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Navigating Precarity : Analysing Multiple Narratives of Citizenship in Assam



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**Navigating Precarity:
Analysing Multiple Narratives of Citizenship in Assam**

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Navigating Precarity: Analysing Multiple Narratives of Citizenship in Assam

Samik Roy Chowdhury and Gorky Chakraborty *

Introduction

The impetus for this endeavour was provided by the fact that the emergence and the consolidation of the nation state as the most efficient spatial arrangement for the exercise of citizenship has, somewhat surprisingly, coincided with the emergence of uncertain and liminal zones of citizenship¹. The individuals and the groups inhabiting these zones experience uncertainty related to their status as citizens, and hence, face an uncertain future. The increase in the phenomenon of precarious citizenship, according to Lori (2017), can be attributed to the strategic government response to avoid resolving dilemmas about citizenship.² These dilemmas become apparent in the manner in which nation states and citizenship regimes have developed in the context of South Asia. The recent history of this region has seen various groups, like the Rohingyas, Chakhmas etc. struggle to attain stable citizenship status. This report looks at the manner in which dilemmas related to citizenship have emerged in the Indian state of Assam and how in resolving these dilemmas the Indian state has created a class of 'Non Citizen'³, who inhabit the liminal zone of citizenship and is subjected to the threat of deportability in day to day life⁴.

One of the major imperatives of governance is to find the right size i.e., the right fit between territory and people⁵. This idea of the right size, according to Samaddar, performs two simultaneous functions. Firstly, it prescribes the sole manner, the governmental manner of discovering the politically sacred; secondly, at the same time it removes all objects and spaces that do not belong to the sacred space. These functions, in turn, mark politics with territorialities of various kinds and leads to the emergence of out hated figure of the migrant. The manner in which the sacred is discovered and created, places the migrant (or immigrant) and the citizen in a relationship of forclusion⁶. The identity of the migrant is, therefore, linked to the manner in which norms of citizenship are constructed and changed. The identification of one as a 'migrant' is not singularly dependent on their mobility, which may prove disruptive to the fixes put in place by the state, but also on them being 'out of place' in the grand scheme of rationalisations. The figure of the migrant or the immigrant is born out of the manner in which exclusive and 'governable' spaces are imagined and articulated. In contrast to the common perceptions, which assume the transgression of spatial fixes or borders by the migrants, this study points to the fact that the categorisation of individuals or groups as migrants is a product of the manner in which fixed notions of territory and population are

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applied. The out of place migrant is hence subjected to pervasive forms of institutional and social control, identification and assimilation and any sense of precarity or incompleteness experienced by the migrant may be attributed more to social and institutional exclusion rather than insecurity or guilt of transgressing boundaries.

The exact identity of the migrant, similar to the citizen, is essentially ambivalent as it is not their mobility that marks them as a migrant; rather, they are defined and identified by complex sets of political and social negotiations. This essentially creates a situation where individuals marked/identified as illegal migrants are assumed to be imitating the citizens while the individuals themselves may be unaware of their own foreignness. It is this vortex of hyper awareness and uncertainty that multiple precariousities are produced and articulated. Moreover it is the hyper awareness of the 'foreigner' that requires that intervention of the state which is, in the context of Assam, demanded by the citizens themselves. To locate and understand precarity it is essential that we analyse both the precarity experienced by unsuspecting individuals marked as migrants and also the precarity that is articulated in response to the presence of such migrants. Therefore, it is essential that we reevaluate precarity in regards to the manner in which the state and its practices are formulated and negotiated in differing locations which in this case is the Indian state of Assam.

The use of the idea of precarity is essential not only in explaining the institutionalisation and threat of statelessness faced by sections of the Assamese society, but also, in explaining how and why this process of institutionalisation itself was/is a by-product of the manner in which narratives of precarity were rationalised/navigated by the state. The concept of precarious citizenship is a useful anchor for a new reading of the complex citizenship process in Assam as categories such as 'undocumented citizen', 'denizen', 'stateless' and 'illegal migrant' are inadequate in this context because a large chunk of the population facing statelessness are Indian citizens who have to, at multiple points, prove their citizenship⁷, while simultaneously, the idea of precarity is useful in understanding the threat of displacement and subjugation which has defined Assam politics, especially, the Assam movement. The contemporary political situation in Assam and the factors that have led to it requires a reevaluation of both the definition and the accepted causes of precarious citizenship.

Any reevaluation of precarity in the specific context of Assam has to take certain factors into considerations. Firstly, the identity of the migrant, as mentioned above, emerges more as a result of complex set of political and social negotiations rather than cross border immigration. Their experience of precarity is more a result of them being out of place rather than mobile in fact being marked as a migrant, in most cases, restricts their mobility. Secondly, the emergences of regimes of illegalisation⁸ in Assam are more a result of the manner in which citizenship is imagined at regional and specific circumstances rather than certain groups being left out during the moment of state formation or the inability of the state to accommodate minority groups. Lastly, in the context of Assam, it is essential that we take account of the manner in which the threat of social exclusion and displacement become popular articulations of precarious citizenship. Any understanding of precarity in this specific context needs to recognise the potential of multiple and conflicting narratives of precarious citizenship.

The specificity of Assam emerges out of the fact that precarity of status and place⁹ experienced by individuals is an outcome of the manner in which precariousities in regards to social and economic rights were articulated. This, in turn, exhibits the manner in which multiple and antagonistic/contradictory precariousities may be articulated within a particular institutional set up. In Assam, any articulation in favour of either granting citizenship or providing constitutional safeguards for people threatened by statelessness would and has inevitably clashed with the apprehensions of

certain sections of the region itself as evidenced by the polarised perspectives on laws like IMDT and the CAA. It is in this context that we intend to locate and understand narratives of precarious citizenship in the Indian state of Assam and highlight the manner in which the state responds to and navigates multiple and often contradictory narratives.

The objective of this study is to understand how precariousness in relation to citizenship is articulated as a tool of political mobilisation which appeal to accepted governmental rationales and how there can be multiple and conflicting articulations of precarity based on specific historical and social factors. The second objective is to understand the response of the state to these competing articulations and how in navigating these claims the state creates spaces of incomplete or precarious citizenship. By fulfilling these objectivities we intend to point out that the aspirational and enabling nature of citizenship¹⁰ allows the emergence of multiple narratives of precarity which respond to the specificities of its location. By looking into the manner in which the logics of citizenship are understood and reinterpreted at different social and political junctures this study expands the scope of precarity as an idea which is more in tune with the idea of citizenship as a lived experience, rather than a purely legal or governmental category. This then allows us to make qualitative distinctions in the manner in which precarity is experienced and articulated. The individuals who experience statelessness, in this context, are mere victims/symbols of the manner in which complex sets of political factors have influenced norms of citizenship and belonging.

This study is the outcome of fieldwork carried out between July 2022 and September 2022 during which we collected perspectives from five locations namely Silchar, Karimganj, Bongaigaon, Barpeta Town and Guwahati. Focusing on these locations within our study allowed us to capture the contradictory impulses that drive the politics of the Barak and the Brahmaputra valley which have become essential in the context of the recent amendment to the Indian citizenship law. Secondly, covering these areas allowed us to interact with declared and suspected non citizens belonging to both sides of the communal/religious divide with the interviewees being divided proportionally between individuals from both the Hindu and the Muslim community. Along with the victims of the foreigner's tribunals we interviewed various individuals who find themselves at differing points in their negotiations with the citizenship infrastructure. In addition to the insights provided by the interviewees we also looked into the complex legal specificities of Assam. This has allowed us to formulate a layered perspective on the precariousness associated with citizenship by addressing the role of mobilisation and the agency of different groups and their claims vis-à-vis the state

Why Assam

The contemporary conflicts related to citizenship in Assam trace their root back to the manner in which the region was viewed and governed during the colonial times. In recent times the discussions on citizenship in the context of Assam have been dominated by the debates on the Citizenship Amendment Act (CAA) and the recently updated National Register of citizenship (NRC). The CAA has been vehemently opposed in parts of Assam while being accepted in some, highlighting the deeply embedded contradictory political logics within the state. Curiously the NRC, the policy/exercise generally lumped together with the CAA in the 'mainstream' consciousness, was accepted in Assam as the NRC was perceived as a means to settle the historical conflicts that have plagued Assam vis-à-vis the presence of the migrant/immigrant.

Immigration into Assam was a direct by product of the colonial gaze that saw Assam as a wasteland¹¹ with copious quantity of idle land. One can identify three distinct phases that define the colonial attitude towards immigration and settlement in Assam. In the initial phase, beginning from

1826 emphasis was on making land available for tea plantation which then shifted to encouraging immigration to expand the area under cultivation during the turn of the 19th century¹² as the presence of densely populated districts of Bengal, adjacent to Assam, was perceived by the officials as a source for cheap labour¹³. The third phase of colonial (miss) management develops in response to the sheer volume of immigration into Assam during the first two decades of the 20th century. As Dutta points out while immigration was an inalienable part of colonial policy, it was only in the 20th century that the influx of population from Bengal turned into a tide. Concerns regarding native residents of the region getting overpowered and displaced by the mostly Bengali ‘immigrant’ became a predominant point of contention not only among the natives, but also, the colonial officials as seen by the census reports of 1921 and 1931¹⁴. The manner in which the political consciousness in Assam developed vis-à-vis the immigrant during the early part of the 20th century still resonates with the contemporary political discourse of Assam.

The partition of 1947 added a new dimension of legality to these pre-existing contestations as it not only defined the context where the preliminary infrastructures and norms of citizenship of a newly independent India were framed, but it was also, the event that transformed Assam from a colonial wasteland to a post-colonial borderland which allowed for a jarring change in the manner in which the region was governed. While immigration into Assam, especially from the neighbouring region of Bengal, was not new to the native residents and resentment to this unchecked migration had become a major point of contention in the politics of the region, the partition of 1947, transformed the issue of mobility into a question of legality. The situation in Assam was, hence, transformed from a problem of colonial management to one of ‘national emergency’. It was in this context of pre-existing conflict that an ‘equitable’ infrastructure of citizenship¹⁵ was to be installed. Contestations over residence in Assam thus transformed into a question of ‘legality’ and ‘allegiance’¹⁶ and it was in this context that the undesirable migrant became vulnerable to the eventuality of deportation. In essence, individuals and groups whose presence in Assam was resented now became deportable and were now susceptible to what Banki classifies as the ‘precarity of place’¹⁷. This coincided with the emergence of the refugee question in Assam that has, in recent time, due to the Citizenship Amendment Act of 2019 become a politically charged question.

The political history of Assam essentially highlights how the relevance, identity and the identification of the immigrant has been and still remains contested issues. According to Mishra (2017), socio-political issues, like immigration identity and demography, which occupied centre stage in Assamese politics during the early 20th century, have acquired a new sense of urgency in contemporary Assam. As evidenced by the recent debate surrounding the question of indignity in recent times¹⁸. The complicated socio-political milieu of the region plus its location as a borderland within the nationalist discourse produces varied and unique identities all with their own claims to citizenship which become entangled with the cartographic anxieties of the nascent nation state¹⁹. The complicated history of in-migration into Assam both during and after the colonial times and the native anxieties regarding the changing demographic nature of the region reached a boiling point during the 1970s leading to the Assam movement.

The Popular Flashpoint

As mentioned, the perception of the migrant is more a result of individuals and groups not adhering to constructed rationales of governance that develop in course of teaching a nation²⁰ at distinct social and political junctures. The patterns in which contested and conflicting perceptions on citizenship and precarity develop in Assam relate to the manner in which specific cultural and socio-economic

precarities are articulated within broader institutional framework. This is reflected in the manner in which existing social conflicts and contestations were often articulated in simple governmental terms entrenched in the language of legality and rights. The fact that the dichotomy between the citizen and the foreigner has dominated Assam politics since a long time and more so during the ascendancy of the Assam movement, therefore is, symptomatic of this phenomenon.

To understand the crisis of citizenship in contemporary Assam it is necessary to deconstruct this dichotomy by looking into Assam's own burden of history²¹ and highlight the manner in which the 'hundred voices of Assam'²² (Samaddar, 2016) have contributed to the present threat of statelessness that looms over the 19 lakh people of Assam (Karmakar, 2020). Deconstructing this dichotomy is essential to explain the rationalisations that dominated the Assam movement and the politics there on; secondly, this deconstruction allows us to locate the multiple competing articulations of precarious citizenship beyond the pre-existing simplifications. This particular section will look at the manner in which the dichotomy between the citizen and the foreigner was constructed during the Assam movement and how the breach in this 'authentic opposition' (Das, 2021) during and since the movement exposes the multiple and conflicting narratives of citizenship in Assam.

The present perception of Assam as a state infiltrated and polluted by illegal/foreign bodies which need to be expelled is in large parts due to the immense popularity of the Assam movement spanning from 1979-85. The popularity and the resonance of this particular movement were reflected in its immense popularity and its eventual 'success'²³. While, the repercussions of the movement plus the extensive academic analysis of the movement may have soured the memory of the movement, its popularity in the moment of its inception remains unmatched by any other popular or social movement in the history of independent India. The distinctive popularity of the Assam movement was in part due to the manner in which it harped on the authentic opposition between the citizen and the foreigner, yet, there remained various other adjacent and historical oppositions between linguistic communities, religious communities etc., which would invoke similar popular support and polarisation.²⁴ In essence, while the Assam movement was successfully able to articulate its claims to citizenship rights within the broader institutional framework that differentiated between the foreigner and the citizen, it was simultaneously unable to manifest this distinction within Assam, due to its complex history of in-migration.

The centrality of the foreigner in the Assam movement allowed it to articulate grievances and precarities vis-à-vis the citizenship infrastructure²⁵ and the inability of the government to ensure a fair election on account of the presence of the foreigners themselves. Central to this articulation vis-à-vis the foreigner were precarities related to representation, land, employment and other essential questions of development that have dominated Assam politics since a long time. The catalyst for this movement was provided by the perceived irregularities in the electoral roll of the Mangaldoi constituency (1979) and from the very beginning it was the fear of being overpowered by the 'foreigner' that dominated the movement. As the movement grew in popularity and consolidated the dichotomy between the citizen and the foreigner the sites of its confrontations, in part, remained tied to governmental arenas as historical conflicts were transformed into clear governmental dilemmas which in turn allowed the movement to appeal to institutional structures and their responsibilities towards the residents of Assam.

While the relevance of the movement was dependent on its juxtaposition of the citizen and the foreigner it was not immune to eruptions of violence towards people perceived to be outsiders. The contestations related to belonging and the ethnic composition of Assam had existed since the colonial times and the issue of immigration into Assam from the neighbouring region of Bengal has

been a subject of intense debate both in officialdom and civil society.²⁶ Given the presence of historical antagonisms it was unsurprising that the initiation and popularity of the movement were accompanied by incidents of violence as recounted by Arijit Aditya, the editor of *Bartalipi* a Bengali daily in Silchar, who at that time was a student in Guwahati.

‘It was a horrific experience for me. My father was attacked in 1983 while working as a government servant in Bongaigaon. Added to this were various other incidents of violence which unfortunately affected my education as I had to leave Guwahati and shift to Silchar and my father also took a transfer to Silchar.’

HRA Choudhary, senior advocate in Guwahati High Court and a public intellectual, in an interview to Indrani Barpujari recounted that

‘In 1979 when the student’s movement led by the AASU started, young activists sitting in Guwahati used to file complaints against people of the minority community just by going through the voters list and indiscriminately picking out people with surnames of minority community.’²⁷

The accounts of Mr Aditya and Mr Choudhury represent a break in the dichotomy between the citizen and the foreigner preventing any uniform articulation of precarity, rather, over the course of the Assam movement and since we have witnessed the development of conflicting and connected precariousities. The incidents of violence were inevitable to an extent given the entangled histories of the South Asian nations that make it impossible to mark anyone as a foreigner. The volatility of the situation was due to the inherent crisis of distinction that has marked South Asian borderlands since their inception. The figure of the foreigner, till this day, remains elusive and the incidents of violence and harassment of those perceived to be foreign or outsiders was an inevitable by-product of an incomplete dichotomy. The precarity of the citizen was derived from the presence of the foreigner while the same paranoia of the foreigner marked their fellow citizens as suspected foreigners endangering their rights and status. Essentially, it is the crisis of identification that prevents the creation of any clear dichotomy between citizens and foreigners, rather, the inability to identify both this category creates contested and multiple articulation of precarity. It is in this context that we need to look into what Salah (2022) calls the indistinguishability argument and understand the manner in which this argument has affected articulations of precarity and governmental decisions.

The Crisis of Distinction and the Proactive State: Justifying Non Citizens

Borderlands are generally understood as illegible (Scott, 1998) spaces and are marked and defined by cartographic anxieties (Krishna, 1994) and excessive militarisation. Borders in essence represent territories that refuse to fit in within generalised narratives of territoriality but are themselves central to the manner in which these narratives are constructed. Borderlands in South Asia fit these characteristics but their distinctiveness within the field of border and citizenship studies is a product of the manner in which they came into being. The creation of borders in the South Asian context is mostly associated with the suddenness of the multiple partitions and the creation of the Bengal Borderland, a region that includes Assam, was no different. This suddenness was captured perfectly by Van Schendel (2010) who explained that the tectonic plates of South Asian politics shifted abruptly as the colonial rule in India came to an end, the colony was split and the Bengal borderland was born with such suddenness that nobody actually knew its exact location till several days later.²⁸ Given the nature of borderlands and the suddenness of the partition that created the Bengal

borderland it is no surprise that the nation states emerging out of this did not have tools to differentiate between 'legitimate' citizens and illegitimate migrants. This essentially leads to the emergence of the post migration state focused on detecting individuals 'imitating' to be citizens and who in most cases are unaware of their foreignness. The emergence and the nature of the post migration state, unlike Hollifield's migration state²⁹ or Sadiq & Tsourraoas's Post migration state³⁰, has very little to do with migration, rather, it is the threat posed by the migrant/ immigrant that allows for its emergence. The post migration state, therefore, emerges out of the manner categorical distinctions are made between the legitimate citizen and the illegitimate impostor, post the event of migration. The idea/element of indistinguishability become's central to justification of the post migration state amongst both the indigenous and 'immigrant' communities as the hyper awareness regarding the presence of the foreigner amongst them produce multiple and competing precarities. This then allows the state to inscribe categorical distinctions based on putative notions of the national core (Pandey, 1998). The retrospective nature of the post migration state, further, requires that the logic of citizenship shifts away from the principle of *'jus soli'* (citizenship based on place of birth) to *'jus sanguinis'* (citizenship based on inheritance). To understand how the presumption of indistinguishability has affected norms of citizenship it is essential that we look into important developments in relation to Assam and its quest to get rid of unwanted bodies and how these efforts can also be read as the states effort of inscribing distinctions. The first development that we look into relates to the discontinuation of the Immigrants Determination by Tribunal act 1983 (IMDT) and the increased jurisdiction of the Foreigner's Act (1946).

The story of the Foreigners Tribunals cannot be told without looking into the judgement in the Sarbananda Sonowal vs. Union of India (2005) case. At this juncture it can be safely claimed that very few judicial pronouncements in the past have had the impact that the judgement in the Sarbananda Sonowal vs. Union of India case has had and it can also be safely predicted that very few judicial pronouncements will have a larger say in determining the citizenship discourse in coming years. In 1983, during the peak years of the Assam movement, the central government, then led by Indira Gandhi, introduced the Illegal Migrants (Determination by Tribunals) act (1983) much to the displeasure of the leaders of the Assam movement. This particular act remained a major point of contention even after the Assam Accord was signed and eventually in 1998 Mr Sarbananda Sonowal, then a prominent leader of AGP and the future chief minister of the state, filed a petition in the Supreme Court for discontinuing this particular act and instead using the Foreigners Act (1946) to identify and deport foreigners. The IMDT act was seen as a major road block in the process of detecting and deporting foreigners as it provided certain safeguards to the people suspected/accused of being foreigners by placing geographical restrictions on the accuser and additionally it placed the burden of proof on the state instead of the individual suspected of being a foreigner. These provisions were seen by a section of the state's leadership as a hindrance to the deportation of illegal bodies. In this connection, it is essential to understand the context within which this Act was passed by the government. Mr H.R.A Choudhary in the interview given to us explained the context in which the act was implemented.

“When the agitation began they would send multiple notices to people they deemed to be foreigners by looking at the voters list. This would lead to the harassment of many people. In view of this situation leaders like Fakhruddin Ali Ahmed and others requested Mrs Indira Gandhi for legal safeguards where people won't be harassed arbitrarily. They demanded the burden of proof be on the accuser rather than the accused to prevent harassment of legitimate citizens, which in turn led to the adoption of the IMDT act. The IMDT act was brought to reduce the number of false allegations against people. This was not acceptable to the leaders of the movement”

The Supreme Court in its judgement sided with the petitioner. The act, according to the court, the unconstitutional nature of the act was based on the fact that it was discriminatory to a certain class of residents and represented a violation of article 355 (which is the duty of the Union government to protect the states from external aggression and internal disturbances). The court found sufficient evidence to come to a conclusion that the absence of section 9³¹ of the foreigners act combined with the provisions of the IMDT act didn't allow for the efficient and timely deportation of the illegal immigrants. In coming to this conclusion, the court accepted the essentiality of section 9 in the context of Assam and considered the non application of this provision to be an 'unfair exception and squarely placed the burden of proof on the individuals accused of being foreigners. The judgement pointed to the unusual growth of the Muslim population as an alarming threat to the demography of Assam while also accepting the difficulty of identification given the illegal migrants being from similar ethnic stock as Indians.

The judgement and its repercussions remain extremely polarising with multiple legal experts criticising this judgement. Aman Waduud, Advocate Guwahati High Court, in his interview to us explained the problematic manner in which this law functions and why it is not supposed to be applied on individual's perceived to be Indian citizens.

“The major difference between the IMDT and the Foreigners act is the burden of proof. If you are accused of being a foreigner under the Foreigners Act the burden is on you. Apart from the harsh burden it has also allowed courts to declare people foreigners in absentia. That means that if the notice is deemed to be served, you can be declared to be foreigner in your absence. Many people have been declared as foreigners in this manner. In response to a question raised by Shashi Tharoor in the Parliament it was stated that 64,000³² (over 60%) people were declared foreigners ex parte.

To understand why this law has a harsh burden of proof one has to look into the origins of this law. Normally the burden of proof is on the state, even in extreme cases, so, the burden of proof being on the accused is in itself very draconian. The root of the Foreigners act was the foreigner's ordinance instituted in 1939 which was then converted into an act in 1940 there the burden of proof was on the accused. As it was a wartime situation the act was made during the time of an emergency. This was then converted into the act of 1946, which added a few more stringent provisions, and now this act is being applied on Indian citizens. You have to understand that the act was for foreigners, not for a person perceived to be Indian. This act was for the identifiable foreigners only, for example anyone with a visa and a passport can be tried under this act but not a citizen. This entire legal set up is standing on very shaky grounds.

When asked about the judgement that implemented this act he stated:

“The Sonowal judgement I have read, it is the worse judgment passed by the Supreme court of India based on the premises of one document, which is the S K Sinha report, which is a bigoted report, there is no truth in it. If you add other third world countries this would rank as one of the worse judgements”. Doubts regarding the validity of the S.K. Sinha report were also expressed by Mr H.R.A Choudhary who stated that: ‘The judgement was not based on a legal report. There were a lot of falsifications on that report’

This judgement, in contrast, was and still is accepted by an overwhelming section of Assamese society. The acceptance of the judgement among sections of the Assamese society was based on the belief that there could not be a separate law for Assam and a separate law for rest of India when it came to detecting foreigners.³³ While this was not a legally verifiable sentiment, it did in

fact, further the sense of being ignored by the central government that had been a driving force of the Assam movement. The question of distinction remains central to the polarising opinions on the Sonowal judgement. The judgement itself accepts the difficulty of identifying the illegal migrants living in Assam and to many it is this difficulty of identifying the foreigner that requires stringent laws to rectify the situation. The fact that most illegal migrants are assumed to be from Bangladesh³⁴, both in popular and the governmental discourse, contributes to the already tense relationship between the two largest linguistic communities of Assam and, understandably, contributes to the pre-existing demographic anxieties of the Assamese speaking population. Similarly in legal terms it is this difficulty, of distinguishing legal from the illegal, that makes the application of the Foreigner's Act problematic as the law was originally only supposed to apply to identified foreigners and any application of it on individuals perceived to be citizens would, and has led to a crisis of citizenship as according to this law anyone can be suspected of or declared a foreigner. Here the precarity of rights and the precarity of status seem mired in an unending spiral. The state in this context distinguishes between Assam and the other federal units by marking Assam as a territory that requires extraordinary laws to combat 'demographic invasion from a foreign country'.

Inscribing Distinctions- The Legacies of the NRC and the CAA

It is in the context of this conundrum that the importance of the National Register of Citizenship³⁵ needs to be understood. While both the decision to conduct NRC and the eventual conclusion of it has been mired in controversies, what is fascinating was its initial acceptance by the different sections of Assam. We mention this not to deny the abject cruelty of the entire procedure but to convey the disappointment that prevails in Assam over the eventual mismanagement of the entire process³⁶. What is important in this context is to understand the value of the NRC in the very specific context of Assam as understanding this allows us to understand how the state, or in this case, policies of the state can navigate contested and conflicting narratives of citizenship by providing/dictating the 'right fit between population and territory'³⁷. The process of updating the NRC in Assam was a product of the manner in which the politics around citizenship has developed in the context of Assam. As explained the incomplete dichotomy between the citizen and the foreigner allowed for the creation of multiple precarities as the vague distinction between the citizen and the foreigner created a fertile climate for suspicion, arbitrariness and unnecessary harassment. In addition to this the perceived and practical gaps in the governmental mechanisms eroded documentary citizenship of its core value. The NRC, in theory, was meant to provide solutions to both these problems. Firstly, it claims to identify and isolate non citizens living in Assam, in the process, creating a distinct category of the non citizen. Secondly, as the entire process is based on the possession of documentary evidence it lends 'validity' to documents of citizenship, which till this point, had been discredited. Therefore, the NRC, in theory, solved the crisis of distinction and established an identifiable dichotomy which explains the acceptance of the NRC.

The argument in favour of the NRC was explained by Paresh Malakar, a journalist associated with Assamese electronic media, who stated:

The NRC is the register of citizens. Once it is compiled properly it will identify both the legitimate citizen and the illegitimate citizen. This was the central demand made by the Assam movement all those years ago.

While the responses to the NRC have been negative outside Assam, why has the reception been different in Assam?

‘I understand that it’s a difficult human rights issue because we are talking about taking away citizenship rights. But since it has been an accepted fact that there are foreign nationals in Assam and the presence of these foreign nationals is problematic as it leads to socio-economic issues and that is why people in Assam want NRC and there is no political disagreement on this. For decades the religious minorities have been targeted/ suspected as foreigners but once they prove their citizenship no one will be able to question their rightful place in Assam’.

Arguments in favour of the were also made by H.R.A Choudhary in his interview to Indrani Barpujari in 2005

‘I feel that the agreed position of 25thMarch 1971 should be the basis on which the National Register of Citizenship should be constituted and updated. To ensure the success of this sincerity on part of both the centre and state government is required. Once this task is done, it will be sufficient in itself. But till then judicial intervention is required to protect people’.

The popularity and the acceptance of the NRC in Assam are in stark contrast to the polarised reaction to the Citizenship Amendment Act of 2019. As mentioned earlier, the partition of 1947 coincided with the emergence of a more desirable migrant community, at least in the eyes of the nation. The partition created groups of displaced people who had been uprooted by the partition and who had to be differentiated from the ‘other’ migrants. It was during this period that a distinction was made between the people displaced and migrating into Assam due to the violence caused by the partition and the people ‘illegally’ entering and residing in Assam. The distinction between ‘displaced-refugees’ and ‘immigrants’ was one of the major thrust areas in the political positions and constitutional debates in the Constituent Assembly itself where members also deliberated on the future of non-Muslim ‘displaced/refugees’ migrating from East Bengal/East Pakistan to Assam.³⁸ Even after the distinction was made between the undesirable immigrant and the displaced victim the question of citizenship in Assam was not settled as the issue of refugee rehabilitation became a point of disagreement between the central and the state government. Moreover, both, the distinction between the citizen and the foreigner and the Foreigner and the refugee/displaced were inscribed into the social and the political landscape of Assam and while the acceptance of both vary drastically they do not stray from the fundamental logics of Indian nationalism. The polarisation was visible in the manner in which this particular law was perceived in the two valleys of Assam.

The anti-CAA sentiments explained two students of cotton collage who we interacted with during our field work and who were involved in the protest against the CAA:

‘There was a consensus that there should be a NRC with 1971 as the cut off date given the peculiar context of Assam. All the political parties and different groups were in favour of this. It was essential to have a proper NRC to remove doubt and prevent harassment. Now the BJP is trying to undercut the NRC because they claim that many illegal names from the religious minorities were included³⁹, while the names of Hindu Bengalis were excluded’

The polarisation regarding the CAA also points to the complex inter- state fissures between the Bhamaputra valley and the Barak valley as could be explained by Arijit Aditya who stated:

I did not support the CAA, but, I was in the minority. I had written in one of my articles that this act will not help anyone in gaining citizenship for which I received threats. But given the manner in which the bill was articulated and promoted most people in Barak Valley supported it. The anti CAA protest had no impact here as what happens in other parts of Assam is no one's concern in Barak.

This sentiment was reflected in the manner in which the Prime Minister's visit to Barak Valley was covered in 2021. In an article written before the PM's visit to Silchar the writer, from TOI, highlighted that while the PM avoided the topic of CAA in Bhamaputra valley he was equally bullish about the Amendment in his prior visits to Silchar where he promised to implement the amendment to 'atone for the wrong done during partition' (Times of India, 2021). This represents the pre-existing chasm between the two valleys that have defined Assam politics. The presence of the Barak Valley in Assam has always been an awkward fit as the districts in this valley have a Bengali majority and the introduction of the CAA and the polarised reaction to it reflects landmark events, like the partition, and their fallout are remembered differently at different social locations, even though these locations are assumed to be part of the same regional unit.

The Unaware Foreigner: The Non Citizens of Assam

Case 1, Silchar (Hindu, Bengali, Male)

It was extremely surprising for me, on a random afternoon one police officer came in civil dress and asked me to accompany him to the police station. The next thing I remember, I was locked up for the next 10 months.

Did you have any inkling that you would be marked as a foreigner?

No, obviously not, I and my family have lived here for decades and never have I ever been suspected of being a foreigner.

I don't know how this can happen to me, no one else in my family has had to face this predicament.

Do you feel the CAA will help you in regaining citizenship?

Why would I need the CAA I am a legitimate citizen. I didn't come here, I am from here.

Case 2, Barpeta (Miya, Male)

I was accused in 2012 when I was in Jorhat for work and I was very young, in my teens, me and my cousins had gone there for work when one police officer asked our name and occupation which we told him. Once I returned I got to know that I had been charged with being a foreigner. I had to fight the case for almost 10 years but they still found me to be a foreigner based on what I don't know, none so ever in our locality, including my parents, have been accused of being foreigners. I felt that the Judge was hell bent on declaring me a foreigner, at least, that's how I felt.

The above-mentioned interactions took place with two individuals who are both technically 'Declared Foreigners' and contend that they are legitimate citizens of India. Their claims to Indian citizenship are not based on any claims to linguistic or religious affiliation rather it is based on the fact that they have spent their lives so far, as Indian citizens and have never been accused of not being citizens, prior to being accused as such. Interactions like these provided the biggest challenge to the pre-existing understanding of precarious citizenship as the individuals experiencing precarity are not aware of the reason for being ascribed as a foreigner. According to them, they have never been subjected to any discrimination on account of being suspected of being foreigners. Our observations during field work point to these individuals being socially embedded within their respective localities.

When asked why he thought he was being accused of being a foreigner, the individual from Silchar contended that it was perhaps a bureaucratic mix up as he had changed residences but had

forgotten to strike off his name from the voters list of the previous ward. This may have been the reason for being a foreigner. He also stated that he had been voting in elections for all his adult life and surprisingly he was even able to vote after being released on bail from the detention centre. Unfortunately, both these individuals now face massive debts due to the high legal costs incurred for proving their citizenship. The theme of debt is not only restricted to individuals declared of being foreigners as our interactions with two individuals, one declared to be an Indian citizen and the other declared to be a migrant of the 1966-71 stream and hence eligible for voting rights after 10 years,

Case 3, Silchar (Hindu, Bengali, Female)

My particular case became big news in Silchar so much so that the people in power apologised for the trouble caused to me. They accepted that it was a mistake.

Did that make it any easier to fight the case?

No, not at all, firstly I had to spend some time in jail as they directly arrested me from home and although I got bail soon, we still had to spend a significant amount of our savings on the case. No one came to help as such.

Case 4, Bongaigaon (Hindu, Bengali, Male)

Yes, it's a relief that this is over, but, the financial strain it put on us was very difficult to deal with we had to use all our savings plus borrow money to fight this case. I don't understand why we had to spend so much money to prove our own citizenship.

Here it is essential to mention that while there is the District Legal Service Authority that would fight cases free of costs these individuals preferred to hire lawyers who were recommended to them by their friends and family. In fact, the fate of the individuals accused of being foreigners is unfairly tied to the whims of the lawyers they hire. The interviewee for Barpeta revealed that all his documents were kept with his lawyer. When probed further he stated that *'he is asking for more money to return my documents'*. This obviously points to a situation where the lawyer, who in this scenario enjoys an undue position of power over this individual and his family, abusing his position and depriving the individual of documents essential to his very existence. Our last interviewee from Bongaigaon faced even worse abuse, at the hands of his lawyer

Case 5, Bongaigaon (Hindu, Bengali, Male)

When I was first accused, I went to a lawyer suggested by a local leader. He asked he for my documents which I gave and then when I enquired, he said I was cleared and asked me to pay him. Months later I was arrested and they told me that I had been declared as a foreigner as I had not shown up to the trial, neither did my lawyer. I had already spent all my money and my wife was dying, still we somehow managed to get bail, but now my wife died without any proper treatment and both my daughters had to leave their education. I don't know what to do next as I am still a Foreigner.

The Power Dynamics of Precarity: The Governmentalisation of the Local

Precarity, as experienced by these individuals, is a result of unequal power dynamic that was created by governmental decisions and judicial pronouncements which manifested in the very local and immediate location. Before we delve into the power dynamics of precarity it is essential to understand that demographic composition of the areas that these cases belong to as they do not fit

the prevalent dichotomy of majority-minority that dominates popular politics. In four out of the five cases the individuals were accused by the authorities of their own districts that they claim to have lived in their entire lives and as mentioned neither of them had ever faced any harassment based on their religious or linguistic affiliation which may be obvious given their locations. Three out of the four interviewees reside in districts where they are not considered religious or linguistic minorities while the district of Bongaigaon comprises of a mixed ethnic population. The precarity experienced by these individuals cannot, at least visibly, be attributed to any ethnic or religious antagonism or majoritarian bias in their immediate surroundings. The outlier, in our study, is case no 2 who, while a resident of Barpeta, was accused to be a foreigner in Jorhat (located at a distance of approximately 400 km) and had to fight his case there. While this may point to a co-relation between precariat labour and precarious citizenship, we unfortunately, were not able to locate similar victims with individuals who had similar experiences.

The predicament faced by these individuals is a direct consequence of the manner in which the post migration state in Assam has emerged. As highlighted in the section related to the judgement in the Sonowal case the presence of the illegal migrant became an accepted fact not only by the regional population, but also, by the Indian judiciary. This then allowed for the fostering of suspicion and it became paramount that the illegal be drained out of Assam. This then put increased emphasis on swift and efficient identification of foreigners residing in Assam as their presence amounted to demographic invasion. In fact, this assumption was not only restricted to the judiciary or political parties but also internalised by the Election commission itself which in the late 1990s, as it started to mark voters as doubtful and as per recent reports there are 1.08 lakh voters who are marked as doubtful (Kumar Nath, 2021). The presence of the foreigner was considered to be so alarming in Assam that the police were given monthly quotas of foreigners that they had to mark and the members of the foreigners tribunals would be judged on how efficient they were in identifying foreigners as we found out during our field work. One local resident in Silchar quipped that 'The Tribunals instead of identifying foreigners are more interested in declaring foreigners'. This prevailing anxiety and the acceptance of this anxiety by the institutions, over the presence of the foreigners within Assam, creates an unequal power dynamic between the institutional actors at the local levels, like police and Tribunal members where any common citizen can be accused of being a foreigner by these actors who themselves are under pressure to cleanse Assam of foreigners.

Secondly, once accused the individuals face an unfair power dynamic in their interactions with the lawyers for two main reasons. Firstly, no individual is expecting to be suspected of being a foreigner as explained by Kamal Chakraborty, a human rights activist in Silchar

'It is not as if these things come up in normal discussions, you know, even I was unaware of all this till 2018 even though I have lived here my entire life. People are just unaware of the Tribunals, they obviously know about the NRC, but not the Tribunals or the heavy burden of proof. This unawareness becomes even more of a problem when the individuals accused belong to the marginalised classes of our society'

Thirdly, the unawareness of the general population added to the harsh burden of proof creates a situation where the individuals accused of being foreigners are at the mercy of their lawyers which often times as shown by the above cases leads to misplaced trust and financial ruin. Complaints regarding the misbehaviour of the lawyers was a consistent theme in our field work. While it also needs to be mentioned that multiple organisations have, in recent times, come forward to help these individuals. Nonetheless, in a situation where guilt is presumed the presence of competent legal aid might make very little difference. The creation of a situation where individuals, who otherwise reside

in and are, accepted as common residents of a particular area, may be subjected to extreme forms of exploitation, harassment and in many unfortunate cases imprisonment is a direct result of the hyper awareness surrounding the presence of the foreigner. The creation and the sustenance of precarious citizenship in the context of Assam is a reflection of the manner in which the state appropriates this hyper awareness, entranced in regional and contradictory articulations of citizenship, and constructs scared rituals of disassociation like the NRC and Foreigner's Tribunals. While the question of immigration into the region of Assam has its roots in colonial spatial management, the creation of 1.43 Lakh (Kaur Sandhu, 2022) declared foreigners in Assam, is a result of imposed precarity constructed in response to articulations of precarity that were able to appeal to the cartographic anxieties of the state.

Conclusion

In conclusion the opportunity to conduct this study allowed us in identifying multiple precariousities that develop in relation to the presence of the assumed migrant. It is not to say that the sentiment of precarity is restricted to the legal arena either as the complex history of the manner in which the region has been organised and reorganised also produce differing articulations of precarity which, unfortunately, were beyond the scope of this study. In this particular study we intended to understand how and why the precarity of rights and precarity of status emerge as competing articulations of precarity it is essential that we understand the minute nuances in relation to how populations located at different social junctures experience precarity. While precarious citizenship may be explained as incomplete realisation of rights or status the scope of it depends on the social and geographical specificities of such experiences. It is therefore essential that we move away from our perceptions of precarity as emanating solely from a centralised power structure, such as the state, and analyse the minute specificities of precarious citizenship that emerge as a result of the manner in which the logics of exclusion and governmentality become internalised in specific locations.

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Notes

¹ N.A. Lori, "Statelessness, 'In-Between' Statuses, and Precarious Citizenship" in *The Oxford Handbook of Citizenship*, ed. Ayelet Shachar, Rainer Bauböck, Irene Bloemraad, and Maarten Vink (Oxford, Oxford University Press, 2020).

² N.A. Lori (2020).

³ S. Roy Chowdhury and G. Chakraborty, "The 'Outsider' Within Emerging Politics of Citizenship in India" in *Citizenship in Contemporary Times: The Indian Context*, ed. Gorky Chakraborty (London & New York, Routledge, 2023), 16-35.

⁴ N. De Genova, "Migrant 'Illegality' and Deportability in Everyday Life", *Annual Review of Anthropology*, 31 (2002): 419-447.

⁵ Ranabir Samaddar, "Rule, Governmental Rationality and Reorganisation of state" in *Interrogating Reorganisation of states: Culture, Identity and Politics in India*, edited by A. Sarangi and S. Pai (New Delhi, Routledge, 2016), 48-65.

⁶ Anupama Roy notes that the relationship between the citizen and the outsider (in this case the migrant) is one of Forclusion where the outsider is present as a constant referent, indispensable to the identification of the citizen. For details please see, Anupama Roy, *Mapping Citizenship in India* (New Delhi: Oxford University Press, 2010).

⁷ Salah Punathil, "Precarious citizenship: detection, detention and 'deportability' in India", *Citizenship Studies* 26, no. 1(2022), 55-72.

⁸ N. De Genova and Ananya Roy, "Practices of Illegalisation." *Antipode* 52, no. 2 (2021): 352-364, <https://doi.org/10.1111/anti.12602>.

⁹ Susan Banki, "Precarity of Place: A Complement to the Growing Precariat Literature" *Global Discourse* 3, no. 3-4 (2014): 450-463, <https://doi.org/10.1080/23269995.2014.881139>. N.A. Lori, "Statelessness, 'In-Between' Statuses, and Precarious Citizenship" in *The Oxford Handbook of Citizenship*, ed. Ayelet Shachar, Rainer Bauböck, Irene Bloemraad, and Maarten Vink (Oxford, Oxford University Press, 2020).

¹⁰ John Hoffman, *Citizenship Beyond the State* (New Delhi: Sage, 2003).

¹¹ Gorky Chakraborty, "The Roots and Ramifications of a Colonial Construct: The Wasteland in Assam", *IDSK Occasional Papers* 39 (2012): 1-32.

¹² Udayon Mishra, *The Burden of History: Assam and the Partition-Unresolved Issues* (New Delhi: Oxford University Press, 2017).

¹³ Binayak Dutta, "The Stout Fanatical Mohammedan and Mullan's Burden: A History of Bengali Immigration in Colonial Assam", *Man and society: A Journal of North East studies*. 11 (2014): 71-84.

¹⁴ Binayak Dutta (2014).

¹⁵ K. Sadiq, *Paper Citizens: How Illegal Immigrants Acquire Citizenship in Developing Countries* (New York: Oxford University Press, 2009).

¹⁶ Gyanendra Pandey, "Can a Muslim be Indian?", *Comparative Studies in Society and History* 41, no.4 (1999): 608-629.

¹⁷ Susan Banki, "Precarity of Place: A Complement to the Growing Precariat Literature." *Global Discourse* 3, no. 3-4 (2013): 450-463, <https://doi.org/10.1080/23269995.2014.881139>. Banki defines 'precarity of place' as vulnerability to removal or deportation from one's physical location.

¹⁸ "Assam Accord, Clause 6: Report On Clause 6 Of Assam Accord 'Under Examination' By State: Centre (ndtv.com)" Accessed on 10.01.2023, <https://www.ndtv.com/india-news/assam-accord-clause-6-report-on-clause-6-of-assam-accord-under-examination-by-state-centre-2367715>.

¹⁹ Shankaran Krishna, "Cartographic Anxiety: Mapping the Body Politic in India", *Alternatives: Global, Local, Political* 19, no. 4 (Fall 1994): 507-521, <https://www.jstor.org/stable/40644820>.

²⁰ Manu Goswami, *Producing India: From colonial Economy to National Space* (Chicago: The University of Chicago Press, 2004), 2. According to Goswami, the nationalist project of teaching the nation involves transforming the abstract categorical conception of the nation into a 'taken for granted frame of reference' as it involves fixing collective identities in place and refashioning local and regional solidarities in accord with a larger national whole.

²¹ Udayon Mishra (2017).

²² Ranabir Samaddar (2016).

²³The central government had to engage in negotiations with the leaders of this movement and sign an accord agreeing to the points raised by this movement. This led to the eventual signing of the Assam Accord (1985) and the subsequent insertion of section 6A in Indian citizenship law

²⁴ Samir K. Das, “Immigrants as Other: Genralogies of an Anti Immigrant discourse in Assam.” In *Into the Vortex of Migration and Identity: Emerging Discourses on North East India* edited by Dipendu Das and Anindya Syam Choudhury (Jaipur: Book Enclave, 2021), 13.

²⁵ K. Sadiq (2009).

²⁶ Binayak Dutta (2014).

²⁷ I. Barpujari, *Illegal Migrants (Determination by Tribunals) Act 1983 Promulgation and Repeal: A Contextual Analysis* (Guwahati, OKD Institute of Social Change and Development, 2005).

²⁸ Willem van Schendel, *The Bengal Borderland: Beyond State and Nation in South Asia* (London: Anthem Press, 2004), 3.

²⁹ James F. Hollifield, “The emerging migration state.” *The International Migration Review* 38, no.3 (Fall, 2004): 885-912, <https://www.jstor.org/stable/27645420>.

³⁰ Kamal Sadiq and Gerasimos Tsourapas, “The Post-Colonial Migration State.” *European Journal of International Relations* 27, no. 3 (2021): 884-912, <https://doi.org/10.1177/13540661211000114>.

³¹Burden of proof — If in any case not falling under section 8 any question arises with reference to this Act or any order made or direction given there under, whether any person is or is not a foreigner of a particular class or description the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall, notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), lie upon such person.

³² See 63,959 Declared ‘Foreigners’ in Assam Without Being Heard From 1985 to February 2019 by Foreigners Tribunals (thequint.com)

³³ I. Barpujari (2005).

³⁴See Sarabari Begum (Mustt.) @ Syera Begum and Ors.Vs. State of Assam and Ors. (2008)2008 G.L.T 272

³⁵ The demand for updating the National Register of Citizens in Assam had been a long standing one and had been reiterated during the Assam movement.

³⁶ See Assam govt firm on NRC re-verification demand | North East India News,The Indian Express

³⁷ Ranabir Samaddar (2016).

³⁸ Binayak Dutta, “Recovering the ‘Other Side of Silence’: Citizenship Amendment Act, 2019 and the refugee versus immigrant discourse of post-colonial Assam” in *Asian Confluence: Engaging the Third Space 005*(Shillong: As Con Monograph Series 005, 2020), 7.

³⁹ See Assam govt firm on NRC re-verification demand | North East India News, *The Indian Express*

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- 29 Nation Building and Minority Alienation in India
- 30 Environment and Migration Purulia, West Bengal

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