

Defining Citizenship

Assam on the Edge Again

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The imminent publication of the draft National Register of Citizens in Assam is unlikely to resolve the controversy over illegal immigration from Bangladesh, which spans over four decades.

Much has been written and spoken about the issue of illegal immigration into Assam and other parts of India. But, for Assam—vulnerable, hurt and divided on this issue for decades—it is not one but three processes that have come together during a hugely contested and challenging time. They cannot be divorced from each other; they are the children of suspicion and anxiety. And, they are not stand-alone situations although they address the same issue: illegal immigration from Bangladesh.

While these processes have developed over nearly four decades, the core issue of the “outsider,” the *bidekhi* and the foreigner, goes back far longer in time in terms of what is seen as the core dispute between “illegal immigrants” and “indigenous” citizens. Among the well meaning and secular, there are few who understand the resonance and anxiety that these concepts bring up.

That there has been informal immigration from East Pakistan and Bangladesh into Assam, other north-eastern states, West Bengal, and even Bihar is a reality, not a figment of the imagination. But, there has never been agreement on its scale. Facts are lost in furious political rhetoric, which is aided by media hype. As far as I am concerned, I have tended to err on the cautious side and have pushed for nearly 20 years on the need for work permits that do not legitimise the alien, but enable them to move officially and temporarily for labour without settlement rights. This was discussed in the first National Security Advisory Board’s report of 1999–2000; the Government of India has declined to release details of the report or even the summary of its Internal Security Review.

Bangladesh has never officially acknowledged that its citizens live in India.

However, one of Bangladesh’s founders, distinguished economist Rehman Sobhan, speaks of it as a labour flow that existed earlier, but that in his country’s growing economy, this is not a real factor (Sobhan 2018).

Fears of a demographic imbalance caused by an influx from the former East Bengal (later East Pakistan and Bangladesh) are not new; this argument was part of a legendary battle between the Congress party led by Gopinath Bardoloi and the Muslim League under Mohammed Saadulla in the 1930s–1940s. The latter was accused of shipping in Muslims to clear and settle wastelands and create productive farms. The rallying cry of the Congress party in Assam was to stop migration from East Bengal in the 1946 provincial election, before partition. Much of this is often forgotten in the din of anger that dominates headlines and conversations these days, when the word “Bangladeshi” is used as a pejorative term to refer even to old settlers of Bangla origin. This is surely not acceptable and should be shown up in the National Register of Citizens (NRC).

The NRC is a process that has grown out of the demand to protect the rights of citizens and prevent non-nationals from acquiring those rights. To be registered on the NRC, people have to prove they are descendants of Indian citizens by showing legacy data and lineage going back to the time of the first NRC in 1951. The second draft list of the NRC is scheduled to be published at the end of July. People are holding their breath because nothing appears certain. The Assam government has flown in paramilitary troops and kept its police forces on alert to crack down on any violence as a miasma of suspicion and anxiety grows.

Stuttering efforts at tackling the aliens by law and government machinery began, albeit reluctantly, 35 years ago during Prime Minister Indira Gandhi’s regime with the Illegal Migrants (Determination by Tribunal) Act (IMDT) in 1983. The IMDT was seen as weak and ineffective, standing international legislation on illegal flows on its head: unlike in other countries, here the burden of proof

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was on the accuser and not the state or the accused.

This decision was part of an effort to calm the furious student-led agitation against “illegal immigration” that began in 1979, tossing the Congress party out for two terms and throwing Assam into unending turmoil. To make matters more complex, the Supreme Court declared the IMDT unconstitutional in 2005 and, instead, the centre set up Foreigners’ Tribunals to deal with cases of illegal immigration. These are distinct from the NRC process.

The student movement led to the Assam Accord of 1985 between the Government of India, the Assam government, and the All Assam Students’ Union and recognised a historic reality: a new nation had emerged out of the debris of Pakistan. Those who had come before March 1971, Bangladesh’s birth, would have to be accepted. But, the process of identification, let alone pushback, has been painfully slow.

In March 2015, the then Minister for Assam Accord Implementation admitted to the Assam legislature:

The Foreigners’ Tribunals have since 1985 declared as many as 38,186 as foreigners who had illegally entered Assam from Bangladesh. But while only 2,448 among them have been pushed back to Bangladesh, over 38,000 of them are either absconding or were dead. (Kashyap 2015)

Assessing the Influx

In the language that characterises and further confuses an almost Kafkaesque situation, the official who is handling the NRC said that the figure had gone up to 75,000 foreigners. But, only 4,300 have been specifically identified, that too over a period of 35 years. Prateek Hajela, the State Coordinator for the NRC who reports to the Supreme Court, divides this number into people who were accepted under the Assam Accord and those who were not (*Times of India* 2018). The latter, in any case, have not made it to the NRC, in addition to others who have not been able to establish their bona fides.

For decades, talk around illegal immigration has tended to conflate the growth in Muslim population with the influx. Figures floating around spoke of lakhs of possible exclusions, both Hindu and

Muslim, creating a sense of fear and near panic in some places, anger and brooding resentment in others. In addition, the language issue, always a touchy emotive one in Assam, has resurfaced.

Demographers know that fertility rates or language data are not foolproof ways of assessing influx. Studies are needed on either side of the border to look at diminishing and growing populations in villages and districts, driven by migration. Indian and Bangladeshi research scholars, demographers, and institutes need to work together on such a pioneering effort. Dhaka must shed its ostrich-like approach, as should those spewing vitriol from our side,

While a number for illegal immigrants may emerge through the NRC, there is no clarity on what happens after identification and prosecution: they cannot be deported for there is no such arrangement between India and Bangladesh. Will they be left in limbo without rights? Many, both Hindus and Muslims have apparently established homes and businesses, schools, farms and factories. Such persons include school and college students. What is the process of handling their cases? Will they be pulled away from their homes and each other? Where will they be detained? These questions need to be answered.

To this combustible mix, add the Citizenship (Amendment) Bill, 2016 that seeks to make citizens of Hindus, Parsis, Buddhists, Sikhs, Jains and Christians from Bangladesh, Pakistan and Afghanistan. Muslims are not in this list. Yet, over the past decades, both Hindus and Muslims have continued to migrate to both West Bengal and Assam.

There are accounts that the Bharatiya Janata Party (BJP) and the Rashtriya Swayamsevak Sangh (RSS) are having second thoughts about the bill because it has stirred a hornet’s nest in Assam. It has also triggered divisions, most visibly between the Asomiya-dominated Brahmaputra Valley and the Bangla-dominated Barak Valley. The latter support the amendment pointing to many Bengali Hindus who came from East Pakistan and Bangladesh. The Brahmaputra Valley opposes it saying that the Assam Accord should set the precedent and that no foreigner is welcome. Thus, Assam is divided on communal lines and also by geographical spaces and language fissures.

There is also resentment in the newly minted BJP bases in the North East and in West Bengal. An additional worry is Bihar Chief Minister Nitish Kumar, whose party, the Janata Dal (United), has come out against the bill despite being an ally of the BJP. The Asom Gana Parishad has threatened to quit the BJP alliance in Assam, and the student movement is again on the warpath.

Finding Closure

The state government in Assam and the BJP–RSS combine may thus prefer to wait for the publication of the NRC lists so that clarity emerges and a position can be affirmed. Currently, the arguments making the rounds include one suggesting dropping Assam entirely from inclusion in the bill till consensus emerges. While an overall climate of tension exists in the state, there is also a sense that the real figures may help Assam find closure at last.

Peace may be elusive since politicians on all sides have indicated that they will not let this issue rest, whatever happens, and the 2019 general elections are also on the horizon. Yet, those fatigued by decades of violence and restlessness want it to end. It is critical at this time that governments, political parties, and civil society organisations as well as the media heed the ringing affirmation of Article 21 of the Constitution, that no one can be deprived of their life and liberty except by due process. A rights-based approach, girded by law, holding Article 21 high, guided by common sense and sympathy, not abuse and prejudice, must win the day. Ill will has ruled the valleys of Assam and the hills of the North East for too long. It is time to give goodwill a chance.

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