

A Reflection on the Issues of Doubtful Voters in Assam



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Abstract

Deprivation, denial, discrimination, prohibition, these are the basic issues which are faced by the D voters of Assam and due to these problems they are always treated as inferior in the eyes of ethnic people and such conditions have challenged their human rights and freedom. Fear, insecurity and anxiety seem to be the enduring sources of genocidal impulses against the Bengali speaking Muslim minorities of contemporary Assam. Identity and population politics based on the notions of ethnic, religious and linguistic markers have mobilised specific equations of belonging on the matrix of the border fence, census numbers and the new category of D-Voters, which was introduced to identify citizens perceived to as Dubious or doubtful citizenship, all of which have come to embody a specific form of genocidal violence in contemporary period of Assam. This study will explore how the tripartite matrix of citizenship, census and D-Voters categories has become indispensable in inscribing fear and anxiety in contemporary Assam's body politic. Using the insight from citizenship issue, this paper will show how big is the burden of 'proof' on D-Voters in Assam and how the state suffers from a persistent neurosis, characterised by an 'incompleteness - anxiety' and how attempts have been made to resolve this sense of crisis by mobilising the D-Voters to align their 'identity' in the direction of an imagined purified 'National whole'. Further this study will elaborate upon the implication of these anxieties of D-Voters with reference to Indo-Bangladeshi relation, Bengali speaking Muslims, Hindu Bangladeshi issue, illegal immigrant issue, Citizenship Amendment Bill ,2016 and the final updation of NRC in Assam, India. Moving away from this discourse of contemporary D-Voter issue, which has become a major challenge of Assam, this research will point out towards the solutions for exploring their names as an Indian citizen in the NRC of Assam and it will explore the identity, population politics and upcoming updation of NRC, in which the present BJP led "Government's Role" can act as a 'bridge' between the D-Voters issue and Citizenship Amendment Bill, 2016 of Assam.

Keywords: Deprivation, Denial, Discrimination, Prohibition, Genocidal, Bengali, Ethnic, Religious, Linguistic, D-Voters, Citizenship, Fear, Anxiety, Proof, Burden, Minority, Identity, Illegal Immigrant, NRC, Violence, Contemporary.

Introduction

Citizenship is one of the most important concepts in politics. It defines the identity of individuals in so far as that identity is related to the role they play in the political community. In a more general sense, it also refers to a person's moral quality as exemplified by his behaviour. As a concept, citizenship is grounded in the assumptions of people's right to collective self-determination under conditions of freedom and equality. The concept of citizenship is fundamentally a dynamic concept, a reflection of the society in which we live in. Citizenship as the connecting point between individuals and the state through rights and obligations – this study will note that citizenship is called upon on one hand in order to legitimate a political community's authority, and on the other hand, in order to protect the individuals through guaranteeing a set of civil, political and social rights. Claims about citizenship, democracy, human rights and governance are today at the centre of debate about political hegemony, regime change, public opinion, voting rights and behaviour of people. This study will try to attempt and facilitate the issues of citizenship of Assam in the context of NRC and the problems and issues of D-Voters and their identities. The basic issue of this study will be based on deportation movement of Assam and the creation of D-Voters and problems of NRC updation in Assam.

Fear, insecurity and anxiety seem to be the enduring sources of genocidal impulses against the Bengali speaking Muslim minorities of contemporary Assam.

The system of 'D' (Dubious or Doubtful) Voters was introduced in 1997 by the Election Commission of India, which prepared a list by incorporating names of those who could provide evidence in favour of their Indian Nationality. It does not exist anywhere else in the country 'D' Voters were not allowed to vote in the 2014 general elections too.

This study will address various issues relating to "D" voters and citizenship and thereby try to explain a little experience about the intricacies, complications of the proceedings and human problems. It is also often become puzzled with the situation when so many persons came up with hue and cry that they have been declared foreigners disbelieving their evidence holding a view that the documents, voter lists produced by them contains discrepancies in name, title and age and also ignoring the fact that they are residing in this part of land since time immemorial through their forefathers. Admittedly, the voter - lists are prepared by the State agencies and the process of preparing the voter list is a hectic work done in casual manner without door to door visit rather sitting in one side of the village and often without hearing the person (voter) concern and there was no such developed system to make a error free voter list immediately after independence. The illiterate, poor, backward who are living in extreme humiliating condition and below poverty line cannot be vigilant over the errors in the voter-lists. These aspects of matter is simply ignored taking a technical stand that u/s 9 of the foreigners act, 1946, the burden of proof is on the victim (proceedee) and as the proceedees come up with haphazard evidence and having unexplained discrepancies in their documents no wrong can be attributed to the Tribunal for declaring them as foreigners. Consequently, huge number of people are likely to be made stateless citizen without any right as a citizen. It indicates wrong message to the humanity and human civilization. This issue may be dealt with human approach and there is urgent need to communicate this message to the people as a whole.^{1(pp-7)}

Overview of the Problem

Deprivation, denial, discrimination, prohibition, these are the basic issues which are faced by the D voters of Assam and due to these problems they are always treated as inferior in the eyes of ethnic people and such conditions have challenged their human rights and freedom. Due to the chauvinistic ideology of common people they have a exclusive perspectives for these minority people which genuinely affect the psychology of these discriminated people. These people have faced identity crisis for the denial of their electoral photo Identity card and they are also deprived of all governmental schemes and facilities. As a result of these deprivation, these people always try to integrate themselves with the ethnic culture through various

process such as institutional, informal and cultural process. This study will try to exemplify the relation between citizenship, human rights and multiculturalism through various reforms and remedies.

Discussion

Citizenship is a legal concept. The idea of citizenship is found in the Greek and Roman state system. However, the manner in which citizenship is understood today as a system of equal rights, as opposed to privileges ascribed by the condition of birth, took roots in the French Revolution, 1789. Citizenship denotes the status of an individual as a full and responsible member of a political community. A citizen possesses equal rights and privileges and receives protection from the state. The concept of citizenship is composed of three major elements or dimensions (Cohen 1999; Kymlicka and Norman 2000; Carens 2000)². The first is citizenship as legal status, defined by civil, political and social rights. Here, the citizen is the legal person free to act according to the law and having the right to claim the laws protection. The second considers citizens specifically as a political agent, actively participating in a society's political institution. The third refers to citizenship as membership to a political community that furnishes distinct sources of identity.

Part II of the constitution of India (Article 5-11) deals with the citizenship of India. Article 5 speaks the legitimacy of the citizenship of India at the commencement of the constitution i.e. 26th November, 1949 while Article 11 gave the power to the parliament to regulate the right to citizenship by law³. The first legislation related to the citizenship in India is the Citizenship Act, 1955, which has been amended in 1986, 1992, 2003, 2005 and 2015. Its noteworthy that the present NRC is being upgraded in accordance with the citizenship Act 1955 and the citizenship rules 2003.

As a concept, citizenship is grounded in the assumptions of peoples' right to collective self-determination under conditions of freedom and equality. Given the ways that democracy has been imbricate in systems of domination and inequality, however, citizenship as a model of egalitarian political interaction has been deeply restricted and constrained in multiple ways. Demographically, for example, the subset of people who are understood to be equal before the law and to have the right to participate in decision making has often been limited, either formally or informally, to a select few (namely, to propertied white men). Although struggles for racial, gender, and class equality have made inroads into the demographic restrictions on citizenship - a struggle that the fight for the passage of the ERA in the US has been part of - these interventions have not fundamentally challenged the concept of a demographically bounded citizenship. Restricted citizenship rights for immigrants, for those under the age of eighteen, and for those convicted of felonies in many states are examples of ways that citizenship is still demographically bounded in the US⁴.

During British period the province of Assam was organized for the first time including a part of East Bengal. The Ahom Kingdom existed only in

the extreme eastern part of Assam. The remaining parts were Koch-Kochari and Chutia kingdoms and part of East Bengal. The people who inhabited in those parts can never be called immigrant by virtue of their inclusion with in the province of Assam. Subsequently the Colonial Government encouraged immigration of Bengali Hindus to serve the administration, Hindi speaking Tea Labours from Bihar, Orissa and Madhya Pradesh etc. and Bengali speaking Muslims from East Bengal for cultivation of land. Such migration was almost completed up to 1942 and thereafter the same stopped due to resentment of local people followed by steps taken by the government itself for preventing the same and undertaking eviction operation⁵.

After the partition there was the influx of Bengali Hindus refugees from East Pakistan. The Union Government enforced the policy of driving out the Muslims and settling the Hindu refugees in the land left by the Muslims which was of course strongly opposed by former chief Minister of Assam Sri Gopinath Bordoloi and Bishnuram Medhi. Later on the union government introduced the notorious PIP (Pakistani Infiltration Project) scheme and drove out more than 6 lakhs of Muslims from Assam arbitrarily raising the question of their integrity and citing the question of "national security", particularly after the Chinese aggression. During the Language movement of 1960 and medium movement of 1972, the Muslim population of Assam whole heartedly supported the local Assamese people and opted for Assamese as their mother tongue and medium of instruction⁶.

The historical Assam movement were initially started against outsiders, particularly against the big capitalists coming from outside Assam, Tea garden owners and traders. Immediately, thereafter communalist forces and administrative tactical under RSS influence gave political color to the movement and diverted the same against the Muslim immigrants. The then ruling party in the centre under the leadership of Indira Gandhi either failed to diagnose the causes or under influence of RSS with her second coming to power deliberately allowed this to happen. However the Muslim intelligentsia of Assam, concerned by caucus of political touts failed to take the right course and only continued to raise hue and cry without any determined destination. The situation has been raised to the stage as it is today⁷.

Now, the basic question which have cropped up during the last 70 years can be formulated in two categories and can be addressed even now. *Firstly*, whether the leaders of the society have been able to show the correct picture about the multidimensional picture of the problem to the nation and particularly to the indigenous Assamese people. *Secondly*, whether the immigrant Muslims of Assam who are the worst victims of the problem have been able to make them believable and tolerable to the indigenous Assamese people or make

them indispensable for them. Surely, we could not say in that way⁸.

D-Voters which are referred to as Dubious voter or Doubtful voter is a category of voters in Assam who are disenfranchised by the Govt. on the account of their alleged lack of proper citizenship credentials. The D-Voters are determined by special tribunals under the Foreigner's Act, and the person declared as D- Voter is not given the elector's photo identity card. In 2011, Gauhati High Court ordered the D-Voters to be transferred in the Foreigners Tribunal set up under Foreigner Tribunal order of 1964 and be kept in detention camps. The Bengali Hindus who migrated from East Pakistan and Bangladesh before and after 1971 are mostly affected by the categorization. According to Sudip Sarma, the Publicity Secretary of the Assam unit of the Nikhil Bharat Bengali Udbastu Samanway Samiti, there are 6 lakh Bengali Hindu D-Voters in the state. D-Voter is a category of voters who are suspected to be foreigners i.e. Bangladeshis illegally residing in Assam. All their citizenship rights, entitlements and privileges as an Indian are withheld until they prove their claim of being an Indian⁹.

In 1997, the Election Commission (EC) identified several hundred thousand people as D-Voters, most of them were Muslims, but it also included Bengali Hindus, Koch Rajbangshis, Nepalis and others. There are 10 Tribunals and thousands of such voters placed under the scanner of the Foreigner's Tribunal (FT). The process of identifying D-Voters came into being after a huge political mobilization led All Assam Students Union (AASU) and other nationalist organization.

In 1997, the Election Commission of India identified a section of Muslims living in the Char Chapori areas of Assam, linguistic Hindu minorities and even the Rajbangshi people of the state as D-Voters. According to data provided in the 126 members of Assam Assembly in February this year, the state now has 1,25,333 D-Voters and there are only 100 FT, across Assam to cater to them. An independent lawyer of Guwahati High court 'Aman Wadud' said, 'The Election Commission marked people as D-Voters without any prior investigation. The trend begun in 1997 when about 3.5 lakhs people were marked as D-Voters- about 2 lakhs Bengali Hindus and rest Muslims. Several people have still not received the notice. For some it took 5 years, and for the others, the notice took 2 decades to arrive.' The future road map is not clear. Their names will be kept on hold for now and it is a long process. D-Voters are debarred from voting till the court clear their names in the Foreigner's Tribunal. In the Foreigner Tribunal of the Goalpara District, against 22000 D-voters' cases only 600 have been settled till date¹⁰.

According to the white paper on foreigners issue published by the Govt. of Assam in 2012, as many as 2,31,675 cases referred to foreigners' tribunal out of which 88,192 cases were disposed where only 7 percent were proved as illegal foreigners. However till March 2013 out of 231675 cases a total of 91,159 cases were disposed. Of this 7,152 (7.84%) persons have been found to be illegal

foreigners and 41,190 to be Indian citizens. Again, according to an RTI report, it has been found that there is still 1,49,227 D voters in Assam of which majority of them are Bengali Muslims. So, the citizenship of a bulk number of people is in doubt. The above statistics clearly shows that more than 93 percent D voters were proved genuine Indian citizen by the Foreigners' tribunal. It's worthwhile to mention here that those who were marked as D voter were denied various rights and privileges such as they were not issued the electoral photo voter identity card, disfranchisement, debarred to contest election etc. It will raise several questions such as, is this a human error? How could it be considered a human error while more than 93 percent were proved Indians? Secondly, who will compensate them for the loss they incurred during the entire process to verify their citizenship? In this long legal process they were not only denied their rights but also harassed and humiliated¹¹. All these points made above may lead this study to think that the D-Voter is a big issue of Citizenship Amendment Bill, 2016 of Assam, which creates fear, insecurity and anxiety among the D-Voters and sometimes these people, have committed suicide for their mental harassment, anxiety and insecurity about future. This study is an attempt to explore the political, social, economic and environmental problems of this issue. It basically focuses on human Rights issues of the Doubtful voters and the future possibilities of these victimized people. It is a big burden on these people to prove themselves as Indians. This paper is an attempt to find out some solutions of their needs and problems and will examine about the role and attitude of present Government towards this issue. The so called D-Voter issue is still in discussion for its controversial phenomenon which has hampered the latest updation of NRC in Assam.

Objectives of this study

1. To give a historical account of the issue of illegal migration and emergence of 'D-Voters' in Assam.
2. To analyse the role of the state in addressing the issue of 'D-voters' in Assam.
3. To analyse the citizenship laws in India from a humanitarian perspective.
4. To evaluate the issue of rights and challenges faced by D-Voters in Assam.

Review of Literature

Will Kymlicka's book, '*Multicultural Citizenship: A liberal theory of Minority Rights*' (published in 1995, ISBN-9780198290919, publisher Oxford University press) is a well known book about liberal theory of citizenship and minority rights, social justice, national unity, multicultural politics, individual freedom and many new issues about ethnic & national minorities. This book presents a new concept on the rights and status of minority cultures.

Thomas Humphrey Marshall's book, '*Citizenship and Social class*' is a widely read book (published in 1987, publisher – Pluto Press, ISBN - 1783713577, 9781783713578) which mentioned about various theoretical issues of citizenship, social citizenship and social equality etc.

Anupama Roy in her book '*Gendered Citizenship*' (first published in 2005) has examined several arguments how the Indian Constitution transformed the idea of citizenship and it explains about the plural sights of citizenship which existed at that moment and traces the forms in which idioms of citizenship endure in contemporary times. This book will be helpful for analyzing the debates over gender and citizenship. She has written another book '*Citizenship in India*' where the idea of citizenship goes beyond a legal-formal framework to denote substantive membership in the political community and describes about the history of citizenship in India, before moving on to the pluralities and contemporary landscapes of citizenship.

Udayon Misra's book '*The transformation of Assamese Identity: A Historical Survey*' describes about the history of Assamese identity, formation and transformation of the community which has been remarked about the parameters of Assamese nationality as a result of swift demographic change.

Shrutikar Abhijit Sarmah's book, '*National register of Citizens-NRC in Assam*' (published in 14 April 2018) is a widely read book on citizenship issue from Assam agitation to today's updation situations and the whole process of NRC and its impact in Assam. This is a very well known book which focuses basically upon the entire ethnic and ethno linguistic disputes of Assam.

An article, '*Deportation movement, creation of D-voters and problems of NRC updation in Assam*' written by Shahiuz Zaman Ahmed Published by Indian History Congress, 2014) is a constructive source about citizenship, deportation, Tribunals, voting rights, Government officials, Muslim minority and political movements of Assam which will help in my further development of this research.

M.N. Rafiabadi's book, '*Assam from Agitation to Accord*' (published in 1st Jan, 1988) is a widely read book on the background of Assam agitation, some partial implementation of Assam Accord and a brief introduction of Muslim minority in Assam etc.

Another Journal paper, '*Anxiety, Violence and the Post Colonial State; Understanding the Anti-Bangladeshi rage in Assam, India*', by Rafiul Ahmed (published in 'PERCEPTIONS', Spring, 2014, Volume XIX, No. 1, pp. 55-70) is a fruitful source for the study of cartographic anxiety of D-Voters and their Census-issue, Bengali-speaking Muslims, Minority movement and AASU etc, which will help this study from basic level.

Monirul Hussain's book, '*The Assam Movement, caste, ideology & identity*' (Manak publication, New Delhi, 1993, p-117) mentions a brief description about Assam Movement and its ideology and various issues of citizenship.

Dr. Vibhuti Singh Shekhawat's '*Assam from accord to ULFA*' (Published in 1st January, 2007) is a widely read book on the Assam agitation, State terrorism, Assam Accord, migration and political situation of Assam etc. This book represents sincere effort to understand and analyse the post Assam Accord situation in that trouble torn state which during

the entire 20th century passed through many agonisingly painful experiences owing to inter-ethnic and ethno linguistic disputes and discords, leading to uncalled for blood-letting.

M. Kar in his book "*Muslims in Assam politics*" explain about the history and politics of immigration of Muslims in Assam and their roots and culture which indicates some important parts of Muslim identity and their social and political factors.

Jaswant Singh's journal article, "*Assam's crisis of citizenship, An examination of political errors*" is a descriptive source about citizenship, census, State Elections, Election laws, illegal immigrations, Hindu's voting and political parties' [published; Asian Survey, Volm-24, No. 10(Oct 1984, pp-1056-1068)].

Abdul Mannan in his journal "*Infiltration:Genesis of Assam Movement*" describe about the issue of illegal Bangladeshi infiltration and its impact on the socio-political and economic sphere of Assam which has been the biggest concern and the most debated topic in the state ever since the 80's of the last century.

An advocate of Gauhati High court Abdul Rahman Sikdar in his journal "*Quest for justice in the Foreigners' cases*" describes about the horrifying picture of the whole Foreigners' issue and clear the ideas about the definitions of citizen of India, foreigner, tribunals, judgment etc.

Another article, '*Immigration, Ethnic conflict, and political turmoil-Assam, 1979-1985*' by Sanjib Baruah, a prominent writer has given a brief description about Muslims, Hindus, protest movements, violence, State Government, political parties, undocumented immigrants and ethnic conflicts.

Dr. Hiren Gohain's Journal article, '*Cudgel of Chauvinism*' (published in Economic & Political weekly, Vol-15, No.8(Feb 23, 1980), pp-418-420) mentions about chauvinism, propaganda, political candidates, religious terrorism, ruling class & left wing politics etc.

Another Journal article by Walter Fernandes, '*IMDT Act and immigration of Northeastern India*' [Economic and Political weekly, Vol-40, No.30(July 23-29, 2005) pp-3237-3240] mentions about Hindu's cultural identity, census issue, ethnic conflict, tribal land, deportation, sex-ratio and cultural geography of North East India.

Another Journal Article, '*Infiltration from Bangladesh: A sub-continental dimension*' by Tanushree Sarkar [The Indian Journal of Political Science, Vol-71, No. 2 (Apr-Jun 2010) pp-683-688] is a well known source about political refugees, deportation of Muslims, Tribunals, Government and overpopulation.

Methodology

A major challenge of this study is to gather reliable data. D-Voter issue of Assam has become a highly charged political, social and divisive issue not only at the state and federal level but also at the international level.

This study combines a methodology with a collection of specific practices, techniques and strategies (method of inquiry) to analyze various

aspects of D-Voters in Assam. This study is based on a mixed methodology which combines both qualitative and quantitative methods. Sources of data has been collected from field surveys among the D-Voters in some particular locations, specifically from Borpeta and Goalpara District of Assam. As a Muslim minority populated area and as a cosmopolitan multicultural area Borpeta and Goalpara these two districts has been selected for field survey respectively. In addition, personal interviews and focus group discussions has also be undertaken. Secondary datas have been collected from public domain, such as Government census records, statistical records, journals, publications, activities, newspapers etc and interpreted. Both quantitative and qualitative datas has been analysed, compared and incorporated to obtain valid conclusion.

Conclusion

D-Voter is disfranchisement of persons after their citizenship were found doubtful, and they have to appear before Foreigner's Tribunal with relevant documents to prove that they actually Indian citizens. Till that is done their names are deleted from electoral rolls and cannot exercise their franchise. An estimated 2,44,144 D-Voter cases were referred to the Tribunals. But over the years, the number has come down to 1,25,333 D-voters with over 60,000 of them were found to be Indian citizens¹². Now it has become a big burden of proof on the D-Voters. Many a times people are found to have suffered mentally and economically which creates fear, insecurity and anxiety among them. People belonging to Islam religion don't know why they are tagged as D-Voter despite of having NRC legacy data. Muslim minority people become a victim of bureaucratic red tape when they go to the Foreigners' Tribunal to check the status of their complains. The Election Commission has marked some people as D-Voters without any prior investigation. This study basically try to explore various needs and challenges faced by the D-voters and examine the electoral implications and challenges of NRC in Assam where illegal immigration has become a major challenge in contemporary period of Assam. Again this research will try to personify various roles and attitude of present Government (BJP) in a better hood study. In the present day context, it is a major electoral issue of Assam which creates several socio-political and socio-economic problems in Assam. Therefore, this study will try to tackle some of these problems through finding some facts and solutions for the future which will help in the final updation of NRC in Assam.

The 'D' voter issue is a violation to the political rights i.e. citizenship of the Muslims especially Bengali /char- chapori Muslims. The government also should keep a strong vigil on the activities of the chauvinistic elements so that no single Indian citizen get harassed and humiliated otherwise mistrust and maundering will be developed between the powerful majority and oppressed and marginalized minority.

End Notes

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