

Citizenship, Nationality, Discord, Accord, and Assam

A Brief History

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The appearance of the Assam Accord in the recent citizenship debates in India has a historical significance. Providing a critique of liberal citizenship, Assam's journey shows how citizenship in a culturally diverse nation state like India evolved distinctively along with different identity questions. Assam, through a popular movement against "illegal" migrants, under the leadership of the educated (middle) class, asserted this identity question and tangled the Assamese nationality in the legal framework of Indian citizenship. The accord, which ended the protest, led to the first amendment of the Citizenship Act, 1955 in 1985, specifically addressing Assam's case. Drawing from vernacular literature and archival records, this paper offers a fresh perspective on the political history of citizenship in Assam from pre-independence until the signing of the Assam Accord in 1985 and its immediate implementation.

The years-long protest against "illegal" migrants during 1979–85, which disrupted the everyday life in Assam, has a long history against the backdrop of migration. Assam witnessed waves of anti-immigrant political mobilisations in the earlier decades as well. But what was important about the protests during the 1980s was the scale and impact of the mobilisation, the legal context and the political environment of the 1970s. The most crucial aspect of this period was the emergence of the question of citizenship. The signing of the Assam Accord on 15 August 1985 officially ended the protests. Within months, the first amendment of the Citizenship Act, 1955 was introduced in pursuance of the accord, which marked the beginning of a new citizenship regime in Assam.

The seed of the unfolding of this citizenship regime was in Assam's repeated claims about illegal immigration from East Pakistan. Assam had been constantly bargaining with the union for special attention on this issue and urged for the "protection" of the state's culture and economy. In 1971, at the advent of the creation of Bangladesh and with the fresh arrival of refugees, the issue attracted more popular attention. In the early days of 1979, Amalendu Guha (1979) noticed a problem of integration. Offering his conceptualisation of "little nationalism," Guha placed Assam's national question on the linguistic-regional plane and tried to find a solution to its integration with mainstream Indian nationalism. Earlier, Guha maintained that the nationality question in Assam was essentially the ideology of the small and unconsolidated middle classes, which could successfully rally the peasants by floating its cause as the "national" cause (Guha 2006: 243). Nonetheless, Guha hoped for a united India organised on the basis of "the recognition of Indian multi-nationality, federal principles of state reorganisation with single citizenship and protection of the democratic rights of all national minorities and their language, including the right of self-determination" (Guha 1979: 458).

However, he would observe in the subsequent months how the little nationalism in Assam turned chauvinist under the leadership of the Assamese middle class (Guha 1980) when the popular protest against illegal migrants turned violent. At this juncture, Sanjib Baruah located the politics of subnationalism in "civil society." Subscribing to Jean-François Bayart's definition of the civil society, Baruah saw Assamese civil society as a "social space" in its relation with the state and observed the growing popular protest against the enfranchisement of illegal foreigners as a "civil society rebellion" (Baruah 2001: 9–11).

The author sincerely thanks the anonymous reviewer for their valuable remarks which helped improve the quality of this paper.

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Theoretically placed on two opposite poles, both Guha and Baruah's observations affirmed that the popular protests during the 1980s were led by a section of the civil society for Baruah and the middle class for Guha.

This offers the primary background for this study. This paper proposes that it was the Assamese educated class (who constantly highlighted the migration issue from East Pakistan [later Bangladesh] and shaped the notion of membership drawing from [little] nationalism) in relation to the state which provided an interpretation of citizenship laws for their political project. This would bring the migrants into the legal purview for adjudicating their citizenship status and affirming the state's intervention. In the process, the claims of the Assamese educated class, counterclaims of the migrants, the state's intervention through the judiciary, and the repeated interpretation of citizenship laws would introduce noteworthy shifts in the Indian citizenship regime itself. Further, this paper will outline how the Assamese educated class also affected the execution of citizenship laws at various levels.

A wide range of literature captures the nuances of the case of Assam through the lenses of migration, "illegal" foreigners, the nationality question, etc.¹ Though discussed in this context, the citizenship question only found adequate attention in a few recent publications.² These works analyse the more contemporary phenomena associated with changes in the citizenship regime, mostly focusing on the period of the 1980s and thereafter. Extracting insights from the archives and vernacular sources, this paper attempts to give a comprehensive idea of the evolution of the notion of citizenship in Assam. Situating Assam in a larger historical context, it elaborates further on how this notion impacts the idea of citizenship in India.

This paper also seeks to offer a fresh outlook on the protests against "illegal" migrants in Assam during the 1980s. It sees it as a dialectical site and argues that India's tryst with citizenship unfolds here as a complex journey, where by conferring, denying, and debating citizenship claims of diverse people, the Indian state asserted its decisive position, and by repeatedly claiming and arguing for and against citizenship, the people have also been instrumental in introducing major shifts in the law.

Often, we hear that if India does not get united, it will not 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 necessary for Swaraj?

— Jnananath Bora, *Asamot Bideshi*³

In the early decades of the 20th century, while India was striving for *purna swaraj*, Assam, an eastern province, was endeavouring to imagine its place within the idea of an independent India. Assam posed a pertinent philosophical question in relation to India's heterogeneous culture. The opening quote by an eminent lawyer and one of the leading intellectuals of modern Assam, Jnananath Bora, asks, "Was it necessary for India to get 'united' to attain *swaraj*? How would the diverse cultures that took form over a thousand years unite by losing their independent identity?" While Gandhi denoting

swaraj as self-rule, both in the spiritual and political realm, he believed that the ideals of *swaraj* could be achieved in modern times only in a united Indian nation or *praja* (Gandhi 1997). Gandhi's vision of politics saw Indians as primary members of a single nation (*praja*) and only secondarily as members of a sect or a caste or a region, that is, as Indians whose humanity would be strong enough to enable them to tolerate the difference within the context of a deeper national identity (Gandhi 1997). In contrast, Bora questioned, "Was such 'unity' necessary to attain *swaraj*?"

Bora's juxtaposition had a larger historical context. While the idea of the nation comprising diverse cultures of different regions was forming through the freedom struggle against colonial rule, Assam was striving to define its people in their historical context. Migration, provincial reorganisation, and the imposition of the Bengali language in Assam under colonial rule shaped the Assamese nationality question. The colonial archive also affected the idea of Assamese nationality and reflected how Assam's economy and culture were reformed due to the migration from East Bengal in particular. For instance, highlighting the increased migration of the (Muslim) cultivators from East Bengal, the Census Report of 1931 marked how Assamese speakers had developed a genuine otherness for the Bengali speakers. It stated,

[i]n Upper Assam,⁴ 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) ... a European in more unsophisticated Assamese villages is sometimes known as a *Boga Bangal*—a white Bengali. (Mullan 1932: 168).

Unlike the greater Indian purview, in Assam, the sense of political rights as a citizen (of Assam) did not form against the colonial rulers.⁵ For Assamese speakers, foreigners were migrants from other parts of India, and the notion of rights was articulated around resources like land. If the traders like Marwadis controlled the market, skilled cultivators from East Bengal influenced agrarian relations. The hardship borne by the indigenous cultivators had found expression in the writings of the Assamese nationalists. The Assamese-speaking educated class articulated the idea of *Asamiya*, that is, those who belonged to Assam.⁶ They identified their contenders, that is, all those who did not speak Assamese but exercised control over Assamese land and local economy. It is such vernacular writings that shaped the idea of membership and entangled crucial aspects like the right over resources (land), economy (development), and the idea of others (migration).

Imagining Assam

In a collection of essays, *Asamot Bideshi*, published in 1925, Jnananath Bora defined who a foreigner (*bideshi*) was, and categorically mentioned that "all foreigners are included when we refer to *bideshi*, the European tea planters, Keyan (Marwadi business people), Bengali, Hindustani or Desuwali (those who spoke Hindi and dialects of Hindi), Nepali, and Mymensinghians" (Bora 1996: 19). He further divided the *bideshi* into two categories, (i) those who were not harming the local economy of

Assam, and (ii) those who were harmful. Though the European planters were extracting a huge amount of money through the tea trade, they were not harmful to the local economy as they were extracting from the soil of Assam but not from the Assamese people. But other foreigners controlled the local economy, directly affecting the Assamese people. Bora (1996: 19) felt that there was an urgent need to check such extraction and bring back control into the hands of the Assamese-speaking natives.

Bora also differentiated between the poor *bideshi* who settled in Assam for their need and the rich and educated *bideshi* business people. He hoped that though the first category was creating trouble in parts of Assam by migrating in large numbers, they would gradually adopt the language and culture of Assam and get assimilated, unlike the rich, educated class. Therefore, there was an urgent need to handle that class in a different manner (Bora 1996: 19). Bora entangled the question of the economy (development) with nationality, as he felt that it was a national duty of the natives of Assam to take control of the local economy from the hands of rich, *bideshi* business people (1996: 8–9).

According to him, the prosperity of the provinces was integral to attaining *swaraj* for India. Bora (1996: 25–26) advocated autonomy of the states in this regard. Drawing very similarly to Lee-Warner's (1897) *The Citizen of India*, which conceptualised differential citizenship in India's heterogeneous set-up or "body politic," he argued that the provinces were like the parts of a body, that is, India, and if one part (province) was weak then the body would also become weak (Bora 1996: 2). Therefore, the prosperity of Assam was a priority for the greater interest of India.

What is significant here is Bora's primary apprehension about the rich, educated capitalist *bideshi* business people. It was feared that they would not adopt the Assamese language and culture and would exploit the local economy. Evidently, the idea of membership in Assam was forming around the question of language, under the patronage of the educated class, and there emerged a desire in Assam to have sufficient autonomy to decide on its economy, polity, and culture.

Towards a Proposal of Legal Membership

The notion of "right" became a basic premise for the perception of membership, especially after the arrival of the Government of India Act in 1935. In Assam, the new law introduced a significant amount of excitement in terms of provincial citizenship. By now, the political dynamics had become an intense affair between Bengali and Assamese speakers. A newly formed organisation named "Assam Domiciled and Settlers' Association," campaigned for equal rights of the Bengali-speaking people for a domicile in Assam and for socio-economic and political participation (Bhuyan and De 2019: 320–21). The organisation urged for a definite set of rules for provincial citizenship and suggested that all nationalities of Assam, irrespective of their race, language, and religion, be granted Assamese citizenship (Bhuyan and De 2019: 320). Reacting forcefully, the Assamese nationalists appealed to the Assamese-speaking people to protect their interest and endorsed the definition of Assamese as "those who irrespective of caste, creed, and religion accepted

Assamese as their mother tongue and Assam as their motherland," a view that was earlier propagated by the Asamiya Samrakshini Sabha (Bhuyan and De 2019: 321).

This view also echoed in the structural imagination of the nationalist leader Ambikagiri Raychaudhury, who designed a federal structure titled "Swadhin Panchayat Rashtra Gothonor Prathamik Achoni," and proposed for a federal nation with autonomous states, based on Gandhi's idea of *panchayat* (Raychaudhury 1986: 488). A follower of Gandhi, Raychaudhury believed in *swaraj* and articulated it in an Indian federal structure with sufficient autonomy for the federal units. Charting out different aspects of the *panchayat rashtra*, Raychaudhury offered that the units of the "autonomous primary *panchayat rashtra*" would be formed on the historical notion of *jati*, here meaning a nation based on language and culture, and the territory of these units would be defined accordingly. He also offered that any original inhabitants of an "autonomous sub-unit" within the *swadheen jatiya panchayat rashtra* would have the freedom of the right to their language, culture, economy, and polity (Raychaudhury 1986: 534).

Undoubtedly, it was during the early decades of the 20th century that the vernacular writings started to shape Assam's imagination of it being a "people-nation,"⁷ as articulated by Partha Chatterjee (2020). The Assamese-speaking educated class played a crucial role in creating this social imaginary. It is difficult to say how far the residents of Assam perceived these notions. The position of the Tribal League, the political forum of the various tribal groups living in the plains of Assam, was against the migrants, and it settled for the Congress, finally serving the interest of the nationalist Assamese educated class, as the Congress organised them politically. Though the mainstream nationalistic narrative did not reflect the political choice of the residents of Assam, as Guha (2006: 258) has argued, it certainly reflected the Assamese nationalists' opinion.

This set Assam in a position from where it offered a distinctive critique of the idea of the federal structure of independent India. What was noteworthy here was the definition of the "foreigners," which denoted an idea of "membership," revolving around the questions of right over resources (land), development, and the safeguarding of culture. The social milieu of Assam offers us the primary argument for such a claim, as it clarifies how in this process of defining Assamese membership, it provided a critique of the mainstream idea of citizenship in independent India and how it would further engage in a long bargain to entangle the question of Assamese nationality with the legal framework of citizenship.

Situating the Assamese Question

A grim situation emerged after the partition, as Assam shared a long border with the newly formed nation state of Pakistan and the latter brought around 4,87,000 refugees into Assam.⁸ After the Sylhet referendum,⁹ Assam was struggling to redefine its people in the legal sense. The educated class, through the Congress leaders, would continue to press their position in independent India by raising their case on the floor of the Constituent Assembly and the provincial Parliament.

Omeo Kumar Das, a veteran Congressperson from Assam, argued that Assamese people needed protection for their culture, as it was distinct from other provinces. Das's intervention was in the context of the state list, which enlisted migration, naturalisation, and aliens in the state legislative list. Inviting attention to the issue of migration, Das argued that migration and naturalisation should be put in the concurrent list or the language so altered as to permit the province to have the scope of action in these two subjects (CAD 1947).

Provincial power was also claimed on the floor of the provincial Parliament during the floating of the Immigrants (Expulsion from Assam) Bill. Owing to the Assam government's repeated claims about large-scale migration from Pakistan, the bill was tabled on 8 February 1950. Caught between a problematic categorisation of (Hindu) refugees and (Muslim) migrants,¹⁰ Assamese leaders affirmed their position that both refugees and migrants would harm the state's economy and culture.¹¹

However, these claims did not find a positive response for the cause of the unity of the new nation and for building a strong centre. B R Ambedkar denied a proposal to represent the ancient village-based polity raised on village and district panchayats.¹² Instead, he proposed that India would be a dual polity with single citizenship (CAD 1947). The provisions of the Sixth Schedule of the Constitution addressed the question of the protection for the tribes in the hill districts of Assam. Nichols-Roy, another member from Assam and a leading Khasi leader, argued that this provision left out the tribal people living in the valleys.¹³ Nonetheless, these arguments clearly represented the different case of Assam in independent India.

Meanwhile, the first National Register of Citizens (NRC) in 1951 was noteworthy for drawing upon the census data, as it prepared a charter of citizens for Assam. As an idea, it weaved the question of indigeneity and land, as the questionnaire sought to know how many *bighas* of land the indigenous peasants cultivated.¹⁴ However, the implementation of the Citizenship Act, 1955 brought the question of membership completely within the legal purview.

Executing Citizenship Claims

The decade of the 1960s extensively witnessed the "execution of citizenship." Assam witnessed the growing participation of the educated classes in matters related to nationality and migration. While the "refinery movement" showed how Assam was orienting the nationality question around the question of resources, the conflict between the Assamese and Bengali speakers complicated the political atmosphere in Assam around the question of language. The demands for making Assamese the sole official language in Assam led to the Assam Legislative Assembly passing an act to this effect in October 1960. This was supported by the census data of 1951. Contesting the census, the Bengali speakers claimed that the drastic increase in the Assamese-speaking population was because of the fact that Bengali-speaking peasants living in the *chars* of Brahmaputra responded with Assamese as their mother tongue during the census enumeration of 1951. The census

report of 1961 also mirrored this view. The migration data identified them as "careful liars" maintaining that these peasants opted to accept the Assamese language as their mother tongue to assert their claim over Assamese land (Pakyntein 1964: 204).

The census of 1961 again marked the migrant Muslims as "liars" while recording migration data. Drawing from the census data of Pakistan, it concluded that the migration data was inaccurate for Assam, as the Muslim migrants were falsely returning their place of birth. To find the truth, the census innovatively relied on the religion data instead of the birthplace data, and asked a tricky question "What religion do you follow?" It argued that questions about religion were never returned falsely and maintained that the birthplace statistics were considered to be "fairly accurate" in the case of the (Hindu) refugees from East Pakistan and people from other parts of India (Pakyntein 1964: 71).

After the publication of the census data of 1961, local newspapers highlighted the matter of "illegal" migration. Many reported cases of doubtful citizens emerged who had no proof of birth in India but had voting rights.¹⁵ The Assamese-speaking middle class subscribed to these reports, leading to a public paranoia. It successfully pressured the legislature to adopt measures to check "infiltration" from Pakistan. The union government had considered this issue. In 1962, the special powers of the Foreigners Act, 1946 were also used, and the police "resorting to a court of law" initiated a drive against infiltrators, as part of a procedure known as "prevention of infiltration from Pakistan" (PIIP). The police were given executive powers.¹⁶

The Assam police, entrusted now with all executive powers, started the identification and deportation process. They recognised two kinds of Pakistani infiltrators—first, the ones who voluntarily surrendered and accepted that they were Pakistani nationals desiring to return home, and second, those who were convicted in a court of law. The state government handled the matter under the legal framework provided by the Passport (Entry into India) Act, 1920 and the Foreigners Act, 1946. The official procedure to identify a Pakistani infiltrator was initiated. In most cases, the rural panchayats and village defence organisations took the initiative. As a next step, the police would be informed and they would then carry out a confidential verification to establish the alleged "illegal" immigrants' nationality.¹⁷

The role of the police marks a critical reference here, since acting according to the prerogatives of the nation state, many such officials, who represented the beliefs of the Assamese-speaking educated classes, also hoped to serve their affiliated (Assamese) nationality. Let us read from one of the leading police officers' autobiographies here,

During my probationary year at Tezpur as the DSP [Deputy Superintendent of Police], the process of identification and deportation of Pakistani immigrants from Assam started ... After examining papers and documents, many Pakistani infiltrators from the Sootea area were deported via the Golakganj border into Pakistan. I was given special responsibility, which I accepted as a tremendous honour and pious work, and I worked very hard day and night. Sometimes then, I thought, God probably brought me here to the police department to do this job. (Mahanta 2018[1994])

Earlier in his autobiography, he also expresses anger against Bengal-origin peasants (Mahanta 2018[1994]: 49).¹⁸ The action of the police, however, invited wide criticism. To “scrupulously avoid harassment of any Indian citizen,” the union government tried to improve matters by appointing statutory tribunals under the Foreigners (Tribunals) Order, 1964.¹⁹ The order aimed to set up tribunals, akin to quasi-judicial bodies, to decide the nationality of alleged “illegal” immigrants. Though the police had the primary authority to identify an illegal migrant, the order made a difference by giving the authority to decide on the nationality of the alleged foreigner to the tribunals, instead of the police.²⁰

Eventually, the tribunals started functioning to begin a new regime of citizenship in Assam, which led to the new interpretations of existing citizenship laws. For instance, on 9 October 1969, the High Court of Assam and Nagaland at Guwahati, passing a judgment on one such case of an “alleged” illegal immigrant Bhanbhasa Seikh, concluded that the “certified to be a true copy of the NRC 1951” could not be considered as a supporting proof to justify the claim of Indian citizenship. The court further elaborated that the document—which was 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, 1872.²¹

Thus, the 1960s witnessed how the Assamese educated classes not only affected the execution of citizenship laws on the ground but also brought forth new interpretations of the procedure to claim citizenship, bringing important changes to the citizenship laws.²² The judicial intervention engaged the “illegal” migrants in the process of defining citizenship, leading to more and more interpretations of citizenship laws. However, the political atmosphere would change soon after the fresh arrival of the refugees at the advent of the creation of Bangladesh in 1971.

Little Nationalism versus Citizenship

A serious situation arose because of the refugee crisis in states like Tripura, Assam, and West Bengal during the Indo-Pak war in 1971. India received the highest number of refugees during this period, and Assam received around 2,98,000 refugees.²³ This raised genuine apprehensions about the government’s welcoming attitude towards refugees.²⁴ In Assam, the local media reported scattered incidents of conflict.²⁵ It was thought that the government adopted a discriminatory attitude towards the indigenous people as it provisioned reservations for refugees despite not having any constitutional provisions for the same. This renewed the question of constitutional safeguards to protect the land of the natives from the “outsiders.”²⁶ Meanwhile, public opinion was also formed against the union government for its exploitative attitude towards Assam. Writings in Assamese reflected significantly upon this. For instance, in *Islamabad Bonam Dhaka: Dilli Bonam Dispur*, written by Nibaran Bora, a trade union leader, 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.²⁷

Evidently, Assam was rephrasing its nationality question within the federal structure of India. In the 1970s, the shifting of political power from the peasants (which was earlier led by the left parties like the Revolutionary Communist Party of India) to the nationalist students (Saikia 2014), a critical stand of the educated (middle) classes towards the union government and transfer of land from the landowning Assamese middle classes to Bengali-speaking (Muslim) peasants after the implementation of the Assam (Temporary Settled Areas) Tenancy Act, 1971 significantly transformed the character of the Assamese middle class. The latter, which did not get involved in the peasant political struggle in the earlier decades, would now assume the driving seat in bringing the students to the forefront and defining the political trajectory of Assam.

The Assamese educated class played the most crucial role in this development. Vernacular writings like *Rajbhogonor Pora Koltokaloike* by Premkanta Mahanta and *Ji Katha Nahal Koa* by Hiranya Kumar Bhattacharya offer the presumed role of two Assamese police officers in bringing the attention to the voters’ list as swollen with large numbers of “illegal immigrants” from Bangladesh. They claimed that these police officers brought the matter of illegal infiltration to popular attention and to the notice of organisations like the All Assam Students’ Union (AASU). They also played a vital role in revising the voter list (Bhattacharya 2011; Mahanta 2018[1994]).

The Protests: A Dialectical Site

The popular protests in the 1980s revised the original question about membership—“Who is a foreigner?” Initially, the protest demonstrations raised a variety of slogans against “outsiders.”²⁸ However, this was quickly outlined within the legal framework of citizenship for discussion with the union government. This provided a unique opportunity for the Assamese leaders who represented the civil society or Assamese educated (middle) classes to discuss and influence the legal discourse of citizenship in India.

In the first formal meeting in Delhi, AASU proposed measures to stop the influx from Bangladesh, like deleting the names of foreign nationals from the electoral roll, deporting them, issuing identity cards to Indian citizens, etc.²⁹ It also added that the NRC of 1951, along with the successive electoral rolls since 1952, should be made up-to-date, and birth and death registers should be strictly maintained.³⁰ Significantly 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.³¹ But the Government of India insisted on deliberating more on the citizenship issue.

This meeting set the agenda for the hundreds of formal and informal talks until 1985.³² The union-Assam bargain was reflected distinctly during discussions about “who is a foreigner” and the “cut-off date” to identify “illegal” foreigners. Intending to safeguard the refugees from Bangladesh, the union government pushed the question of “international commitment and

humanitarian grounds.”³³ It was 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 the Indira–Mujib Pact. Assamese leaders defended the state’s earlier position about refugees and proposed that the bonafide refugees, who could not be identified as “illegal” foreigners, should be settled in other parts of the country. The union government continued to press the year 1971 on the grounds that India took a stand for “a political solution in East Pakistan.”³⁴ Assamese leaders stated their position for 1951 and proposed that the NRC of 1951 should be used as the base document.³⁵ During the discussion in May 1981, the union government clarified that the refugees from Bangladesh belonging to the minority community were “authorised immigrants.” Meanwhile, minority organisations like the All Assam Minority Students’ Union, the Tribal Protection Committee, Progressive Plains Tribal Council of Assam, and Assam Gorkha Sammelan were also called for their opinion about the cut-off date.³⁶ In the following meetings of 1982, two “categories of people” emerged according to their entry dates from Bangladesh into Assam, the entrants between 1951 and 1961 and the ones between 1961 and 1971.

This highly animated bargain continued parallel to the street demonstrations by organisations like the AASU, which were used to create pressure on the negotiation table. In contrast, the union government used the technique of imposition of election at different points in time to get back the hold on the law-and-order situation in Assam. These pressure techniques led to large-scale instances of violence. After widespread violence during the assembly election of 1983, the union government assumed a firm, non-negotiable stance.

The Citizenship (Amendment) Act, 1985

The bargain came to an end with the changing attitude of the union government after Indira Gandhi’s assassination in October 1984. Rajiv Gandhi, the new Prime Minister, wanted a solution for Assam, Punjab, and Mizoram on the citizenship question. In March 1985, dialogues were resumed leading to the signing of the Assam Accord on 15 August 1985. The accord’s central premise was founded on the citizenship question. Clause 5 of the accord dealt with the same.³⁷ It categorically defined the foreigners from Bangladesh on the basis of their entry dates and accordingly offered different modalities to treat them. For example, all those who migrated before 1966 would be treated as Indian citizens, foreigners who came after 1966 and up to 24 March 1971 would be detected in accordance with the provisions of the Foreigners Act, 1946, the Foreigners (Tribunals) Order, 1939, etc.

The Assamese nationality question repeatedly asserted by the Assamese educated (middle) classes over these years found expression in Clause 6 of the accord. It promised that constitutional, legislative, and administrative safeguards should be provided to protect, preserve, and promote the cultural, social, and linguistic identity and heritage of the Assamese people. This clause entangled the Assamese nationality question with citizenship. The Assamese “little nationalism”

found an expression within a document like the Assam Accord marking a significant shift in the citizenship discourse in India.

The first amendment of the Citizenship Act, 1955 in December 1985 would validate this shift. A bill for the amendment of the Citizenship Act, 1955 was introduced in the Lok Sabha aiming to settle the “foreigners” issue, particularly the matter of citizenship of the migrants who came into Assam at different points of time. The then Union Home Minister S B Chavan, while introducing the bill, said 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.³⁸ The bill sought to insert a new section, that is, Section 6(A), in the principal act. Many lawmakers feared that the aim to create specific categories of citizens would divide the universal conception of citizenship against the interest of minorities. After long discussions, the union government asserted its plenary powers to pass the bill. The act came into force on 7 December 1985.³⁹

It carved out a specific place for Assam in the larger legal framework of citizenship in India. This also further pushed the implementation of other clauses like Clause 6 of the accord and showed how long the political bargain led by the Assamese educated classes created an “ethno-space”⁴⁰ for Assam and successfully accommodated the Assamese nationality question within the legal framework of citizenship.

In Conclusion

This paper demonstrated how a notion of membership formed under the leadership of the Assamese-educated middle classes, and found a legitimate place in the legal framework of citizenship in India. It analysed 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 and culture. These contestations were deeply intertwined with the question of Assamese nationality in the moment of the post-colonial nation-making process. This paper also examined the role of regional/ethnic identity-based political mobilisation, which emerged as a site of contentious dialogue. Such popular protests led by the educated classes, their bargains with the union government, and the repeated claims to citizenship by a cross-section of immigrant people led to constant reinterpretations of the content and laws of citizenship. This gave birth to a distinctly popular and political history of citizenship in Assam. Through a long bargain with the union government and several instances of critical stands towards the federal structure of India, Assam validated its unique case, thus redefining the idea of citizenship by successfully entangling the question of nationality and reforming the centre–state political dynamic in the process. The recent protests and debates over the Citizenship (Amendment) Act, 2019 and the nationwide NRC reiterated the importance of understanding the relation between nationality and immigration, and Assam’s repeated references in this context reinstated its crucial role in shaping the citizenship discourse in India.

NOTES

- 1 See Guha (1980), Misra (2000), Baruah (2001), Weiner (1983), Misra (1980), Gohain (1980), Datta (2013).
- 2 See Roy (2012), Jayal (2015[2013]), Kamal (2008), Baruah (2020), Mahanta (2021), Dutta (2021).
- 3 Bora (1996); translated from the Assamese by the author.
- 4 Places around the upstream of the river Brahmaputra, more specifically the eastern part of Assam, are referred to as "Upper Assam."
- 5 Ambikagiri Raychaudhury, in his presidential address to the Assam Sahitya Sabha Conference in 1950, maintained, "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" (quoted in Guha 2006: 258).
- 6 Jayeeta Sharma (2011) explained how the elites, through the vernacular printing medium, inserted and affirmed their position, defined Assam's identity question, and formed a modern civil society in Assam.
- 7 Conceptualising as two genres of writing, Chatterjee maintained that the people-nation emerges from the writings concerning the sociocultural foundation of federalism and are scattered in wide vernacular writings in the different cultural traditions of India. These writings include the debates whether India is a single nation or a federation of nationalities, and if single, then there is a distinct cultural identity of each federal unit where language is a crucial factor.
- 8 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.
- 9 Sylhet, which was part of the Assam province, became part of East Pakistan after the Sylhet referendum on 6 July 1947. For relevant discussions, see Baruah (2001: 40–43), Guha (2006), Misra (2000), and Sharma (2011).
- 10 Jayal (2015: 58) observed that the differentiation was based on a highly communal ground. It was during the CAD on *ius soli* and *ius sanguinis* principles that led to the emergence of these nomenclatures when it came to handling the question of millions of displaced people. The Constitution, however, did not use these terms.
- 11 *Parliamentary Debate*, Vol 1, Part II, 10 February 1950.
- 12 Ambedkar stated, "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 ... what is the village but a sink of localism, a den of ignorance, narrow-mindedness and communalism?" (CAD 1947: 1460).
- 13 *Constituent Assembly India Debates*, 8 November 1948.
- 14 Assam Gazette, 6 September 1950.
- 15 *Natun Asamiya*, 25 December 1962.
- 16 Express letter No 1/7/61–F III dated 22 March 1961 from the under Secretary to the Government of India, Ministry of Home Affairs, New Delhi to the chief secretary to the Government of Assam, Home Department, Miscellaneous Branch, Shillong. Assam State Archive (ASA).
- 17 Booklet by the Ministry of Information and Broadcasting, for the Ministry of External Affairs, Government of India (1963) reproduced in Gupta (1983: 191–200).
- 18 Mahanta (2018[1994]: 49) wrote that when he was a teenager, he had witnessed certain criminal incidents, and according to him, Muslim migrant peasants from East Bengal used to commit such crimes. Later, he felt revengeful and burnt many land records of these peasants when he was working as a part-time literary peon at Tezpur Court and Colonisation office.
- 19 Foreigners (Tribunals) Order 1964, GOI.
- 20 Accordingly, Government of Assam constituted four such tribunals, and judicial officers were appointed to these tribunals (Foreigners (Tribunals) Order, 1964).
- 21 The Guwahati High Court (1969): *Bhanbhasa Seikh v Union of India and Others*, 6 October 1969, Guwahati: High Court.
- 22 I suggest, contrary to the claim by Baruah (1999: 202), that the union government was unresponsive to the debates on the issue of immigration in the Assamese public sphere.
- 23 Statistical Information relating to the Influx of Refugees from East Bengal into India, GOI.
- 24 Daily Situation Report, 10 [57]/71-RL IV, M/O, NAI, ASA.
- 25 Tension between Assamese and Bengalis at Lumding and Guwahati, 1971, PLA 167/71 P I, Home Confidential, Government of Assam, ASA.
- 26 The term "outsiders" was frequently used by many, including AASU, and anger was expressed against all who did not speak Assamese but had been controlling the economy of the region. Nibarán Bora also used it in a similar context, which was not specifically about illegal foreigners (*Nagorik*, 5 June 1979).
- 27 Bora published a series of articles in *Nagorik*, one of the leading Assamese weekly newspapers in 1977.
- 28 The notion of *Bohiragata*, "outsiders" reappears here. 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.
- 29 *Assam Tribune*, 3 February 1980.
- 30 AASU (1980): *Memorandum to the Prime Minister of India*, 15–16.
- 31 *Assam Tribune*, 3 February 1980.
- 32 Representatives of the government and the agitators had met for 114 days until 1983 (Murthy 1983: 242).
- 33 *Assam Tribune*, 26 January 1980; *Assam Tribune*, 4 January 1980.
- 34 *Hindustan Times*, 16 May 1981; *Indian Express*, 16 May 1981; *Assam Tribune*, 16 May 1981.
- 35 AASU (1980); Dibakar Saikia, Jamugurihat, Sontitpur Assam, viewed in April 2016.
- 36 *Hindustan Times*, 25 May 1981.
- 37 Clause 5 (1–9), Assam Accord, Memorandum of Settlement, 15 August 1985.
- 38 S B Chavan, the Minister of Home Affairs *Parliamentary Debate*, Fourth Session, Vol X (New Delhi: Lok Sabha Secretariat, 20 November 1985), p 248.
- 39 Home Minister S Buta Singh (1985) *Parliamentary Debates*, Seventh Session, Vol XXI, 12 November, New Delhi: Lok Sabha Secretariat, pp 163–64, https://eparlib.nic.in/handle/123456789/17650?view_type=search.
- 40 Anupama Roy (2012: 92) argues that the act marked out an "ethno-space" as the act specifically addressed the case of Assam within the citizenship law of India.

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