implementation Department, Government of Assam, https://assamaccord.assam.gov.in/sites/default/files/swf_utility_folder/departments/assamaccord_medh_assu_in_oid_3/do_u_want_2_know/Summary%20of%20Tripartite%20Meetings%2005-05-2005.pdf

¹⁷¹ Assam Sanmilita Mahasangha and Others vs. Union of India and others, 2014.

¹⁷² Assam Sanmilita Mahasangha and Others vs. Union of India and others, 2014.

¹⁷³ Assam NRC Final List: Original petitioner in SC says document is 'flawed' as apex court rejected re-verification plea, The First Post.

¹⁷⁴ <https://www.washingtonpost.com/opinions/2019/08/01/indias-cruel-exercise-exclusion-could-leave-millions-stateless/>

question of nationality and citizenship into people's mind in Assam. And secondly, the process of NRC updation brought everyone living in Assam into a common platform where following the same procedure, discrete groups like the alleged illegal immigrants, refugees, citizens, Assamese nationalists got involved in the process of making claim to Indian citizenship. It engaged everyone for the last 7 years on an everyday basis. Terms like legacy data, NRC and documents like birth certificate, marriage certificate, voter id etc. became very familiar and part of every household. It led to people's active engagement in legal matters of citizenship. This also introduced a wave of constitutional awareness. Questions about legal constitutional provisions of citizenship and law making were raised in various public platforms. However, whether it led to rephrasing of the citizenship discourse, remained significantly transitional.

Figure 6: NRC Verification Center



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¹⁷⁵ The photograph was taken on 5 July 2019, while conducting fieldwork in one of the NRC verification centers in Guwahati. It shows officers and claimants while verification was being done. These verification staffs were from different government departments who were appointed on deputation for the NRC updation process. Many of them during interview shared that they had been spending day and night for years on the project and had missed celebration of many of the festivals with families. They expressed serious doubt about the popular public perception that NRC would provide a solution to the decades old migration problem in Assam.

The claimants shared how they had to visit different centers at different points of time to provide proof to support their claims to citizenship. One of them, a Nepali who runs a dairy firm in the suburbs of Guwahati shared that he had been struggling to provide legacy data to prove his linkage to his father who abandoned the family decades ago. His father was a Nepali migrant who migrated in 1940s from Nepal. He added since last three years in the process of finding his missing father, the task of finding his root became

Let us go back to Rahmat Miyan¹⁷⁶, whose case was discussed in the beginning. Rahmat Miya and his family would make it to the NRC. Observing Rahmat Miya's earlier apprehensions about documents of his grandfather, Babita Baruah¹⁷⁷, a staff in the district collector's office, who was assigned as an assistant for examination of documents for NRC up gradation at the primary level, makes a significant reference in this context. Baruah maintained that the Bengali speaking Muslim peasants were the ones who quite frequently came to the office (District Commissioner's Office) for land records.¹⁷⁸ She elaborated, "They would ensure that they got all records in written and had a copy...only their papers of record are distorted, damaged due to frequent access. On the contrary, the Assamese peasants are almost ignorant and least concerned about their land records on paper. They hardly come for records."¹⁷⁹

Though Babita Baruah, an upper caste, educated, Assamese speaking government employee's observation about a Bengali speaking Muslim couldn't be generalized, it had revealed the uniqueness of the genesis of the emerging documentary regime of citizenship in India. It also showed that despite coming together into one common legal platform to claim citizenship, it did not quite change prevailing notions about an 'illegal' migrant. Kamal Sadiq's observation further compliments Baruah's response that, 'there are few "undocumented" immigrants in this world...Immigrants may be illegal or unauthorized, but they are rarely undocumented; the vast majority possesses some form of documentation."¹⁸⁰ But these observations have failed to note the historical process which informed the (illegal) migrants to maintain a record of their proofs of citizenship and told them how to become a member of nation-state. And it is the same process through which the modern nation states had reasserted their positions. For their claims to citizenship, the 'illegal' immigrants had to acknowledge the position of the state again and again and re-instated its position and many a time allowed itself to be dominated by it.

an everyday affair for him and his family. Notably fifteen members of his family were excluded from the NRC following their inability trace the family head.

¹⁷⁶ Name changed.

¹⁷⁷ Name changed.

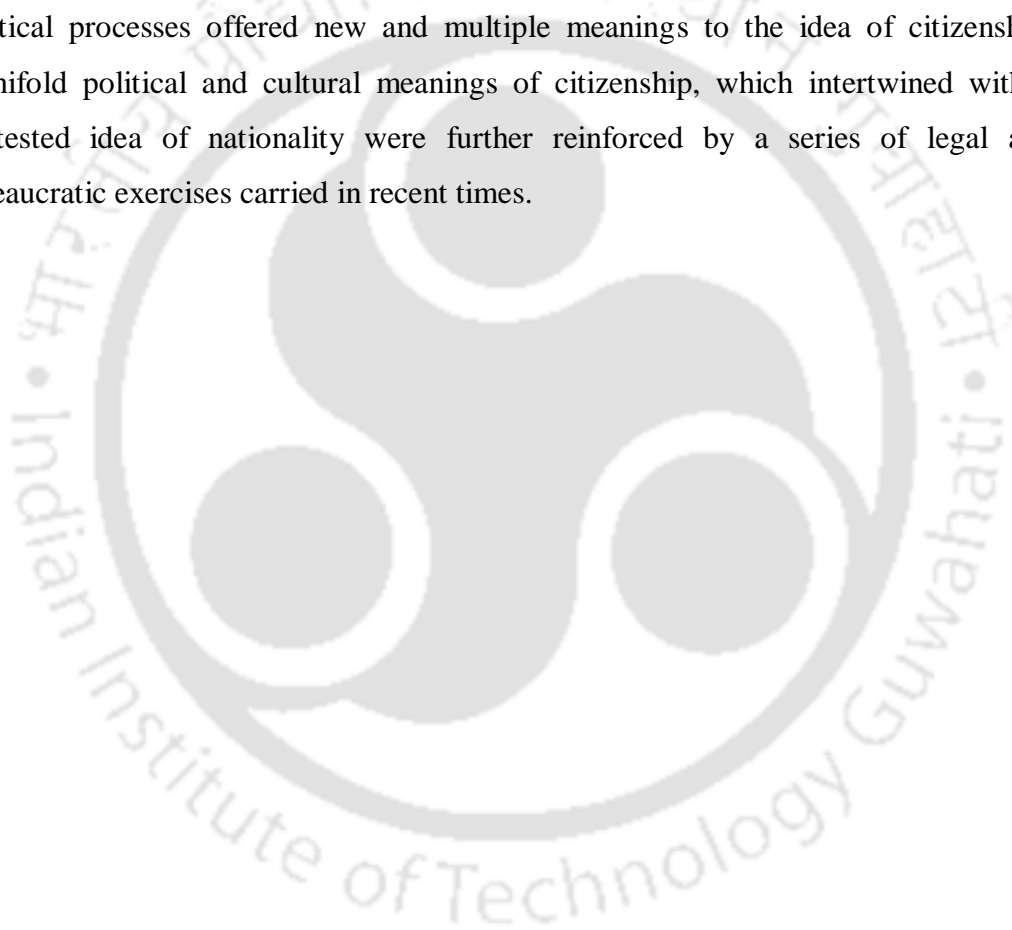
¹⁷⁸ Interview with Babita Borua, dated 24 April 2016, Nagaon.

¹⁷⁹ Interview with Babita Borua, dated 24 April 2016, Nagaon.

¹⁸⁰ Sadiq, *Paper Citizens*, 2008, 10.

Conclusion

In the long period between 1985 and 2019, India had come across exemplifying shifts in the citizenship discourse. Assam played an important role in defining this course by raising important questions. Popular interpretations of citizenship laws gave birth to a distinct political history of citizenship and nationality. A complex legal procedure of conferring, claiming and denying citizenship drew popular attention, which reshaped Assam's nationality question bringing it in close affinity with the question of Indian citizenship. The process also engaged citizens, nationalists, foreign nationals and refugees making it a subject of everyday political narrative. These long drawn political processes offered new and multiple meanings to the idea of citizenship. Manifold political and cultural meanings of citizenship, which intertwined with a contested idea of nationality were further reinforced by a series of legal and bureaucratic exercises carried in recent times.



Chapter VII

Conclusion

This thesis examined the rise of the idea of citizenship and its later development in modern Assam within the larger framework of the Indian nation-state. Through a detailed, historical study of development of the idea and laws of citizenship, this research analyzed how, while transitioning from colonial subjects to citizens of independent India, the contest between the right to citizenship and the rights of 'indigenous' people evolved into a contestation of rights over resources including access to land. This contestation was deeply intertwined with the question of Assamese nationality in the moment of post-colonial nation-making process. It also examined the roles of the regional/ethnic identity based political mobilization, which sought to undo economic and political injustices resulting from the new nation-state making process, in the process, changing the political discourse around citizenship's entanglement with nationality. The thesis argues that such popular protests led by the educated classes, their bargains with the nation-state, and the repeated claims to citizenship of cross sections of people led to constant interpretation of laws. This gave rise to a distinct popular political history of citizenship in Assam and also reinstated state's position.

Diverse literary, cultural and social narratives shaped varied notions of rights and belongingness in colonial India, which significantly affected the conceptualization of legal definition of citizenship in the post-colonial Indian nation-state. This also affected the evolution of the idea of federal structure and placed India's federal structure and the center-state relationship in a unique position.¹⁰⁶⁹ India, as a sovereign nation, adopted the liberal idea of citizenship. It offered singular citizenship encompassing its heterogeneous population within one national identity. Executing the idea of the nation, a federal structure was designed with a strong center and subjects like citizenship was kept under the purview and command of the central government. This evidently contradicted the aspirations that took shape through different cultural traditions in different regions. The idea of 'cultural citizenship' took a backseat for the cause of nation building process. National leaders argued that citizenship defined one's nationality. One couldn't be an

¹⁰⁶⁹ Partha Chatterjee, 'A Relativists View of the Indian Nation', Distinguished Lecture, African Middle Eastern and South Asian Languages and Literatures (AMESALL) (December 2020). Rutgers University, USA.
<https://amesall.rutgers.edu/news-and-events/new-and-noteworthy>

Indian national if (s)he was a citizen of a different country. But soon enough, this thesis highlights how differences surfaced questioning the basic premises of the idea of membership in the nation-state of India. These differences had varied expressions. By examining the case of Assam, which shared border with East Pakistan (later Bangladesh), this thesis has interrogated these differences through laws of citizenship and has showcased how the question of nationality remained unavoidably integral to the notion of citizenship. The thesis has argued that citizenship has evolved in a significantly unique way in India, encompassing regional identity based issues. At the same time, India also offered a critical outlook to the idea of liberal citizenship as several episodes of conflicts arose after independence, especially around the question of nationality. Popular protests during the 1980s in Assam was one such important instance when the limits of the idea of liberal citizenship was brought forth more sharply.

Assam framed its positioning of nationalism and citizenship against migrants, particularly from East Pakistan (erstwhile East Bengal) and later migrants from Bangladesh. Though migrants from other parts of India also informed the narrative about citizenship in Assam, the specific phenomena of migration from Bangladesh (East Pakistan) particularly shaped the nationalistic temperament of the Assamese people. The nationalists, mostly representing the educated class on the other hand impacted the framing of constitutional provisions of citizenship. While for India, partition remained the reference point in defining the narrative about migrants and differentiating them in distinctive ways, the (Muslim) migrants and (Hindu) refugees, questions of nationality and rights of indigenous people became the nodal point for Assam. Both these references impacted the framing of citizenship laws and other administrative policies. The nationalists, educated middle class of Assam, played a crucial role. They continued pressing the issue of nationality and bargained with the central government on various occasions. This influenced the execution of citizenship laws in Assam. In the decades after partition, Assam introduced definite legal and administrative measures to address the question of migration through the citizenship laws.

During the formative years of the nation building process, the heterogeneous culture of India challenged the idea of a single nationality in many ways. Assam also contributed by putting forward the question of linguistic nationalism. But soon, the attention was brought back to migrants. This put the migrants in a unique position. A legal framework

introduced in 1950 brought the migrants into this loop. This thesis has examined how the claims of these migrants also influenced the interpretation of citizenship laws. The developments in Assam during the 1960s introduced judicial interventions to decide about citizenship claims. This was a significant development as it introduced sharing of power to decide on citizenship claims with judiciary (which was otherwise concentrated with executive). This introduced a more democratic platform. The claims of the migrants in various courts offered interpretation of laws and citizenship found different expressions. This also questioned the defining constitutional premises of citizenship. The thesis argues that these interactions, between the claimants for citizenship rights and the state's response to such claims is what guided the evolution of citizenship statutes in the following decades and invited a wider participation of various actors and people.

Situating the case of Assam in the larger context of South Asian history of migration, the thesis has shown how the creation of Bangladesh in 1971 marked a historic significance as it induced fresh waves of migration into the neighboring states in India, including Assam. The shifting political dynamics of South Asia around the year 1971 changed the trajectory for Assam. The popular protests during 1979-85 challenged the existing citizenship laws and demanded reconsideration. Chapter V argued that guided by the middle class, Assam successfully articulated the question of nationality with citizenship at this juncture. At the same time, the claim of nationality over citizenship reinforced the citizenship laws more forcefully. It renewed interpretation of laws and Assam produced an expansive narrative about migrants, citizenship and nationality. The study has shown how seeking solution to the migration problem within the constitutional framework, Assam forcefully raised questions about the constitutional doctrine of citizenship.

The last section of the thesis has shown how the popular protests in 1980s has introduced a stringent regime of citizenship under India's central government's active interventions. This redefined the approach towards partition-induced refugees and 'illegal migrants. As the question of citizenship became highly politicised in India, Assam witnessed several moments of existence with this encounter. This encounter also widened the scope for multiple interpretations of the content of citizenship. This also attracted popular attention to the complex legal procedure of conferring, claiming and denying citizenship. Marking a significant distinction from the 1960s (discussed in chapter IV), the process now engaged more people, citizens, nationalists, migrants and refugees in order to widen this

platform. One of the reasons for this popular engagement can be attributed to the celebrated success of the popular protests led by the middle class during 1980s, which in many ways commodified the nationality question and turned it into a popular claim. This made citizenship a subject of everyday life. Weaving the perspectives of the Assamese nationalists, this period also re-addressed the entanglement of question of citizenship and nationality in a newer way. It marked the intertwining of the notions of indigeneity with citizenship rights and offered that the questions of control over land and resources and citizenship were integral. This development marked importance in another regard, as it also questioned the role of the leading nationalist middle class. The parochial nationalistic view challenged with different nationality claims of the tribal groups now accommodated an inclusive indigeneity question. This also provided the nation-state an opportunity to review the citizenship question. The thesis argues that these long-drawn challenges and subsequent political upheavals offered new a direction for citizenship in India. Political and cultural meanings of citizenship drawn in the process were further reinforced by a series of legal and bureaucratic exercises carried in more recent times.

The thesis contributes to the historiography of Assam in two distinctive ways. First, it offered a fresh outlook to the widely expressed issue of Assamese nationality through citizenship. It seeks to offer an understanding that intertwined subjects of nationality and citizenship under the new nation-state led to inventive ways of interpretation of laws resulting in a distinct manner for people's engagement with the nation-state. In this process, different sections of people belonging to different cultural backgrounds got to play influential roles. The thesis thus also offered that citizenship laws in postcolonial nation state are not beyond the cultural biases, prejudiced views and political intentions. Instead, it has precisely evolved through historically informed ways which has unpacked varied notions and modes of execution. At the same time, the legal platform for conferring membership in the modern democratic nation-state brought discrete groups together and initiated popular political dialogues. The politicization of the content of citizenship in the process contributed to this dialogue process and brought the complex citizenship laws closer to people.

Secondly, the study attempted a fresh outlook on the question of migration through citizenship laws. Though migration is being widely discussed in different contexts, the issue, which has been so central to the political life of Assam, didn't find enough

expression in terms of legal diction. The study endeavored a detailed account of a journey through citizenship laws and administrative policies to control migration in Assam and tried to see how accommodation of the migrants' claims to citizenship created complex web of interactions between Center-State in new nation state and between discrete groups of people. This extended people's participation, which affirmed the position of state in India.

Finally, this work tried to offer a comprehensive account of the popular political history of citizenship in Assam. I argue that Assam's political history during the years of 1950-1985 contributed to the understanding of the functioning of liberal citizenship in a complex heterogeneous country like India. While popular participation has expanded the range of claims to citizenship, it reinstated position of the state. In citizenship's trajectory within India, from its commencement until recent times, the notion of citizenship evolved in distinctive manner along with different cultural and social identity questions. In this course, India has also produced a distinct political history. This study concludes that India's tryst with citizenship unfolds through a complex journey, where by conferring, denying and debating citizenship claims of diverse people, the Indian State asserted its position and by repeatedly claiming and arguing citizenship, the people 'had to acknowledge it again, re-instated it and allowed itself to be dominated by it'.¹⁰⁷⁰

¹⁰⁷⁰ Karl Marx, *Early Writing, Trans.* Rodney Livingstone and Gregor Benton, (London: Penguin Classics, 1992).

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Publications and Conferences

Publications:

1. Saikia, Prarthana, “Parallel Perspectives in Ethnography And Literature: Reflections from Assamese Literature” in *In Between Fiction And Non-Fiction: Reflections On Poetics Of Ethnography In Literature And Film* Ed. Michelangelo Paganopoulos; 2018; Cambridge Scholars Publishing, Newcastle UK. ISBN (10): 1-5275-0833-1; ISBN (13) 978-1-5275-0833-0, 2018, pp. 73-82.
2. Saikia, Prarthana, “Axom Andolan: Patabhumi, Sthaniya Prekkhapat aru Anupasthit Anshidar”, *Ninth Column*, March 2019; (Translated into Bengali, original: Assamese), ISSN 2229-6778, 143-155.
3. *The Specter of Violence: The Report of Commission of Enquiry on Assam Disturbances, 1983*, communicated.

Conferences and seminars

1. Participated and presented a paper in ‘Young Scholars International Workshop on Trans-disciplinary Approaches to Asian and African Area Studies 2016’ held on 16 January 2017 in Kyoto Japan, organized by Graduate School of Asian and African Area Studies, Kyoto University. Paper title- “Remembering ‘Popular Protests’: Rethinking History Writing in Contemporary Assam.”
2. Presented a paper in SASNET conference organized by SASNET at Lund University, Sweden, held from April 19th to 23rd, 2015. Paper title- *Living on Border Redefining ‘Ground’: A Chapter on Migration 1980s Assam.*