

Contested Belonging: Citizenship, Migration, and Identity Politics in Assam

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Abstract: *The debate over citizenship in India has been sharply highlighted by the Assam context, particularly through the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA). Assam's citizenship question is rooted in its unique historical and socio-political landscape, with key milestones including the Assam Accord of 1985, which set a distinct cut-off date for citizenship (March 25, 1971) and introduced Section 6A of the Citizenship Act in 1986. This exceptional framework for Assam contrasts with the rest of India, creating tensions over inclusion and exclusion.*

The NRC update and CAA passage between 2015 and 2019 intensified the debate, particularly concerning undocumented migrants, indigenous rights, and communal divides. While globalisation and neoliberalism have transformed traditional notions of citizenship, emphasizing individualism and market-driven rights, Assam's context underscores the conflict between universal human rights and region-specific indigenous claims.

The dichotomy of inclusion and exclusion raises fundamental questions about nation-building and sub-nationalism. Legal frameworks like Section 6A attempt to balance these tensions but face criticism for creating graded citizenship. Indigenous communities often perceive universal human rights frameworks as threats to their land and cultural identity, while global migration challenges fixed definitions of citizenship.

This paper explores the evolving concept of citizenship, focusing on Assam's historical, political, and legal particularities. It examines how regional identity, migration, and neoliberalism intersect, offering insights into broader implications for citizenship policies in India. Ultimately, it underscores the complex balance between inclusive citizenship and regional specificity.

Keywords: Citizenship, Assam, National Register of Citizens (NRC), Citizenship Amendment Act (CAA), Indigenous Rights, Migration

INTRODUCTION

The last few years have seen a vibrant debate on citizenship in India. This debate was on the issue of preparation for the NRC, which opened out parallel debates about citizenship in the country. While understanding citizenship is novel, as all eyes were drawn towards what was happening in Assam, it is essential to note that the citizenship debate in Assam is as old as the nation. The only difference has been the different phases that have carved out an Assamese exception while occasionally leading to unrest and insecurity in the state. By 1985, the Assam Accord was signed, and a template of graded citizenship in Assam had been implemented. It moved the cutoff date for citizenship in the state to March 25, 1971, replacing the constitutional deadline of July 19, 1948, applicable to the rest of the country. Individuals who arrived in Assam after March 24, 1971, would be subject to expulsion.

By 1986, the Citizenship Act of 1951 was amended through Section 6A. This amendment introduced a sixth category of citizenship, specifying that:

"All Persons of Indian origin who came to Assam before January 1, 1966, from a specified territory and has been ordinarily resident of Assam will be considered citizens of India from the date unless they chose not to be."

In 2012, the Assam Sanmilita Mahasangha, a civil society organization based in Guwahati, contested this provision, claiming that applying different citizenship rules for Assam compared to other states was unjust and discriminatory. The issue persisted for some time until October 2024, when a Constitution Bench of the Supreme Court, in a 4:1 decision, upheld Section 6A of the Citizenship Act, deeming it a valid legislative measure to address the challenge of illegal migration in Assam.

In this context, it is important to inquire into the exceptional nature of the citizenship debate in Assam and its ramifications for the debate.

INTRODUCTION OF CAB IN 2016

In 2016, the Citizenship Amendment Bill, seeking to amend the Citizenship Act of 1955, was introduced in the Lok Sabha. On December 11, 2019, the Citizenship Amendment Act (CAA) was passed by the Indian Parliament. This amendment expedited the process of acquiring Indian citizenship for persecuted religious minorities Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians from Afghanistan, Bangladesh, and Pakistan who arrived in India before the end of December 2014.

Today, as we talk about a concept like citizenship, it is impossible to talk about it without referring to the international nature of migration and citizenship in neoliberal regimes. The concept of citizenship has evolved significantly over the centuries, reflecting political, economic, and social changes. Neoliberalism has emerged as a dominant economic and political ideology in recent decades, reshaping how societies function. Neoliberalism has impacted the concept

of citizenship, focusing on how it has influenced citizens' rights, responsibilities, and identities. Neoliberalism, characterized by its emphasis on free markets, limited government intervention, and individualism, has fundamentally altered the traditional understanding of citizenship.

It is important to note that neoliberalism's impact on citizenship is highly contested. The impact of neoliberalism on the concept of citizenship is complex and multifaceted.

WHAT IS CITIZENSHIP?

Citizenship typically involves possessing legal documentation that signifies a person's nationality, accompanied by specific rights and claims inherent to citizens. A foundational understanding of citizenship can be traced back to T.H. Marshall's early definition in "Citizenship and Social Class" (1950: 8), where he describes it as 'full and equal membership in a political community.' Over time, societal transformations, including globalization and migration, have influenced the evolving concept of citizenship, which has become increasingly relevant in recent decades. The aftermath of both World Wars notably reshaped the understanding of citizenship, leading to the emergence of a universal concept in the post-war period that emphasized universalism over national identity (Soysal, 1994: 2). The contemporary interpretation of citizenship as a "system of rights rather than privileges" has its origins in the French Revolution of 1789. The discourse surrounding citizenship remains highly contentious, particularly in light of the rise of right-wing politics on one side and the expansion of globalization on the other.

Anupama Roy (2016) explores how other scholars argue that citizenship is a dynamic and evolving concept, distinct from more static ideas such as state, patriarchy, or violence. This fluidity renders citizenship inherently progressive and equitable, enabling the dismantling of hierarchical inequalities and promoting access to citizenship rights. The breakdown of these hierarchies has expanded its inclusivity. However, Yuval-Davis (1997) raises a critical question: "What will happen to those members of civil society who cannot or will not become full members of that 'strong community'?" (p. 7). She further observes that "in virtually all contemporary states, there are migrants and refugees, 'old' and 'new' minorities, and in settler societies, there are also Indigenous people who are not part of the hegemonic national community." These reflections highlight the paradox of citizenship as a concept. While it has successfully included many previously excluded groups, it continues to draw a clear line between 'insiders' and 'outsiders,' presenting significant challenges for those who fall outside the categories defining citizenship.

In contemporary society, we encounter two distinct yet interrelated traditions: citizenship and human rights that significantly influence one another. These traditions are driven by opposing objectives: one seeks to ground rights in membership, while the other aims to detach them from such membership, thereby promoting a universal application. The approach of grounding rights in membership raises the issue of exclusion for individuals who do not conform to established categories of citizenship. Conversely, there are critiques regarding the limitations inherent in universalising human rights. In this regard, Brown (2007) observes that the concept of rights is inherently contentious, and the notion that rights could be conferred upon individuals solely based

on their shared humanity is particularly vulnerable to rigorous critique.

Chris Brown's perspective on human rights sheds light on why the discourse surrounding 'human rights' for undocumented migrants from Bangladesh becomes contentious in the context of Assam. While the importance of human rights in safeguarding vulnerable populations is undeniable, in Assam's case, this narrative often conflicts with the indigenous rights to land and resources, creating a significant point of tension. Young (1989) argues that the universality of citizenship stands in tension with the other two meanings of universality embedded in modern political ideas: universality as generality and universality as equal treatment. Brown also, in a way, tries to underline how a standard template of understanding things, as established by Western liberalism, may be problematic as it fails to take into consideration particularities.

Kymlicka (1995: 35) explores the negotiations between individual and collective rights and discusses two claims that an ethnic or national group might make. The first involves a group's claims directed toward its own members, while the second pertains to claims made against a broader society. This discussion highlights the evolution of citizenship as a concept over time. While citizenship grants certain rights to those who qualify, non-citizens often find themselves in a nebulous, uncertain space. A fundamental challenge of citizenship lies in its inherent exclusivity—defining who qualifies as a citizen inevitably excludes those who do not fit the criteria. This exclusionary aspect is further intensified by factors such as globalization, migration, and Indigenous rights.

THE CITIZENSHIP QUESTION IN ASSAM, IN CONTRAST TO INDIA

To comprehend the citizenship discourse in Assam, it is essential to examine the region's historical context. The themes of nationhood, citizenship, migration, and human rights are integral to the discussions surrounding this area. Baruah (1999:11) explores the limitations of the nation-building process as it pertains to Northeast India. He asserts that the framework of nation-building has, to a certain degree, allowed political scientists to sidestep the challenge of integrating sub-nationalist perspectives into political structures. Baruah delves into Assam's political and economic history from the period it was incorporated into British India, highlighting the ongoing tensions between pan-Indianism and Assamese sub-nationalism that have persisted since the inception of Indian nationalism.

According to Guha (1980: 1701), "Ever since its beginnings in the early nineteenth century, our nationalism has developed at two levels - one all-India and another regional based on regional-cultural homogeneities. From the very outset, the two nationalisms are found intertwined and dovetailed".

Sangeeta Barooah Pisharoty (2019) examined the situation in Assam through the lens of the Assam Accord, which is central to understanding developments in the state since the NRC update process. Several key provisions of the Assam Accord remained unimplemented during the contentious tenures of Chief Minister Mahanta and the subsequent Congress administration, which concluded with the BJP's rise to power in 2016. A pivotal aspect of the Accord was the expulsion of individuals unable to prove their presence in India before March 24, 1971. The process of updating the NRC based on this 1971 cut-off began in 2015.

The NRC sparked extensive debates, with two dominant perspectives emerging: one opposing the NRC update process and the other urging a deeper examination of the historical and contextual factors leading to it (Buragohain, 2019). These discussions also gave rise to critiques of capitalism, highlighting how globalization capitalized on labor precarity. Roy (2016: 45) suggests that the lack of significant opposition to the NRC in the region reflected the enduring appeal of an 'authentic' Assamese identity, which was being actively debated in the state, along with confidence in the NRC commissioner's meticulously designed and 'efficient' mechanism for citizen recognition.

"The citizenship issue in Assam is complicated and embroiled in two highly sensitive questions: (a) 'Treatment of India's Muslim minority population, and (b) What many see as an unavoidable legacy of India's partition in 1947: India's de facto obligation to allow Hindu refugees from Pakistan to settle in India (Baruah, 1999: 15)'".

In recent years, the issue of citizenship in India has become increasingly complex, particularly with the introduction of the National Register of Citizens (NRC) in every state and the enactment of the Citizenship Amendment Bill (CAB). The passage of the CAB has significantly contributed to nationwide unrest. The Citizenship Amendment Act (CAA) became a focal point in political discourse until the onset of the COVID-19 pandemic, which affected the country and the globe. In this context, it is essential to analyze the concept of citizenship as it has evolved, mainly focusing on the 'Assamese exception' and the distinctive circumstances surrounding the citizenship debate in Assam. Since independence, the citizenship issue in Assam has experienced various phases, leading to significant turmoil in the state during the 1970s, exemplified by the Assam movement. The criteria for determining citizenship status have been hotly contested throughout this period and beyond.

Following the signing of the Assam Accord, a principle of differentiated citizenship was established through an amendment to the Citizenship Act in 1986. Section 6A was introduced, creating a specific classification of citizenship that applied primarily to Assam. Individuals of Indian descent who arrived in Assam by January 1966 from the designated territories and had been ordinary residents of Assam since their arrival were granted citizenship from January 1, 1966, unless they opted otherwise. The amendment also stipulated that individuals of Indian origin who arrived in Assam between January 1, 1966, and March 25, 1971, and had been residing in the state during this period, would only be considered citizens of India after registering, provided they had been identified as 'foreigners' under the Foreigners Act, 1946, and the Foreigners (Tribunals) Orders, 1964, and had completed a 10-year period from the date of their recognition as foreigners.

Foreign tribunals faced intense scrutiny after the final National Register of Citizens (NRC) release. Consequently, examining the historical context of these tribunals in Assam is essential. The Foreigners (Tribunal) Act was enacted in 1964 under the provisions of the Foreigners Act of 1946. This legislation mandated that each individual suspected of being a foreigner would undergo a judicial process to resolve their citizenship status. The final draft of the NRC was released on July 30, 2018, and later updated on August 31, 2019. The Ministry of Home Affairs (MHA)

clarified that no punitive actions would be taken against those excluded from the final NRC draft. It is also important to note that, contrary to widespread expectations about the exclusion of a large number of Muslim individuals, a significant proportion of non-Muslim citizens were also left out of the list.

The Citizenship Amendment Bill (CAB) was enacted following the President's approval on December 14, 2019. The Home Ministry subsequently issued a gazette notification to formalize the legislation. Under this law, Hindus, Sikhs, Buddhists, Christians, Jains, and Parsis who entered India from Pakistan, Bangladesh, or Afghanistan before the cutoff date of December 31, 2014, were eligible for Indian citizenship, while Muslims were excluded from this provision.

"In exercise of the powers conferred by sub-section (2) of section 1 of the Citizenship (Amendment) Act, 2019 (47 of 2019), the Central Government hereby appoints the 10th day of January 2020 as the date on which the provisions of the said Act shall come into force," the notification said.

The amendment introduced religion as a criterion for granting citizenship, sparking protests across various parts of the country. It can be argued that the passage of the CAB held a distinct significance for Northeast India, given its unique historical and geographical context, in contrast to the rest of India.

Anupama Roy, in her book *Citizenship Regimes, Law and Belonging: The CAA and the NRC* (2022), looks at citizenship in terms of regimes. She tries to locate the political and ideological field within which citizenship can be placed. She points to how the law works in a way that seamlessly fits into society's structure. The objective of law is to be part of society. That law itself becomes invisible. The intersection of law with life is about legal ethnography. She talks about three distinct regimes of citizenship in India. Each of them is coherent, which gives the regime coherence yet clearly distinguishable from one another. Contemporary regimes have come from earlier regimes. The first is the founding moment of the Indian constitution. It was a transformative moment for several reasons. It marked a rupture from the past. Citizenship was the most emphatic moment. Debates on citizenship in the constituent assembly are worth looking at. Much contemporary debate recalls the constituent assembly debates. One needs to look at them to understand the mutations and transformations, recalling the past in the present. Within the constituent assembly, there were no clear fault lines; everyone put their opinions on the table in stark contrast.

The process of decolonisation was based on reclaiming those rights which were denied to Indians. Then comes the second regime, the regime of exception. It refers to the amendment that happened in 1985. It reflected what is presented as a negotiated public contract. This was the phase of introducing the notion of graded citizenship for Assam. The first category of citizens is not contested at all. The second category is to be seen as illegal migrants who arrived after 1971. It created hyphenated citizenship, as well as Indian and Assamese citizenship. It would later resonate with NRC. Then, a third category of citizenship in 2003 is seen as a move from *jus soli* to *jus sanguinis*. 2003 was an emphatic moment. It created an exception of a separate procedure for Assam. It needed a legacy document. A documentary regime of citizenship started.

CONCLUSION

While this paper primarily examines the citizenship debate within the context of Assam, it also acknowledges the influence of global factors and evolving paradigms shaping the concept of citizenship. The inevitability of migration and the transformative impact of neoliberal policies necessitate a broader lens to understand citizenship in the modern world. In an era where migration has become an intrinsic aspect of human existence, no nation can afford to operate in isolation. Consequently, traditional notions of citizenship must adapt to these emerging realities, embracing innovative frameworks for defining membership while balancing the imperatives of national interest.

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