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BREAKING WORLDS

Religion, Law and Citizenship in Majoritarian India The Story of Assam

Angana P. Chatterji

In Collaboration With
Mihir Desai, Harsh Mander
and Abdul Kalam Azad



ASSAM

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BEFORE THE FOREIGNERS TRIBUNAL NO. 1ST. BARPETA
DIST. BARPETA :::::::::: ASSAM

F.T. Case No.
F.T. Ref. Case No.

Present :



member,
Foreigners Tribunal- 1st, Barpeta.

Center for Race & Gender
UNIVERSITY OF CALIFORNIA, BERKELEY

POLITICAL CONFLICT, GENDER AND PEOPLE'S RIGHTS INITIATIVE

BREAKING WORLDS: Religion, Law and Citizenship in Majoritarian India; The Story of Assam chronicles how prejudicial laws and policies are weaponizing citizenship in India today. A pivotal objective of the Hindu nationalist Bharatiya Janata Party (BJP) government has been to alter the basis of Indian citizenship. Toward this, the Government of India passed the Citizenship (Amendment) Act (2019) and determined to commence an all-India National Register of Citizens. While changes to citizenship are scheduled for enforcement across the country, the BJP's pilot implementation is focused on the state of Assam in the Northeast, with injurious, gendered impact on its sizeable Muslim population. Majoritarian nationalists assert that a large number of Muslims are residing in India "illegally," and are not Indian. Bangla-descent Muslim inhabitants of Assam, fabricated as "foreigners" and "outsiders," are the primary targets. They are subject to discrimination, extreme xenophobia, social violence, and new forms of partition. Those who are unable to meet the government's demands to prove their citizenship, or whose documentary evidence is rejected, are faced with the threat of expulsion, exile, and statelessness. If Bangla-descent Muslims of Assam are not Indians, then who are they? This monograph brings into focus how the illiberal citizenship movement is fortifying legal discrimination based on religion. It spotlights the amendments to the law and the implosive situation on the ground. It chronicles the torment of numerous targeted individuals who have been declared "foreigners," separated from their families and detained, and family members of suicide victims, together with cases before the appellate body. The exclusionary processes directed at Bangla-descent Muslims are emblematic of their loss of agency over life. The "citizenship experiment" signals the onset of absolute nationalism and the advance of an inestimable catastrophe that may conceivably devastate millions of lives.

Cover Image: Documents from the Assam Foreigners Tribunal and Illegal Migrants (D) Tribunal Images are courtesy of local communities in Assam.



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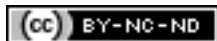
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This monograph is dedicated to communities whose lives reside at the
crossroads of belonging and dispossession in India today and
to their courageous and principled struggles for justice and accountability.

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BREAKING WORLDS

January 29, 2020. [REDACTED] [REDACTED] (name redacted), a Muslim man, committed suicide by hanging himself in the building of a primary school in Assam where his two children study.¹ He had been missing for two days. Originally from another district in Assam, at the time of his death he had been resident in his current village on the char (river islands) for several years. His spouse was the recipient of a house through a government scheme. Previously, he had also worked in construction in Guwahati, the largest city in Assam. On settling down in the char he commuted to Guwahati to work as a daily wage laborer while his wife earned a living as an agricultural laborer in their village. Notwithstanding the hardships, in the words of his family, they felt truly blessed to have each other and their home.

The protracted process of the National Register of Citizens (NRC) to verify their family's citizenship status was daunting and painful. As a non-formally literate person and someone without means, it had been extraordinarily difficult and incapacitating for him to navigate the bureaucratic obstacles, misinformation, and procedural requirements and to locate and procure the requisite documents to establish their family's legacy as apposite residents of Assam. Despite repeated verifications, his name, and the name of one of his very young children, were absent

from the NRC list published on August 31, 2019. The father of his spouse was also identified as a "D voter" ["doubtful voter"] and omitted from the NRC.

[REDACTED] [REDACTED] could not fathom why he and his family and community were being estranged from their homeland. His family was apprehensive that their being Muslims and the multiple local migrations necessitated by poverty had cast them as people "without roots," and therefore as "foreigners." He began to experience mental health issues which escalated with loss of income, debt, anxiety, increasing depression, and severe stress. He lived with foreboding about his future and that of his family. He started to consume alcohol in excess and was easily angered. At one time, he had attempted to break their home down with an axe. He had consumed pesticide to kill himself, and at another time, tried to hang himself. She [his wife, name withheld] used to watch over him all the time. Just before his death, he had rowed with her.

His family lived through a vortex of threat, sadness, humiliation, and deprivation. They were uneasy about the trials of the Foreigners Tribunal process in which they felt increasingly pre-judged. Exhausted, they withdrew from various aspects of collective social life. They feared for his well-being and the impact his deterioration was having on his children. Then, one day, [REDACTED] [REDACTED] took his life. With his death, fragments of hope and history were irreparably broken for his family.

ABSTRACT

BREAKING WORLDS: Religion, Law and Citizenship in Majoritarian India; The Story of Assam chronicles how prejudicial laws and policies are weaponizing citizenship in India. A pivotal objective of the Hindu nationalist Bharatiya Janata Party (BJP) government has been to alter the basis of Indian citizenship. Toward this, the Government of India: (1) Passed the Citizenship (Amendment) Act (2019) (CAA);² and (2) Determined to commence an all-India National Register of Citizens (NRC), also in 2019.³ While changes to citizenship are scheduled for enforcement across the country, the BJP's pilot implementation is focused on the state of Assam in the Northeast, with injurious, gendered impact on its sizeable Muslim population.⁴

Majoritarian nationalists assert that a large number of Muslims are residing in India "illegally," and are not Indian.⁵ The modalities for safe harbor that apply to other communities exclude Muslims. In particular, Bangla-descent Muslim inhabitants of Assam, *fabricated* as "foreigners" and "outsiders," are the primary targets. Bangla-descent Muslims (also Bengali)⁶ are Bangla origin Assamese (Axomiya, Oxomiya)-speaking Muslims of Assam, many among whom self-identify as "Miya" Muslims.⁷ Bangla-descent Muslims who are unable to meet the government's demands to prove their citizenship, or whose documentary evidence is rejected, are faced with the threat of expulsion, exile,

and statelessness. If Bangla-descent Muslims of Assam are not Indians, then who are they? Through applied research, including oral history, and methodical analysis, this monograph spotlights the illiberal citizenship movement focusing on two intersecting chronologies: the exclusionary amendments to the law and the implosive situation on the ground driven by Hindu/ultra-nationalists, which may dispossess and render swathes of *citizens* stateless. *Exclusion*, implicit within the structure of caste/oppression in India, is escalating in the current context. The exclusionary processes directed at the Bangla-descent Muslim community are emblematic of their loss of agency over life. The monograph's emphasis on Assam and Bangla-descent Muslims is prognosticative. It brings into focus how the laws and policies reordering Indian citizenship are fortifying legal discrimination based on religion. Muslim communities of Assam are subject to discriminatory treatment, extreme xenophobia, social violence, and new forms of partition. The monograph chronicles the torment of numerous targeted individuals, including victimized-survivors who have been declared "foreigners," separated from their families and detained, and family members of suicide victims, together with summary analyses of cases before the quasi-judicial and appellate body. The monograph contends that the "citizenship experiment" signals the onset of *absolute nationalism* and the advance of an inestimable catastrophe that may conceivably devastate millions of lives.

SUMMARY

Figure 1: Prejudicial Citizenship-A

Citations to the graphic are affixed at first mention in the monograph



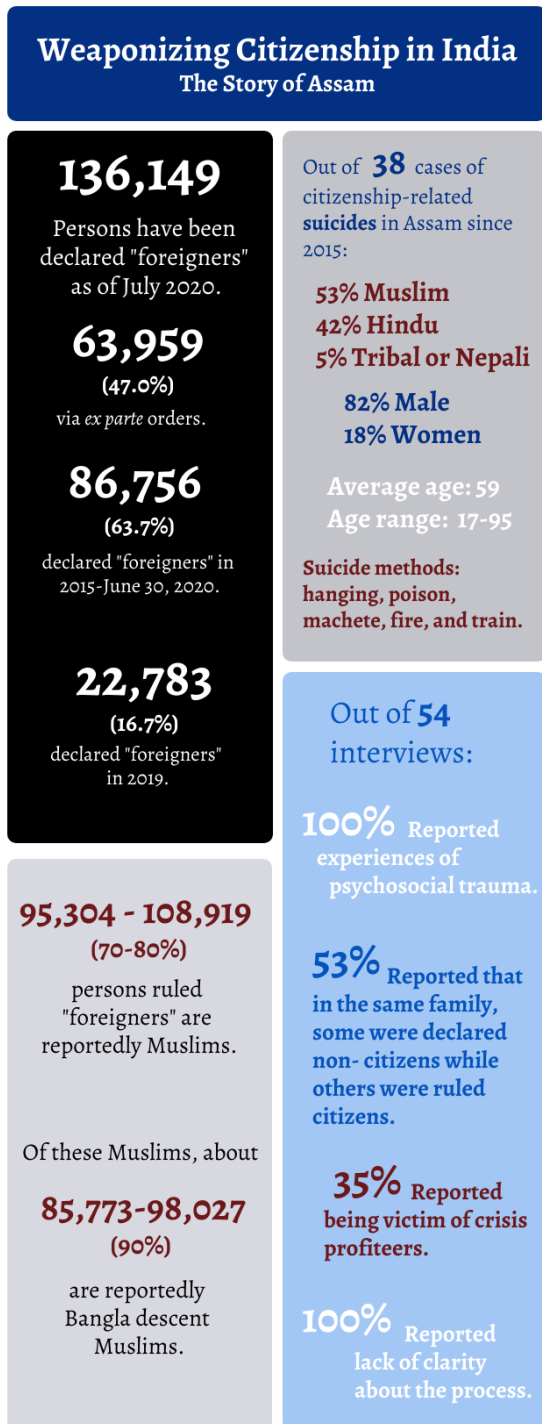
(PCRes-Berkeley: 2020-21 and additional sources, all information above pertains to Assam)

ADJUDICATING CITIZENSHIP

The Hindu nationalist BJP's election to national government in 2014 and popular re-election in 2019 amplified the ascent of a majoritarian state in India.⁸ A key priority of the BJP central and state governments has been to significantly alter the basis of Indian nationality. The Narendra Modi-led BJP has emphasized the need to change citizenship laws in the interest of national security and sought to reconstitute the basis of Indian citizenship through exclusionary changes to the law.⁹ Toward this, the Government of India: (1) passed the Citizenship (Amendment) Act (2019) (CAA);¹⁰ and (2) determined to commence an all-India National Register of Citizens (NRC).¹¹ While changes to citizenship are scheduled for enforcement across the country, the BJP's pilot implementation is focused on the state of Assam in Northeast India. In practice, the laws and policies reordering Indian citizenship are fortifying legal discrimination based on religion in a country where "minority" religious groups comprise approximately 21 percent of the population.¹² Persecution on the basis of religion is interlaced with caste oppression and gender inequality. The changes to citizenship law are intensifying earlier efforts dating to the colonial and post/colonial period.¹³ Especially, the effort to legislate and recast citizenship has been greatly accelerated in Assam since 2019.¹⁴

Laws and policies have been set in motion to determine to whom (and on what condition) political, civil, and human rights

Figure 2: Prejudicial Citizenship-B



(PCRes-Berkeley: 2020-21 and additional sources, all information above pertains to Assam)

may be accorded. The law requires Individuals to prove that they are citizens through an arduous process that is heavily weighted against Assam's Muslim inhabitants. The politicization of religion and the racialization¹⁵ of Muslims have endangered their rights and freedoms.

The citizenship processes in Assam are highly complex. Information pertaining to decision-making and facts and figures are obscure. This is both a strategy and a byproduct of governance in a singularly segregationist and stratified society. The apparatus (systems, institutions) and instruments (laws, policies) of "citizenship" render Muslims and other marginalized groups, and particularly women among them, exceptionally vulnerable. Communities identified as the "tea [plantation indentured labor] tribes" and the orphaned, deserted, and destitute are also especially vulnerable.¹⁶ **Individuals who are incriminated as "illegal" and as "foreigners" are mostly local inhabitants,** those who are socially and economically marginalized. Stories circulate of people who have been declared "foreigners" without their knowledge, of those whose families have been forcibly separated, of those who experienced the risk of expulsion and have committed suicide, and of those detained in makeshift "internment" camps.

Numerous persons among Assam's diverse Muslim communities possess documentary records that corroborate their claims to inhabitation and citizenship as well as evidence based in oral history and customary practice. They have repeatedly furnished proof of their belonging to the

stipulated state institutions. Frequently, however, proof of belonging rendered by individuals is discredited, dismissed, or deemed inadmissible by institutions. The petitioner's citizenship is held in contention or rejected. For others, securing documentary proof of citizenship can be challenging and vastly complex, a costly and difficult process that requires obtaining decades-old documents, traveling long distances to file applications, possibly at short notice, and paying for a lawyer.¹⁷ At times, people are unable to acquire the necessary official records due to a lack of resources. Women, especially from vulnerable, minority religious communities and class and caste-oppressed backgrounds, are at great risk for losing citizenship rights.¹⁸ Lack of access to documentation for home births, absence of land ownership, changes to last names following marriage, sex and labor trafficking, and absence of formal literacy leave women extremely insecure.

CITIZENSHIP LEGISLATION

Three Intersecting Alterations

Three parallel and intersecting changes to citizenship laws have been enacted through the years. These are: (1) Modifications to the criteria for acquiring citizenship by descent (*jus sanguinis*); (2) Instituting mandatory registration of citizenship through documentary evidence; and (3) Adding religion as a criterion for certain pathways to citizenship. The laws prevalently contend with heterosexual and

cisgender relationships. In 2005, the apex Supreme Court of India passed a judgment reconfiguring the legal parameters of citizenship and shifting the burden of proof of a person's citizenship from the state to the individual.¹⁹ While some of the above changes were facilitated by the Indian National Congress (Party), the BJP is primarily responsible for the thrust to base citizenship on descent and religion. Toward this, in 2019, the Government of India set in motion two initiatives to recast the bedrock of Indian nationality.

Citizenship (Amendment) Act (2019)

One was to authorize the Citizenship (Amendment) Act (2019) (CAA).²⁰ The amendment was passed by the Parliament of India on December 11, 2019 and took effect on January 10, 2020. During its implementation, state forces have frequently repressed civil society dissent across India. The CAA established new naturalization and citizenship procedures for "illegal" (undocumented) immigrants, including from Buddhist, Christian, Hindu, Jain, Parsi, and Sikh communities. Muslims, Adivasis (tribals),²¹ and Sri Lankan Tamil refugees were excluded. The enactment of the 2019 CAA into law in 2020 gave precedent to religion as a criterion for citizenship in India for the first time. Muslims, India's largest minority²² religious community, were excluded from equal treatment under the CAA because of their religion. In effect, the CAA affords legal protection for most persons of non-Muslim descent who may be excluded from the NRC

and privileges Hindus in defining citizenship.

National Register of Citizens (NRC)

The other maneuver was the proclamation in November 2019 to devise a reconditioned and national NRC.²³ The NRC is a roster of all citizens of India. Its conception was required by the 2003 amendment of the Citizenship Act of 1955. In May 2019, both the Supreme Court of India and current Minister of Home Affairs Amit Shah spoke of “external aggression” and propounded the NRC as a mechanism for expelling “infiltrators.”²⁴ **Presently solely applicable to Assam**, a national-level NRC would evaluate documentation of descent for hundreds of millions of individuals, crossing generations, to pronounce who may be considered a bona fide citizen of India.²⁵

Foreigners (Tribunals) Amendment, 2019

The Foreigners (Tribunals) Amendment Order, 2019, enabled the establishment of specialized tribunals to rule on citizenship and nationality cases. Although technically applicable across India, **this decree is practically restricted to Assam**. Previously, the Indian government authorized the Foreigners (Tribunals) Order in 1964, requiring the creation of Foreigners Tribunals across India even as it was solely implemented in Assam. **The Foreigners Act placed the burden of proof demonstrating that an individual was not a “foreigner” on the accused individual and not on the state.**²⁶ If the state *suspected* an individual to be an

“infiltrator” or an “illegal” (undocumented) immigrant, the police had requisite authority under the Act²⁷ to arrest, prosecute and extradite such a person.²⁸ The tribunals were empowered to determine if a person was a non-native, a foreigner. Amendments were made to the Foreigners (Tribunals) Order in 2013 and 2019. In Assam, the Foreigners Tribunal serves as a quasi-judicial and an appellate mechanism that adjudicates on citizenship disputes. The Supreme Court of India also placed the burden of proof of domiciliation on residents. Accepted documentation includes residency and birth certificates, voter records, and land records.²⁹ A resident whose citizenship is in dispute is responsible for procuring vital documents to authenticate their citizenship in India.

THE ASSAM EXPERIMENT

In Assam, the Sangh Parivar (family of Hindu nationalist organizations) has persistently amplified their campaign for prejudicial citizenship for decades.^{30 31 32} Official discourse has routinely fabricated and propagated that Bangla-descent Muslims of Assam, many among whom also self-identify as “Miya” Muslims, are “foreigners” and “intruders” who have “illegally” immigrated to India.³³ The stated criteria for citizenship in Assam are that: (1) An applicant must be an individual who entered Assam before March 1971,³⁴ and (2) The children of such person(s). Thereby, even if an individual was born in Assam in 1973 and has never traveled out of Assam during the last forty-seven years, they will

not be treated as a citizen unless they are able to show that their parents entered Assam before March 1971. Bangla-descent Hindus are also targeted, even as they are cast as “asylum seekers,” and Bangla-descent Muslims are portrayed as “infiltrators.”^{35 36} Bangla-descent Hindus of Assam are Bangla origin Assamese (Axomiya, Oxomiya)-speaking Hindus (also, Bengali). They are often identified and targeted based on their last (family) names. Non-Muslims without documentary evidence of their birth may claim to have come from Pakistan or Bangladesh and posit that their documents were seized. This seizure may be evidenced as entitlement to citizenship in India. Muslims, especially Bangla-descent Muslims, may not make such a claim.

“Original Inhabitants” | “Infiltrators”

The portrayal linking Muslim immigration from neighboring countries to India and Assam and population growth was not based on census data.³⁷ This narrative has been politicized to create social tension.³⁸ Vulnerable communities across Assam contend that the present government and majoritarian activists are weaponizing citizenship to *manufacture* Muslims as the “enemy within.” Central to the plan is to advance the idea of the “original inhabitant,” which is not defined in Indian law. For example, in January 2021, at a rally in Kokrajhar, Amit Shah, stated: “Do you want to make Assam infiltrator-free or not?”³⁹ The population of Assam was recorded at 31.2⁴⁰ million in 2011.⁴¹ In 2020,

while Muslims reportedly constituted approximately 37.1 percent of Assam’s population⁴² of 35 million⁴³ and numbered about 13 million, Bangla-descent Muslims numbered almost nine million and were alleged to be of “Bangladeshi origin.”⁴⁴

Exclusion from NRC

The publication of the draft NRC in 2018 in Assam revealed the exclusion of more than four million persons from the survey rolls.⁴⁵ Reportedly,^{46 47} some people were excluded due to spelling errors in their names or inconsistent names in documents. After the draft list was made public, excluded individuals were permitted to submit further documentation proving their citizenship. While a majority were not of Hindu descent, reportedly between one and 1.5 million *were* Hindus.⁴⁸ The exclusion of a large number of Hindus from the 2018 NRC list is presumed to be the foremost reason⁴⁹ that changes were made to the citizenship law, and that the Citizenship (Amendment) Act was enacted in 2019, whereby, in effect, only Muslims would be excluded from citizenship.

The (ostensibly “final”) update to the Assam NRC was undertaken on August 31, 2019. Approximately 1.9 million persons (numbering 1,906,657) were excluded from the 2019 published list,⁵⁰ and may potentially lose their citizenship, and face expulsion, exile, and statelessness. The 2019 Assam NRC list reportedly excluded approximately 486,000 Bangla Muslims⁵¹ (25.5 percent of those excluded from the August 2019 NRC list)⁵² of a total of 700,000

excluded Muslims (36.7 percent of the excluded);⁵³ 500,000-690,000 Bangla Hindus (26.2-36.2 percent of the excluded);⁵⁴ and 60,000 Assamese Hindus (3.1 percent of the excluded).⁵⁵ However, Hindus excluded from the 2019 NRC list are likely to be protected through the 2019 amendment to the Citizenship Act, 1955.⁵⁷ Those at risk of loss of citizenship reportedly included thousands of tribal (indigenous), ethnic, and minority communities.⁵⁸ Among the latter, individuals including those from indigenous groups number between 240,620 and 670,657 (between 12.6 and 35.2 percent of the excluded).⁵⁹ The Assam Border Police too have pronounced certain persons to be “foreigners.” The Election Commission has decreed 231,657 persons as “doubtful” citizens, declaring them “D voters” (“doubtful voters”) and divesting them of voting rights, and has referred their cases to the Foreigners Tribunals.⁶⁰

Assam’s “Foreigners Tribunal”

The Foreigners Tribunal of Assam remains the state mechanism for appeal for persons excluded from the NRC. Individuals may petition the Foreigners Tribunals with requisite documentation validating their citizenship. An appellant is deemed to be either “foreigner” or “citizen” as per the ruling of the tribunal. The process is hard, complex, and arbitrarily and routinely discriminatory.⁶¹ An analysis of 787 Guwahati High Court orders and judgments published by *The Wire* found that cases before the tribunals took about 3.3 years on average.⁶² On March 16, 2021, the Lok Sabha recorded that there were 300 Foreigners

Tribunals in Assam and that the Home Ministry had authorized the establishment of an additional 200.⁶³ The tribunals routinely lack transparency with respect to principles, standards, and functioning. There is pressure on temporary tribunal appointees to decide against citizenship applications brought before them.⁶⁴ Individuals who receive an unfavorable judgment from a tribunal have the sole option of appealing to the Assam High Court (unaffordable for many), followed by the (small) possibility of approaching the Supreme Court. As of October 2019, it appears that the cases of 468,905 persons have been brought before the Foreigners Tribunals.⁶⁵ Of these cases, reportedly 136,149 people were declared to be “foreigners” as of July 31, 2020.^{66 67 68 69} Community leaders, lawyers, and journalists state that of those declared “foreigners,” 70 to 80 percent (95,304 to 108,919 persons) are reportedly Muslims⁷⁰ Among these Muslim individuals, about 90 percent (85,773 to 98,027 persons) are reportedly Bangla-descent Muslims.⁷¹ The results are gendered. In 2019, 290 women were reportedly declared “foreigners.”⁷² In December 2020, 140,050 cases were pending before Foreigners Tribunals in Assam.⁷³ Community knowledge holders say that **most** of the above individuals are local inhabitants with documentary evidence of belonging and citizenship.⁷⁴ Further, the NRC may refuse citizenship to Muslim asylum seekers and refugees. Civil society leaders contend that such persons, and the few who may be “illegal” (undocumented), must be entitled to asylum.⁷⁵

Issues and Effects

By February 2019, 63,959 individuals in Assam had been stipulated as “foreigners” reportedly through ex parte proceedings, where a tribunal issued a judgment in the absence of the accused.⁷⁶ The above figure represents 47 percent of the 136,149 persons adjudicated to be foreigners.⁷⁷ Individuals can apparently intervene in these proceedings in an attempt to influence the outcome.⁷⁸ In September 2019, a Muslim family with land documents dating back to 1927 found that all members of their family were not on the NRC due to: “an objection filed [apparently anonymously] by someone against their inclusion in the final draft.”⁷⁹ It is unclear who may file bad-faith objections or how they may be held accountable. Reportedly, approximately 250,000 such objections have been made, mostly anonymously.⁸⁰ The Foreigners Tribunal procedures are reportedly manipulated by officials and others to extort bribes and discipline and criminalize targeted community members.⁸¹ Such actions have caused economic hardship. People have sold their possessions or used up their savings on defense lawyers.⁸² The mental health of innumerable people has been impacted,⁸³ as exemplified by a Muslim woman who reportedly committed suicide after her husband’s citizenship case drained the family of their property and money.⁸⁴

Foreigners Tribunals: 38 Cases

A review of 38 cases comprising 37 Foreigners Tribunal orders and one affidavit

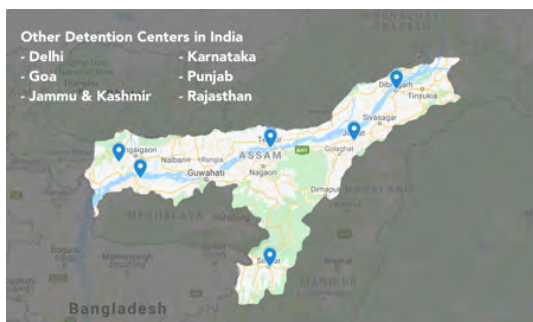
attests to the capricious and hostile nature of the proceedings.⁸⁵ In numerous instances, the state’s legal representative does not even appear, often to the detriment of the person appearing before the tribunal.⁸⁶ ⁸⁷ In 51 percent of the analyzed orders, the state’s representative was not present for a part or the entirety of the proceedings.⁸⁸ In 30 percent of the orders, a document submitted by the individual was rejected by the tribunal member because the official who had issued the document was not present at the tribunal to testify to the document’s contents and authenticity.⁸⁹ In 11 percent of the orders, the tribunal member dismissed a document due to the location of the state emblem embossed on the document.⁹⁰ In 38 percent of the orders, the tribunal member mentioned name or age discrepancies in the documents submitted, and in numerous instances, this impacted the ruling on an individual’s citizenship status.⁹¹

Detention, Criminalization

Once declared a “foreigner,” an individual may be held in detention. Immigration detention centers are often locally referred to as “concentration camps.”⁹² Detention serves to criminalize and confine those deemed “illegal foreigners.”⁹³ Without established limits or protocols for ethical resolution of the matter, detentions can be prolonged or indefinite unless deportation ensues.⁹⁴ Currently, India operates thirteen ⁹⁵ detention centers, and others are being constructed to assumedly hold

“undocumented” individuals. The six detention centers⁹⁶ in Assam are operated within existing jails and reportedly confine those declared to be “foreign nationals” by the Foreigners Tribunals. A detention center to hold 3,000 persons is reportedly being constructed at Goalpara in Assam.⁹⁷ It is India’s largest and first detention center for “illegal” immigrants.⁹⁸

Detention Centers in Assam⁹⁹



In November 2019, 1,043 persons were reportedly being held in detention at six centers in Assam.¹⁰⁰ Approximately 20 to 25 percent of them were reported to be women.¹⁰¹ Some young children were also detained. By March 2020, it was reported that 3,331 persons had been held in the six detention centers in Assam.¹⁰² As of April 2020, at least 30 persons have died in Assam’s detention centers since 2009,¹⁰³ most due to health conditions and others under mysterious circumstances;¹⁰⁴ 16 reportedly of Hindu descent and 14 of Muslim descent; three among them women.¹⁰⁵ Between March 2013 and July 2020, reportedly 227 persons were deported, a majority of them to Bangladesh.¹⁰⁶ In May 2019, the Supreme Court ordered that those regarded “non-citizens,” and detained for more than three years, be conditionally

released.¹⁰⁷ Despite the apex court’s directive, people continued to be detained.¹⁰⁸ ¹⁰⁹ In February 2021, it was reported that some detention centers were cramped, lacking in basic hygiene and sufficient food.¹¹⁰ Earlier, detainees have organized hunger strikes. At the end of May 2021, reportedly 170 detainees remained incarcerated, while in July 2021, the reported number of detainees was between 177 and 181.¹¹¹ In June 2021, local communities and lawyers noted the number of incarcerated detainees to be approximately 500.¹¹²

“Definitive List,” COVID-19

The delivery of notifications to those who had been excluded from the 2019 NRC was reportedly scheduled to commence on March 20, 2020.¹¹³ The COVID-19 pandemic and the floods in Assam in 2020 led authorities to postpone the distribution of NRC notifications.¹¹⁴ The hearings of the Foreigners Tribunals were disrupted by the COVID-19 pandemic, which also delayed the activation of 200 new tribunals.¹¹⁵ In December 2020, a state official alleged that the Assam NRC list of August 2019 was a “supplementary” record and that a definitive list is due to be published.¹¹⁶ On May 13, 2021, the Assam NRC Authority approached the Supreme Court seeking re-verification of the NRC list (emphasizing districts bordering Bangladesh and with significant Muslim populations),¹¹⁷ appealing that “illegal voters” be purged from voter lists.¹¹⁸ Earlier, on April 1, 2021, the central government reportedly ordered the Assam state

government to send “rejection” notifications to persons who were not on the NRC, triggering the 120 days to launch an appeal.¹¹⁹

Psychosocial Health and Suicide

The experiences of those who are forced to prove their belonging have exacerbated mental and emotional strain.¹²⁰ The processes to prove citizenship, the resultant and imminent dangers, the actuality of detention, and the prospect of deportation have injuriously impacted the psychosocial and inter-generational health of individuals and communities.¹²¹ This is instantiated through health crises, including sleep irregularities, post-traumatic stress disorder (PTSD), suicidal ideation, and suicide.¹²² Between July 2015 and October 2020, between 38¹²³ 124 and 42 persons¹²⁵ apparently committed suicide in Assam in connection with the revocation of their own or a relative’s citizenship rights. In research into 38 instances where persons committed suicide, reportedly: 20 individuals were of Muslim descent, 16 were of Hindu descent, and two were from tribal/indigenous communities. Seven persons were women, six of whom were of Muslim descent.¹²⁶

Presumptive Statelessness

The dread of would-be dispossession is tangible for millions of Muslims across Assam, in its villages and cities, the char areas (river islands), and World Heritage sites.¹²⁷ Muslim communities say that the implementation

of exclusionary citizenship is desecrating the very structure and composition of social and political life.¹²⁸ While the tribunals have not resulted in increased deportations thus far, they have contravened the rights and entitlements of countless residents of Assam and proclaimed innumerable citizens to be “foreigners,” and therefore, presumptively stateless.¹²⁹ As a woman interviewee noted: “We are terrified *because* we are Muslim.”¹³⁰ The rules of the CAA are yet to be announced by the parliament. However, the BJP national government issued a notification on May 28, 2021, reportedly operationalizing prejudicial citizenship in certain areas in the states of Chhattisgarh, Gujarat, Haryana, Punjab, and Rajasthan.¹³¹ **On July 27, 2021, it was reported that the rules of the CAA would not be announced by the parliament until January 9, 2022.**¹³²

THE MONOGRAPH

This monograph presents the dire and deteriorating situation pertaining to prejudicial citizenship in India, with an ethnographic focus on Assam. The monograph was peer reviewed. The first section, “Weaponizing Citizenship,” elaborates on the project of prejudicial citizenship in India today. It examines the political context, and bureaucratic and legal apparatus in place that determine “foreigner” and “citizen.” The section, “The Assam Frontier,” traces the carceral assemblage that posits local inhabitants as threats to national security and parallels

the growth of Hindu/ultra-nationalism in the region. It analyzes the local political context and legal-penal measures that criminalize a range of communities, in particular Muslims. The section, “The Carceral State,” delves into the modalities of citizenship in Assam and their enforcement via impunity laws. It investigates the processes by which people are excluded from the NRC list, face detention, appeal before the tribunal, and are declared “foreigners” and denied citizenship. It outlines the resultant consequences for individuals and families, and the impact of COVID-19. The section, “Bearing Witness,” chronicles the voices, lives, and torment of former detainees, of those declared “foreigners,” and of family members of suicide victims. “Cases and Suicides,” offers a summary analysis of 38 cases before the Foreigners Tribunals, of 38 instances where individuals committed suicide, and annotates some of the High Court and Supreme Court cases relating to citizenship. The section, “The ‘Citizenship Experiment,’” speaks to states of exception and dangers to the rule of law in Assam, the proposed national experiment, and the arrival of absolute nationalism.

THE RESEARCH

The inquiry (archival, secondary, theoretical, and applied research) was conducted between July 2020 and August 2021. The study was focused on Assam and adjacently and preliminarily explored relevant issues in two other sites, Delhi and Uttar Pradesh. The primary focus was

identified for its relevance to local communities in Assam who are impacted by the prejudicial citizenship laws. The research built upon relevant work undertaken by many.¹³³ The study analyzed: (1) The discriminatory citizenship laws; (2) The policies, processes, and impacts of citizenship allocation and validation commenced by the national and state governments in Assam and India since 2019; (3) The use of political and social violence against vulnerable communities; and (4) The impact of the above on local community members.

It is of note that post-1947, events of political violence in post/colonial India have been routinely characterized as “Hindu-Muslim riots” and often represented as spontaneous in nature. Such events, however, have variously been anti-Muslim (and anti-Christian and anti-Sikh) massacres and pogroms. Frequently, they have been premeditated and intensively organized even as they are surfeit with unscripted acts of terror. Mass violence, where Hindu nationalists have targeted Muslims, is routinely referred to as “communal violence.” This term fails to account for the profound disparities in relations of power/state between Hindus and Muslims in India. This deflects from the mobilization of majoritarian discourse in racializing Muslims. Such processes of minoritization are operationalized through the deliberate politicization of religion.¹³⁴

The applied research was undertaken with the generous collaboration of community partners, civil society leaders, and lawyers. Local

researchers were selected based on competence and professional capacity. This study focused on: (1) Textual analysis; (2) Archaeological analysis of legal and procedural strategies; (3) Applied research into the operationalization of the NRC and the Foreigners Tribunals in Assam; (4) In-depth interviews with select community members in Assam, and (5) Preliminary interviews with select interviewees from religious minority and caste-oppressed communities in Delhi and Uttar Pradesh to understand the (potential) impact of the Assam processes on them. Over the course of this study, 16,500 documents were reviewed, including legal and procedural records, together with witness testimonies, first information reports, and archival materials pertaining to the period 2014 to mid-2021, as well as historical records.

The applied research used impact mapping and open-ended qualitative interviews, complemented by oral history interviews. A detailed review of the “Foreigners Tribunals” of Assam was undertaken and 38 cases comprised of 37 Foreigners Tribunals Orders and one affidavit were analyzed. Materials pertaining to 38 belonging-related suicides and 16 citizenship-related cases before the Assam High Court and the Supreme Court of India were analyzed. The applied research was approved by the Committee for the Protection of Human Subjects at the University of California, Berkeley. The research was undertaken with informed consent. A select number of research participants-interviewees were engaged.

Approximately 125 open-ended qualitative interviews and oral history interviews were conducted. Of the interviews conducted: (1) Eighty percent were in rural and urban areas of significant NRC-related activity and impact in Assam with affected community members as well as their legal and civil society representatives, human rights defenders and lawyers, writers, poets, and social workers; and (2) Twenty percent were in Delhi and Uttar Pradesh with civil society leaders and human rights defenders and lawyers, to supplement our understanding.

In Assam, the research and interviews focused on the experiences of Bangla-descent Muslims based on resounding evidence of the adverse impact of prejudicial citizenship laws on the community. Respecting the wishes of various Bangla-descent Muslim interviewees who self-identify as “Miya” Muslims, the monograph also refers to the Bangla-descent Muslim community as Miya Muslims. The primary research participants were Muslim women-womxn and men. The interview sample comprised of approximately 45 percent men and 55 percent women across urban and rural hotspots, attentive to class, ethnicity, tribal identity and status, gender and other social classifications and conditions. Community members interviewed were primarily economically disadvantaged and non-formally educated persons. The inquiry focused on a select sample of participants who could educate us about the complexities of their experiences and the

depth of perspectives that they bring to the issues under investigation.¹³⁵ The objective was to create a record of social facts relating to the individual's history of belonging, evidential basis of citizenship claims, and search for accountability.¹³⁶

DISQUALIFIED KNOWLEDGES, FIELD CONTINGENCIES AND REPRISAL

This interdisciplinary research, situated at the intersections of diverse knowledges and specializations, drew on social and cultural anthropology, gender studies, human rights, law, and interdisciplinary South Asia Studies. The inquiry included the direct participation of women and men community members and civil society leaders from marginalized minority religious and social groups who are deeply vulnerable to the reach of prejudicial citizenship processes on their lives. While this study spoke with just a few individuals who may identify as LGBTIQ (lesbian, gay, bisexual, transgender, intersex, queer, questioning and asexual) or represented persons who so identify, this monograph is lacking in that the research does not detail their experiences. The study was forced to contend with: (1) The local and global contingencies imposed by the COVID-19 pandemic and the cataclysmic conditions in India; and (2) The risk of reprisal against local community members, the principal investigator, and collaborating researchers.¹³⁷ These issues required innovative approaches to the conduct of inquiry. For reasons noted above, an e-platform was used in carrying out aspects of the research.

LANGUAGE, LIMITATIONS, AND CONTRIBUTIONS

The inquiry focuses on select issues and sites of impact, and a small sample of interviewees.¹³⁸ The monograph is uneven in narrating social realities outside of gender binaries. Varieties of English, including post/colonial and decolonial “Englishes,” are used in translating the narratives of local knowledge holders who spoke in Bangla, Hindi, and other languages. The inquiry produced an authoritative and diverse repository of materials for analysis and interpretation.¹³⁹ The interviewees and their families have been acutely impacted by the prejudicial citizenship laws and policies in Assam. Those who so kindly consented to being interviewed included individuals, victimized-survivors,¹⁴⁰ who are forced to contend with the harrowing circumstances, and do so with fortitude. Many have been declared “foreigners” by the Foreigners Tribunals of Assam. Some of the interviewees are former detainees and next of kin of those who have committed suicide. **The prolific local knowledge of the interviewees has been subjugated. The foregrounding of their counter-memory and expertise makes a significant contribution to the issues under study.** These research partners powerfully testified to the ongoing hardships and distress they confront. They courageously elucidated the relation between the continued impact of the “citizenship experiment” on their lives, political, institutional, and systemic malfeasance, and lack of access to effective justice mechanisms.

WEAPONIZING CITIZENSHIP

Barpeta District, Assam

In the detention camp, the room in which I was caged was small and suffocating. It could hardly accommodate the 40 or 50 people that were imprisoned there. I was detained in a regular jail in Goalpara. It was the month of Ramadan... The jail was almost 20 bighas. Both convicted criminals and other so-called foreigners were kept there. I was made to stay with them, all together... We shared rooms with convicted criminals... There were 240 of us, persons who were declared "foreigners." About 40 convicted criminals were assigned to supervise us... I was held in detention for almost three years. I am not in the detention camp now but my case is not resolved. I will have to sell my home to keep fighting to remain in my homeland. I am still listed as a "foreigner"... The fear of statelessness is a fear of the unknown, it is as large as the sky.

_____, Bangla-descent Muslim male, 70 years of age (PCRes-Berkeley: 2020-21)

MAJORITARIAN MANDATES

Since 2014, the BJP has sought to aggressively control and reorder the basis of Indian statehood, including security, territory, and population.¹⁴¹ Contingent to this thrust for control is the deeply held Hindu nationalist conviction that Hindus must be ascendant in India.¹⁴² ¹⁴³ The politicization of religion and the racialization of Muslims have endangered their rights and freedoms. Assertions that Muslims, as both internal and external "enemies," pose an imminent danger to the notion of a Hindu nation, the targeting of difference as "anti-national," and Islamophobia are repositioning India's already conflicted democracy.¹⁴⁴ The conspiracy theory of "love jihad" has

propagated that Muslim men are seeking to marry Hindu women to convert them to Islam and change India's demographics to favor Muslims.¹⁴⁵ Forcible conversions to, and the obstruction of the right of individuals to convert from, Hinduism continues to target Christians in India. Such assertions and actions reinforce unequal relations of power between the majority and minority, and enforce violence and assimilation on the latter. The impact is gendered, intensified for minority communities, and affect Adivasis, Dalits,¹⁴⁶ and other caste-oppressed groups.¹⁴⁷

A primary exemplar of the illiberal new order is the reconstitution of citizenship laws. The BJP's furtherance of forms of coloniality in Kashmir¹⁴⁸ and the pledge to implement prejudicial citizenship policies across the nation seek to actualize long-standing promises to "unify" India. The experiment to remake citizenship is presently concentrated on the state of Assam in Northeast India. Here, adverse laws, enforced with impunity, target Muslim inhabitants, and designate to whom (and on what condition) political, civil, and human rights may be accorded.

Political Context: The BJP's pre-2014 manifesto emphasized the need for prejudicial citizenship laws as critical to national security.¹⁴⁹ Following the introduction of the CAA amendment in parliament in December 2019, monumental and principled dissent by of those targeted and their allies coursed through the body politic across India.¹⁵⁰ This was exemplified by Shaheen Bagh in Delhi and Sivasagar¹⁵¹

in Assam, and met with repression from state forces, including charging and incarcerating dissenters under the Unlawful Activities Prevention Act, 1967.¹⁵²

On October 7, 2020, a three-judge bench of the apex Supreme Court upheld the fundamental right of persons to dissent against state institutions, including through public protest.¹⁵³ However, the Court did not deem such right to be absolute. Pointing to Shaheen Bagh, the Supreme Court adjudicated that public spaces may not be taken over by protesters for longer than three months.¹⁵⁴ This order came some seven months after massified anti-Muslim violence in Delhi, carried out largely by mobs of young Hindu men, with the reported support or complicity of the police.¹⁵⁵ The National Security Act, the Unlawful Activities Prevention Act, and sedition and other laws derivative of the colonial period¹⁵⁶ continue to be used to threaten, contain and imprison dissenting voices, and suppress social movements.¹⁵⁷

Vulnerable religious groups and identities comprise approximately 21 percent of India's population.¹⁵⁸ With the contemporary ascent of majoritarian¹⁵⁹ Hindu nationalism, the rights of marginalized religious groups have been overrun, resurging fraught and contentious issues.¹⁶⁰ Varying histories of belonging and recognition encode the impact of such negation on victimized-survivors and their communities across a spectrum of difference. The current and titanic upsurge of the Hindu Right also attests to the failure of successive national governments to address majoritarianism and their

reportedly Hindutva-complicit and “soft Hindutva” approach to politics when the BJP was not in power at the Center.¹⁶¹ This includes lack of justice and accountability for mass violence, including the 1984 pogrom targeting the Sikh community and the 2007-08 pogrom against Christians in Odisha (following the Gujarat 2002 pogrom against Muslims).¹⁶² This aided the BJP in assuming national power in 2014 and 2019, endangering the condition of Muslims of India.^{163 164}

APPARATUS OF DISPOSSESSION

In May 2019, both the Supreme Court of India and current Minister of Home Affairs Amit Shah spoke of “external aggression” and presented the NRC as a mechanism for expelling “infiltrators.”¹⁶⁵ Migration was thus represented as a means of aggression and the immigrant as an “aggressor.” In 2019, the BJP Government of India set in motion two initiatives to change the foundation of Indian nationality.¹⁶⁶

CITIZENSHIP (AMENDMENT) ACT (2019)

One was to authorize the Citizenship (Amendment) Act (2019) (CAA).¹⁶⁷ The amendment was passed by the Parliament of India on December 11, 2019,¹⁶⁸ and took effect on January 10, 2020.^{169 170} The CAA established new naturalization and citizenship procedures for “illegal”¹⁷¹ (undocumented) immigrants, and provided equal citizenship pathways and rights for persons, including from Buddhist, Christian, Hindu, Jain, Parsi, and Sikh communities.

Muslims, Adivasis, and Sri Lankan Tamil refugees were excluded.^{172 173} The enactment of the CAA into law¹⁷⁴ in 2020 gave precedent to religion as a criterion for citizenship in India for the first time. Muslims were the only religious group excluded from equal treatment under the CAA. In effect, the CAA affords legal protection for most persons of non-Muslim descent who may be excluded from the NRC.¹⁷⁵ The CAA privileges Hindus in defining citizenship by delegitimizing Muslims, India's largest minority religious group, and their entitlement to equal rights as citizens of India.^{176 177} In Assam, individuals incriminated as "foreigners" are predominantly local inhabitants. The 2019 amendment altered the existing Citizenship Act of 1955.¹⁷⁸ The CAA conferred citizenship primarily by descent (*jus sanguinis*) and community (as defined through religion). This signaled a fundamental shift away from India's constitutional and structural imperative as a secular democracy.¹⁷⁹ This design is also impervious to India's inherent obligation to hospitality in view of the subcontinent's long-standing and prodigious history of displacement and diaspora. The foreclosure of India as a place for Muslims presents Hindus as the rightful rulers. The Muslim minority population is characterized as "terrorists" and "foreign invaders" whose very presence poses a risk to the essential "Hinduness" of India.

NATIONAL REGISTER OF CITIZENS (NRC)

The NRC is a roster of all citizens of India. Its conception was required by the

2003 amendment of the Citizenship Act of 1955. **The other maneuver was a proclamation in November 2019 to recondition the NRC, currently solely applicable to Assam, as a national undertaking.**¹⁸⁰ A national-level NRC would ostensibly evaluate documentation of descent for hundreds of millions of individuals, crossing generations, to pronounce who may be considered a bona fide citizen of India.¹⁸¹

NATIONAL POPULATION REGISTER (NPR)

The National Population Register (NPR) is a database of all "usual residents," including citizens and non-citizens. A "usual resident" is "a person who has resided in a local area for the past six months or more" or "a person who intends to reside in that area for the next six months or more."¹⁸² The term "national population register" emerged in different contexts within India. The idea for a national program of identity cards emerged after an anti-Muslim campaign by the Sangh Parivar in 1992. This campaign resulted in the Congress government commencing "Operation Pushback" to identify and deport allegedly "illegal" (undocumented) Bangladeshi immigrants from Delhi and the surrounding areas.¹⁸³ In 2003, the Government of India adopted the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, which instituted the NPR to assemble an overarching identity data repository of all "usual residents" of India.¹⁸⁴ In 2010, India launched the NPR for

the entire country, employing two million data collectors to: “build a colossal digital database of fingerprints and other personal data.”¹⁸⁵ This was conducted alongside the 2011 Indian Census with the objective of collecting demographic information.¹⁸⁶

In 2014, India’s Ministry of Home Affairs declared NPR to be a: “first step towards creation of [NRC],” to verify the citizenship status of all persons encompassing the entirety of India.¹⁸⁷ In 2015, the NPR was updated via surveys to include mobile phone numbers,¹⁸⁸ ration card numbers, and Aadhaar numbers (identification number associated with individual demographic and biometric data maintained by the Unique Identification Authority of India).¹⁸⁹ The 34-item list in the NPR survey solicits information such as: “the place and date of birth of the parents, last place of residence, and identifying numbers of a few official documents such as driving license and passport.”¹⁹⁰ On December 24, 2019, the Indian Cabinet approved funds for “updating the NPR across [India],” beyond Assam. First compiled in 2010,¹⁹¹ the NPR already contains the names of 1.19 billion residents across India.¹⁹²

HISTORY OF CITIZENSHIP LEGISLATION

The intent and purview of citizenship laws in India have been discriminatory through time.¹⁹³ ¹⁹⁴ (See Appendices 7 and 8.) Under the Constitution of India, at its inception, citizenship was predominantly acquired on the principle of

territoriality or the “right of the soil” (*jus soli*).¹⁹⁵ Such laws are heteronormative in that they (almost exclusively) contend with heterosexual and cisgender relationships. It is important to locate the impact of this inherent bias. For example, would the children of non-heterosexual relationships be entirely excluded from citizenship consideration?

FOREIGNERS ACT, 1946 AND FOREIGNERS (TRIBUNALS) ORDER, 1964

The Foreigners Act of 1946 was promulgated by the Imperial Legislative Assembly (ILA).¹⁹⁶ **The Act placed the burden of proof to demonstrate that an individual was not a “foreigner” on the accused individual and not on the state.**¹⁹⁷ The Indian government authorized the Foreigners (Tribunals) Order in 1964, **requiring the creation of Foreigners Tribunals across India even as it was subsequently and solely implemented in Assam.**¹⁹⁸

The Foreigners Tribunals were empowered to determine if a person was a non-native, a foreigner. Such persons could be held in detention camps and eventually deported. Amendments were made to the Foreigners (Tribunal) Order in 2013 and 2019. If the state suspected an individual to be an “infiltrator” or an “illegal” (undocumented) immigrant, the police had requisite authority under the Foreigners Act (1946)¹⁹⁹ to arrest, prosecute, and extradite such a person.²⁰⁰

ASSAM ACCORD, 1985

The Assam Accord was rooted in political conflict and signed on August 15, 1985.²⁰¹ The Accord, signed by the Congress-led national government²⁰² and leaders of the Assam movement,²⁰³ committed that: “Foreigners who came to Assam on or after March 25, 1971 shall continue to be detected, deleted and expelled in accordance with law.”²⁰⁴ The Accord restricted the ability of foreigners to acquire land, promoted dominant Assamese cultural and linguistic identity, and led to the amendment of the Citizenship Act of India to establish three categories of foreigners: two of whom would become citizens and one who would be deported.²⁰⁵

The Citizenship Act was amended to induct Section 6A, which, *for the first time*, introduced a different citizenship criterion that was specific to a particular part of India. This precept, however, did *not* make any distinctions premised on religion. 6A provided that those who enter India from Bangladesh on or after March 25, 1971 will not be entitled to citizenship in India. It is as per the Assam Accord that the NRC requires the “detection” and expulsion of “foreigners.”^{206 207}

A third iteration was undertaken in 1987 and applied to all of India. For the first time, birth within India would become the premise for granting citizenship. In order to be a citizen by birth after 1987, a person had to additionally demonstrate that, at the time of their birth, one of their parents was a citizen of India. Via this procedure, *for the*

first time, legacy and birth were interlaced. The BJP’s implementation of the Accord in the form of the NRC sparked concerns of further ethnic conflict in Assam. (See later sections.)

CITIZENSHIP ACT AMENDMENT, 2003

The *first major shift* in determining the criteria for citizenship occurred in 2003-04 with the BJP-led national government (in power between March 1998 and May 2004).²⁰⁸ Per the 2003 CAA, a person born in India may be considered an Indian citizen only if at least one parent is a citizen of India at the time of the birth of this person and the second parent is not an “illegal” (undocumented) immigrant.²⁰⁹ “Illegal” immigrants are those persons who enter India without valid travel documents or enter with valid travel documents and overstay without permission.²¹⁰ “Illegal” immigrants are prohibited by law from acquiring Indian citizenship by registration or naturalization.²¹¹ This is irrespective of whether an individual is Hindu or Muslim.

The idea of an NPR and repurposed NRC emerged for the first time in 2003,²¹² when the BJP national government brought about *a second significant change* to the prescriptions contouring citizenship with the introduction of the NRC rules. Before this, there was no requirement for every citizen to register on any common list. If an individual were on the voter list, had a passport, or owned agricultural land, they would be a citizen of India, just as any children born to them/of theirs in India

would be citizens of the country. Under these rules, a voters list would be synonymous with a citizens register, and an individual's citizenship may be proved essentially by birth. The need for a separate register, therefore, was otiose.²¹³

FOREIGNERS TRIBUNALS AND ILLEGAL MIGRANTS (DETERMINATION BY TRIBUNAL) ACT, 1983

In 2005, the Supreme Court of India passed a far-reaching judgment reconfiguring the legal parameters of citizenship in India, striking down the Illegal Migrants (Determination by Tribunal) Act, 1983 (IMDT) as unconstitutional.²¹⁴ The IMDT has shifted the burden of evidence to the state.²¹⁵ In doing so, **the apex court controversially returned the burden of proof for a person's citizenship status from the state to the individual.**²¹⁶

The revocation of the IMDT Act led to the creation of the Assam Foreigners Tribunal(s) under the purview of the Foreigners Act, 1946,²¹⁷ for detecting "foreigners." The 2005 Foreigners Tribunal Order was repealed by the Supreme Court in 2007.²¹⁸ Resultantly, the Foreigners Tribunal Order, 1964, applies to Assam and Foreigners Tribunals are constituted under this Order.

IMPLEMENTING THE CAA, 2019

The 2019 CAA established pathways to citizenship and naturalization for "illegal" (undocumented) immigrants who arrived in India before December 31, 2014, from Afghanistan, Bangladesh, and

Pakistan belonging to six religious communities: Buddhist, Christian, Hindu, Jain, Parsi, and Sikh.^{219 220} Notable is the exclusion of Muslims and their children,²²¹ those non-religiously identified, tribal or indigenous persons, and Sri Lankan Tamil refugees.²²² For Muslims, the ongoing prejudicial citizenship processes complement the onslaught of pervasive majoritarianism. For tribal communities, prejudicial citizenship processes represent the continuation of displacement from their ancestral lands.

The draft rules for implementation of the CAA across India, proposed for submission to the Parliamentary Standing Committee on Subordinate Legislation by the first week of November 2020, were held up.²²³ As of January 28, 2020,²²⁴ the rules included the requirement of documentation of an individual's arrival in India from Afghanistan, Bangladesh, or Pakistan,²²⁵ before December 31, 2014,²²⁶ and "proof of religion" for such individuals.^{227 228}

In February 2021, the deadline was extended to April and July 2021 for the Lok Sabha and Rajya Sabha respectively,²²⁹ and further prolonged by three months in early June 2021.²³⁰ Even as the rules of the CAA were yet to be announced by the parliament, the BJP national government issued a notification on May 28, 2021, reportedly operationalizing prejudicial citizenship in certain areas in Chhattisgarh, Gujarat, Haryana, Punjab, and Rajasthan.²³¹

On July 27, 2021, it was reported that the rules of the CAA would not be announced by the parliament until January 9, 2022.²³²

FOREIGNERS TRIBUNALS AND ASSAM

The Citizenship Registration Rules, 2003 (NRC Rules) were amended for Assam in 2009, supervised by the Supreme Court.²³³ The amendment incorporated the inclusion of Rule 4A which did not require a door-to-door survey, unlike elsewhere in India. Instead, it invited applications for registration from all residents of Assam. A schedule was added to the rules to permit the preparation of the National Register of [Indian] Citizens for Assam. Further, Clause 8 provided that if an individual's name was missing from the final NRC, they may file an appeal before a Foreigners Tribunal.

For Assam, the 1964 order was amended.²³⁴ While other provisions of the Foreigners Tribunal continue to apply to Assam, because of certain special clauses concerning the NRC, currently the right to appeal to the Tribunal is provided from Orders passed during the finalization of the NRC. Thereby, those who are not on the finalized list of the Assam NRC, as published on August 31, 2019, may file an appeal before a Foreigners Tribunal. An appellant is ultimately deemed to be either “foreigner” or “citizen” by the Tribunal. Individuals who receive an unfavorable judgment from a tribunal have the sole option of appealing to the Assam High Court (unaffordable for many), followed by the (small) possibility of approaching Supreme Court.²³⁵

When the draft Assam NRC was published in 2018, more than four million persons were excluded from the survey

rolls. While a majority were not of Hindu descent, reportedly between one million and 1.5 million *were* Hindus.²³⁶ This alarmed the Hindu Right and its parliamentary wing, the BJP. The exclusion of a large number of Hindus from the 2018 NRC list is presumed to be the foremost reason²³⁷ that changes were made to the citizenship law, and that the Citizenship (Amendment) Act was enacted in 2019, whereby, in effect, only Muslims would be excluded from citizenship.

FOREIGNERS (TRIBUNALS) AMENDMENT ORDER, 2019

The 2019 Amendment Order enabled the establishment of specialized tribunals to adjudicate on citizenship and nationality cases. The amendment is technically applicable across India even as it is practically restricted to Assam.²³⁸ The 2019 amendment imposed new procedures for tribunals which may be instituted by states, along with the central government. The order does not specify guidelines for local authorities investigating individuals. District magistrates can determine to refer cases to a tribunal before an individual had appealed within two months of their case being registered.^{239 240}

While Foreigners Tribunals only exist in Assam at present, they are scheduled to commence across India once the NRC process is underway. Should this happen, the 2019 order will serve as an important precedent for how the process may function.²⁴¹ The Assam Foreigners Tribunal serves as a quasi-judicial and an

appellate mechanism for adjudicating on citizenship disputes. Imprecise standards have consigned expansive authority to local functionaries in directing Assam residents to Foreigners Tribunals.²⁴² The Supreme Court also placed the burden of proof of domiciliation on the residents of Assam. A resident whose citizenship is in dispute is tasked with procuring requisite documents to authenticate their citizenship in India and submitting them to the tribunals.²⁴³

DETENTION CENTERS

Once an individual is declared a foreigner, they may be held in a detention center. Presently, India operates thirteen²⁴⁴ detention centers. Others are reportedly being constructed in Delhi,²⁴⁵ Goa,²⁴⁶ Rajasthan,²⁴⁷ Punjab,²⁴⁸ and Karnataka,²⁴⁹ and further, in Jammu and Kashmir.²⁵⁰ The six centers in Assam reportedly confine those declared to be “foreign nationals” by the Foreigners Tribunals.²⁵¹ Assam’s Goalpara Detention Center is India’s largest and first detention center for “illegal” (undocumented) immigrants.

Others include the Lampur Center in Delhi;²⁵² Mapusa Center in Goa, “inaugurated” on May 29, 2019;²⁵³ a center in Alwar Central Jail in Rajasthan;²⁵⁴ a separate place inside Amritsar Central Jail; and a center in a new jail being constructed in Tarn Taran district in Punjab.²⁵⁵ In November 2019, the Karnataka High Court identified 35 locations to serve as temporary detention centers for “illegal immigrants.” A new site opened in early 2020 at Bengaluru, Karnataka, labeled

“Foreigner Detention Center.”^{256 257} In March 2021, the Hiranagar sub-jail in Jammu and Kashmir was declared a “holding center” for immigrants.²⁵⁸

CLASS AND GENDER INEQUITIES

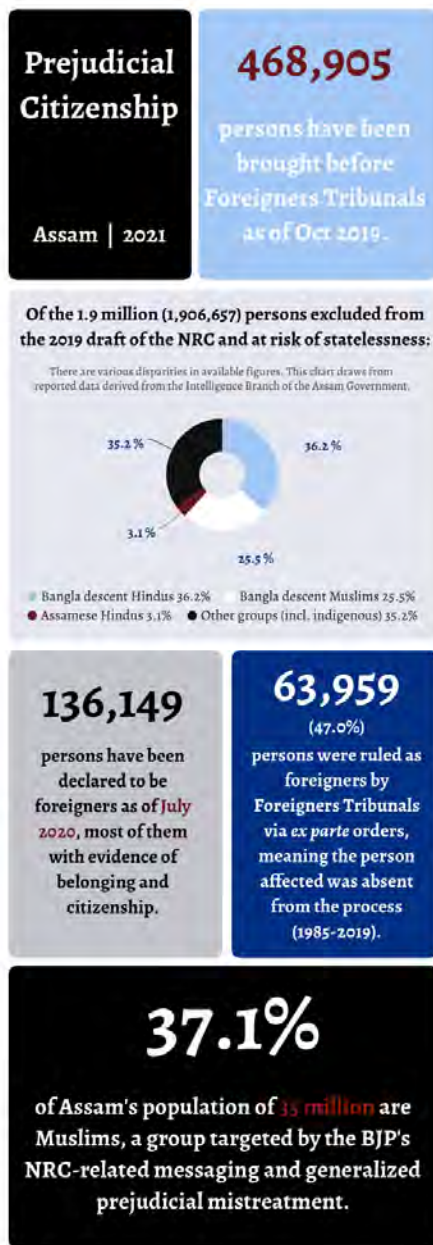
The formalization of documented citizenship in India disproportionately benefits those with class privilege and formal education. As noted, securing documentary proof of citizenship can be testing and complex. In India, where 68.8 percent of the population are poor,²⁵⁹ rendering customary practices and oral traditions inapplicable to the evidentiary basis disadvantages the poor. Culturally relevant forms of identification and verification are critical for a large percentage of the population who are economically marginalized, non-formally educated, non-literate or semi-literate so that they can effectively and meaningfully exercise their rights.²⁶⁰

Proving citizenship can be a costly and difficult process that requires obtaining decades-old documents, traveling long distances to file applications, possibly at short notice, and paying for a lawyer.²⁶¹ Countless women, for example, are only able to furnish a village council certificate as the sole documentation confirming their residency.²⁶² In 2017, it became even more challenging for an individual to verify their citizenship when the High Court ruled that the issuing official authenticating the document may be liable to prosecution should the person being authenticated be deemed a non-citizen.²⁶³

THE ASSAM FRONTIER

Figure 3 A&B: Assam

Citations to the graphic are in the endnote.²⁶⁴



(PCRes-Berkeley: 2020-21)



(PCRes-Berkeley: 2020-21)

JATI! MATI! BHETI!

(Nationality! Land! Hearth!)

BJP Slogan²⁶⁵**“Shoot the Traitors!”**

A cry raised by a group of young men, dressed in saffron, the color of the Hindu Right, at a metro station in Delhi on February 29, 2020, following massified violence targeting Muslims.²⁶⁶

SIGNIFICATION AND PRECARITIES

The backstory of the movement for prejudicial citizenship relates to the harsh and unresolved histories of the South Asia subcontinent, including the Partitions of 1905, 1947, and 1971, and the displacements and migrations to and from what is currently India. The population of Assam was recorded at 31.2²⁶⁷ million in 2011 and at 35 million²⁶⁸ in 2020.²⁶⁹ Individuals of Bangla²⁷⁰ and Nepali descent and certain tribal groups who have resided in Assam for generations are under disproportionate scrutiny. The actions of state institutions evidence that Muslim communities, particularly Bangla-descent Muslims, are the special focus of this regime. Driven by Hindu/ultra-nationalists, the objective appears to be to acculturate Bangla-descent Hindus and potentially indenture, dispossess, and displace Bangla-descent Muslims or render them non-citizens with the prospect of expulsion from Assam and India.²⁷¹

HINDUS OF ASSAM

The largest group of persons identified within a religious category in Assam is “Hindu.” The 2011 Census recorded 19,180,759 persons as Hindus, constituting 61.47 percent of Assam’s population.²⁷²

ETHNIC MINORITIES AND TRIBAL COMMUNITIES OF ASSAM

The 2011 Census recorded 3,884,371 tribal persons, who constituted 12.44 percent of Assam’s population.²⁷³

MUSLIMS OF ASSAM

Various Muslim communities have resided in the region for centuries. Some were of indigenous communities who converted to Islam through time, often to escape caste and other oppression.²⁷⁴ Some Muslim communities migrated to the region via trade routes²⁷⁵ while others immigrated or were brought into the region as forced labor.²⁷⁶ Some emigrated due to political conflict or climate-related displacements.²⁷⁷

In 2020, Muslims reportedly constituted approximately 37.1 percent of Assam’s population²⁷⁸ (34.2 percent in 2011)²⁷⁹ and numbered about 13 million of the state’s 35 million total population,²⁸⁰ of which Bangla-descent Muslims numbered approximately nine million and were alleged to be of “Bangladeshi origin” by the chairperson of the Minority Development Board.²⁸¹ (See Appendices 2 and 4 for population figures.)

BANGLA-DESCENT MUSLIMS OF ASSAM

Bangla-descent Muslims also self-identify as “Miya” Muslims.^{282 283} Miya poets remind us that the term “Miya” has been used pejoratively by non-Muslims and of their attempt to reclaim the identity and history associated with the term.²⁸⁴ The “Miya²⁸⁵ people” refers to Bangla-descent Muslim individuals whose ancestors emigrated or were transported to Assam from the Bengal Province during the British colonization of Assam, the Partition of 1947, and perhaps (few) during the Bangladesh liberation movement in 1971.²⁸⁶ The Bangla-descent Muslim community predominantly inhabits the Brahmaputra Valley and its river islands. They are fearful that, to silence concerns regarding the NRC, the government will: (1) Amplify the trope that Bangla-descent Muslims are “illegal foreigners” and hazardous; and (2) Seek to segregate Assam’s indigenous Muslim population from Bangla-descent Muslims.²⁸⁷

ETHNO-NATIONALISM AND “EVIDENCE”

Vulnerable communities across Assam contend that the government and majoritarian activists are fortifying citizenship to *manufacture* Muslims as the “enemy within.” News media has underscored that a messaging strategy of Hindu nationalists appears to elide a portion of Assam’s history wherein the initial anti-immigrant movement grew in response to the flow of Bangla-descent Hindu refugees from then-East Pakistan in the 1970s.²⁸⁸

An array of sub-nationalists continues to be hostile to persons and communities of Bangla-descent, irrespective of their faith. The dominant form of nationalism that drives current changes singles out certain communities and groups. Muslims,²⁸⁹ especially Bangla-descent Muslims in particular from the char areas (river islands), understand themselves to be the primary target of prejudicial citizenship.^{290 291}

Bangla Hindus are Bangla origin Assamese (Axomiya, Oxomiya)-speaking Hindus (also Bangla-descent Hindus, Bengali). Often identified and targeted based on their last (family) names.

Bangla Muslims are Bangla origin Assamese (Axomiya, Oxomiya)-speaking Muslims (henceforth, also Bangla-descent Muslims, Bengali). Many self-identify as “Miya” Muslims.

The term “**indigenous**” in Assam refers to peoples of different ethnic identities and not necessarily refer to “first peoples or inhabitants.”

Bangla-descent Hindus of Assam are also targeted, even as they are cast as “asylum seekers,” and Bangla-descent Muslims are portrayed as “infiltrators.”^{292 293} Various tribal and indigenous communities are scapegoated. In addition, individuals caught in arbitrary processes wherein they are unable to provide documentary evidence of residency and belonging and “D voters” are also targets. “D voter” denotes

“dubious voter” or a “doubtful voter.” It is a category assigned to disenfranchised voters in Assam whose evidence of citizenship is deemed insufficient by the Foreigners Tribunals. An individual who is declared to be a “D voter” is no longer allowed to use or be issued a voter photo identity card.

As a lawyer in Assam stated: “A large number of people may lose their case not because they do not have proof, but because they are unable to produce documents as government offices do not issue these documents.”²⁹⁴ The evidence required of citizenship is document-based. This is problematic in a country where countless people do not have original documents or verified copies to prove citizenship, such as birth certificates and property records prior to 1971. Voter identification cards, ration cards, Aadhaar cards,²⁹⁵ for example, are not recognized as proof of citizenship.

Unlike elsewhere in India, the criteria for citizenship in Assam are that: (1) An applicant must be an individual who entered Assam before March 1971; and (2) The children of such person(s). Thereby, even if an individual was born in Assam in 1973 and has never traveled out of Assam during the last forty-seven years, they will not be treated as a citizen unless they are able to show that their parents entered Assam before March 1971.²⁹⁶ It is anticipated that citizenship will be automatically available only to children of individuals listed in the NRC. Non-Muslims without documentary evidence of their birth may claim to have come from Pakistan or

Bangladesh and that their documents were seized. This seizure may be evidenced as entitlement to citizenship in India. Muslims, especially Bangla-descent Muslims, may not make such a claim.

GENDERED AND CLASSED IMPACT

Entrenched structural inequities in India position women, particularly women from minority religious communities and class and caste-oppressed backgrounds, at great risk for losing citizenship rights.²⁹⁷ Women, especially Bangla-descent Muslim women, who marry before the age of 18 (child marriage) are at heightened risk of losing their citizenship.²⁹⁸ Further, cultures of aggression impact how women who are targeted by the prejudicial citizenship process, especially marginalized Muslim women, survive within what can be characterized as a conflict-economy surfeit with sexualized violence.²⁹⁹

Communities termed the “tea [plantation indentured labor] tribes” and the orphaned, deserted, and destitute are at risk.³⁰⁰ Families have been forcibly separated. Lack of access to documentation for home births, paucity of land ownership, sex and labor trafficking, and lack of formal literacy exacerbate the insecurity of vulnerable groups.³⁰¹

“WHO IS AXOMIYA?”

The issue of who is “authentic” and who is a “foreign infiltrator” has afflicted Assam since 1947 and is a significant reason for the region’s protracted political volatility. Official narratives propagate

xenophobic tropes that Bangla-descent Muslims of Assam are “foreigners” and “intruders” who have “illegally” immigrated to India. This revisionist fabrication obfuscates that the borders between what is today India and the surrounding regions have been inevitably porous pre-1947 for reasons of geography, relationships, and intimately connected histories.³⁰²

Precolonial pasts and movements in between borders have been varyingly politicized in official history and practice since 1947 along the subcontinental and post/colonial fault line of religion and identity. The drive to accord citizenship to Bangla-descent Hindus (and not Muslims) in Assam has estranged diverse communities from each other and impaired everyday relations between them.³⁰³ **The post-2014 BJP government** has mobilized such long-standing disaffections in Assam in operationalizing its directive to create a majoritarian state.³⁰⁴ ³⁰⁵ It **has ignited a thunderstorm centering around the question: “Who is Axomiya?”**³⁰⁶

The Immigrants (Expulsion from Assam) Act was implemented in 1950. The first Census of India coincided with the induction of the NRC in Assam, undertaken in just three weeks. The notion of who is “original” to a place is political and has been defined, in practice, by the dominant in Assam and across India. “Belonging” is endowed with official meaning and granted rights and privileges by the state. Today, social, economic, and political relations of power and judicial breakdown inscribe dominant Hindus as those *most authentic*

to India. The category of the “Hindu” itself is complex and has evolved through history. Over time, myriad groups and their way of life have been subsumed into the ambit of the caste system. Further, caste-oppressed groups have been incorporated into Hinduism against their will, such as various Adivasi and Dalit communities. **The objective of this homogenization and syncretism has been to negate people’s capacity for self-determination and to actuate the movement for Hindu ascendancy in India.**

DESIGNATING “ORIGINAL INHABITANTS”

The term “original inhabitant” is not defined in Indian law. The movement to designate Assam’s “original inhabitants,” and against it perceived “foreigners,” emerged in the 1960s, after the passage of the Assam Official Language Act, gaining momentum in the late 1970s. In 2007, the Supreme Court decreed that **state institutions may incriminate a person as a “foreigner” without the burden of proving the allegation.**³⁰⁷

A reasonable pathway to citizenship verification was granted by the NRC process to some communities. This was denied to Bangla-descent communities, both Hindus and Muslims.³⁰⁸ There is significant animus and opposition to accord citizenship to Bangla-descent Hindus of Assam. Locally, it circulates that to acquire citizenship Hindus must attest to having fled to India from Bangladesh as targeted minorities. This is discordant with the claims made by

the Hindu community of Bangla descent to be legitimate citizens of India. However, while Bangla-descent Hindus have been offered certain modalities to establish citizenship, the NRC process prescribed a draconian citizenship verification pathway for Bangla-descent Muslims.³⁰⁹

DIVIDE AND TARGET

In 2012, the violence between the Bodo community and Bangla-descent Muslims in Assam attested to the manipulation of social complexities by Indian state institutions and Hindu nationalists. Political engineering by dominant groups in Assam has also sought to drive Bangla-descent Muslims against Goriya Muslims, Moria Muslims, Desi Muslims, and Sylheti-speaking Muslims.³¹⁰

³¹¹ **Sectarian manipulation posits vulnerable and marginal-minority communities against each other and constructs Hindus as *authentic* and non-Hindu “Others” as “outsiders.”** On May 1-2, 2014, it was reported that unidentified assailants attacked Muslims in the vicinity of Narayanguri village in Assam. At least 43 persons died, including women and children. In the aftermath, at a rally in West Bengal, Prime Minister Modi reportedly stated: “You are concerned about infiltrators and not your own people...they must go back.”³¹²

HINDU NATIONALISM AND BJP

The consolidation of “belonging” coincided with the infiltration of the Hindu Right in Assam. In 1949, the Rashtriya

Swayamsevak Sangh (RSS, National Volunteers’ Association), a leading Hindu nationalist organization, engaged an office bearer in the Northeast. In recent years, Hindu nationalists have amplified their presence in Assam and campaigned for exclusionary citizenship. In February 1983, a pogrom targeting Bangla-descent Muslims took place in Nellie in Assam.³¹³ Between 1,800 and 5,000 persons, primarily Muslims, were killed.³¹⁴ The Assam Accord was negotiated to bring the conflict to an end.³¹⁵ Between 2001 and 2006, the BJP expanded its electoral base.^{316 317 318} By 2016, the RSS reportedly had 830 shakhas (branches) in 672 locations across Assam.³¹⁹

Bolstered by its efforts, the BJP formed the state government in 2016 with two political allies,³²⁰ and reportedly focused on reinforcing the need to cement an Assamese identity.³²¹ In 2018, the BJP-led Assam government implemented the NRC in the state. Also in 2018, RSS leader Mohan Bhagwat reportedly addressed a crowd of 50,000 RSS members in Guwahati in Assam.³²² In 2019, the BJP enacted the CAA. This led to widespread protests from Axomiya activists who perceived the CAA as unconstitutional and anti-secular.³²³ Yet, the BJP won a majority of seats in Assam Tribal Council polls in January 2019.³²⁴ In August 2019, the Assam NRC list was published, propelling a massive number of individuals on the path to expulsion, exile, and statelessness.

On December 1, 2019, the state government of Assam declared curfew in Guwahati³²⁵ and the national government deployed the armed forces³²⁶ to Assam

following civil society street protests in dissent to the CAA. In ten districts, mobile internet services were discontinued for a minimum of 24 hours.³²⁷ On December 11, 2019, Prime Minister Modi reportedly tweeted: “I want to assure my brothers and sisters of Assam that they have nothing to worry after the passing of #CAB.”³²⁸ In November 2019, Uttar Pradesh Chief Minister Yogi Adityanath reportedly noted that the state would undertake a survey of “illegal immigrants,” mirroring Assam, to potentially implement an NRC of its own.³²⁹

On January 22, 2019, the RSS-backed student group Akhil Bharatiya Vidyarthi Parishad (ABVP) in Amingaon in northern Guwahati set up a “war room” to overcome the negative news about the Citizenship Amendment Bill.³³⁰ On June 22, 2020, an RSS campaign document for Assam reportedly accorded “illegal immigration” top priority.³³¹ On January 24, 2021, at a rally in Kokrajhar, Amit Shah stated: “Do you want to make Assam infiltrator-free or not?... Only the BJP can do that.”^{332 333} On March 18, 2021, Adityanath spoke at a campaign rally in Hojai, Assam against “infiltration,”³³⁴ and stated at another rally in Baksa district that the Congress encouraged “infiltrators.”³³⁵

In February 2021, former detainees stated that some of the detention centers were cramped, lacking in basic facilities and hygiene and sufficient food,^{336 337 338} where corrupt officials charged astronomical prices for needed items.^{339 340} In the past, detainees have organized hunger strikes to protest their predicament.³⁴¹ On March 24, 2021,

imprisoned anti-CAA activist Akhil Gogoi reported in a letter that he was experiencing physical and mental “torture.”³⁴² On March 31, 2021, Amit Shah spoke at a rally where he stated that the BJP would not permit their political opponent(s) “turn[ing] Assam into [a] hub of infiltrators.”³⁴³

BJP AND ASSAM STATE ELECTIONS, 2021

In preparation for the 2021 state elections, the Hindu Right reportedly spent five years galvanizing its electoral base through asserting an anti-Muslim Hindu identity.^{344 345} In May 2021³⁴⁶ the BJP won³⁴⁷ 60 seats in Assam out of the state’s 126 seat legislative assembly while BJP allies Asom Gana Parishad (AGP) and United People’s Party Liberal (UPPL) won another 15, to stay in power in state government.³⁴⁸ Following the BJP’s victory in the Assam state elections, Himanta Biswa Sarma, recently appointed Chief Minister of Assam, introduced the Assam Cattle Preservation Bill, 2021, in the state legislature on July 12, 2021. This instrument reportedly seeks to ban the purchase and sale of beef products in geographical areas where “Hindu, Jain, Sikh and other non-beef-eating communities” predominately reside, or near temples or monasteries.³⁴⁹ Civil society and political leaders expressed concern that the bill may escalate religion-based hostilities in the state.

THE CARCERAL STATE

Figure 4 A&B: Effects



(PCRes-Berkeley: 2020-21)

Effects of Navigating the NRC on Women

Assam | 2021

More Vulnerability to Statelessness

Women are less likely to have attended school, owned land, or kept the same name in official documents, making them more vulnerable to statelessness.

Impact on Raising Children

Some women, responsible for the care of children, had to pull their children from school to help raise money for the citizenship process, or had to find a husband for a minor daughter in hope of protecting the girl.

Heavier Caregiving Workload

There is less social support for a woman to leave home to hide or to flee from an area. If a husband or son were to flee or be detained/deported due to the citizenship process, women often stay and shoulder a heavier workload to care for elders and children.

Domestic Violence

Immense pressures connected to the citizenship process can result in violence by male members of a household against women and/or children.

Vulnerability to Impoverishment

Women in general have less money to spend on citizenship processes. Even if a woman's citizenship status is not in question, the loss of a husband or son to the citizenship process or suicide can make her more vulnerable to impoverishment.

Gendered Targeting by Crisis Profiteers

Crisis profiteers, such as extortionists and scammer lawyers, face less risk of physical confrontations or social consequences when targeting women.

Stress of Traveling

Many women do not travel outside their area and traveling long distances to hearings and to secure papers can be more physically, emotionally, and mentally taxing than for men.

(PCRes-Berkeley: 2020-21)

RECONDITIONING THE NRC

In December 2019, while news media reported on the use of detention centers within jails and the construction of standalone detention center(s) in Assam, Prime Minister Modi reportedly stated: “The rumor of detention centers being spread by the Congress and urban Naxals is totally false. This is being done with a bad intention to destroy the country, it’s filled with evil motives; this is a lie, lie, lie,” adding, “neither are any of the country’s Muslims being sent to detention centers nor is there any detention center in India. It’s a white lie.”³⁵⁰

The reconditioning of the NRC was mandated by the Indian government under the Assam Accord and advocated for by Assamese groups. Between April and December 2019, Amit Shah advocated for the amplification of the NRC across India,³⁵¹ ³⁵² reinscribing that the Assam-NRC was a precursor to constituting the nation-wide NPR. In February 2020, civil society leaders expressed concerns that implementation of the NRC would increase corruption and drive desperate people to pay bribes to state officials to acquire documents.^{353 354}

Also in February 2020, Two Circles, a non-profit organization, reported that several Muslims in Assam who had been excluded from the NRC could not acquire passports and were unable to exercise their religious freedom to go on pilgrimages. Further, NRC-excluded persons were reportedly debarred from army recruitment.³⁵⁵ These individuals had not

yet received exclusion letters and were, therefore, unable to appeal or remedy their exclusion.³⁵⁶

Context: The structure of the NRC renders it inscrutable. In identifying “non-citizens,” the NRC acts in concert with state functionaries and the local police.³⁵⁷ Originally, the NRC was a list of the names of Indian citizens compiled in 1951, many of whom were refugees.³⁵⁸ The NRC was undertaken with the prevalent objective of curtailing the entry of refugees into the state and the identification and deportation of “illegal” (undocumented) immigrants. The 1951 NRC was premised on the first post-1947 census of India,³⁵⁹ and reportedly the names of individuals were absent from at least six districts in Assam.³⁶⁰ It is relevant to note that the law in India omits to differentiate between “illegal” immigrants and refugees.³⁶¹

2013-2019: In 2013, the Supreme Court of India instructed that the NRC list be updated. In Assam, every individual claiming to be a citizen was required to make an application to the local authority with the necessary documents. Authorities scrutinized the documents and prepared a draft list of citizens. As noted earlier, **more than four million persons were excluded from the draft NRC list released in July 2018.**³⁶² After the draft list was made public, individuals who had been excluded were allowed to submit further documentation proving their citizenship. It is significant that in August 2018, the Armed Forces Special Powers Act, 1958 (AFSPA), an

impunity law, was extended in Assam to aid the NRC process.³⁶³ (See Appendix 6.)

The most recent (ostensibly “final”) update to the NRC was undertaken on August 31, 2019.^{364 365} **At that time, approximately 1.9 million persons (numbering 1,906,657)**³⁶⁶ **were excluded** from the published list, placing their citizenship rights and protections at risk. Such individuals may face expulsion, exile, and statelessness. The 2019 Assam NRC list reportedly excluded approximately 486,000 Bangla Muslims³⁶⁷ (constituting 25.5 percent of those excluded from the August 2019 NRC list)³⁶⁸ of a total of 700,000 excluded Muslims (36.7 percent of the excluded);³⁶⁹ approximately 500,000-690,000 Bangla Hindus (26.2-36.2 percent of those excluded);^{370 371} and approximately 60,000 Assamese Hindus (3.1 percent of the excluded).³⁷²

However, Hindus excluded from the 2019 NRC list are likely to be protected through the 2019 amendment to the Citizenship Act, 1955. As per this amendment, popularly known as CAA, certain non-Muslims adjudged to have “illegally” entered India before December 31, 2014, may obtain citizenship. Those at risk of loss of citizenship reportedly included thousands of tribal (indigenous), ethnic, and minority communities.³⁷³ Among the latter, individuals including those from indigenous groups number between 240,620 and 670,657 (between 12.6 and 35.2 percent of the excluded).³⁷⁴

“Foreigners” and “D Voters”: In addition to the NRC list, the Assam Border Police too have pronounced certain persons

to be “foreigners,” in a reportedly non-transparent use of power.³⁷⁵ The Election Commission also vetted voter lists in Assam in 1997 and decreed certain voters as “doubtful” citizens (and have continued this practice). The Commission identified 231,657 persons as “D voters,” divesting them of voting rights, and has referred the cases to the Foreigners Tribunals.³⁷⁶ As of March 2021, a petition challenging the categorization of “D voters” was pending in the Supreme Court.³⁷⁷ The number of persons among those declared as “foreigners” or “D voters” that applied for inclusion in the NRC is reportedly unknown, implying a *possible and unknown number of persons facing expulsion and statelessness* in addition to the 1.9 million already excluded by the NRC.

“OTHER,” “OUTSIDER,” “ENEMY”

In October 2019, Amit Shah reportedly stated that NRC-based data would be used to expel those considered “illegal immigrants,”³⁷⁸ using the pejorative term “infiltrators.”^{379 380} In affixing the identification of “foreigner” to persons who may then be “eliminated” from domiciliation, the NRC corroborates the erasure of non-Hindu and insufficiently-majoritarian-Hindu “Others.”

Affected “Other-Outsider” communities include:³⁸¹

- Bangla Hindus and Bangla Muslims.
- Autochthonous (indigenous) Bangla-descent Muslims who are known as Cachari Muslims and reside in Cachar, Karimganj, and Hailakandi districts.

- Autochthonous Assamese-speaking Goriya and Moria communities.
- Autochthonous Deshi Muslims with ancestors from the Koch Rajbongshi community who converted to Islam.
- Autochthonous Koch Rajbongshi Hindus who speak an indigenous language different from Assamese are often deemed “outsiders” due to their naming practices which draw on Bangla-descent Hindu-seeming names.

ASSAM’S “FOREIGNERS TRIBUNAL”

The Foreigners Tribunal of Assam remains the state mechanism for appeal for persons excluded from the NRC. The tribunal is authorized to determine the validity of such exclusions. Individuals may petition the Assam Foreigners Tribunal with requisite documentation to prove their citizenship. The process is arduous, complex, and routinely discriminatory.³⁸²

As a lawyer in Assam noted: **“From 2008 to 2014, no one was declared a foreigner from this tribunal. After that, in almost 95 percent of the cases, people have been declared foreigners. Most of them are Muslims.”**³⁸³

Three types of cases may be brought before the Foreigners Tribunals in Assam: (1) The cases of those declared to be “doubtful” citizens from 1997 onwards by the Election Commission; (2) The cases of those charged with being “foreigners” by state forces, including the police and national security agencies; and (3) The cases of the 1.9 million persons who have

been declared to be “non-citizens” by the NRC process, which are currently foremost.

Before the NRC’s publication of its list of citizens, the tribunals were primarily adjudicating on two types of cases: (1) Those pertaining to individuals who had been declared “D voters” in the mid-1990s; and (2) Those apprehended by the police or state forces based on the supposition that they were not citizens.

ENFORCEMENT

As of October 2019, it appears that the cases of 468,905 persons were brought before the Foreigners Tribunals.^{384 385} Of these cases, as of July 31, 2020, reportedly 136,149 people were declared to be “foreigners.”^{386 387} Between 2015 and June 30, 2020, 86,756 persons, and in 2019, 22,783 persons, were declared to be “foreigners.”³⁸⁸ Community leaders, local lawyers, and journalists state that of the 136,149 persons declared to be “foreigners,” 70 to 80 percent (95,304 to 108,919 persons) are reportedly Muslims.³⁸⁹ Among these Muslim individuals, about 90 percent (approximately 85,773 to 98,027 persons) are reportedly Bangla-descent Muslims, “Miya” Muslims.³⁹⁰ The results are gendered. For example, in 2019, 290 women were reportedly declared “foreigners.”³⁹¹ In December 2020, 140,050 cases were pending before Foreigners Tribunals in Assam.³⁹²

Community knowledge holders state that a **vast majority** of those declared “foreigners” are local inhabitants with documentary evidence of belonging and

citizenship.³⁹³ Further, the NRC may refuse citizenship to Muslim asylum seekers and refugees. Civil society leaders contend that such persons, and the few who may be “illegal” (undocumented), must be entitled to asylum.³⁹⁴

PROCEDURES AND FUNCTIONING

Following the NRC’s publication of its list in August 2019, the individuals who have been removed from the list will have their cases decided by the tribunals. Therefore, the workload of the tribunals will increase manifold. In 2019, there were approximately 100 Foreigners Tribunals in Assam. This figure was confirmed in a government document dated March 11, 2020.³⁹⁵ An analysis of 787 Guwahati High Court orders and judgments published by *The Wire* found that cases before Foreigners Tribunals took about 3.3 years on average.³⁹⁶ A case that started in the Foreigners Tribunal and was disposed of in the High Court took about 6.7 years, on average.³⁹⁷ ³⁹⁸ Given these timelines, an influx of cases of persons excluded from the 2019 NRC began to place an inordinate burden on the judicial system and create economic hardship for litigants.³⁹⁹ The central government pledged to help the state government of Assam build an additional 200⁴⁰⁰ to 1,000⁴⁰¹ tribunals to handle the large number of cases.⁴⁰² On March 16, 2021, the Lok Sabha recorded that there were 300 Foreigners Tribunals in Assam and that the Home Ministry had authorized the establishment of an additional 200.⁴⁰³

Cases are referred to the Foreigners Tribunals by: (1) Authorities, including police and armed forces personnel who suspect individuals to be non-citizens; (2) Harmed individuals if they are excluded from the NRC; and (3) The Election Commission through identification. The Foreigners Tribunals routinely lack transparency with respect to principles, standards, and functioning.⁴⁰⁴ ⁴⁰⁵ This is exemplified later in the report, in the sections entitled: “Bearing Witness” and “Cases and Suicides.” The Foreigners Tribunals often exercise powers beyond their jurisdiction, issuing orders to arrest, detain, intern, and deport persons declared foreigners, sometimes during a proceeding. They have ordered authorities to confiscate ration cards and remove certain names from electoral rolls. The Guwahati High Court appears to approve of these expanded powers.⁴⁰⁶

The Assam Foreigners Tribunals are routinely led by lawyers and not by judges. Heads of tribunals are appointed on a temporary basis. There is pressure on temporary appointees to decide against citizenship applications brought before them. Their re-appointment appears conditional to their inclination to reject the citizenship applications of a large number of persons. Reportedly: “members who declare foreigners at a rate of less than 10 percent stand the risk of being axed.”⁴⁰⁷ Such decisions are more frequently taken against those who are socially vulnerable, such as individuals from minority religious communities.⁴⁰⁸ ⁴⁰⁹

Reportedly, members (de facto judges) of the Foreigners Tribunals and those who are appointed to head the tribunals prevalently have minimal judicial experience and their substantive and procedural knowledge of the law is limited.^{410 411} They often receive little or no training in the reading and interpretation of documentation from other states. This may induce the rejection of valid out-of-state documents that would prove an individual's citizenship and places inter-state migrants at a disadvantage.^{412 413} Where the Foreigners Tribunal requires an issuing authority to testify to the authenticity of a certificate, convincing and providing support for an official to travel to Assam is an obstacle for the petitioner.⁴¹⁴

ISSUES AND EFFECTS

Constitution, Res Judicata: The NRC and the Foreigners Tribunals processes and rulings reportedly and repeatedly violate the Indian Constitution's Article 14: right to equality before the law;⁴¹⁵ Article 15: prohibition of discrimination on grounds of religion, race, caste, sex or place of birth;⁴¹⁶ and Article 21: protection of life and personal liberty.⁴¹⁷

The rejection of the principle of res judicata in 2018⁴¹⁸ inferred that individuals who are endorsed by the NRC and a Foreigners Tribunal may come under scrutiny in a subsequent NRC list or the ruling of a new tribunal order. Res judicata was restored in 2019. In May 2019, the Indian Supreme Court rejected a plea by appellants to use the presence of their

names, or family members' names, on the NRC list to challenge a "foreigner" verdict by a Foreigners Tribunal in Assam, ruling that the principle of res judicata did apply.⁴¹⁹

Ex Parte Rulings: By February 2019, 63,959 individuals in Assam had been deemed foreigners reportedly through ex parte proceedings,⁴²⁰ where a tribunal issued a judgment in the absence of participation of the accused. The above is 47 percent of the 136,149 persons reportedly deemed to be foreigners.⁴²¹ In many cases low-income laborers have difficulty losing daily wages to attend the proceedings to defend their citizenship.

In January 2018, in conjunction with persons who were determined to be "foreigners" in absentia, a civil society fact-finding team reported that, in certain instances, the government had used: "omnibus notices to inform large numbers of persons, sometimes naming some persons and simply adding a number for the others."⁴²² The report noted that a: "majority of persons deemed to be foreigners and detained in the camps" did not have requisite legal representation and were mostly ruled to be non-citizens without their participation in the adjudication process. In April 2021, in response to a case, the Guwahati High Court ruled that citizenship cases should not be determined on an ex parte basis.⁴²³

Databases and Documentation: Official databases of names may not match the

information provided by individuals. Names may be misspelled and be incorrectly or inconsistently translated, and individuals may not have the requisite documentation verifying their identity or duration of residency in a place. A disproportionate number of persons may not have the resources to establish their status.⁴²⁴ Community members state that oral history and evidence rooted in customary practice must be an evidentiary basis for establishing rights.⁴²⁵

Proving citizenship is costly. Though the government of Assam announced in August 2019 that free legal aid would be available to the “needy” who were excluded from the NRC,⁴²⁶ many people who appeared before the Foreigners Tribunals reportedly do not have proficient and free legal aid.⁴²⁷ Numerous reports and community accounts evidence how valid documentation of residency was rejected.⁴²⁸ Further, individuals can apparently intervene in these proceedings in an attempt to influence the outcome.⁴²⁹

Reportedly, in September 2019, a Muslim family with land documents dating back to 1927 found that all members of their family were not on the NRC due to: “an objection filed [apparently anonymously] by someone against their inclusion in the final draft.” It is unclear who may file such objections or how bad-faith objections may be impeded or held accountable. It has been reported that approximately 250,000 such objections have been made, mostly anonymously.⁴³⁰

Gender and Class: Disproportionately, individuals excluded from the NRC and whose cases are presently before the Foreigners Tribunals in Assam are from low-income backgrounds.⁴³¹ Such individuals often do not have the necessary documentation. Many are rejected due to small discrepancies in their documents, such as spelling inconsistencies.

Women routinely lack access to state-issued identification and are detrimentally impacted by the tribunal’s reliance on identity paperwork connected to one’s parentage. They may lack requisite documentation to establish their place and date of birth and those of their parents. Women often change their place of residence and last name after marriage. Women and girls who marry prior to the age of 18 may have paperwork linking them to a male spouse,⁴³² but not necessarily to her birth family. Women who move or are displaced are at a greater disadvantage.⁴³³ The mental health of innumerable women who faced the Foreigners Tribunals has been impacted,⁴³⁴ as exemplified by a Muslim woman who reportedly committed suicide as her husband’s citizenship case drained the family of their property and money.⁴³⁵

Psychosocial Health and Well-being: Research shows that the experiences of those who are forced to prove their belonging have exacerbated mental and emotional strain.⁴³⁶ The procedures are reportedly manipulated by officials and others to extort bribes and discipline and criminalize members of targeted

communities. Impacted community members contend that the psychosocial and economic breakage inflicted by the prejudicial citizenship policies, discourses, programs, and laws on targeted religious, ethnic, and tribal communities, and in particular on marginalized Muslims, has caused them irreparable harm.⁴³⁷

The Foreigners Tribunal processes and the resultant and imminent risk and actuality of detention have adversely affected the mental health of individuals and communities, including health crises, sleep irregularities, post-traumatic stress disorder (PTSD), suicidal ideation, and suicide.^{438 439}

Economic Drain: Many who lack the necessary resources have reportedly lost their citizenship without being able to adequately defend themselves.⁴⁴⁰ Countless individuals have been forced to sell their possessions or use a large portion of their savings on defense lawyers and forgone work to appear at the proceedings. A tribunal member observed that the Foreigners Tribunal processes have become an: “industry” where money is being “mint[ed].”⁴⁴¹

Harassment, Human Rights Abuses and Corruption: Individuals navigating the Foreigners Tribunal processes have reportedly become targets of crisis profiteers or legal malpractice and incompetence, in a context where accountability for these acts would be difficult. In many cases, people have had to

sell off livestock, mortgage land, sell personal possessions, and take multiple loans to pay lawyers, middlemen, travel expenses of their witnesses, and otherwise navigate the tribunal’s processes.

Several persons have reported lawyers, brokers, and lay opportunists amassing profits by taking money and doing very little in return, in some cases refusing to take their calls or providing a fake case number or no case number at all. The tribunal processes have been reportedly filled with abuses, prejudices and arbitrary rulings that resulted in forms of dispossession and the prospect of statelessness. Such actions were reportedly enabled through judicial negligence and complicity.⁴⁴²

Various forms of discrimination were recorded against Bangla-descent Muslims, Bangla-descent Hindus, tribal community members, inter-state migrants, and persons with mental illness and disabilities.⁴⁴³ The Foreigners Tribunals have socially isolated Muslims, especially Bangla-descent Muslims. The All Assam Minority Students’ Union has stated that the Border Police and the tribunals are “foreigner-making factories” where “officials have orders to harass the religious and linguistic minorities.”⁴⁴⁴

The Foreigners Tribunals do not have requisite provisions to respond to the needs of persons with mental illness, such as mandatory legal aid, or accommodations for persons with disabilities during the legal process. Neither have the citizenship processes in Assam been able to

sufficiently and responsibly account for the condition of inter-state migrants. Such migrants number approximately 139 million in India according to the 2011 census.⁴⁴⁵ Between 2019-2020, there were no statements from the Assam State Human Rights Commission (SHRC) or the State Commission for Minorities (SCM) pertaining to human rights and minority rights in the state.⁴⁴⁶

DETENTION, CRIMINALIZATION

Once declared a “foreigner,” an individual may be held in detention. Immigration detention centers are often locally referred to as labor and “concentration camps.”⁴⁴⁷ Detention serves to confine those deemed “illegal foreigners” and to criminalize the community and identity they represent.⁴⁴⁸ Without established limits and no protocols for meaningful and ethical resolution of the matter, detentions can be prolonged or indefinite.⁴⁴⁹ In November 2019, 1,043 persons⁴⁵⁰ were reportedly being held in detention at six centers across Assam.⁴⁵¹

Approximately 20 to 25 percent of them were women.⁴⁵² Some young children were also detained.⁴⁵³ In February 2020, there were reportedly 834 persons in detention, 559 Muslims and 275 Hindus.⁴⁵⁴ In March 2020, it was reported that 3,331 persons had been held in the six detention centers in Assam.⁴⁵⁵ Earlier, detainees have organized hunger strikes. At the end of May 2021, reportedly 170 detainees remained incarcerated, while in July 2021, the reported number of detainees was between

177 and 181.⁴⁵⁶ In June 2021, local communities and lawyers noted the number of incarcerated detainees to be approximately 500.⁴⁵⁷

The six detention centers operate within existing jails in the districts of Dibrugarh, Goalpara, Kokrajhar, Jorhat, Silchar, and Tezpur.⁴⁵⁸ Reportedly, presently there are 31 jails in Assam: 22 jails at the district level and six jails at the central level.⁴⁵⁹ As of April 2020, at least 30 persons have died in Assam’s detention centers since 2009, 16 of whom were reportedly of Hindu descent and 14 were of Muslim descent.⁴⁶⁰ Three among them were women. Three had alleged residency in Bangladesh.⁴⁶¹ As per the Assam Parliamentary Affairs Minister, between March 13, 2013 and July 31, 2020, reportedly 227 persons were deported, a majority to Bangladesh.⁴⁶² Detention centers are reportedly being constructed to hold captive those deemed “illegal immigrants.” A detention center earmarked to hold 3,000 persons⁴⁶³ is reportedly being constructed at Goalpara district in Matia and reportedly spans 288,000 ⁴⁶⁴ square feet. In August, 2021, the Guwahati High Court ordered that construction be completed in 45 days. Ten additional detention centers are planned to hold the expected number of persons anticipated to be declared foreigners in the near future.⁴⁶⁵

In January 2018, a civil society fact-finding team reported that the detention camps appeared to function in violation of Indian laws. In various instances, the detainees had fewer rights than convicted prisoners who were deemed to be citizens. The convicted prisoners had the right to

parole, the right to communicate with family and to “walk, work and rest in open courtyards.”⁴⁶⁶ It was reported that families were separated by gender in the detention camps. Children below the age of six were permitted to stay with their mothers, even as there was a lack of transparent protocols regarding children over the age of six.⁴⁶⁷ Numerous detainees were held captive in detention centers that were far away from their place of residence, making it challenging and economically taxing for their families to visit.⁴⁶⁸

In January 2019, the Ministry of Home Affairs stated that the national government had: “circulated a Model Detention Center/Holding Center Manual” to state governments, with the likely objective of creating an Assam-like NRC infrastructure nationwide.⁴⁶⁹ In response to a Public Interest Litigation, in May 2019 the Supreme Court ordered the conditional release of detainees who have been incarcerated for more than three years.^{470 471} Numerous detainees continued to be held at detention centers for over three years without provisions of parole or bail, despite the apex court’s directive that they be released.⁴⁷² Community leaders are critically concerned that the NRC could cause the detention of Muslims in Assam and later across India in numbers similar to the Uighurs in China.⁴⁷³

As of February 2020, 13 detention centers were operational in India.^{474 475} In response to the COVID-19 pandemic, in March 2020, the Supreme Court of India directed state governments to appoint

high-level committees to grant paroles to prisoners who were serving seven-year terms. This led the Government of Assam to discharge approximately 722 prisoners at the end of March.⁴⁷⁶ In April 2020, it was reported that Indian prisons have “an occupancy rate of 117 percent and inadequate healthcare services [and] overcrowded Indian prisons constitute a perfect hotspot for the spread of coronavirus.”⁴⁷⁷

On May 21, 2020, the Supreme Court of India prescribed that “illegal foreigners” held in detention in Assam for over two years must be released to avoid overloading such facilities.⁴⁷⁸ In September 2020, approximately 350 persons were granted bail and released from detention, in adherence with the Supreme Court’s order to decongest over-capacity prisons during the pandemic.⁴⁷⁹ On October 9, 2020, the Guwahati High Court in Assam stated that individuals designated as either “foreigners” or “illegal immigrants” may not be detained in jails.⁴⁸⁰ In May 2021, it was reported that detainees continued to be held in facilities with those imprisoned for criminal offenses.⁴⁸¹ It remains the case that technically they may remain in detention until deported. The state government may send individuals against whom decisions are given by a tribunal to a detention center. It remains unclear which laws may be applicable to these centers. Individuals are expected to remain in detention unless they receive bail, which can prove expensive for the family and the community, or until they are deported.

On October 14, 2020, the Assam NRC coordinator informed the media that certain “ineligible persons” who remained on the NRC list would be removed after confirmation of the person’s identity.⁴⁸² On October 17, 2020, the new political party, Rajjor Dal,⁴⁸³ released its draft constitution **with the objective of rendering the state free of “foreigners,” proposing to enact Clause 6 of the Assam Accord.**⁴⁸⁴ In October 2020, 425 persons reportedly remained in detention.⁴⁸⁵ **In December 2020, a state official alleged that the Assam NRC list of August 2019 was a “supplementary” record and that a definitive list is due to be published.**⁴⁸⁶ Once the tribunals resume apace post-pandemic, the number of persons adversely impacted by citizenship rulings is expected to increase exponentially.⁴⁸⁷

NRC ISSUES

The legality and constitutionality of the NRC process has already been litigated and effectively approved by the Supreme Court. Litigation of thousands or more individual NRC-related cases will take place through the Foreigners Tribunals. While the rulings of the tribunals may be challenged in the High Court, this presents a burdensome and potentially expensive task, following which a few will be litigated at the Supreme Court. What may be filed in High Court and Supreme Court are not appeals but judicial reviews, and these courts will only primarily concern themselves with procedural issues (and not merit) relating to tribunal cases. **It is**

anticipated that the final list of the NRC will contain a massive number of Muslims who will be declared to be non-citizens, resulting in a great number of cases.

Potential litigation on criteria for determining citizenship may include the classification of required documents and procedures adopted by the tribunals. India provides a free legal aid system for courts and tribunals and a class action litigation was filed with the High Court to activate legal aid provisions for NRC-related cases. Another critical issue on which litigation may be required are the conditions of detention and the validity of detention centers. Surveillance is another concern. The Assam Border Organization, established in 1962 for the “detection and deportation of illegal foreigners,”⁴⁸⁸ is allegedly constructing a centralized repository of biometric and other information for those deemed to be “foreigners” by the state. The database will reportedly track the movements of alleged “foreigners,” and used to deny state resources to those declared “foreigners.”

COVID-19, DETERIORATION OF RIGHTS

The delivery of notifications to those who had been excluded from the 2019 NRC was reportedly scheduled to commence on March 20, 2020.⁴⁸⁹ Once an individual receives an NRC notification, they have 120 days to challenge their exclusion from the NRC.⁴⁹⁰ However, the COVID-19 pandemic and the floods in Assam from May through the summer of 2020⁴⁹¹

led authorities to postpone the distribution of NRC notifications. In February 2021, the Ministry of Home Affairs acknowledged that the delivery of the notices was still on hold.⁴⁹² Without the NRC notification in hand, individuals excluded from the NRC could not initiate the legal process to appeal the NRC's decision and possibly regain their citizenship.⁴⁹³ In March 2021, the "e-Foreigners Tribunal portal project" was sanctioned even as a large number of impacted persons may not have access to such a platform.⁴⁹⁴ On April 1, 2021, the central government reportedly ordered the Assam state government to send "rejection" notifications to persons whose applications for inclusion in the NRC were rejected.^{495 496}

The hearings of the Foreigners Tribunals, too, were disrupted due to the COVID-19 pandemic and the activation of 200 new tribunals has been delayed.⁴⁹⁷ During the pandemic, Foreigners Tribunal members (judges) reportedly demonstrated anti-Muslim sentiment. In April 2021, a member wrote to the Health and Finance Minister, reportedly representing other Foreigners Tribunal members and noting their intent to donate to COVID-19 relief measures. They stated that their contributions should not benefit certain categories of Muslims.⁴⁹⁸

On May 13, 2021, the Assam NRC Authority approached the Supreme Court seeking re-verification of the NRC list (emphasizing districts bordering Bangladesh and with significant Muslim populations),⁴⁹⁹ and appealing for "illegal

voters" to be purged from Assam voter lists.⁵⁰⁰ (See Appendix 9.)

VIOLATIONS OF RELIGIOUS FREEDOM

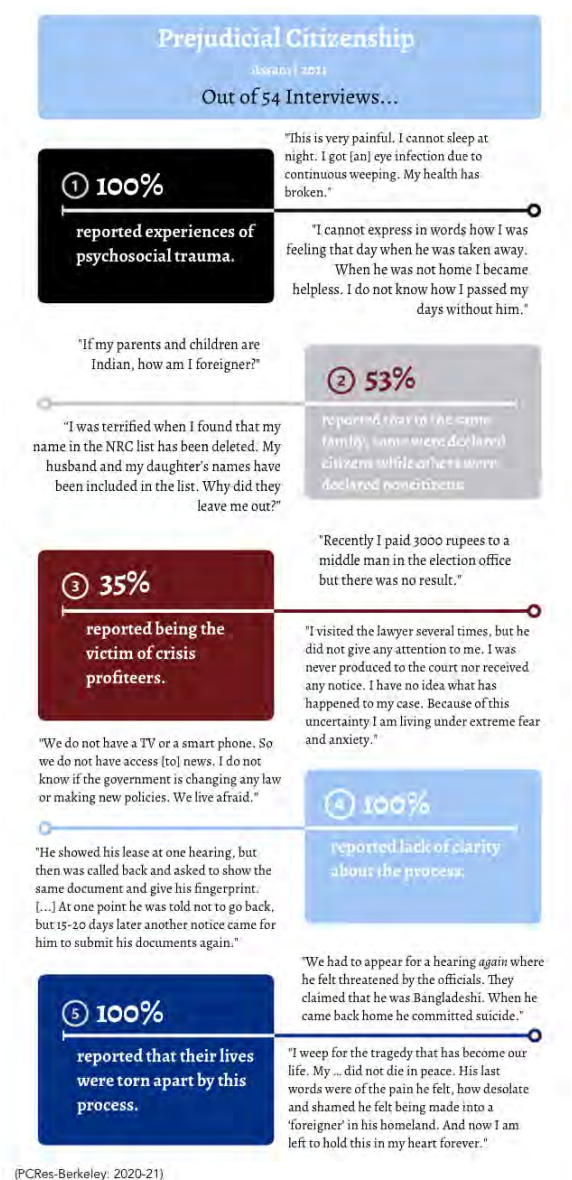
Religious freedom is widely regarded as a distinctive characteristic of a liberal, secular democracy. The entitlement to religious freedom establishes the right of an individual to determine their relation to faith, religion, religiosity, or lack thereof. This assumes freedoms and guarantees⁵⁰¹ that protect the sanctity of an individual as a member of a religious minority.

The NRC and Foreigners Tribunals have dynamized anti-Muslim and anti-foreigner sentiments toward consolidating social and political power and control over resources for Hindu nationalists and caste-dominant Hindus. Citizenship laws and state and vigilante actions discriminately subject religious minorities to political violence.⁵⁰² In targeting members of minority religious communities, the implementation of prejudicial citizenship laws and policies also target their right to freedom of religion. These freedoms are embodied in Articles 15, 16, 25-30 and 325 of the Indian Constitution and Sections 295-298 of the Indian Penal Code.^{503 504 505} Muslims in Assam, subjected to the NRC and Foreigners Tribunal processes, experience political and physical endangerment because of their faith and religious identity. As a woman interviewee noted: "We are terrified *because* we are Muslim."⁵⁰⁶

BEARING WITNESS

The excerpts in this section bear witness to states of violence, based on conversations and interviews with community members, civil society leaders and lawyers in Assam.⁵⁰⁷

Figure 5: Fifty-four Interviews



ORAL HISTORY NARRATIVES

Testimony of [REDACTED], Bangla-descent Muslim male, seventy years of age:⁵⁰⁸ "In the detention camp, the room in which I was caged was small, suffocating. It could hardly accommodate the 40 or 50 people who were imprisoned there. I was held in a regular jail in Goalpara. It was the month of Ramadan. I was picked up just before Eid. On that day, I returned home after buying rice to find policemen waiting for me. They took me to the police station. I was kept in custody at the police station for one night before they took me to the detention camp."

"The jail was almost 20 bighas [12.4 acres].⁵⁰⁹ Both convicted criminals and other so-called 'foreigners' were kept there. I was made to stay with them, all together. Outside the structure where I was kept, the written sign said: 'DETENTION CAMP.' But it was in the jail and even the 'detention' area was operated like a regular jail. We shared rooms with convicted criminals. Sometimes, they transferred us to other rooms inside the jail. There were 240 of us, persons who were declared 'foreigners.' About 40 convicted criminals were assigned to supervise us. We opposed that, saying that we had not committed any crime. It was to no avail. While in jail I heard of the detention camp[s] that were being built. I was held in detention for almost three years. My children and wife begged for my release. I am not in the detention camp now but my case is not resolved. I need to go to the police station for 'attendance.' If I am late, they call us. They also call our

guarantors. I will have to sell my home to keep fighting to remain in my homeland. I am still listed as a ‘foreigner’... The fear of statelessness is a fear of the unknown, it is as large as the sky.”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim woman:⁵¹⁰ “At first my case was under the IMDT Act but I had no information about it. I cannot read. I did not know what was in the notice. Then I got another notice with an ex parte judgment. In 2005, my case was started at Guwahati High Court. [Then, the IMDT Act was removed]. In one year, I lost three children and I was declared a foreigner. I am broken. Now [in 2021] I do not know the status of the case. The police say to me that if I do not continue the case they will take me to the detention center.”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim woman, sixty-one years of age:⁵¹¹ “I cannot express in words how was I feeling that day when he [spouse] was taken away. I begged many people. When he was not home I became helpless. I do not know how I passed my days without him. My sons are away. One of our neighbors stayed with me sometimes. I could not stay at home. I was visiting my relatives to relieve my anxiety. He is ill. I do not know how I will manage to get the money for his treatment. We have no one to turn to.”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim male:⁵¹² “First I submitted the

documents to the village headman. He asked us to submit to BLO [Booth Level Officer]. We did so. A few days later, I was called for a hearing and document verification. I have had three hearings as of now. During the first and second time, my name was correct. But after the last hearing, my name did not come. The last hearing was about 300 kilometers from my place. We went to it by spending 33,000 rupees. There along with other documents, my admit card was given. That was given by my brother. On it, my father’s name was incorrect. My name was correct. After that my name was cut off from the list.”

Testimony of [REDACTED] [REDACTED], Muslim woman:⁵¹³ “My parental home was in a char. After my home got eroded, we shifted to another place. My father had a [life threatening] condition. My mother used to work in people’s homes to survive. From there, I was married. My husband’s home was elsewhere and he traveled to work as a wage labor. I was registered as a voter in 199[REDACTED]. But the next time when I went to vote, I was not allowed to do so. I was declared a ‘D voter.’ I do not know why this happened to me.”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim woman:⁵¹⁴ “The experience in the hearing center was unpleasant. I had to travel a great distance for the hearing. I have never been outside our village before. I missed a day of work. If we do not work even for a day, it is difficult for us to eat. We have spent a lot of money to meet the

demands of the NRC. During the monsoon, we had to go by boat. Now my name is not on the list. I am tense. I hear people say different things. I cannot sleep at night. My heart starts beating fast when the police come to the village. I think, if they take me away, what will happen to my children?”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim male:⁵¹⁵ “Another detainee’s wife committed suicide. I heard about this when I was in the detention camp.”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim male:⁵¹⁶ “I face this discrimination only because I am a Muslim. How many times, and why, do we have to prove our citizenship? We can[not] keep living like this anymore. Despite financial and logistical hardship, we have submitted the documents. Our name came in two drafts [of the NRC]. But we were excluded from the list. Why? We were [born] here. All our ancestors were born here. We have documents to prove we are citizens [of India]. Why do they call us Bangladeshi? We have never been there. We are from here. We are from here!”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim male:⁵¹⁷ “My father was a [terminal illness] patient. When the NRC list was published and we could not find our names on the list, [we] were worried. My father became mentally disturbed. He said, ‘because of my ‘D’ [voter status], the whole family is going to suffer.’ I took him to the hospital as his condition became worse. He died after three months. He did not die in

peace. I cannot afford to lodge a case with the [Foreigners] Tribunal. We are poor people. Once I paid 10,000 rupees to the lawyer. Another 20,000 will have to be paid. How will we manage that?”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim woman:⁵¹⁸ “I was terrified when I found that my name in the NRC list has been deleted. My husband and my daughter’s names have been included in the list. Why did they leave me out?”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim woman, thirty years of age:⁵¹⁹ “We do not have a TV or a smart phone. So, we do not have access [to] news. I do not know if the government is changing any law or policy. We live afraid.”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim male:⁵²⁰ “[I am] a landless, erosion affected person. [I] came to know that government will allot land for erosion victims in a nearby area. [I] applied for land allotment. When government officials came to measure the land for allotment, powerful people complained that those of us being settled were illegal immigrants. They said that officials should check the citizenship of us erosion affected persons before providing land allotments.”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim woman:⁵²¹ “When the order of the tribunal came, we were terrified. My husband went into hiding. We could not sleep for fear that the police would come to arrest him. Even other family members who

already have their name in the NRC were afraid. After my husband got the legal notice we had to pay money to a lawyer and the gaon burah [village leader]. A lot of money was required for extracting the documents. In the tribunal, after two years of legal battles, my husband was declared as a foreigner. We appealed to the Guwahati High Court. That was a flood season. We live on the char. We did not have any savings. We only had a few [between two and five] cows. We had to sell them all. My husband got interim bail. The future is unknown. We feel overwhelmed.”

Testimony of [REDACTED], Bangla-descent Muslim woman:⁵²² “The deeper this process becomes, more and more our lives are suspended from reality.”

Testimony of [REDACTED], Bangla-descent Muslim woman:⁵²³ “One day, the police came to the village to serve a notice issued by the Foreigners Tribunal. The notice was not in my name, [it was] a different name but my husband’s name was written clearly. My husband and I declined to accept the notice. Police insisted [we had] to accept the notice. Then they called the gaon burah, who suggested keeping the notice in the police station. Later, we heard that someone from the locality was arrested and sent to detention [in an ex parte judgment]. We became terrified and accepted the notice.”

Testimony of [REDACTED], Bangla-descent Muslim male:⁵²⁴ “In the verification process,

someone had mentioned my uncle’s name as my father’s. When I was just 13 months old, my father died. My mother had a second marriage. My uncle declined to accept me as a family member. My case went to the Foreigners Tribunal. I was declared a foreigner.”

Testimony of [REDACTED], Bangla-descent Muslim woman:⁵²⁵ “My name was enlisted in the voters list. My home got eroded by the river. I moved away, around five kilometers. There, my name was again enlisted in the voters list. When I went to vote, the officers told me that I was marked as a ‘D voter’ and did not allow me to vote.”

Testimony of [REDACTED], Bangla-descent Muslim woman:⁵²⁶ “Even his death was not the end of the problem. The problem of citizenship contestation still haunts us. Today, ‘papers’ are the most valuable property we can have. Without the proper papers, we are condemned. The names of my family members are missing from the NRC because of the inefficiency and negligence of local level officers.”

“The char by the Brahmaputra River is my home. From here, it is very challenging to go to an urban area to work. I have to travel two hours on foot and then by boat to reach a place from where I can get a bus to town. In the workplace, I feel that Hindus believe that the country belongs to them. However, all Hindus are not the same...When my husband was alive, on occasion, if I did not want to work for a

day or two, I could rest. I might think of second marriage but what will happen to my children? The overwhelming worry in my life is the future of my children.”

Testimony of [REDACTED], Bangla-descent Muslim woman:⁵²⁷ “On August of 2019, I got a hearing notice where I had to go to another far away district overnight. Because of financial hardship, ill health, fear, and uncertainty, I had to arrange for some money to travel there. I was terrified to go because I did not know how to speak Assamese properly [Bangla is my main language]. When I reached there, they did not ask me for many documents. They just asked for my fingerprint. I thought everything is now sorted out. But then my name did not come in the final [NRC] list. I am devastated. The same happened to my youngest daughter-in-law.”

Testimony of [REDACTED], Bangla-descent Muslim male:⁵²⁸ “My name was on the first list of the NRC but my wife’s name was not in the first list. At that hearing, the officer inquired if my grandmother’s house is in Bangladesh or if we have any other family members from Bangladesh. I told them that, ‘No, our entire family is from here.’ We do not have anyone in our family from Bangladesh.”

Testimony of [REDACTED], Bangla-descent Muslim woman:⁵²⁹ “I will never forget this horrible memory. There were so many hearings during the NRC. I cannot even recall how many people I have pleaded to during the entire time. The rumor of

[being] Bangladeshi has destroyed our family. We have also lost our land to the river. We lost so much money. My husband was pronounced to be a ‘D voter.’ This is painful. I cannot sleep at night. I got eye infection from continuous weeping. My health has broken.”

Testimony of [REDACTED], Bangla-descent Muslim male:⁵³⁰ “Why is it called the ‘Foreigners’ Tribunal? We are not foreigners. I tried to tell them about me, that I am *not* Other, that I am *of here*. I showed them my papers. But the Tribunal stamped that I am not from Assam. They said my name was written differently in two different documents. That is the government’s mistake, not mine, I said. They would not listen. Am I a stranger to my own land? This brutal uprooting is tearing at my veins. Will the Bangla Muslims of Assam drown in the Brahmaputra [river]?”

Testimony of [REDACTED], Bangla-descent Muslim woman:⁵³¹ “When the tribunal order came, we were scared. My husband was hiding. He would not eat or sleep. Even family members who have their name in the NRC have had similar experiences. We did not sleep out of fear that the police might come to arrest him.”

Testimony of [REDACTED], Bangla-descent Muslim woman:⁵³² “When I was declared as foreigner, every time I heard the sound of a vehicle, I thought that police may have come to arrest me. I used to keep hiding until I secured interim bail from the High Court.”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim male:⁵³³ “I am entangled and burdened by the crisis. My daughter suffers from mental illness. She is a ‘D voter.’ She was abandoned by her husband. She lives with me. I have to provide for her. I survive on [what I can grow on] two bighas of land. How will I manage the doctor’s fees, medicines, and lawyer’s fees?”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim woman:⁵³⁴ “I am afraid. My children could not eat when the judgment came. The government is harassing Muslims. We are terrified of being picked up by the police. I did not share this with our neighbors because of fear. When people ask me, I answer them that we have won the case.”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim male:⁵³⁵ “Economically the case has broken my family. The fear of detention has been affecting the mental health of almost everyone in our community.”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim woman:⁵³⁶ “So many people in that village are marked as ‘D voters.’ Nobody helps us. A village official told me if I paid one lakh [100,000] rupees he would correct my vote[r status].”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim woman:⁵³⁷ “We are victimized because of our religion and because we are poor.”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim male:⁵³⁸ “I am Indian. We Miya Muslims, Bangla Muslims, are Indians. To say otherwise is violent.”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim woman:⁵³⁹ “We submitted the NRC form along with the required documents. When the first draft of the NRC list came out, our names were included. We received a notice a few days later that an individual had made an objection to including my husband’s name in the list. We had to appear for a hearing again where he felt threatened by the officials. They claimed that he was Bangladeshi. During the process the officials took his details [biometrics] which made him even more terrified. When he came back home he committed suicide.”

Testimony of [REDACTED] [REDACTED], Bangla-descent Muslim woman:⁵⁴⁰ “I weep for the tragedy that has become our life. My [REDACTED] did not die in peace. The NRC betrayed us. He felt like a criminal and exhausted from running around to clear his name. Then he got violently sick. He could not breathe. I do not know if it was the plague [COVID-19]. His last words were of the pain he felt, how desolate and shamed he felt being made into a ‘foreigner’ in his homeland. I am left to hold this in my heart forever.”

CASES AND SUICIDES

FOREIGNERS TRIBUNALS: A REVIEW OF 38 CASES

A review of 38 cases comprising ⁵⁴¹ 37 Foreigners Tribunal orders and one affidavit attests to the capricious and hostile nature of the proceedings. The 38 cases span ten districts in Assam: Baksa, Barpeta, Darrang, Dhubri, Golaghat, Jorhat, Kamrup, Morigaon, Nagaon, and Sonitpur.

Timeline of cases: ⁵⁴²

- March 2005 to April 2014: 5 cases.
- May 2014 to April 2019: 25 cases.
- May 2019 to October 2020: 7 cases.

Of 37 cases	Muslim: 34 (89%)	Hindu: 3 (8%)	Tribal/ Indigenous : 1 (3%)	
Gender	Women: 21 (55%)	Male: 16 (42%)	Family: 1 (3%)	
Adjudication	Foreigner: 23 (60%)	Foreigner of the 1966 and March 24, 1971 Stream: 3 (8%)	Not a Foreigner: 9 (24%)	Appellant Deceased: 1 (3%) No Order: 2 (5%)

Arbitrary and disputable actions and decisions taken by the Foreigners Tribunals reportedly related to recurring factors: individuals being unable to keep track of exact birth dates, not possessing birth certificates, and name changes due to marriage for women that were not recorded in their identity documents. In numerous

instances, this impacted the final ruling on an individual's citizenship status. The proceedings appear to be openly and intentionally hostile to individuals who were forced to brave harsh circumstances to appeal before the tribunal. In numerous instances, the state's legal representative does not even appear, often to the detriment of the person appearing before the tribunal. Of the 37 cases reviewed, in approximately 5 percent of the cases the ruling of an individual by an earlier Foreigners Tribunal was overturned and their citizenship status was removed in a later ruling. ⁵⁴³ In certain cases, while a Foreigners Tribunal member accepted an affidavit explaining name spelling discrepancies in the submitted documents, a different member rejected a similar affidavit. At times, another member determined a discrepancy as human error. Alternatively, tribunal members rejected witness testimony because they could not name where another relative voted. Tribunal members raised a point of suspicion that while an individual was eligible to vote, they were not registered on a voter list. Tribunal members raised a point of suspicion that an individual did not provide the names of certain relatives in their written statement. In one case, a tribunal member rejected a state's witness' testimony regarding the residency of the individual as "hearsay," while accepting a police officer's testimony that the individual had admitted to being from Bangladesh while in custody earlier, though she submitted evidence to the contrary during the tribunal proceedings.

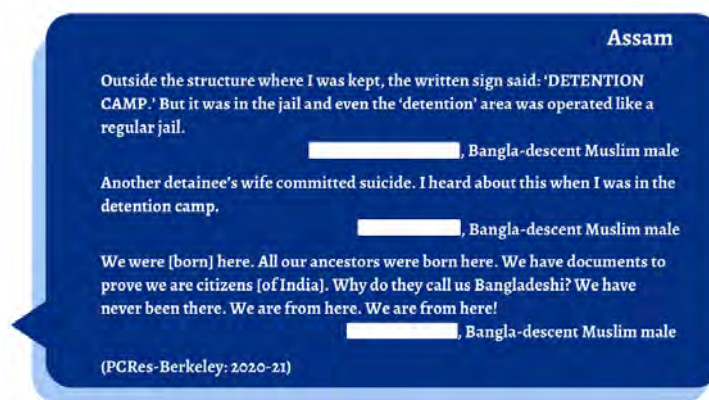
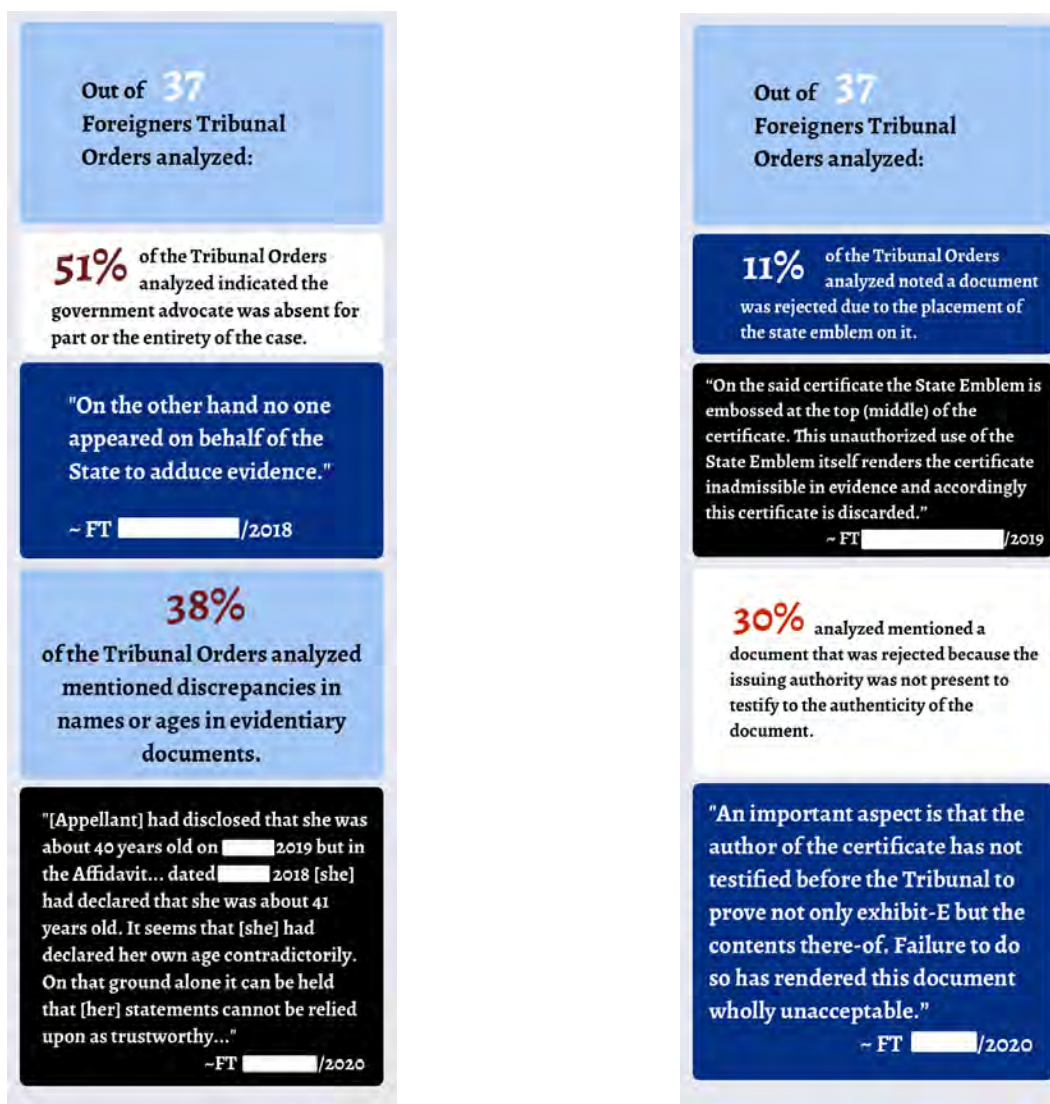


Figure 6: Thirty-seven Tribunal Orders



REVISIONIST NARRATIVES

The order on the citizenship status of a Muslim woman (Foreigners Tribunal [redacted]/17, dated August [redacted], 2019) was grievous. The Foreigners Tribunal rejected her and her brother's statements on her parentage. Both siblings testified that their father's name was [redacted], but the Foreigners Tribunal referenced a police report that listed her father's name as [redacted]. Instead of calling on the state's advocate or other witnesses to ascertain whether or not a mistake had been made on the police report, the Foreigners Tribunal said the discrepancy cast "grave doubts about the genuineness of [the appellant's] narrative."

The Foreigners Tribunal rejected a village council (panchayat) secretary certificate as the document was not "proven" by other evidence from the issuing authority, and as the Foreigners Tribunal interpreted an accompanying document to indicate that this certificate could only be used for the NRC process and not in a Foreigners Tribunal process. It is unclear in the order under what provision of the Evidence Act an authority can claim that one proof document can be used for one citizenship process but not another. Rather than calling appropriate witnesses or allowing the appellant time to procure a relevant document that could be used for the Foreigners Tribunal process, the tribunal simply rejected the evidence.

The Foreigners Tribunal rejected the village leader's certificate confirming [redacted]'s father's name as due to the "improper use of the state emblem." This record might have allowed her to

establish her linkage to her father [redacted], whose name was in the voters lists of 1966 and 1970 and may have allowed her to establish her citizenship status. The Foreigners Tribunal refused to move from its understanding that her father's name was [redacted] as per a police report, in contradiction to the testimony of both [redacted] and her brother.

The Foreigners Tribunal rejected [redacted]'s sworn affidavit as evidence due to absence of "oral or documentary evidence." The content of the affidavit is unclear. The Foreigners Tribunal rejected a land record as evidence, claiming that [redacted] needed to provide other documents to "prove" the contents of the land record and that she had made no argument in support of her citizenship status in connection with the land record and so the land record could not serve as evidence.

TWO TRIBUNALS, DIVERGENT CONCLUSIONS

In another instance, a Foreigners Tribunal adjudicated on a case in which the appellant, an alleged "foreigner," a Muslim woman, was present in the court with her lawyer, and submitted documents and substantive evidence. This case was decided on October 14, 2020.⁵⁴⁴ The appellant, [redacted], had been previously declared to be a "D voter."

The appellant filed a statement with the Foreigners Tribunal stating that she was born in India. She was born in 1979 and subsequently married. She also had a sister. She stated that her parents were also born

in India prior to March 25, 1971 and therefore, she was a citizen of India and not a “foreigner.” The names of her parents had appeared on the voters list in 1966 and 1970. She submitted her evidence and produced these documents for the Foreigners Tribunal.

Her father also came to the witness box and presented his evidence. To augment her case, she called the village head to offer evidence on her behalf. She produced various documents, including a property sale deed, her own PAN card (Income Tax registration card) and other records. The documents and the entire evidence were disregarded by the Foreigners Tribunal. The tribunal fixated that, in one place she had said she was forty years of age and at another, she had said she was forty-one years old. It must be underscored that in various parts of rural (and urban) India, countless individuals (many of whom are non-formally literate) may not be hyper-attentive to their date of birth and exact age at any given point of time. Birth dates may not be information that are the subject of conversation or of daily import to their lives.

However, the Foreigners Tribunal deemed 40 v. 41 to be a major discrepancy. Additionally, the tribunal chose to disregard the evidence presented by the village head. The tribunal also concluded that she has been unable to prove that the person who deposed as her father was her actual father, as there was a minor discrepancy in the spelling of his name in the identity documents. The latter is a common

occurrence, as noted earlier. On the basis of the same identical evidence offered by her father, an earlier Foreigners Tribunal had determined that her sister (who had attested that they *were* sisters) was an Indian citizen.

The judgment passed in her sister’s case, too, was placed before the tribunal in her own case. However, the tribunal stated that the other tribunal’s judgment in the matter of her sister, was wrong. The shared evidentiary basis that led one Foreigners Tribunal to deem one sister to be a citizen of India led another Foreigners Tribunal to rule that the other sister was a “foreigner.”

CASE EXAMPLES

Case 1

- **Adjudication: The FT ruled him to be a Foreigner.**
- Date of order: [REDACTED] Mar 2019.⁵⁴⁵
- Case #: Foreigners Tribunal (FT) [REDACTED] **concerning a Muslim male.**
- Identifying details of person: [REDACTED], son of [REDACTED], of [REDACTED] village, [REDACTED] district (previously [REDACTED] district).
- Summary of case: Border Police referred [REDACTED] to the FT. He provided voter records to show that his parents were voters in India before the 1971 cutoff date. FT rejected some documents as not “proven” while others were rejected for inconsistencies in names and dates.

- Evidence submitted included:
 - o Written statement.
 - o Certified copies of voter lists: 196█, 197█, 198█, 198█.
 - o Copies of land records.
 - o Village leader's certificate.
- Issues raised included:
 - o FT raised that the name of his mother on one voter list does not match her name on another list.
 - o FT also noted that there was a two-year discrepancy of his mother's age between two voter lists, which the FT characterized as "serious."
 - o FT declared that he could not prove his linkage with "a genuine Indian father."

Case 2

- **Adjudication: The FT ruled her to be a Foreigner.**
- Date of order: █ Oct 2020.
- Case #: FT █ /17; IMDT █ (A) dt. █/8 **concerning a Muslim woman.**
- Identifying details of person: █, wife of █, resident of █, district.
- Summary of case: The Border Police referred this case to the IMDT, which transferred this case to an FT in 2005. The FT rejected many of the documents that she presented, including a village leader certificate linking her to her father, the testimony of her living father, as

well as the ruling of another FT confirming husband's citizenship.

- Evidence submitted included:
 - o Written statement.
 - o Certified copy of voter lists: 196█, 198█, 199█, 201█.
 - o Sale deed.
 - o Birth certificate.
 - o PAN card.
 - o Voter ID card of █.
 - o Village council secretary certificate.
 - o Village leader certificate 201█.
 - o Foreigners Tribunal order, 2018.
- Issues raised included:
 - o The FT noted that she did not mention her paternal grandmother's name, where both grandparents were brought up, and where they passed away; where her parents were born; the birthday of her siblings; her own birth and marriage dates. The FT stated that her silence was detrimental to her case.
 - o FT rejected a birth certificate because the issuing authority's authenticity was not examined.
 - o FT rejected a village leader's certificate linking her to her parents because the village leader had based their decision on local knowledge.

Case 3

- **Adjudication: Unknown.**
- Date of order: Unknown; the document is an affidavit and not the final order.
- Case #: BFT (R) [REDACTED] **concerning an Indigenous Male.**
- Identifying details of person: [REDACTED], son of [REDACTED], resident of [REDACTED] village.
- Summary of case: The Border police referred the case to a FT. The affidavit stated that the police made charges in bad-faith without a field investigation, and that the police report contained multiple errors, including about his livelihood, his sister's name and inaccurately noted that his father was diseased.

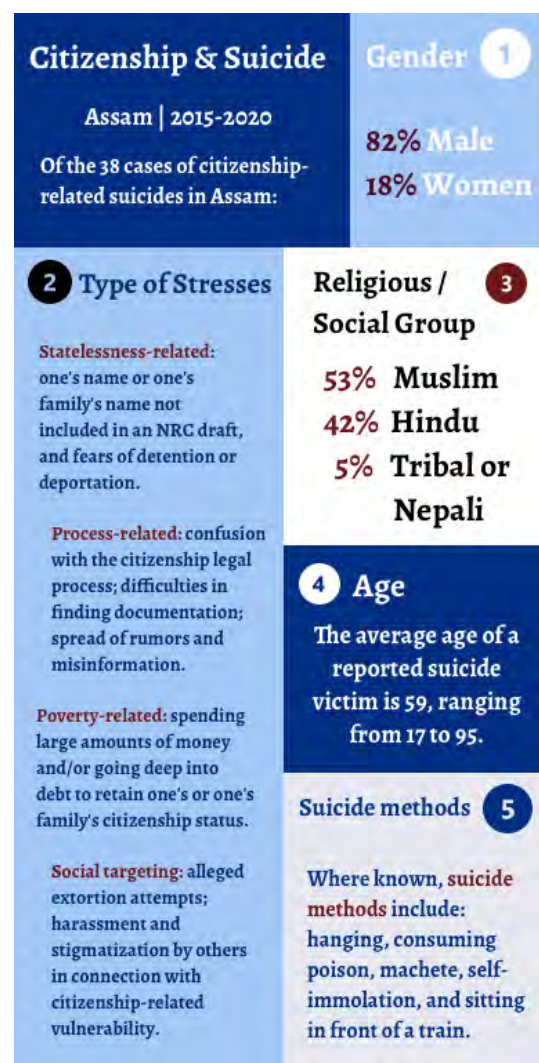
REPORTED CITIZENSHIP-RELATED SUICIDES IN ASSAM

Between July 2015 and October 2020, reportedly between 38⁵⁴⁶ and 42⁵⁴⁷ persons committed suicide in Assam in connection with the revocation of their own or a relative's citizenship rights.

The research for this monograph examined 38 cases of persons who had reportedly committed suicide.⁵⁴⁸ This information has been documented by various entities and media sources and corroborated and augmented through our research. Among the 38 reported cases of citizenship-related suicides:^{549 550}

- 20 individuals were reported to be of Muslim descent.
- 16 were of Hindu descent and two were from tribal/indigenous communities.
- Seven persons were women, six of whom were of Muslim descent.⁵⁵¹

Figure 7: Citizenship and Suicide



(PCRes-Berkeley: 2020-21)

Among the 38 reported suicide cases:

20 were Muslims
 6 women (one of whom was a girl/youth)
 14 males

16 were Hindus (including Dalit)¹
 1 woman
 15 males
 1 Dalit male (reportedly Hindu-identified)

2 were Tribal/Indigenous Persons
 2 males

8 were 60 years of age or older.
 7 were women or a girl youth.
 10 were linked to a relative's citizenship status.
 Numerous cases reported struggles with money.
 1 case involved official(s) reportedly soliciting a bribe.

CASES IN POINT

Muslim Girl/Youth, 14-17 years of age: Frightened that her name was not in a newly published NRC exclusion list and unaware that the exclusions list was not the final draft, she reportedly hanged herself.⁵⁵²

Muslim Male, 45 years of age: The July 30, 2018 NRC list excluded four of his family members. Certain persons pressured him to raise a large sum to get his family's name into the NRC list. A wage laborer, he reportedly hanged himself after being unable to raise the money.⁵⁵³

Dalit Hindu Male, 45-49 years of age: He committed suicide as he struggled

to repay loans he had taken to pay legal fees to preserve his citizenship.⁵⁵⁴

Muslim Male, 93-95 years of age:

An objection was filed with the NRC against the inclusion of his name. He attended a Foreigners Tribunal hearing and was afraid he would be imprisoned and that his family's status would be in danger should he be declared a foreigner. He reportedly committed suicide by taking poison.⁵⁵⁵

Tribal/Indigenous Male, 50 years

of age: His entire family was excluded from the draft NRC. He feared arrest and detention. He reportedly hanged himself.⁵⁵⁶

Muslim Woman: She faced difficulties locating "linkage" documents for her inclusion in the NRC, which prove a person's relationship to a parent or grandparent, whose citizenship has been proven. She reportedly hanged herself.⁵⁵⁷

Muslim Male, 40 years of age: His young daughter received a notice for citizenship verification, reportedly leading to stress and his suicide.⁵⁵⁸

Hindu woman, 50 years of age: She suffered immense stress connected to the NRC process. Reports indicate that she committed suicide by setting herself on fire.⁵⁵⁹

Hindu male, 27 years of age: He was the income earner for a family of seven and allegedly committed suicide after his name was excluded from the July 30, 2018 draft of the NRC.⁵⁶⁰

Muslim Woman, 45 years of age: Her husband was designated a "D voter," reportedly due to a spelling mistake, and was ruled a foreigner. She was incarcerated at a detention center before her suicide.⁵⁶¹

ASSAM-RELATED CITIZENSHIP CASES

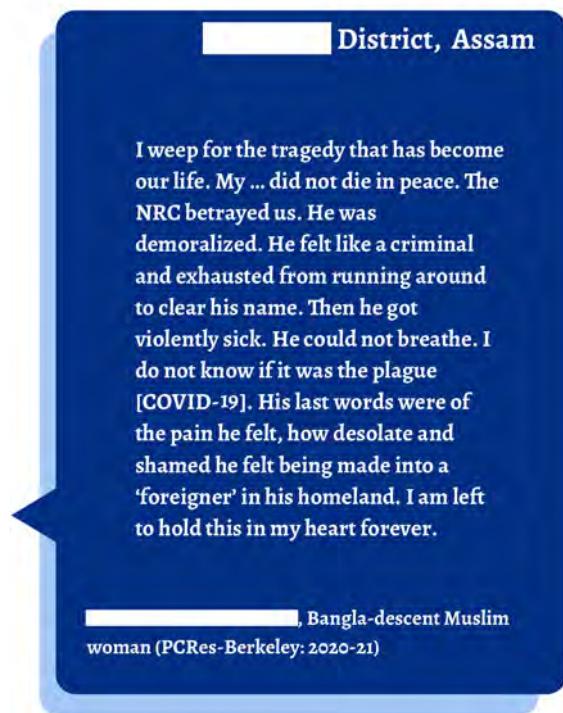
HIGH COURT AND SUPREME COURT

Figure 8: High Court and Supreme Court Cases

Citations to the graphic are in the endnote.⁵⁶²



THE “CITIZENSHIP EXPERIMENT”



WHERE TO, FROM HERE?

On December 11, 2019, Prime Minister Modi had reportedly tweeted: “I want to assure my brothers and sisters of Assam that they have nothing to worry after the passing of #CAB.”⁵⁶³

On February 25, 2021, Home Minister Amit Shah stated: “The biggest contribution of the Narendra Modi government at the Center is to establish peace in Assam, ensure development, give corruption-free administration, rid the state of agitations, and put the brakes on the entry of illegal immigrants.”⁵⁶⁴

On August 10, 2021, it was reported that the Government of India had not taken a decision regarding the implementation of the NRC throughout India.⁵⁶⁵ However, it was reported that the Government of India will update the NPR during first phase of the Indian Census in 2021.^{566 567} On August 17, 2021, the Government of Assam’s Home and Political Department issued a notification instructing that foreigners “Detention Centers” be termed “Transit Camps.” This action was probably undertaken to diminish, in some measure, the negative connotations associated with the term, “Detention Center.”⁵⁶⁸

The fault lines of belonging in a majoritarian nation redefine religious minorities as national outcasts. Iniquitous citizenship processes catapult momentous consequences. The politics of deceit that governs the reconstitution of the precepts of citizenship are imperiling minority communities. The highly complex citizenship processes are further complicated by the systemic obscuring of decision-making and facts and figures, wherein misinformation has been posited as “fact” by officials with impunity. In Assam, the NRC and Foreigners Tribunals have commenced the political segregation of “national subjects” and rights-bearing citizens from “invaders” without rights. A disproportionate number of persons who are alleged to be “foreigners” and illegal persons” are Muslims. In particular, Bangla-descent Muslims, “Miya” Muslims, from marginalized social classes are the principal target. Many are women, children, and destitute persons. These policies also

jeopardize their right to freedom of religion.⁵⁶⁹

Political circumstances have pronounced targeted communities to be socially disposable, effecting conditions of social death.⁵⁷⁰ In seeking recourse to the state's rulings against them, targeted individuals are faced with a towering uncertainty about what the future holds. Most live in imploding social worlds, and lack psychosocial support systems, information, and financial resources.⁵⁷¹ Impacted communities in Assam and their allies note that the militarization of governance wrought by the citizenship movement distracts from the political conflict that grips the BJP-governed state of Assam.⁵⁷² While it will be practically impossible to put all those that are declared to be "foreigners" in detention camps, local communities fear that such camps in Assam will produce a new social order of forcibly separated families, broken communities, and forced labor.⁵⁷³

Through making religion a priority for Indian citizenship in ways that privilege the majority community, the Government of India's stated objective is to replicate "Assam-like" changes to citizenship across India. The NRC is proposed to be implemented across the country where thousands of tribunals are reportedly to be set up to detect, detain, intern, and deport "foreigners."⁵⁷⁴ If the corpus of laws and processes to regulate citizenship are applied across India, the citizenship rights of millions of people, disproportionately Muslims, may be in danger.⁵⁷⁵ Countless

may be held in prolonged or indefinite detention.

ABSOLUTE NATIONALISM

Many of those declared "foreigners" throughout India may constitute a mass of repeatedly displaced individuals and peoples without rights or legal protections. They may become the "nowhere people," refugees in their own land, effectively forced out, expelled, exiled, and presumptively rendered stateless.⁵⁷⁶ Where will they go? How are citizenship operations in contemporary India analogous in spirit with earlier experimentations in divesting minority religious groups of belonging? No state in South Asia may be prepared to offer refuge to the deportees. This may lead to the indefinite detention of those deemed foreigners. How is such deprivation of citizenship rights in violation of international law?

It may be noted that the Myanmar military crafted a citizenship law in 1982, dismantling the citizenship rights of the Rohingya.⁵⁷⁷ In hindsight, a study of the Nuremberg Laws instituted in Nazi Germany in September 1935 reveals the escalation through law of a process against minorities targeting their right to belong within a nation-state that culminated in genocide.

Thus far, the BJP has shown hesitancy⁵⁷⁸ in nationalizing the "Assam experiment" across India. In Assam, non-Muslims (predominantly Hindus) are being granted access to citizenship on the very

premise that denies rights to Muslims. The BJP's objective of granting citizenship to "illegal" (undocumented) non-Muslim immigrants (because they are non-Muslim) poses both a legal challenge and a messaging conundrum. To achieve this unreserved rejection and exclusion of a community (Muslims) based on their faith would require a categorical contravention of India's constitutional and juridical structure, recanting its democratic and historical obligations.

The state of exception⁵⁷⁹ surged through the "citizenship experiment" in India makes the anomalous routine. The primary accused in the illiberal citizenship movement, Bangla-descent Muslims, "Miya" Muslims, are dispossessed of their citizenship rights, of their non-derogable rights to represent and defend themselves, and indeed of their power of agency over life. The "citizenship experiment" signals the physical and epistemic exclusion of Muslims from legitimate society. *Exclusion* is implicit within the structure of caste/oppression in India. This has been repeatedly manifested in the violent relation of dominant, caste-privileged Hindus to Adivasis (Chhattisgarh, Narmada Valley), Dalits (Rohith Vemula, gang-rape and murder of a Dalit girl in Tamil Nadu, 2016), Christians (Odisha 2007-08), Muslims (Ayodhya, Gujarat 2002), and Sikhs (1984). Exclusion and extreme xenophobia are fundamental to the non-recognition of the humanity of those who are vulnerable and subaltern in Indian society today. Such practices of ostracization and racialism have been prerequisite to fostering a sense

of Hindu purity in designating Muslims as "enemy" (Kashmir) and "Other," "outsider" (Assam).

In Assam, Hindu nationalists maneuver the exclusionary citizenship campaign for the consolidation of a majoritarian state. The amplification of **the reach of state power over minority lives has propelled an unabating emergency wherein the Indian government has exceeded its authority.** The Hindu nationalist state authorizes indignity, expulsion, and the prospective destruction of the "Muslim-Other," as signified by the creation of detention camps in Assam.⁵⁸⁰ The rule of law is subverted through pervasive securitization and an authoritarian arbitrariness that operates in the name of national well-being, spurring immense social and political violence and new forms of partition.⁵⁸¹ As a political blueprint, the BJP's exclusionary "citizenship experiment" signals an immoderate turn^{582 583} in Indian politics and polity that can enkindle upheaval across the entirety of South Asia. Local communities state that only the ground swell of principled civil society dissent and political transformation, together with global reaction and concerted international pressure, can halt the would-be erasure of Muslims in India and repudiate the onset of absolute nationalism.⁵⁸⁴

APPENDICES

1. ACRONYMS AND GLOSSARY

Note: Words familiar to or established in other languages are not italicized in the monograph. Transliterations are provided. Diacritical marks have not been used.

Acronyms

ABVP: Akhil Bharatiya Vidyarthi Parishad

AGP: Asom Gana Parishad

AASU: All Assam Students Union

AFSPA: Armed Forces Special Powers Act, 1958

BJP: Bharatiya Janata Party

CAA: Citizenship (Amendment) Act (2019)

FT: Foreigners Tribunal(s)

ILA: Imperial Legislative Assembly

IMDT: Illegal Migrant (Determination) Tribunal

NCM: National Commission on Minorities

NRC: National Register of Citizens

PAN: Permanent Account Number

PTSD: Post-traumatic Stress Disorder

RSS: Rashtriya Swayamsevak Sangh (National Volunteers' Association)

SHRC: Assam State Human Rights Commission

SCM: State Commission for Minorities

Glossary

Absolute nationalism: Extreme xenophobia that consolidates majoritarian rule.

Bangla Hindus: Bangla Hindus are Bangla origin Assamese (Axomiya, Oxomiya)-speaking Hindus (also Bangla-descent Hindus, Bengali).

Bangla Muslims: Bangla Muslims are Bangla origin Assamese (Axomiya, Oxomiya)-speaking Muslims (also Bangla-descent Muslims, Bengali), many among whom also self-identify as “Miya” Muslims.

Bigha: 0.6198347106 Acre.

Char or Char area: River Island.

“D voter”: “Doubtful voter.”

Gaon burah, Gaonbura, Gaonburha: An Assamese village leader.

Indigenous: The term “indigenous” in Assam refers to peoples of different ethnic identities, and does not necessarily refer to “first peoples or inhabitants.”

Legacy Data Codes: A unique identifying number for a name in the 1951 NRC list and pre-March 24, 1971 voter rolls.

LGBTIQA: Lesbian, gay, bisexual, transgender, intersex, queer, questioning and asexual.

Panchayat: Village council.

Shakha: Branch, center.

Sangh Parivar: Group (“family”) of Hindu nationalist organizations in India (and globally).

Womxn: Women-womxn.

2. POPULATION FIGURES

Census 2011: Religion	Percentage ⁵⁸⁵
Hindu	61.47
Muslim	34.22
Christian	3.74
Sikh	0.07
Buddhist	0.18
Jain	0.08
Other Religions	0.09

Earlier, in 2001, Muslims constituted 30.9 percent of Assam’s population.⁵⁸⁶ The 2011 Census of India recorded 10,679,345 Muslims, constituting 34.22 percent of Assam’s population.⁵⁸⁷

3. POST/COLONIAL CONDITIONS

Surrounding and shortly after the Partition of 1947, approximately 2.55⁵⁸⁸ million to 3⁵⁸⁹ million Hindus emigrated from East Pakistan into India, many of them into Assam, and approximately 700,000⁵⁹⁰ to one million⁵⁹¹ Muslims emigrated from India into East Pakistan. After the arrival of the refugees in India, the Indian government elected to

transport 100,000 refugees to faraway locations, such as the Andaman and Nicobar Islands.⁵⁹² The refugees who remained on the mainland were placed in camps and disenfranchised.⁵⁹³ Anti-Muslim rhetoric in Assam can be attributed to: “the product of the steady marginalization of the Bangla-descent Muslim in post-colonial India.”⁵⁹⁴

4. HISTORICAL CONTEXT: MIGRATION OF HINDUS AND MUSLIMS TO ASSAM

Between 1964 to 1969, as per official figures, 192,000 Muslims were forcefully deported to East Pakistan by the Indian state under a scheme commenced in 1962, entitled, “Prevention of Infiltration from Pakistan” (PIP) via the Special Branch Organization of the Assam Police. The deportations were commenced without adhering to international standards for determining citizenship.⁵⁹⁵ ⁵⁹⁶ Later, about 1.5 million refugees immigrated to India in May 1971. This number rose close to 10 million by November,⁵⁹⁷ with many of them settling in Assam. It is of note that, given the political context, most of these émigrés to India and Assam were likely Hindus. The number of refugees has been reportedly escalated in majoritarian narrative.⁵⁹⁸

Anti-Bangali sentiment in Assam is also rooted in Assam’s “forcible incorporation [in 1905 into the] Bengal Province and the characterization of Asomiya [Assamese] as merely a dialect of Bangali.”⁵⁹⁹ The British forced, moved, and indentured people to Assam to work as plantation laborers,⁶⁰⁰ in the nineteenth century,⁶⁰¹ during the tea-colonization of 1916⁶⁰² (see endnote 603 on the Inner Line and colonial racialization of Assam),⁶⁰³ and during the 1940s. During this time, Bangla-descent Muslims worked predominantly as peasants and some as plantation laborers in Assam.⁶⁰⁴ In 1979, two

Assamese groups, All Assam Students Union (AASU) and Asom Gana Sangram Parishad (AGSP) started protests across Assam against perceived foreigners in the state, who they believed were making the Assamese into a minority.⁶⁰⁵ These agitations sometimes resulted in violence and deaths.⁶⁰⁶ Assamese locals targeted persons according to the language they spoke and shouted discriminatory slogans against other groups, including Muslims, Biharis, Bangalis, and Nepalis.⁶⁰⁷ By this time, RSS members had become part of the AASU and redirected anti-foreigner sentiments to focus more specifically on Bangla-descent Muslims.

The Assam movement’s violence intensified through the early 1980s, as Assamese groups protested against the elections of 1983 and demanded that “foreigners” be struck off voter rolls before voting took place. This intersected with the growth of Hindu nationalism in Assam. When the Indian government forged ahead with the elections, election-related violence claimed between 4,000-7,000 lives.

5. WOMEN-WOMXN, LGBTIQ+

Women-Womxn: Women are acutely impacted by injustices at each step in life and in the prejudicial citizenship process that accumulatively impairs their autonomy, access to critical services and the capacity to intervene on their circumstances. Entitlement to land, property, and decision-making; access to literacy, education, and economic opportunities; and access to legal and rehabilitation services and evidential documentation, are among them. The complex experiences and conditions of women in navigating and surviving the inherently gendered roadblocks of the prejudicial citizenship process and their prolific resistance to the challenges they contend with,

are daunting and enable and constrain various forms of agency.

Women who marry continue to encounter additional difficulties as they seek to locate “evidence” of their existence. The reference here is to heterosexual marriages. As is customary across India, women are prevalently required to change their place of residence after marriage, as well as their last name. Going back in time and locating documents from their original place of residence and corresponding it with their new last names becomes an additionally onerous task. When male members of households are engaged in locating proof of identity or pleading their case before a Foreigners Tribunal, or if they are detained, women are forced to assume responsibilities as primary heads of their households. It is probable as well that political violence may escalate social and domestic violence.

Social violence can routinely connect the public and official sphere with the domestic and private realm. The experience of indignity and violence outside often conditions escalations in domestic violence in areas of political conflict.⁶⁰⁸ As well, women become the sole caregivers to disintegrating families, they work as rights defenders and community leaders, as witnesses and healers of trauma and dislocation and as seekers of justice. Further, “women are forced to assume such leadership within structural contexts where gender relations are often highly inequitable,” and wherein they are routinely stigmatized.⁶⁰⁹

LGBTIQA: Lesbian, gay, bisexual, transgender, intersex, queer, questioning and asexual identified individuals and communities are always vulnerable while navigating prejudicial citizenship processes.

6. ARMED FORCES SPECIAL POWERS ACT

The Armed Forces Special Powers Act, 1958 (AFSPA), an impunity law, went into effect on May 22, 1958, in Assam, as the state was classified as a “disturbed area.”⁶¹⁰ In an attempt to securitize public life, AFSPA was applied to areas where “insurgent groups” were portrayed as operational. AFSPA “provide[d] legal cover for inhumane army operations in Assam.”⁶¹¹ In November 1990, the central government extended AFSPA across Assam.⁶¹² In 2008, state forces committed abuses against civilians under the pretext of counterinsurgency, including the imprisonment of, and sexual violence against, children.^{613 614 615}

In 2017, the central government devolved the power to continue the implementation of AFSPA to Assam’s BJP-led state government.⁶¹⁶ The Assam government has renewed AFSPA every six months since then.⁶¹⁷ In August 2018, AFSPA was extended in Assam, reportedly to aid with the NRC process. In December 2019, the armed forces were called to action during anti-CAA civil society protests which were used to justify the continuance of AFSPA. In February 2020, the army and police in Assam argued for AFSPA to continue to be applied throughout the state.⁶¹⁸

7. CITIZENSHIP POLICY: TIMELINE

1950	Constitution of India Articles 5 through 11 address issues of citizenship premised on birth as of January 26, 1950. ⁶¹⁹ India became a republic on January 26, 1950. For matters pertaining to citizenship beyond this date, it left to the Indian Parliament to enact future laws.
1950	Immigrants (Expulsion from Assam) Act permitted the Center to expel immigrants whose presence is “detrimental to the

	interests of the general public of India or of any section thereof or of any Scheduled Tribe in Assam,” ⁶²⁰ while distinguishing between “Muslim illegal aliens” and “Hindu refugees.” ⁶²¹		determining citizenship in Assam was added to the Citizenship Act (1955) via an amendment.
1950 ⁶²²	The Delhi Pact, or Liaquat-Nehru Pact, guaranteed citizenship rights to minorities, regardless of religion, after the 1947 Partition of India. ⁶²³		
1955	Citizenship Act created citizenship for the period following January 26, 1950 and: “rules for citizenship by birth, descent and registration.” ⁶²⁴	2003	Citizen (Amendment) Act, 2003, was passed, ⁶³⁴ defining citizenship to be: * Persons born in India between 1950-1987 * Persons born in India between 1987-2003, if one parent is Indian citizen * Persons born in India since 2004 if one parent is Indian citizen and the other is not an “illegal immigrant.” ⁶³⁵
1957	Immigrants (Expulsion from Assam) Act repealed.	2005	The Illegal Migrants (Determination by Tribunals) Act of 1983 was repealed by the Supreme Court, ⁶³⁶ ostensibly in agreement with the petitioner that the provisions of the Act were too strict to successfully deport anyone. ⁶³⁷ With this ruling, the court shifted the burden of proof for a person’s citizenship status from the state to the individual. ⁶³⁸
1960	Assam Assembly passed a bill to establish Assamese as the state’s sole official language. ⁶²⁵		
1964	Under the Foreigners Act (1946), the central government issued the Foreigners Tribunal order, which mandated the establishment of tribunals to identify foreigners. The burden of proof for citizenship status was on the accused individual. ⁶²⁶	2006	The central government appeared reluctant to support the push for deportations in Assam and issued an order exempting Assam from existing deportation legislation. When sued before the Supreme Court, the central government stated that Assam should have a different process for its tribunals as due to the “illegal [immigrants] ethnic similarities with Bengali speaking Indians.” ⁶³⁹
1967	The Assam Official Language Act amended to designate Bangla as the official language of three districts in Barak Valley. ⁶²⁷		
1983	Illegal Migrants (Determination by Tribunals) Act established Foreigners Tribunals to “detect and deport so-called illegal migrants.” ⁶²⁸ In a change from the Foreigners Act (1946), the IMDT’s Foreigners Tribunals placed the burden of proof for a person’s citizenship status on the part of the state, not the accused. ⁶²⁹ The law could apply to all of India, but came into force only in Assam. ⁶³⁰	2006	Supreme Court nullified the earlier order. ⁶⁴⁰
		2015	The Foreigners Order (1948) and the Passport (Entry into India) Rules (1950) were changed to authorize “illegal migrants” from Afghanistan, Bangladesh, and Pakistan, to allow such persons to continue staying in India and not be prosecuted, provided that such persons were non-Muslims and escaping from persecution. These amendments were disputed before the Supreme Court of India and the matter was pending as of March 2021. ⁶⁴¹
1985	Assam Accord, signed by national and state governments and Assamese nationalist groups, committed to the “detection, deletion and deportation” of foreigners. ⁶³¹ The Accord declared March 25, 1971 as the date after which those who entered would be considered “illegal immigrants,” ⁶³² and were to be expelled. ⁶³³ This cut-off date for	2019	The enactment of the Citizenship Amendment Act into law gave precedent

to religion as a criterion for citizenship in India for the first time,⁶⁴² and privileged Hindus in defining citizenship.⁶⁴³ (See elaboration earlier on how Hindus are privileged even as the amendment also applies equally to Buddhists, Christians, and Sikhs.)

8. CITIZENSHIP POLICY: BACKGROUND

Imperial Legislative Assembly (ILA):

Functioned as the legislature for India under British rule from 1861 to 1947. The ILA was replaced by the Constituent Assembly of India,⁶⁴⁴ followed by the Parliament of India.⁶⁴⁵ The Indian government authorized the Foreigners (Tribunals) Order, 1964, authorized by Section 3 of the Foreigners Act, 1946.⁶⁴⁶

Foreigners Act, 1946 and Foreigners (Tribunals) Order, 1964: A tribunal was required to provide the person subjected to foreigner status: “a copy of the main grounds on which he [sic] is alleged to be a foreigner and give him [sic] a reasonable opportunity of making a representation and producing evidence in support of his [sic] case.”⁶⁴⁷ In making a determination, the tribunal had the power to: (1) Summon and enforc[e] “the attendance of any person and” examin[e] “him” [sic] under oath; (2) Require “the discovery and production of any document”; and (3) Issu[e] “commissions for the examination of any witness.”⁶⁴⁸

Shifts During the 1980s: In the 1980s, when the Congress Party was in power in national government, two changes were made to the legal precepts defining citizenship through the Illegal Migrants (Determination by Tribunal) Act, 1983 (IMDT) and Section 6A of the Assam Accord of 1985. Following the Assam agitation of the late 1970s and early 1980s and approximately two years prior to the Assam Accord, the Illegal Migrants (Determination by

Tribunal) Act, 1983 (IMDT) was enacted on December 25, 1983.⁶⁴⁹ Earlier, in February 1983, massified violence had targeted Bangla-descent Muslims in Nellie and other areas of Assam.

Illegal Migrants (Determination by Tribunal) Act, 1983 (IMDT): The IMDT Act established the Illegal Migrants (Determination) Tribunals and attendant protocols to address issues of immigration in Assam and determine the citizenship status of suspected non-citizens. The IMDT could apply to all of India but came into effect only in the state of Assam on October 15, 1983,⁶⁵⁰ and was never extended to any other state. The IMDT Act defined an “illegal migrant” (undocumented individual) to be a person that entered India “on or after the 25th day of March 1971.” This coincided with the formation of Bangladesh. March 26, 1971 is Bangladesh’s Independence Day. The IMDT Act-related “Foreigners” Tribunals were established to undertake the “determination, in a fair manner, of the question [of] whether a person is an illegal migrant to enable the central government to expel illegal migrants from India.”^{651 652}

Citizenship Implementation: 2003-04:

Under the 2003 CAA, those born before 1987 were deemed to be citizens if they were born in India, irrespective of the status of their parents. Those born between 1987 and 2004 were treated as citizens of India if they were born in India and at the time of the birth of such persons, if one parent was a citizen of India.⁶⁵³ After December 3, 2004, citizenship would be granted if an individual was born in India and one of the parents of that individual was a citizen at the time of the child’s birth (as was already prescribed under the 1987 amendment). Further, a new condition was imposed, that the second parent must not be an “illegal” (undocumented) immigrant. For instance, in Assam, if an individual were born in India after December

2004, to claim entitlement to citizenship they would have to prove that one of the parents of that individual was a citizen of India at the time of birth and that the other had not migrated, for example from Bangladesh, after March 1971.⁶⁵⁴ The 2003 amendment stated that: “ordinarily, such an illegal migrant could have applied for citizenship by registration”⁶⁵⁵ or naturalization through residing in the country for a certain number of years. However, the 2003 amendment provided that such an immigrant *may not* apply for Indian citizenship either by registration or naturalization.⁶⁵⁶ Even as this precept was “religion neutral,” it was positioned to affect Muslim immigrants essentially and disproportionately from adjoining countries such as Bangladesh, Myanmar, and Pakistan.

9. NRC RE-VERIFICATION APPLICATION, MAY 2021

The application highlighted the following reasons for the request:⁶⁵⁷

- The NRC authority apparently had difficulties in discovering the use of “manipulated or manufactured secondary documents.”
- The NRC authority raised the issue that some persons may have been able to enter their names into the NRC list by fraudulently claiming to be in the “original inhabitant” category.
- The NRC authority mentioned that the software being used for verifying family tree information had openings that allowed “officers of doubtful integrity... to upload wrong results.”
- The application stated that 393,975 persons of the 4,007,719 excluded from the 2018 NRC list did not file any claims to retain their citizenship and were put on an “exclusion list.” Subsequent analysis discovered that 50,695 of those

who did not file a claim were actually eligible to be included in the NRC: 7,770 under the category of “original inhabitants” and 42,925 as “persons from other states.”

- Assam Chief Minister Sarma stated on May 10, 2021 that his government wanted to see a re-verification of 10 to 20 percent of the NRC list. The Supreme Court accepted the application for re-verification on May 11, 2021. Sarma, stated that the new government favored a “20 percent re-verification of the updated list of citizens in districts that share a border with Bangladesh and 10 percent in the remaining districts.”
- According to the Government of Assam, four districts share a border with Bangladesh: Cachar, Dhubri, Karimganj, and South Salmara Mankachar. Three districts are majority Muslim, and one has a significant Muslim population. Religious composition of these districts as of the 2011 Census: Cachar: 59.83% Hindu, 37.71% Muslim; Dhubri: 79.67% Muslim, 19.92% Hindu; Karimganj: 56.36 % Muslim, 42.48 % Hindu; South Salmara Mankachar: 95.19% Muslim, 4.49% Hindu.

NOTES

Errata: In this iteration of the monograph, updated on 9122021, corrections have been made to errors in the 9072021 version of the monograph, caused during the production stage and in the conversion to an electronic format. Corrections: Appendix 8 on

¹ (PCRes-Berkeley: 2020-21). This narrative is based on conversations and interviews with civil society leaders, lawyers, and community members. In using quotes and certain specific information from the applied research in the body of the text, the interviewer or source is recorded as “PCRes-Berkeley.” Lead researcher: Angana P. Chatterji. Insertion(s) within square brackets in the quotations are by the author.

² Ministry of Law and Justice, The Citizenship (Amendment) Act, 2019, Act 47 of 2019, <http://egazette.nic.in/WriteReadData/2019/214646.pdf>; Press Trust of India, “Citizenship (Amendment) Bill Gets President’s Assent, Becomes Act,” *India Today*, December 13, 2019, <https://www.indiatoday.in/india/story/citizenship-amendment-bill-gets-president-assent-becomes-act-1627868-2019-12-13>. Also see: Harrison Akins, “The Citizenship (Amendment) Act in India,” United States Commission on International Religious Freedom, February 2020, https://www.uscifr.gov/sites/default/files/2020%20Legislation%20Factsheet%20-%20India_0_0.pdf.

³ “Amit Shah: NRC to Apply Nationwide, No Person of Any Religion Should Worry,” *India Today*, November 20, 2019, <https://www.indiatoday.in/india/story/amt-shah-nrc-rajya-sabha-1620810-2019-11-20>.

⁴ Sanya Dhingra, “With CAA Rules Nowhere in Sight, Centre Allows 5 States to Implement Religion-Based Citizenship,” *The Print*, May 29, 2021, <https://theprint.in/india/governance/with-caa-rules-nowhere-in-sight-centre-allows-5-states-to-implement-religion-based-citizenship/667878/>; Abraham Thomas, “Centre’s Order on Giving Citizenship to Refugees Separate from CAA, SC Told,” *Hindustan Times*, June 16, 2021, <https://www.hindustantimes.com/india-news/centres-order-on-giving-citizenship-to-refugees-separate-from-caa-sctold-101623784086752.html>.

⁵ Angana P. Chatterji, Thomas Blom Hansen, and Christophe Jaffrelot, eds., *Majoritarian State: How*

page 63: verb agreement inserted in quotation; and in the “Notes” section: note 190: citation corrected; 191: first citation fully noted; 407: quote was merged with comments that have been deleted and page number inserted; 409: while quotation marks were present, attribution has been inserted; 505: URL inserted; 650: URL reformatted and page number inserted; and 655: URL reformatted.

Hindu Nationalism Is Changing India (London: Hurst & Company, 2019).

⁶ Refers to Bangla people, language, and culture.

⁷ The “Miya people” refers to Bangla-descent Muslim individuals whose ancestors emigrated or were transported to Assam from the Bengal Province during the British colonization of Assam, the Partition of 1947, and perhaps (few) during the Bangladesh liberation movement in 1971. Miya, also Mian, which is honorific, in Persian. In establishing a new identity, the Miya community also use the term Na-Asamiya or neo-Assamese. Miya poets remind us that the term “Miya” has been used pejoratively by non-Muslims and of their attempt to reclaim the identity and history associated with the term. “Miya, though meaning ‘gentleman’ in Urdu, is used as a slur against Bangla-speaking Muslims in Assam basically translating into ‘Bangladeshi’ or ‘illegal immigrant.’” The Miya community formally accepted Assamese during the post-1950s movement seeking the endorsement of Assamese as the official language. (PCRes-Berkeley: 2020-21); also see: Press Trust of India, “FIR Against Assam Poets: India Crossed New Line in Its Descent Into Darkness, Says Harsh Mander,” *India Today*, July 18, 2019, <https://www.indiatoday.in/india/story/assam-poets-miya-poem-bengali-muslims-harsh-mander-1571025-2019-07-18>; See: Harsh Mander and Abdul Kalam Azad, “People No Country Wants,” *Indian Express*, January 2, 2019, <https://indianexpress.com/article/opinion/columns/nrc-assam-citizenship-indian-bangladeshi-infiltration-5519118/>.

⁸ Angana P Chatterji, Thomas Blom Hansen, and Christophe Jaffrelot, eds., *Majoritarian State: How Hindu Nationalism Is Changing India* (London: Hurst & Company, 2019).

⁹ Bharatiya Janata Party, “Manifesto: Lok Sabha Election 2009,” 2009,

http://library.bjp.org/jspui/bitstream/123456789/262/1/bjp_lection_manifesto_english_2009.pdf, 11.

¹⁰ Ministry of Law and Justice, The Citizenship (Amendment) Act, 2019, Act 47 of 2019, <http://egazette.nic.in/WriteReadData/2019/214646.pdf>; Press Trust of India, “Citizenship (Amendment) Bill Gets President’s Assent, Becomes Act,” *India Today*, December 13, 2019, <https://www.indiatoday.in/india/story/citizenship-amendment-bill-gets-president-assent-becomes-act-1627868-2019-12-13>. Also see: Harrison Akins, “The Citizenship (Amendment) Act in India,” United States Commission on International Religious Freedom, February 2020, https://www.uscifr.gov/sites/default/files/2020%20Legislation%20Factsheet%20-%20India_O_0.pdf.

¹¹ “Amit Shah: NRC to Apply Nationwide, No Person of Any Religion Should Worry,” *India Today*, November 20, 2019, <https://www.indiatoday.in/india/story/amit-shah-nrc-rajya-sabha-1620810-2019-11-20>.

¹² In Assam, the percentage is 39. Pew-Templeton Global Religious Futures Project, “India: 2020,” The Future of World Religions, accessed August 2021, http://www.globalreligiousfutures.org/countries/india/religious_demography/#?affiliations_religion_id=0&affiliations_year=2020; Per the 2011 Census. Office of the Registrar General & Census Commissioner, India [Ministry of Home Affairs, Government of India], *Population By Religious Community, 2011*, <https://censusindia.gov.in/2011census/C-01.html>

¹³ See: Anupama Roy, *Mapping Citizenship in India* (New Delhi: Oxford University Press, 2010); Christophe Jaffrelot, “Citizenship Law in India, a Populist Polarization?” Carnegie Endowment for International Peace, February 6, 2020, <https://carnegieendowment.org/2020/02/06/citizenship-law-in-india-populist-polarization-pub-81023>; BJP: the “Jana Sangha (People’s Organization) was founded as a political party in 1951, and later transitioned into the Bharatiya Janata Party (Indian People’s Party) in 1980,” see Angana P Chatterji, *Violent Gods: Hindu Nationalism in India’s Present; Narratives from Orissa* (Gurgaon: Three Essays Collective, 2009), 38-39.

¹⁴ Sanya Dhingra, “With CAA Rules Nowhere in Sight, Centre Allows 5 States to Implement Religion-Based Citizenship,” *The Print*, May 29, 2021,

<https://theprint.in/india/governance/with-caa-rules-nowhere-in-sight-centre-allows-5-states-to-implement-religion-based-citizenship/667878/>; Abraham Thomas, “Centre’s Order on Giving Citizenship to Refugees Separate from CAA, SC Told,” *Hindustan Times*, June 16, 2021, <https://www.hindustantimes.com/india-news/centres-order-on-giving-citizenship-to-refugees-separate-from-caa-sctold-101623784086752.html>.

¹⁵ “Religionization is the politicization of religion, rendering it an object of violence. Racialization in the Indian context, creates cultural representations of the Other through ascribing religious, racial, ethnic, and pejorative identities to peoples”: Taken from Chatterji et al., *Majoritarian State*; also see: Angana P. Chatterji, Shashi Buluswar, and Mallika Kaur, *Conflicted Democracies and Gendered Violence: The Right to Heal: Internal Conflict and Social Upheaval in India* (Delhi: Zubaan, 2016), 24-25.

¹⁶ Indrajit Sharma, “Tea Tribes of Assam” Identity politics and Search for Liberation,” *Economic & Political Weekly*, March 3, 2018, <https://www.epw.in/journal/2018/9/notes/tea-tribes-assam.html>; Kangkan Kalita, “Assam: Tea Tribe Protests ST Status Delay During PM Modi Visit,” *Times of India*, February 7, 2021, <https://timesofindia.indiatimes.com/city/guwahati/assam-tea-tribe-protests-st-status-delay-during-pm-modi-visit/articleshow/80738279.cms>; and for history and context, see: Piya Chatterjee, *Time for Tea: Women, Labor, and Post/Colonial Politics on an Indian Plantation* (Durham: Duke Press, 2001).

¹⁷ (PCRes-Berkeley: 2020-21).

¹⁸ (PCRes-Berkeley: 2020-21).

¹⁹ In the case of Sarbananda Sonowal v. Union of India.

²⁰ Ministry of Law and Justice, The Citizenship (Amendment) Act, 2019, Act 47 of 2019, <http://egazette.nic.in/WriteReadData/2019/214646.pdf>; Press Trust of India, “Citizenship (Amendment) Bill Gets President’s Assent, Becomes Act,” *India Today*, December 13, 2019, <https://www.indiatoday.in/india/story/citizenship-amendment-bill-gets-president-assent-becomes-act-1627868-2019-12-13>.

1627868-2019-12-13. Also see: Harrison Akins, “The Citizenship (Amendment) Act in India,” United States Commission on International Religious Freedom, February 2020, https://www.uscirf.gov/sites/default/files/2020%20Legislation%20Factsheet%20-%20India_0_0.pdf.

²¹ Adivasis: tribal, indigenous communities.

²² Minority: A problematic construction in India. The construction of “Hindus” as an “entity” and as the national majority required the flattening of vast differences of culture, ethnicity, class, spirituality, and history. Chatterji, *Violent Gods: Hindu Nationalism in India's Present; Narratives from Orissa*, 62.

²³ “Amit Shah: NRC to Apply Nationwide, No Person of Any Religion Should Worry,” *India Today*, November 20, 2019, <https://www.indiatoday.in/india/story/amit-shah-nrc-rajya-sabha-1620810-2019-11-20>.

²⁴ Dhananjay Mahapatra, “What's Been Done to Tackle 'External Aggression' by 'Aliens'?” *Times of India*, March 14, 2019, <https://timesofindia.indiatimes.com/india/whats-been-done-to-tackle-external-aggression-by-aliens-sc-to-assam/articleshow/68400824.cms>; Amit Shah stated during the 2019 Lok Sabha elections: “It is our commitment to bring in NRC across the country, to chuck out each and every infiltrator. We don't treat infiltrators as our vote bank.” Aditya Sharma, “How New MHA Order on Foreigners Tribunals Across States Can Set a Dangerous Precedent,” *News 18*, June 11, 2019, <https://www.news18.com/news/india/how-setting-up-foreigners-tribunals-under-new-mha-order-can-be-a-dangerous-precedent-2181413.html>.

²⁵ I thank Thomas Blom Hansen and Sharika Thiranagama for conversations on the subject.

²⁶ Foreigners Act, 1946, Act 31 of 1946, <https://www.refworld.org/docid/3ae6b4df4.html>.

²⁷ Foreigners Act, 1946, Act 31 of 1946, <https://www.refworld.org/docid/3ae6b4df4.html>.

²⁸ In this regard, it is relevant to note the use of adjacent laws such as the Enemy Property Act, 1968.

²⁹ Amnesty International, *Designed To Exclude How India's Courts are Allowing Foreigners Tribunals to Render people Stateless in Assam*, 2019, <https://web.archive.org/web/20201003054807/https://amnes>

<ty.org.in/wp-content/uploads/2019/11/Assam-Foreigners-Tribunals-Report-1.pdf>, 18, 22.

³⁰ (PCRes-Berkeley: 2020-21).

³¹ (PCRes-Berkeley: 2020-21); Furquan Ameen, “‘Stress on Hindu Identity’: BJP Hate Campaign in Poll-Bound Assam,” *Al Jazeera*, March 25, 2021, <https://www.aljazeera.com/news/2021/3/25/stress-on-hindu-identity-bjp-hate-campaign-in-poll-bound-assam>.

³² Meenakshi Ganguly, “Assam's Citizenship Verification Will Have Repercussions for the Rest of India,” *Human Rights Watch*, August 6, 2018, <https://www.hrw.org/news/2018/08/06/assams-citizenship-verification-will-have-repercussions-rest-india>. Note: 1947: Cessation of British rule in South Asia.

³³ Ameen, “‘Stress on Hindu identity’: BJP Hate Campaign in Poll-Bound Assam.”

³⁴ Sangeeta Barooah Pisharoty, “Citizenship and Assam: An explainer on the legal questions that still loom large,” *The Wire*, November 25, 2019, <https://thewire.in/rights/citizenship-and-assam-the-legal-questions-that-still-loom-large>.

³⁵ Ratnadip Choudhury, “Amit Shah Promises ‘Infiltrator-Free,’ ‘Flood-Free’ Assam, Skips CAA,” *NDTV*, January 24, 2021, <https://www.ndtv.com/india-news/bjp-alliances-bodoland-win-a-trailer-for-assam-polls-amit-shah-2357316>.

³⁶ Shivam Vij, “In Hindu-Nationalist India, Muslims Risk Being Branded Infiltrators in Their Own Country,” *CNN*, December 14, 2019, <https://www.cnn.com/2019/12/14/asia/indian-citizenship-laws-muslims-intl-hnk/index.html>.

³⁷ Navine Murshid, “Assam and the Foreigner Within,” *Asian Survey* 56, no. 3 (2016): 581-604. <https://www.jstor.org/stable/10.2307/26364374>. The article analyzes the population fluctuation in Assam from 1951 to 2011 and notes that there is “little basis for the claims of widespread infiltration” of “illegal foreigners” in the census data.”

³⁸ (PCRes-Berkeley: 2020-21).

³⁹ Ratnadip Choudhury, “Amit Shah Promises ‘Infiltrator-Free,’ ‘Flood-Free’ Assam, Skips CAA,” *NDTV*, January 24, 2021, <https://www.ndtv.com/india>

news/bjp-alliances-bodoland-win-a-trailer-for-assam-polls-amit-shah-2357316.

⁴⁰ Office of the Registrar General & Census Commissioner, India [Ministry of Home Affairs, Government of India], *Census 2011: Assam Profile*, 2011, https://censusindia.gov.in/2011census/censusinfodas/hboard/stock/profiles/en/IND018_Assam.pdf.

⁴¹ Note: The census records a significant number of Adivasis as Hindus.

⁴² Press Trust of India, “Assam Plans Survey to Identify Indigenous Muslim Population,” *The Hindu*, February 10, 2020, <https://www.thehindu.com/news/national/assam-plans-survey-to-identify-indigenous-muslim-population/article30780667.ece>.

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⁸² (PCRes-Berkeley: 2020-21).

⁸³ (PCRes-Berkeley: 2020-21).

⁸⁴ Sadiq Naqvi and Guy Davies, “An Arrest, a Suicide and Fears of Internment Camps as India Debates New Citizenship Law,” ABC News, February 29, 2020, <https://abcnews.go.com/International/arrest-suicide-fears-internment-camps-india-debates-citizenship/story?id=69263756>. An investigative report by *The Wire* reportedly found legal ambiguities, omissions, and discrepancies in Assam and inconsistent and arbitrary application of the document verification process, including incidents where documents (such as school documents, for example) that were accepted for the verification process from one woman but not for the verification of another individual. Another group of women reported that their paternal family could establish their citizenship, even as their male spouses and children were left out of the NRC. Another stated that both the parents were in the NRC, but the children’s names were left out from the NRC. Sangeeta Barooah Pisharoty, “Women Without Parents: An NRC Ground Report,” *The Wire*, September 13, 2019, <https://thewire.in/rights/women-without-parents-an-nrc-ground-report>.

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⁹² (PCRes-Berkeley: 2020-21).

⁹³ (PCRes-Berkeley: 2020-21).

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¹²⁶ (PCRes-Berkeley: 2020-21); Abdul Kalam Azad.

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¹²⁸ (PCRes-Berkeley: 2020-21).

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¹³³ Including various civil society members, scholars, legal experts, human rights defenders, institutions, and the media.

¹³⁴ See: Angana P. Chatterji et al., *Conflicted Democracies*, 24-25 and 81-84, and minoritization, as the “exclusion and targeting of non-dominant peoples and groups through dehistoricization, marginalization, and stereotypification,” 45; Also see: Paul R. Brass, *The Production of Hindu-Muslim Violence in Contemporary India* (Seattle: University of Washington Press, 2003); Chatterji et al., *Majoritarian State*; Thomas Blom Hansen, *The Law of Force* (Delhi: Aleph Book Company).

¹³⁵ This inquiry was not conducted with a statistically representative sample size. There has been extensive discussion in qualitative research on pertinent sample sizes. In determining a comprehensive sample size for the interviews, time (required from participants) and the capacity of the research team were considered. For this study, a small sample offered a valuable set of social data and information. Each life and each interview and conversation offered a richly layered and durable understanding of processes and events under scrutiny. While it was anticipated that the interviews and meetings would likely augment the hypotheses of the study, the process of inquiry illuminated various new and critical issues, directions, and questions.

¹³⁶ To refute allegations being brought by the state and to establish a legal premise for accountability.

¹³⁷ Arundhati Roy, “‘We Are Witnessing a Crime Against Humanity,’” *The Guardian*, April 28, 2021, <https://www.theguardian.com/news/2021/apr/28/crim-e-against-humanity-arundhati-roy-india-covid-catastrophe>; Billy Perrigo, “The Indian Government Is

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¹³⁸ In the monograph identifying information about the individual has been redacted. Words that are from and customary to different languages are not italicized at first mention. Transliterations are provided as necessary and diacritical marks have not been used. Quotations are unattributed, names and identifying information are redacted and pseudonyms or aliases are used when appropriate, adherent to issues of confidentiality, security, and respect for the dignity of individuals. The names of places have been redacted, minimized, or modified. Identifying information from individual cases, including, at times, alleged or prosecuted perpetrators, has been redacted. This monograph does not identify victimized-survivors of rape, or connected individuals, by name to preserve their privacy, as per the specifications of Section 228A of the Indian Penal Code (Pen. Code § 228A). Indian law prohibits the disclosure of identifying information about victims of sexual violence.

¹³⁹ The explorative scope and timeframe of the study rendered uneven the correlation between the gamut

of issues that were identified and the amount of information particular to each aspect. Only a select set of issues are elaborated upon in this monograph.

¹⁴⁰ See: Chatterji et al., *Majoritarian State*, 4-7, 29; Chatterji et al., *Conflicted Democracies and Gendered Violence*.

¹⁴¹ Taken from: Chatterji et al., *Majoritarian State*, 402. Security: majoritarian subject formation, militarized governance, control over production and circulation of information. Territory: augmenting fault lines that render India synonymous with Hindu-ness, Kashmir as integral to the nation, manipulation of the Babri Masjid-Ayodhya issue in favor of Hindus. Population: ascendance of the majority population, relegation of non-Hindus as secondary subjects. Reference to Michel Foucault's ideas, see: Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France, 1977-1978*, trans. Graham Burchell, general eds. Michel Senellart, François Ewald and Alessandro Fontana, English series ed. Arnold I. Davidson (New York: Palgrave Macmillan, 2007).

¹⁴² This extends well beyond the Hindu Right. Taken from: Chatterji et al., *Majoritarian State*, 400.

¹⁴³ Inherently Brahmanical and patriarchal, this order incorporates four features of a majoritarian state: populism, nationalism, authoritarianism and majoritarianism. Taken from: Chatterji et al., *Majoritarian State*; Chatterji et al., *Majoritarian State*; Adrija Roychowdhury, "Most Damaging Effect of Majoritarianism on India's Polarized Democracy is Undermining of The Rule of Law," *Indian Express*, May 9, 2019, <https://indianexpress.com/article/research/most-damaging-effect-of-majoritarianism-on-indias-polarised-democracy-is-undermining-of-the-rule-of-law-5719297/>; and Angana Chatterji, "Citizenship Laws and the Nazification of India," *Berkley Center for Religion, Peace and World Affairs*, June 14, 2021, <https://berkeleycenter.georgetown.edu/responses/citizenship-laws-and-the-nazification-of-india>.

¹⁴⁴ See: Chatterji et al., *Majoritarian State*, 1; Chatterji et al., *Conflicted Democracies and Gendered Violence*. For racialization, see endnote 15.

¹⁴⁵ The prejudicial Hindu nationalist narrative of "love jihad" has been popularizing the myth of Hindu culture as under siege, depicting Hindu women as vulnerable and sans agency, in

justifying the Hindu male as the protector-aggressor. In racializing Muslims as violent, love jihad may be deciphered as an anti-miscegenation conspiracy. See: Chatterji, "Remaking the Hindu/Nation: Terror and Impunity in Uttar Pradesh," 404; and Angana Chatterji in Perrigo, "India's Biggest State Passes Law Based on Anti-Muslim Conspiracy Theory;" and Vakasha Sachdev, "'Love Jihad': A Homage to Nuremberg & Anti-Miscegenation Laws," *The Quint*, November 22, 2020, <https://www.thequint.com/news/law/love-jihad-laws-india-nuremberg-law-anti-miscegenation-us-similarities#read-more>.

¹⁴⁶ Dalits: Communities who are subject to heightened caste-oppression and were historically identified by dominant groups in India and through the caste system as "untouchable."

¹⁴⁷ Lack of access to justice to religion-based violence and sexualized and gendered violence is pervasive and extends to cow and cattle slaughter-related lynching, forcible religious conversions to Hinduism, and the violent obstruction of the right of individuals to convert to another religion from Hinduism. The prejudicial Hindu nationalist narrative of "love jihad" has been popularizing the myth of Hindu culture as under siege, depicting Hindu women as vulnerable and sans agency, in justifying the Hindu male as the protector-aggressor. In racializing Muslims as violent, love jihad may be deciphered as an anti-miscegenation conspiracy. See: Angana P. Chatterji, "Remaking the Hindu/Nation: Terror and Impunity in Uttar Pradesh," in *Majoritarian State: How Hindu Nationalism is Changing India*, eds. Angana P. Chatterji, Thomas Blom Hansen, and Christophe Jaffrelot (London: Hurst & Company, 2019), 404; and Angana Chatterji in Perrigo, "India's Biggest State Passes Law Based on Anti-Muslim Conspiracy Theory;" and Vakasha Sachdev, "'Love Jihad': A Homage to Nuremberg & Anti-Miscegenation Laws." Religion-based violence also manifests as sexualized and gendered violence and is pervasive, and has extended to cow slaughter-related lynching of Muslims and targeting their livelihood. In May 2021, the state government indicated that it was considering a total ban on the

transportation of cattle out of Assam. Umanand Jaiswal, "BJP Govt in Assam Signals Intention for Complete Ban on Transport of Cattle Outside State," *The Telegraph*, May 23, 2021, <https://www.telegraphindia.com/north-east/bjp-government-in-assam-signals-intention-for-complete-ban-on-transport-of-cattle-outside-state/cid/1816488>.

¹⁴⁸ Through nullifying Article 370 and revoking Article 35A of the Indian Constitution. Angana P. Chatterji, "SUBMISSION on Human Rights in South Asia: A Focus on Kashmir," House Foreign Affairs Subcommittee on Asia, the Pacific and Nonproliferation, Hearing on Human Rights in South Asia of October 22, 2019, <https://docs.house.gov/meetings/FA/FA05/20191022/110143/HHRG-116-FA05-Wstate-ChatterjiA-20191022.pdf>.

¹⁴⁹ Bharatiya Janata Party, "Manifesto: Lok Sabha Election 2009," 2009, http://library.bjp.org/jspui/bitstream/123456789/262/1/bjp_lection_manifesto_english_2009.pdf, 11.

¹⁵⁰ More than 500 alumni of the National University of Juridical Sciences of Kolkata have signed a statement opposing the CAA, which stated: "The collective impact of the CAA and NRC threatens the very fabric of India. It runs afoul of our constitutional principles, our obligations under the Universal Declaration of Human Rights and the cornerstone of international refugee law — the principle of non-refoulement." "CAA, NRC Will Lead to Persecution of Muslim Community," *The Hindu*, December 23, 2019, <https://www.thehindu.com/news/national/caa-nrc-will-lead-to-persecution-of-muslim-community/article30381546.ece>.

¹⁵¹ Press Trust of India, "Anti-CAA protests begin in Assam," *Deccan Herald*, December 11, 2020, <https://www.deccanherald.com/national/east-and-northeast/anti-caa-protests-begin-in-assam-926188.html>; See: Shuddhabrata Sengupta, "No Tyrant Can Endure," *The Caravan*, September 16, 2020, <https://caravanmagazine.in/commentary/umar-khalid-arrest-delhi-police-riots-uapa>; Human Rights Watch, "India: Activists Detained for Peaceful Dissent," April 15, 2020,

<https://www.hrw.org/news/2020/04/15/india-activists-detained-peaceful-dissent>; Farah Naqvi, "A New Optics of Freedom: What Asif, Natasha and Devangana Mean to India," *The Wire*, June 22, 2021, <https://thewire.in/rights/asif-iqbal-tanha-natasha-narwal-devangana-kalita-freedom>; "Delhi Police Arrest Umar Khalid, Allege Role in Riots 'Conspiracy,'" *The Wire*, September 14, 2020, <https://thewire.in/rights/delhi-police-arrest-umar-khalid-delhi-riots-conspiracy>.

¹⁵² In 2019 and 2020, civil society dissent to the CAA and NRC, and in 2020 and 2021, the farmers' resistance movement to the Agricultural Acts of 2020, have commanded significant international attention and solidarity.

¹⁵³ *Hindustan Times*, "Can't Occupy Indefinitely, says Supreme Court on Shaheen Bagh," *Hindustan Times*, October 8, 2020, <https://www.hindustantimes.com/india-news/can-t-occupy-indefinitely-says-supreme-court-on-shaheen-bagh/story-ILT5EU5GMn9CujGGX2ZoSL.html>.

¹⁵⁴ *Hindustan Times*, "Can't Occupy Indefinitely, says Supreme Court on Shaheen Bagh."

¹⁵⁵ Hannah Ellis-Petersen, "Inside Delhi: Beaten, Lynched and Burnt Alive," *The Guardian*, March 1, 2020, <https://www.theguardian.com/world/2020/mar/01/india-delhi-after-hindu-mob-riot-religious-hatred-nationalists>. Even with the Supreme Court's support of the right to protest, the Government of India continued to imprison anti-CAA activists detained under national security laws before and after the order. Priyam Marik, "How India Is Silencing Its Students," *The Diplomat*, October 14, 2020, <https://thediplomat.com/2020/10/how-india-is-silencing-its-students/>.

¹⁵⁶ Anumeha Yadav, "How India Uses Colonial-Era Sedition Law Against CAA Protesters," *Al Jazeera*, January 21, 2020, <https://www.aljazeera.com/news/2020/1/21/how-india-uses-colonial-era-sedition-law-against-caa-protesters>.

¹⁵⁷ The Indian state's treatment of its perceived critics can endanger both body and spirit, as is the

case with anti-CAA activist Natasha Narwal, jailed by Indian authorities under the Unlawful Activities Prevention Act since May 2020. She was among a large list of activists, journalists, and scholars detained in the context of the COVID-19 pandemic, who were endangered with illness and death. When her father, Dr. Mahavir Narwal, contracted COVID-19, she sought bail so that she could see him, but the courts treated her as a “threat to national security” and refused to release her until a day after her father’s death, to arrange his last rites. Karan Tripathi, “Natasha Narwal: Punished Without Trial, Silenced in Grief,” *The Quint*, May 10, 2021, <https://www.thequint.com/news/law/punished-without-proving-guilt-controlled-even-in-grief#read-more>; Richa Banka and Joydeep Bose, “Natasha Narwal, Jailed Anti-CAA Activist, Granted Interim Bail After Father Dies of Covid-19,” *Hindustan Times*, May 10, 2021, <https://www.hindustantimes.com/india-news/natasha-narwal-jailed-activist-granted-interim-bail-after-father-dies-of-covid-101620628079392.html>; Ismat Ara and Sukanya Shantha, “A List of Activists, Scholars and Scribes Whose Personal Liberty Remains at Judiciary’s Mercy,” *The Wire*, November 13, 2020, <https://thewire.in/rights/jail-bail-hearings-court-delhi-riots-elgar-parishad>.

¹⁵⁸ In Assam, the percentage is 39. Pew Templeton Global Religious Futures Project, “India: 2020,” *The Future of World Religions*, accessed August 2021. Per the 2011 Census. Office of the Registrar General & Census Commissioner, India [Ministry of Home Affairs, Government of India], *Population By Religious Community, Assam*, 2011.

¹⁵⁹ See: Chatterji et al., *Majoritarian State*. Majoritarianism refers to cultural nationalism and political assertions by the majority and dominant community in acquiring and maintaining social, economic, cultural, political, religious, juridical, and heteronormative and patriarchal state-nationalist forms of power. The post/colonial majoritarian state reproduces the very prodigious and colonial violence in response to which it evolved. Majoritarianism authorizes the conjoining of Hindu nationalism with nationalist Hinduism, wherein nationalism is modified by Hinduism and religion is modified by nationalism. The latter is encoded with cultural dominance and tropes of Hindu victimization. For a discussion on (Christian) cultural dominance, see

Richard Shapiro, “Religion and Empire: Secular Christian Cultural Dominance in the United States,” *International Journal of the Humanities*, 2, no. 3 (2006): 2491-2500. I thank Richard Shapiro for conversations on the subject.

¹⁶⁰ See: Paul R. Brass, *The Production of Hindu-Muslim Violence in Contemporary India*. I thank Thomas Blom Hansen and Sharika Thiranagama for conversations on the subject.

¹⁶¹ Hindutva: Hindu principles, Hinduness is Hindu ideology made extreme, the doctrine of Hindu exclusivity (now increasingly global in constitution). Secular constitutionally is not oppositional to religion and religious freedom in India. Hindu nationalists view the secular as seditious.

¹⁶² The following texts contextualize the ascent of Hindu nationalism in the past decades in relation to long-standing iniquitous social conditions and structural issues. See: Chatterji, *Violent Gods: Hindu Nationalism in India’s Present; Narratives from Orissa*. This text details Hindu militant mobilizations in Odisha since the 1990s, which escalated following the pogrom targeting Muslims in Gujarat in 2002, and later enabled the anti-Christian mass violence of 2007-2008, followed by massified violence against Muslims in Uttar Pradesh in 2013; Parvis Ghassem-Fachandi, *Pogrom in Gujarat: Hindu Nationalism and Anti-Muslim Violence in India* (Princeton: Princeton University Press, 2017). This book provides an ethnographic narrative of the anti-Muslim violence of 2002 Gujarat, where the doctrine of nonviolence and associated practices around vegetarianism were used to legitimate violence, paradoxically. The text discusses how the discourse of “sacrifice” was used to provoke anti-Muslim disgust and to enable Hindu middle classes (and aspiring middle classes) to align with Hindu nationalism across class and caste lines; and Harsh Mander, E.N. Rammohan, Kamal Mitra Chenoy, John Dayal, Sukumar Muralidharan, and Seema Mustafa, *Violence By Political Design: Muzaffarnagar 2013: Fact Finding Report*, September 8, 2013, <https://www.outlookindia.com/website/story/violence-by-political-design/287838>; see Thomas Blom Hansen, *The Saffron Wave: Democracy and Hindu*

Nationalism in Modern India (Princeton: Princeton University Press, 1999), which explicates the BJP's use of discourses of pride and strength to mobilize Hindu middle class and create fear of the rise of marginalized groups; and Anand Teltumbde, ed., *Hindutva and Dalits: Perspectives for Understanding Communal Praxis* (Los Angeles: Sage, 2020).

¹⁶³ The ascendancy of Hindu nationalism and the BJP's ethno-religious and populist rule in India since 2014, was supported by a massive civilian cadre and militia, see: Chatterji et al., *Majoritarian State*.

¹⁶⁴ India's Muslim population numbers approximately 200 million. Lindsay Maizland, "India's Muslims: An Increasingly Marginalized Population," Council on Foreign Relations, August 20, 2020, <https://www.cfr.org/backgrounder/india-muslims-marginalized-population-bjp-modi>.

¹⁶⁵ Mahapatra, "What's Been Done to Tackle 'External Aggression' by 'Aliens'?" Amit Shah stated during the 2019 Lok Sabha elections: "It is our commitment to bring in NRC across the country, to chuck out each and every infiltrator. We don't treat infiltrators as our vote bank." Aditya Sharma, "How New MHA Order on Foreigners Tribunals Across States Can Set a Dangerous Precedent," *News 18*, June 11, 2019, <https://www.news18.com/news/india/how-setting-up-foreigners-tribunals-under-new-mha-order-can-be-a-dangerous-precedent-2181413.html>.

¹⁶⁶ See: Chatterji et al., *Majoritarian State*; Human Rights Watch, "*Shoot the Traitors: Discrimination Against Muslims under India's New Citizenship Policy*, 2020, <https://www.hrw.org/report/2020/04/09/shoot-traitors/discrimination-against-muslims-under-indias-new-citizenship-policy>; and Billy Perrigo, "It Was Already Dangerous to Be Muslim in India, Then Came the Coronavirus," *Time*, April 3, 2020, <https://time.com/5815264/coronavirus-india-islamophobia-coronajihad/>.

¹⁶⁷ Ministry of Law and Justice, The Citizenship (Amendment) Act, 2019, Act 47 of 2019; Press Trust of India, "Citizenship (Amendment) Bill Gets President's Assent, Becomes Act."

¹⁶⁸ Press Information Bureau [Government of India], "Parliament passes the Citizenship (Amendment) Bill 2019," December 11, 2019,

<https://pib.gov.in/newsite/PrintRelease.aspx?relid=195783>.

¹⁶⁹ Press Trust of India, "Citizenship Amendment Act Comes into Effect from January 10," *Economic Times*, January 10, 2020, <https://economictimes.indiatimes.com/news/politics-and-nation/citizenship-amendment-act-comes-into-effect-from-january-10/articleshow/73194780.cms>.

¹⁷⁰ Harrison Akins, "The Citizenship (Amendment) Act in India," United States Commission on International Religious Freedom, February 2020, <https://www.uscifr.gov/resources/factsheet-citizenship-amendment-act-india>.

¹⁷¹ In official discourse.

¹⁷² V. Lakshminarayan, "India Has Been Hosting Sri Lankan Tamil Refugees Since 1983, So Why Does It Not Mention Them In The Recently Passed Act?" *Times of India*, February 12, 2020, <https://timesofindia.indiatimes.com/india/leaving-the-sri-lankan-tamils-out-in-the-cold/articleshow/72834952.cms>.

¹⁷³ Rina Chandra, "Missing from India's Citizenship Law: 100,000 Sri Lankan Refugees," *Reuters*, December 24, 2019, <https://www.reuters.com/article/us-india-refugees-protests-trfn/missing-from-indias-citizenship-law-100000-sri-lankan-refugees-idUSKBN1YS0VA>.

¹⁷⁴ Aditi Malik, Shivaji Mukherjee and Ajay Verghese, "In India, Thousands Are Protesting the New Citizenship Law. Here Are 4 Things to Know," *Washington Post*, December 31, 2019, <https://www.washingtonpost.com/politics/2019/12/31/india-thousands-are-protesting-new-citizenship-law-here-are-things-know/>.

¹⁷⁵ Press Information Bureau [Government of India, Ministry of Home Affairs], "Parliament passes the Citizenship (Amendment) Bill 2019."

¹⁷⁶ Barak Human Rights Protection Committee, *Institutional Discrimination and Statelessness in India*, 2020, <https://www.ohchr.org/Documents/Issues/Religion/Submissions/CSOs/11.barak-huma-rights-protection-committee.pdf>, 3.

¹⁷⁷ Chatterji, “Citizenship Laws and the Nazification of India.”

¹⁷⁸ The Citizenship (Amendment) Act, 2019. Six paths were permitted for entitlement to citizenship; Deeptiman Tiwary, “Citizenship (Amendment) Act Notified, Effective from January 10,” *Indian Express*, January 11, 2020, <https://indianexpress.com/article/india/caa-notified-effective-from-jan-10-6210644/>.

¹⁷⁹ Jaffrelot, “Citizenship Law in India, a Populist Polarization?”

¹⁸⁰ “Amit Shah: NRC to Apply Nationwide, No Person of Any Religion Should Worry.”

¹⁸¹ See: Amnesty International, *Designed To Exclude*, 9; Human Rights Watch, “Shoot the Traitors”: The report characterizes the Citizenship Amendment Act as discriminatory, in danger of disenfranchising or making stateless millions of Muslims and other minorities. It also reports on police abuses against anti-CAA protesters, and the arbitrary and discriminatory workings of Assam’s Foreigners Tribunals. Also see, Niraja Gopal Jayal, “Legal Citizenship and the Long Shadow of the Partition,” in *Citizenship and Its Discontents* (Cambridge: Harvard University Press, 2013), 51-81, <https://www.jstor.org/stable/j.ctt2jbw3x.5>: The text traces the notional and legal emergence of “Indian citizenship,” the upheaval around the Partition of 1947, and subsequent conflicts, displacements, and social violence that shaped the legal requirements for the establishment of Indian citizenship. Also see: Sanya Mansoor and Billy Perrigo, “‘This Is Not Just a Muslim Fight.’ Inside the Anti-Citizenship Act Protests Rocking India,” *Time*, December 19, 2019, <https://time.com/5752186/india-protests-citizenship-act/>; Sangeeta Barooah Pisharoty, “Explainer: What Do the MHA’s Changes to 1964 Foreigners Tribunals Order Mean?” *The Wire*, June 14, 2019; Amnesty International, *Designed To Exclude*; Ipsita Chakravarty, “Road to Citizens Register: A Timeline Showing the Milestones in Assam’s History from 1947 to 2018,” *Scroll*, August 6, 2018, <https://scroll.in/article/889005/road-to-citizens-register-a-timeline-showing-the-milestones-in-assams-history-from-1947-to-2018>; Jeffrey Gettleman and Hari Kumar, “India Plans Big Detention Camps for Migrants. Muslims Are Afraid,” *New York Times*, August 17, 2019,

<https://www.nytimes.com/2019/08/17/world/asia/india-muslims-narendra-modi.html>; and Perrigo, “It Was Already Dangerous to Be Muslim in India, Then Came the Coronavirus.” I thank Thomas Blom Hansen and Sharika Thiranagama for conversations on the subject.

¹⁸² “All You Need to Know About National Population Register That Could Pave Way for Pan-India NRC,” *Times of India*, December 26, 2019, <https://timesofindia.indiatimes.com/india/all-you-need-to-know-about-national-population-register-that-could-pave-way-for-pan-india-nrc/articleshow/72952448.cms>.

¹⁸³ Masoyo Hunphun Awungashi, “Land of the Rising Sangh: The RSS’s Expansion into the Northeast,” *The Caravan*, April 1, 2019, <https://caravanmagazine.in/reportage/the-rsss-expansion-into-northeast>.

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¹⁸⁵ Harmeet Shah Singh, “India to Capture 1.2 Billion Population In New Digital Census,” *CNN*, March 18, 2010, <https://www.cnn.com/2010/WORLD/asiapcf/03/18/india.population.register/index.html>.

¹⁸⁶ Debayan Roy, “Decoding National Population Register: What it is & its link to NRC,” *The Print*, December 24, 2019, <https://theprint.in/india/decoding-national-population-register-what-it-is-its-link-to-nrc/340122/>.

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¹⁸⁸ Debayan Roy, “Decoding National Population Register: What it is & its link to NRC.”

¹⁸⁹ Unique Identification Authority of India. “What is Aadhaar?” 2020, <https://uidai.gov.in/what-is-aadhaar.html>.

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¹⁹¹ Vijaita Singh, “What is the Directive on Detention Centers?” *The Hindu*, December 29, 2019, <https://www.thehindu.com/news/national/what-is-the-directive-on-detention-centres/article30421358.ece>; In 2011, the NPR reportedly missed an estimated 60 million people. P.C. Mohanan, “NPR: A Statistical Nightmare,” *Financial Express*, December 31, 2019,

<https://www.financialexpress.com/opinion/npr-a-statistical-nightmare/1807957/>.

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¹⁹³ See, Anupama Roy, *Mapping Citizenship in India*: The text analyses Citizenship Act of India (1955) from its inception, through the multiple amendments (1986, 2003, and 2005); Ziya Us Salam, *Of Saffron Flags and Skullcaps: Hindutva, Muslim Identity and the Idea of India* (Thousand Oaks: Sage, 2018): The text discusses the rise of Hindutva from the early 1900s to the present, looking at the Muslim community’s challenges in the context of this rise, highlighting loss, alienation, and the search for new forms of Muslim identity. See also, Partha Chatterjee, *The Nation and Its Fragments: Colonial and Postcolonial Histories* (Princeton: Princeton University Press 1993); Partha Chatterjee, “Beyond the Nation? Or Within?” *Social Text*, 56 (Autumn 1998), 57–69. doi: 10.2307/466770; Bhola Chatterji, *Aspects of Bengal Politics in the Early Nineteen-Thirties* (Calcutta: World Press, 1969); Ranajit Guha, *History at the Limit of World-History* (New York: Columbia University Press, 2002); also, Indrani Chatterjee, “Renewed and Connected Histories: Slavery and the Historiography of South Asia,” eds. Indrani Chatterjee and Richard M. Eaton, *Slavery and South Asian History* (Bloomington: Indiana University Press, 2006), 17–43; Sumit Guha, *Beyond Caste: Identity and Power in South Asia, Past and Present* (Boston: Brill, 2013).

¹⁹⁴ See, Arkotong Longkumar, “Anti-Indigenous Sentiment in the Citizenship Amendment Act,” Berkley Center for Religion, Peace & World Affairs, Georgetown University, March 9, 2020, <https://berkleycenter.georgetown.edu/responses/anti-indigenous-sentiment-in-the-citizenship-amendment-act>; Since the 1950s, questions of belonging were addressed through the formation of linguistic states in post/colonial India validating homogeneity and linguistic and cultural identities. The other modality has been the reserving of seats (as a form of affirmative action) in institutions and in parliament for caste-oppressed communities (classified as “Scheduled Castes”) and tribal

communities (classified as “Scheduled Tribes”). Religious identities and religious minorities have been excluded from both mechanisms. In 1952, the Anglo-Indian community was accorded the benefit of reserved seats in parliament and at the state legislatures. However, in January 2020, a parliamentary amendment of the Constitution divested such status, emblematic of the diminishing of a vulnerable religious minority and of Christians in India. See, United States Commission on International Religious Freedom (USCIRF), Annual Report, 2016, <https://www.uscifr.gov/reports-briefs/annual-report/2016-annual-report>; Abantika Ghosh and Pradeep Kaushal, “Explained: Anglo-Indian Quota, Its History, MPs,” *Indian Express*, January 2, 2020, <https://indianexpress.com/article/explained/anglo-indian-quota-history-mps-6164232/>.

¹⁹⁵ Jaffrelot, “Citizenship Law in India, a Populist Polarization?” Note: Articles 5 through 9 of the Constitution of India enumerate on issues of citizenship. Articles 10 and 11 authorize power to the parliament of India to legislate matters pertaining to citizenship. See: The Citizenship Act, 1955, Act 57 of 1955, <https://legislative.gov.in/sites/default/files/A1955-57.pdf>; Constitution of India, Articles 5 to 11, https://legislative.gov.in/sites/default/files/COI_1.pdf, 24–25; <https://www.refworld.org/docid/3ae6b57b8.html>; Praveen Prakash Ambashta, “Study Material (Limited Circulation) On Constitution of India,” Institute of Secretariat Training and Management [Government of India], April 30, 2013, https://www.istm.gov.in/home/rtd_disclosure/79; Constitution of India, Articles 5 to 11, https://legislative.gov.in/sites/default/files/COI_1.pdf, 24–25; Alex Andrews George, “Citizenship: Part II: (Articles 5–11),” *ClearIAS*, January 1, 2020, <https://www.clearias.com/citizenship/>.

¹⁹⁶ ICF Team, “Assam and the CAA: A Pre-Independence Timeline,” *NewsClick*, March 11, 2020, <https://www.newsclick.in/Assam-NRC-CAA-Timeline-Citizenship>.

¹⁹⁷ Foreigners Act, 1946, Act 31 of 1946, <https://www.refworld.org/docid/3ae6b4df4.html>.

¹⁹⁸ Home and Political Department [Government of Assam], “Foreigners Tribunal,” accessed May 15, 2021, <https://homeandpolitical.assam.gov.in/portlets/foreigners-tribunal>.

¹⁹⁹ Foreigners Act, 1946, Act 31 of 1946, <https://www.refworld.org/docid/3ae6b4df4.html>.

²⁰⁰ In this regard, it is relevant to note the use of adjacent laws such as the Enemy Property Act, 1968.

²⁰¹ “Explained: What is the Assam Accord that is Fueling Protests in The State?” *Indian Express*, December 13, 2019, <https://indianexpress.com/article/explained/explained-what-is-the-assam-accord-citizenship-amendment-bill-protests-6164018/>.

²⁰² Assam Accord, 1985, https://peacemaker.un.org/sites/peacemaker.un.org/files/IN_850815_Assam%20Accord.pdf.

²⁰³ Assam Accord.

²⁰⁴ Assam Accord; Ipsita Chakravarty, “Road to Citizens Register.”

²⁰⁵ “From Assam Accord to NRC Discord: A Timeline,” *Economic Times*, August 2, 2018, <https://economictimes.indiatimes.com/news/et-explains/from-assam-accord-to-nrc-discord-a-timeline/articleshow/65237816.cms>.

²⁰⁶ Chaitanya Kalbag, “Assam Riddle: Who Will Be the Last Illegal Immigrant Standing?” *Economic Times* (blog), April 4, 2016, <https://economictimes.indiatimes.com/blogs/the-needles-eye/assam-riddle-who-will-be-the-last-illegal-immigrant-standing/>. Further, foreigners who entered Assam between January 1, 1966 and March 25, 1971 would face “disenfranchisement” for a period of ten years. Those who took up residency in Assam prior to January 1, 1966 would be “regularized” (attain Indian citizenship). In conjunction, Legacy Data Codes were assigned comprising of a unique identifying number for a name in the 1951 NRC list and pre-March 24, 1971 voter rolls. Office of the State Coordinator of National Registration (NRC) [Government of Assam], “What is Legacy Data?” <http://nrcassam.nic.in/what-legacy.html#5>

²⁰⁷ Under this precept: (1) Those who entered Assam from Bangladesh before January 1, 1966, and who continued to reside in Assam, would be deemed to

be citizens of India; (2) Those who immigrated between January 1, 1966 and March 25, 1971 would receive citizenship after ten years if that person registered with the relevant authorities; and (3) Those who immigrated from Bangladesh into Assam after March 25, 1971 would not be entitled to citizenship. The Citizenship Act, 1955, Act 57 of 1955. ²⁰⁸ Office of the Prime Minister [Government of India], “Atal Bihari Vajpayee,” accessed May 6, 2021, https://www.pmindia.gov.in/en/former_pm/shri-atal-bihari-vajpayee/.

²⁰⁹ The Citizenship (Amendment) Act, 2003; Shruti Jain, “Explained: The Nuts and Bolts of Indian Citizenship,” *The Wire*, December 19, 2019, <https://thewire.in/rights/india-citizenship-constitution>.

²¹⁰ Apurva Vishwanath and Kabir Firaque, “Explained: What is Citizenship Amendment Act?” *Indian Express*, December 25, 2019, <https://indianexpress.com/article/explained/explained-how-to-be-a-citizen-of-india-earlier-now-6165960/>.

²¹¹ Library of Congress, “Laws Concerning Children of Undocumented Migrants: India,” December 31, 2020, <https://www.loc.gov/law/help/undocumented-migrants/india.php>.

²¹² Simantik Dowerah, “Understanding the Chronology: A Few Fundamental Truths About the CAA, NRC, NPR and All the Threads That Bind the Three Together,” *Firstpost*, December 28, 2019, <https://www.firstpost.com/politics/understanding-the-chronology-a-few-fundamental-truths-about-the-caa-nrc-npr-and-all-the-threads-that-bind-the-three-together-7825351.html>.

²¹³ Article 326 of the Constitution provided voting rights that were available only to citizens. Constitution of India, 1950, Article 326, https://www.constitutionofindia.net/constitution_of_india/elections/articles/Article%20326; Thus, if a person was a voter, they are assuredly also a citizen. Similarly, passports under the Passport Act could only be issued to citizens and agricultural land could only be owned by a citizen. Passports Act, 1967, Act 15 of 1967, <https://www.refworld.org/docid/3ae6b55910.html>;

Reserve Bank of India, “Sale, Purchase, etc., of Immovable Property in India,” 2001, <https://www.rbi.org.in/scripts/FAQView.aspx?Id=12>.

²¹⁴ Amnesty International, *Designed To Exclude*, 12.

²¹⁵ Previously: The IMDT could apply to all of India but came into effect only in the state of Assam on October 15, 1983. In a change from Foreigners Act (1946), the IMDT Act placed the burden of proof on state authorities to demonstrate that that an individual is not a bona fide Indian citizen. The Act sought to establish if an individual was an “irregular immigrant” as per Section 6A of the Citizenship Act of 1955. “Contrary to the pre-constitutional and colonial Foreigners Act, 1946 that lays the burden of proof on the individual to show that he is not a foreigner, the IMDT Act required the state authorities to prove that an individual is not an Indian citizen.” Amnesty International, *Designed To Exclude*, 12.

²¹⁶ In the case of Sarbananda Sonowal v. Union of India. This appears to controvert the principle of justice that individuals are innocent unless proven culpable. Former Assam chief minister (from May 24, 2016 to May 10, 2021), BJP politician Sonowal alleged that sizeable in-migration to Assam was threatening the (authentic) Assamese people and population. Asserting that the IMDT Act was discriminatory toward the people of Assam, Sonowal sought its repeal, asking for the administration of the Foreigners Act, 1946, in Assam. Amnesty International, *Designed To Exclude*, 12.

²¹⁷ Once the IMDT Act was repealed, the central government amended the Foreigners Tribunal Order, 1964, to delimit that the order will not apply to Assam.

²¹⁸ Challenged by Sonowal.

²¹⁹ The Citizenship (Amendment) Act, 2019 states that: “Provided that any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan, who entered India on or before the December 31, 2014 and who has been exempted by the Central Government by or under clause (C) of Sub-section (2) of Section 3 of the Passport (Entry into India) Act, 1920 or from the application of the provisions of the Foreigners Act, 1946 or any rule or order made

thereunder, shall not be treated as illegal migrant for the purposes of this Act.”

²²⁰ Deeptiman Tiwary, “CAA Rules: Applicants to be Asked to Submit Proof of Religion Too,” *Indian Express*, January 28, 2020, <https://indianexpress.com/article/india/caa-rules-proof-of-religion-home-ministry-6238539/>.

²²¹ Sigal Samuel, “India Just Redefined Its Citizenship Criteria to Exclude Muslims,” *Vox*, December 12, 2019, <https://www.vox.com/future-perfect/2019/12/12/21010975/india-muslim-citizenship-bill-national-register>.

²²² The Act does not apply to tribal (indigenous) regions of Assam, Meghalaya, Mizoram or Tripura, nor to the states of Arunachal Pradesh, Mizoram and Nagaland, which have special travel permit requirements even for citizens of India.

“Explained: Which States Are Exempted from Citizenship Amendment Bill and Why,” *Outlook*, December 9, 2019, <https://www.outlookindia.com/website/story/india-news-explained-which-states-are-exempted-from-citizenship-amendment-bill-and-why/343857>; Tiwary, “CAA rules: Applicants to be Asked to Submit Proof of Religion Too”; Chandra, “Missing from India's Citizenship Law.”

²²³ “All Eyes on Center as Deadline Approaches,” *Assam Tribune*, October 23, 2020, ProQuest Document 2453859080.

²²⁴ According to the Ministry of Home Affairs. Tiwary, “CAA Rules: Applicants to be Asked to Submit Proof of Religion Too.”

²²⁵ PRS Legislative Research, “The Citizenship (Amendment) Bill, 2019,” 2019, <https://prsindia.org/billtrack/citizenship-amendment-bill-2019>.

²²⁶ The Citizenship (Amendment) Act, 2019; Encyclopedia Britannica, “Lok Sabha.”

²²⁷ Press Trust of India, “Citizenship (Amendment) Bill Gets President’s Assent, Becomes Act.”

²²⁸ See later for CAA Legislative Timeline. Tiwary, “CAA Rules: Applicants to be Asked to Submit Proof of Religion Too.”

²²⁹ Houses of Parliament.

²³⁰ Press Trust of India, “CAA Likely to be Implemented from January 2021: Kailash Vijayvargiya,” *New Indian Express*, December 6, 2020, <https://www.newindianexpress.com/nation/2020/dec/06/caa-likely-to-be-implemented-from-january-2021-kailash-vijayvargiya-2232515.html>; Deeptiman Tiwary, “CAA Rules May Take Six More Months; No Decision Yet On NRC: Center in Parliament,” *Indian Express*, February 2, 2021, <https://indianexpress.com/article/india/no-nrc-census-home-ministry-india-parliamentary-committee-7171420/>; Rahul Tripathi, “MHA Gets Three Months More to Frame CAA Rules,” *Economic Times*, June 3, 2021, <https://economictimes.indiatimes.com/news/politics-and-nation/mha-gets-3-mths-more-to-frame-caa-rules/articleshow/83184759.cms>; this article reported that the Government of India had granted authorization to magistrates in thirteen districts, and to two home secretaries, to “grant citizenship” to migrants from six religious minority communities who have lived in India for at least twelve years.

²³¹ The Indian government reportedly issued a notification on May 28, 2021 authorizing certain government officials in five states to “accept, verify, and ultimately grant citizenship” to persons of certain religious identities from Afghanistan, Bangladesh, and Pakistan. In mid-June, the Indian government reportedly noted to the Supreme Court that this notification was “distinct” from the CAA, even though the operational authorizations were in alignment with the CAA. Similar powers were extended by the national government in 2018 in Chhattisgarh, Delhi, Gujarat, Madhya Pradesh, Rajasthan, and Uttar Pradesh. See: Sanya Dhingra, “With CAA Rules Nowhere in Sight, Centre Allows 5 States to Implement Religion-Based Citizenship”; Abraham Thomas, “Centre’s Order on Giving Citizenship to Refugees Separate from CAA, SC Told,” *Hindustan Times*, June 16, 2021, <https://www.hindustantimes.com/india-news/centres-order-on-giving-citizenship-to-refugees-separate-from-caa-sctold-101623784086752.html>.

²³² “Centre Seeks Extension till January 9 for Framing Rules on CAA, Home Ministry Tells Lok Sabha,” *The Hindu*, July 27, 2021,

<https://www.thehindu.com/news/national/centre-seeks-extension-till-january-9-for-framing-rules-on-ca-home-ministry-tells-ls/article35561368.ece>.

²³³ The then-BJP national government brought about a significant change to the prescriptions contouring citizenship with the introduction of the citizenship registration rules. A case filed in the Supreme Court claimed that the NRC process was afflicted with delays, following which, the Supreme Court intervened to monitor the NRC process and issued detailed directions from time to time. Sruthisagar Yamunan, “How the Supreme Court’s Hardline Stance on Citizenship Deepened the Flaws in Assam’s NRC,” *Scroll*, July 31, 2019, <https://scroll.in/article/932176/how-the-supreme-court-s-hardline-stance-on-citizenship-deepened-the-flaws-in-assams-nrc>.

²³⁴ Through the inclusion of Clause 1B and 3A.

²³⁵ Pisharoty, “Explainer: What Do the MHA’s Changes to 1964 Foreigners Tribunals Order Mean?” It is important to mark the continuities and discontinuities in this process. For example, since the 1960s, the central government had allocated the power of determining citizenship under the Foreigners Act to superintendents of police and district commissioners in Assam. Therefore: “as early as 1962, border police units were set up in Assam by the MHA in 1962 to ‘create a security screen’ that would act as a check on alleged infiltrators taking shelter among immigrant communities mainly near the border.” Pisharoty, “Explainer: What Do the MHA’s Changes to 1964 Foreigners Tribunals Order Mean?”

²³⁶ The official count of excluded names was 4,007,707. Zeba Siddiqui, “India Leaves Four Million Off Assam Citizens’ List, Triggers Fear”; Marya Shakil, “‘Many Hindus Who Voted for BJP Excluded From NRC Draft Too’: Assam Minister Hits Back at Mamata,” *CNN-News18*, July 31, 2018, <https://www.news18.com/news/politics/many-hindus-who-voted-for-bjp-excluded-from-nrc-too-himanta-biswa-sarma-hits-back-at-mamata-for-gameplan-remark-1828565.html>; Tanmay Chatterjee, “Hindutva Group in Bengal Launches Crowdfunding to Help Bengalis Excluded from Assam NRC,”

Hindustan Times, August 8, 2018, <https://www.hindustantimes.com/kolkata/hindutva-group-in-bengal-launches-crowdfunding-to-help-bengalis-excluded-from-assam-nrc/story-fhyqlHlpJXCgOB1bRH3HXK.html>.

²³⁷ Saikia, “‘Hindus Have Been Disproportionately Targeted’: Why the Assam Government Is Not Happy With The NRC,” *Scroll*, August 4, 2019.

²³⁸ Announced by the Press Information Bureau. Press Information Bureau [Government of India], “Foreigners Tribunals.”

²³⁹ Throughout the rest of India, only the central government held the power to set up Tribunals before this amendment.

²⁴⁰ District Magistrates are new “custodians” of the NRC in Assam. Previously, only the central government and police superintendents had this power in Assam. Pisharoty, “Explainer: What Do the MHA’s Changes to 1964 Foreigners Tribunals Order Mean?”

²⁴¹ Since the Amendment Order technically applies to the whole country, state governments and local officials in all states are empowered to identify assumed foreigners and refer their cases to Tribunals. “Expanding Foreigners Tribunals May be Amit Shah’s First Step to Pushing NRC Across India,” *The Wire*, June 12, 2019, <https://thewire.in/government/amit-shah-home-ministry-nrc-foreigners-tribunals>.

²⁴² (PCRes-Berkeley: 2020-21).

²⁴³ Amnesty International, *Designed To Exclude*, 12.

²⁴⁴ Global Detention Project, “India: Detention Centers,” accessed June 11, 2021, <https://www.globaldetentionproject.org/countries/asia-pacific/india#detention-centres>.

²⁴⁵ Singh, “What is the Directive on Detention Centers?”

²⁴⁶ Divyesh Singh, “CM Pramod Sawant Inaugurates Detention Center for Foreigners in Goa,” *India Today*, May 29, 2019, <https://www.indiatoday.in/india/story/cm-pramod-sawant-inaugurates-detention-centre-for-foreigners-in-go-1537836-2019-05-29>.

²⁴⁷ Singh, “What is the Directive on Detention Centers?”

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²⁴⁹ K.V. Aditya Bharadwaj, “Home Ministry officials say Karnataka Foreigner Detention Center ‘not linked to NRC,’” *The Hindu*, December 26, 2019, <https://www.thehindu.com/news/national/karnataka/home-ministry-officials-say-karnataka-foreigner-detention-centre-not-linked-to-nrc/article30397686.ece>; “35 detention Centers Ready for Illegal Immigrants, State Tells Karnataka HC,” *The New Indian Express*, November 22, 2019, <https://www.newindianexpress.com/cities/bengaluru/2019/nov/22/35-detention-centres-ready-for-illegal-immigrants-state-tells-karnataka-hc-2065335.html>.

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²⁵³ Divyesh Singh, “CM Pramod Sawant Inaugurates Detention Center For Foreigners in Goa,” *India Today*, May 29, 2019, <https://www.indiatoday.in/india/story/cm-pramod-sawant-inaugurates-detention-centre-for-foreigners-in-go-1537836-2019-05-29>.

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²⁵⁸ “Hira Nagar Jail Turned Into ‘Holding Center’ For Rohingyas,” *Kashmir Observer*, April 2, 2021, <https://kashmirobservers.net/2021/04/02/hira-nagar-jail-turned-into-holding-centre-for-rohingyas/>.

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²⁶⁰ (PCRes-Berkeley: 2020-21).

²⁶¹ (PCRes-Berkeley: 2020-21).

²⁶² (PCRes-Berkeley: 2020-21).

²⁶³ Arunabh Saikia, “Guwahati High Court Ruling On Citizenship Document Will Hurt Women the Hardest,” *Scroll*, March 5, 2017, <https://scroll.in/article/830657/guwahati-high-court-ruling-on-citizenship-document-will-hurt-women-the-hardest>.

²⁶⁴ (PCRes-Berkeley: 2020-21): A. 468,905 persons have been brought before the Foreigners Tribunals as of July 2020; 136,149 persons have been declared to be foreigners. Source: *Times of India*; “425 in Six Assam Detention Centers, Says Chandra Mohan Patowary,” Bagri, “India’s Anti-Immigrant Crackdown Has Torn Apart Families and Locked Up Hundreds,” Press Trust of India, “Only 227 Illegal Foreigners Deported from Assam in Over 7 years,” *Deccan Herald*, August 31, 2020, <https://www.deccanherald.com/national/east-and-northeast/only-227-illegal-foreigners-deported-from-assam-in-over-7-years-880571.html>.

B. Of the 1.9 million persons excluded from the 2019 draft of the NRC: Ali, “Over 7 Lakh Hindus Among Those Excluded from the NRC, Leaked Data Suggests.”

C. 37.1% of Assam’s population of 35 million are Muslims:

Press Trust of India, “Assam Plans Survey to Identify Indigenous Muslim Population.”

“Covid-19: Himanta Sarma Says No Cases In Assam Till April 6, Data Shows 2,624 Infected Since January,” *Scroll*, April 28, 2021,

<https://scroll.in/latest/993498/covid-19-himanta-sarma-says-no-cases-in-assam-till-april-6-data-shows-2624-infected-since-january>.

D. Six foreigner detention centers have been erected in Assam, with others under construction: Saha, “Explained: Why Court Wants Assam Detention Centers Set Up Away From Jails.”

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<https://www.thehindu.com/news/national/30-foreigners-dead-in-assams-detention-centres/article31325045.ece>.

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G. 63,959 persons were ruled as foreigners by Foreigners Tribunals via ex parte orders: “Assam: Since 1985, Ex-Parte Tribunal Orders Have Declared Almost 64,000 People as Foreigners,” *The Wire*, July 2, 2019, <https://thewire.in/government/assam-since-1985-ex-parte-tribunal-orders-have-declared-almost-64000-people-as-foreigners>.

H. Fear is palpable in...: (PCRes-Berkeley: 2020-21).

²⁶⁵ Sumir Karmakar, “BJP Sounds Poll Bugle for Assam Assembly Polls, Promises to Protect ‘Indigenous’ Identity of State,” *Deccan Herald*, January 6, 2021, <https://www.deccanherald.com/national/east-and-northeast/bjp-sounds-poll-bugle-for-assam-assembly-polls-promises-to-protect-indigenous-identity-of-state-935930.html>.

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²⁶⁷ Office of the Registrar General & Census Commissioner, India [Ministry of Home Affairs, Government of India]. *Census 2011: Assam Profile*.

²⁶⁸ *Scroll*, “Covid-19: Himanta Sarma says no cases in Assam till April 6, data shows 2,624 infected since January.”

²⁶⁹ Note: The census records a significant number of

Adivasis as Hindus.

²⁷⁰ Refers to Bangla people, language, and culture.

²⁷¹ (PCRes-Berkeley: 2020-21); Special Rapporteurs on minority issues; on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; on the promotion and protection of the right to freedom of opinion and expression; and on freedom of religion or belief, *UN Special Rapporteurs' Letter to Indian Minister for External Affairs Sushma Swaraj, June 11, 2018*, from Gopala Gowda, Monirul Hussain, Harsh Mander, Sanjoy Hazarika, and Colin Gonsalves, *Statelessness and Marginalization in Assam: The Citizenship Amendment Bill and the National Register of Citizens*, May 2019, <https://hrln.org/uploads/2019/06/Report-of-Public-Hearing-on-NRC-and-CAB.pdf>, 205.

²⁷² Office of the Registrar General & Census Commissioner, India [Ministry of Home Affairs, Government of India], *Population by Religious Community: Assam*, 2011, <https://censusindia.gov.in/2011census/C-01/DDW18C-01%20MDDS.XLS>. In comparison, India's population was 1.35 billion persons, of whom Muslims constituted 14.2 percent, Christians constituted 2.34 percent, Sikhs were 1.7 percent, Buddhists were 0.7 percent, Jains were 0.4 percent, and Hindus were 79.8 percent.

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²⁷⁵ Saikia, "Who Are the Muslims of Assam?"

²⁷⁶ During colonial times and in the post/colonial era. Subir Bhaumik, "What Lies Behind Assam Violence?" *BBC*, July 26, 2012, <https://www.bbc.com/news/world-asia-india-18993905>.

²⁷⁷ Abhishek Chakravarty, "Climate Refugees and Assam's Future," *Indian Express*, January 28, 2021,

<https://indianexpress.com/article/opinion/climate-refugees-and-assams-future-7165653/>.

²⁷⁸ Press Trust of India, "Assam Plans Survey to Identify Indigenous Muslim Population."

²⁷⁹ Office of the Registrar General & Census Commissioner, India [Ministry of Home Affairs, Government of India], *Population By Religious Community: Assam*.

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²⁸¹ Press Trust of India, "Assam Plans Survey to Identify Indigenous Muslim Population."

²⁸² The Miya community formally accepted Assamese during the post-1950s movement seeking the endorsement of Assamese as the official language.

²⁸³ (PCRes-Berkeley: 2020-21); also see elaboration below.

²⁸⁴ "Miya, though meaning 'gentleman' in Urdu, is used as a slur against Bangla-speaking Muslims in Assam basically translating into 'Bangladeshi' or 'illegal immigrant.'" Also see: Press Trust of India, "FIR Against Assam Poets: India Crossed New Line in Its Descent Into Darkness, Says Harsh Mander."

²⁸⁵ Miya, also Mian, which is honorific, in Persian. In establishing a new identity, the Miya community also use the term Na-Asamiya or neo-Assamese.

²⁸⁶ See: Harsh Mander and Abdul Kalam Azad, "People No Country Wants."

²⁸⁷ (PCRes-Berkeley: 2020-21).

²⁸⁸ Sangeeta Barooah Pisharoty, "CAB Represents RSS-BJP's Successful Imposition of Hindutva Agenda in Assam," *The Wire*, December 9, 2019, <https://thewire.in/politics/assam-citizenship-amendment-rss-assam-accord-hindutva>.

²⁸⁹ For example, presently, the border police and its education system, which proscribed all state-financed madrassas in February 2021, appear to target Muslim communities. Karan Deep Singh and Suhasini Raj, "'Muslims Are Foreigners': Inside India's Campaign to Decide Who Is a Citizen," *New York Times*, December 30, 2020,

<https://www.nytimes.com/2020/04/04/world/asia/india-modi-citizenship-muslims-assam.html>; “Assam Madrasas Turn General Schools,” *The Hindu*, February 4, 2021,

<https://www.thehindu.com/news/national/other-states/assam-madrasas-turn-general-schools/article33744247.ece>; Makepeace Sitlhou, “In Assam, Ban on State-Run Madrasas May Force Girls To Drop Out,” *Al Jazeera*, March 11, 2021, <https://www.aljazeera.com/features/2021/3/11/shut-down-of-madrasas-in-indias-assam-could-see-girls-drop-out>.

²⁹⁰ (PCRes-Berkeley: 2020-21).

²⁹¹ Murshid, “Assam and the Foreigner Within.”

²⁹² Ratnadip Choudhury, “Amit Shah Promises ‘Infiltrator-Free,’ ‘Flood-Free’ Assam, Skips CAA,” *NDTV*, January 24, 2021, <https://www.ndtv.com/india-news/bjp-alliances-bodoland-win-a-trailer-for-assam-polls-amit-shah-2357316>.

²⁹³ Shivam Vij, “In Hindu-Nationalist India, Muslims Risk Being Branded Infiltrators in Their Own Country,” *CNN*, December 14, 2019, <https://www.cnn.com/2019/12/14/asia/indian-citizenship-laws-muslims-intl-hnk/index.html>.

²⁹⁴ (PCRes-Berkeley: 2020-21).

²⁹⁵ A 12-digit individual identification number issued by the Unique Identification Authority of India (UIDAI) to residents of the country.

²⁹⁶ Pisharoty, “Citizenship and Assam: An Explainer on the Legal Questions That Still Loom Large,” *The Wire*, November 25, 2019, <https://thewire.in/rights/citizenship-and-assam-the-legal-questions-that-still-loom-large>.

²⁹⁷ (PCRes-Berkeley: 2020-21).

²⁹⁸ (PCRes-Berkeley: 2020-21).

²⁹⁹ (PCRes-Berkeley: 2020-21).

³⁰⁰ See endnote at first mention in the “Summary of Findings” section.

³⁰¹ (PCRes-Berkeley: 2020-21).

³⁰² See: Indrani Chatterjee, “Connected Histories and the Dream of Decolonial History,” *South Asia: Journal of South Asian Studies* 41, no. 1 (2018): 69–86. DOI: 10.1080/00856401.2018.1414768.

³⁰³ (PCRes-Berkeley: 2020-21); Ameen, ““Stress on Hindu identity’: BJP Hate Campaign in Poll-Bound Assam.”

³⁰⁴ “The binaries of Barak versus Brahmaputra, Bongal versus Axomiya (Asamiya), Axamiya versus

Jongolia (pejorative for men from forests and hills), Axamiya versus Bagania (pejorative for Adivasis comprising the labor force in the tea gardens) often form the bedrock of such histories,” from Samyak Ghosh, “In Assam’s Search for the ‘Indigenous’, History Has Been Reduced to a Misguided Judge,” *Scroll*, January 7, 2020, <https://scroll.in/article/946620/in-assams-search-for-the-indigenous-history-has-been-reduced-to-a-misguided-judge>.

³⁰⁵ Also see, opposing interpretations by the All India Jamiat Ulema-I-Hind and the Sadou Asom Goriya Moriya Desi Jatiya Parishad: Kangkan Acharyya, “Historians, Assamese Muslims Slam Jamiat Ulema-I-Hind Theory Calling Natives ‘Migrants’, Term it Distortion of History,” *Firstpost*, October 25, 2019, <https://www.firstpost.com/india/historians-assamese-muslims-slam-jamiat-ulema-i-hind-theory-calling-natives-migrants-term-it-distortion-of-history-7541181.html>.

³⁰⁶ Also see: Indrani Chatterjee, *Forgotten Friends: Monks, Marriages, and Memories of Northeast India* (New Delhi: Oxford University Press, 2013); Dolly Kikon, *Living with Oil and Coal: Resource Politics and Militarization in Northeast India, Culture, Place, and Nature* (Seattle: University of Washington Press, 2019).

³⁰⁷ Sarabari Begum (Mustt.) @Syera Begum & Ors v. State of Assam & Ors, July 25, 2008, <https://www.casemine.com/judgement/in/56b494dc607dba348f00f505> and Mander and Azad, “People No Country Wants.”

³⁰⁸ Abdul Kalam Azad, M. Mohsin Alam Bhat, and Harsh Mander, “Citizenship and the Mass Production of Statelessness in Assam,” *Social Science Research Network*, October 25, 2020, <https://papers.ssrn.com/abstract=3718512>, 197.

³⁰⁹ Animus toward Hinuds: PCRes-Berkeley: 2020-21); Ameen, ““Stress on Hindu identity’: BJP Hate Campaign in Poll-Bound Assam.” NRC and Muslims: While constituting the process, officials refused to categorize indigenous Muslims as “original inhabitants” in many areas: Azad, Bhat, and Mander, “Citizenship and the Mass Production of Statelessness in Assam,” 198.

³¹⁰ (PCRes-Berkeley: 2020-21).

³¹¹ Desi, also Deshi (PCRes-Berkeley, 2020-21). Yasmin Saikia writes: “The Muslims of Assam are a composite community constituted by at least four different groups – Muslim-Axamia (also called Goriya, Tholua or Khilonjia), Bangla-speaking or Bhotia, up-country or Juluha (from UP and Bihar), and immigrant Muslims, referred to as Miya. The history of these diverse communities is important to know because they are a window to understanding Assam’s composite culture created by Hindu, Muslim, Ahom, and many other groups that call themselves Axamia.” See: Saikia, “Who are the Musims of Assam?”

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(indigenous) communities and the channeling of outsiders into the region via this new legislation. Tribal/indigenous rights activists from the state of Meghalaya filed a lawsuit before the Supreme Court stating that the CAA "violates the right to privacy of refugees belonging to indigenous tribes following traditional religions and imposes unconstitutional conditions upon them." See: "CAA: Meghalaya Activists File PIL In Supreme Court, Say Law Is A 'Blatant Design' To Divide Tribals," *Scroll*, January 17, 2020, <https://scroll.in/latest/950185/caa-meghalaya-activists-file-pil-in-supreme-court-say-law-is-a-blatant-design-to-divide-tribals>.

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³⁸⁶ Ministry of Home Affairs [Government of India], “Lok Sabha UNSTARRED QUESTION NO: 3558: Declaration by Foreigners Tribunals,” December 10, 2019, <http://164.100.47.194/Loksabha/Questions/QResult15.aspx?qref=10079&lsno=17>; *Times of India*, “425 in Six Assam Detention Centers, Says Chandra Mohan Patowary,” also: Amnesty International, “Government in India Must Act as Lives at Risk in Overcrowded Detention Centers in Assam”; Neeraj Chauhan, “1.29 Lakh People Declared Foreigners in Assam, 6 Deported: Govt.” *Hindustan Times*, December 10, 2019, <https://www.hindustantimes.com/india-news/1-29->

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³⁸⁷ Breakdown, as reported, in 1985-1990: 21,525; 1991-1995: 6,582; 1996-2000: 6,928; 2001-2005: 7,236; 2013-2014: No information available.

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³⁸⁷ Ministry of Home Affairs [Government of India], "Rajya Sabha Unstarred Question No. 1962: Foreigners Tribunals in Assam," 4; and Ministry of Home Affairs [Government of India], "Lok Sabha Unstarred Question No. 1485: Pending Cases of Doubtful Voters," September 20, 2020, <https://www.mha.gov.in/MHA1/Par2017/pdfs/par2020-pdfs/ls-21092020/1485.pdf>, 1.

³⁸⁸ Ministry of Home Affairs [Government of India], "Rajya Sabha Unstarred Question No. 1962: Foreigners Tribunals in Assam," 4; and Ministry of Home Affairs [Government of India], "Lok Sabha Unstarred Question No. 1485: Pending Cases of Doubtful Voters," September 20, 2020, <https://www.mha.gov.in/MHA1/Par2017/pdfs/par2020-pdfs/ls-21092020/1485.pdf>, 1.

³⁸⁹ (PCRes-Berkeley: 2020-21); Rohini Mohan, "Inside India's Sham Trials That Could Strip Millions of Citizenship," *Vice*, July 29, 2019, https://news.vice.com/en_us/article/3k33qy/worse-than-a-death-sentence-inside-indias-sham-trials-that-could-strip-millions-of-citizenship.

³⁹⁰ (PCRes-Berkeley: 2020-21).

³⁹¹ The total number of women declared foreigners between 1985 and 2019 is unknown(PCRes-Berkeley: 2020-21); *The Hindu*, "1,29,009 in Assam declared as foreigners till October 2019: Minister Nityanand Rai."

³⁹² Ministry of Home Affairs [Government of India], "Lok Sabha Unstarred Question No. 3280: Constitution of Foreigners' Tribunals." Further, on August 17, 2021, the Government of Assam ordered the Border police to not to forward any cases involving the Gurkha community to the Foreigners Tribunals, in effect noting Gurkhas to be a protected

community. Approximately 2,500 cases pertaining to Gurkhas are before the tribunals and will be withdrawn. "Gurkhas Not to Be Tagged as Foreigners, Orders Assam Govt," *The Hindu*, August 17, 2021,

<https://www.thehindu.com/news/national/other-states/gurkhas-not-to-be-tagged-as-foreigners-orders-assam-govt/article35959260.ece>; Assam Government Orders Police Not to Forward Any Case Against Gorkhas to Foreigners' Tribunal," *Northeast Now*, August 17, 2021, <https://nenow.in/north-east-news/assam/assam-government-orders-police-not-to-forward-any-case-against-gorkhas-to-foreigners-tribunal.html>.

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³⁹⁴ (PCRes-Berkeley: 2020-21).

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³⁹⁶ Naik and Verghese, "What 787 Cases in the Gauhati HC Tell Us About How 'Suspected Foreigner' Cases Are Decided."

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³⁹⁸ The authors warned of bureaucratic strain.

Naik and Verghese, "What 787 Cases in the Gauhati HC Tell Us About How 'Suspected Foreigner' Cases Are Decided."

³⁹⁹ Further, for impacted communities, it will exacerbate psychosocial stress. Naik and Verghese, "What 787 Cases in the Gauhati HC Tell Us About How 'Suspected Foreigner' Cases Are Decided."

⁴⁰⁰ “200 New Foreigners Tribunals in Assam to Hear Pending Cases till NRC Appeals Start,” *Outlook*, March 4, 2020,

<https://www.outlookindia.com/website/story/india-news-200-new-foreigners-tribunals-in-assam-to-hear-pending-cases-till-nrc-appeals-start/348237>.

⁴⁰¹ Press Trust of India, “Center to Help Assam Government Set up 1,000 Foreigners Tribunals,” *The Wire*, June 2, 2019, <https://thewire.in/government/centre-to-help-assam-government-set-up-1000-foreigners-tribunals>.

⁴⁰² Press Trust of India, “Center to Help Assam Government Set Up 1,000 Foreigners Tribunals.”

⁴⁰³ Ministry of Home Affairs [Government of India], “Lok Sabha Unstarred Question No. 3280: Constitution of Foreigners’ Tribunals,” March 16, 2021, <https://www.mha.gov.in/MHA1/Par2017/pdfs/par2021-pdfs/LS-16032021/3280.pdf>.

⁴⁰⁴ The judicial procedures do not hold the executive and legislative branches of government accountable. Instead, they willfully impugn vulnerable communities and are complicit in administering partisan proceedings that are opaque and furtive (PCRes-Berkeley: 2020-21).

⁴⁰⁵ Azad, Bhat, and Mander, “Citizenship and the Mass Production of Statelessness in Assam,” 197.

⁴⁰⁶ Barak Human Rights Protection Committee, “Institutional Discrimination and Statelessness in India,” 2.

⁴⁰⁷ Reportedly: “the Assam government evaluates their performance based on how many people the members declare to be foreigners and accordingly extends their tenure.” Amnesty International, *Designed To Exclude*, 5.

⁴⁰⁸ (PCRes-Berkeley: 2020-21).

⁴⁰⁹ “The Foreigners Tribunals are solely under the control and ambit of the elected state government and not the higher judiciary of the State, unlike other Tribunals traditionally set up for other issues.” Electronic communique from Teesta Setalvad to Angana Chatterji, February 2021. Amanat Khullar, “People’s Tribunal Comes Down Heavily on SC Over Handling of NRC in Assam,” *The Wire*, September 9, 2019, <https://thewire.in/rights/peoples-tribunal-comes-down-heavily-on-sc-over-handling-of-nrc-in-assam>.

⁴¹⁰ The qualifying criteria are linked to “knowledge of Assam’s historical background giving rise to foreigners issues” as opposed to simply having requisite experience with and knowledge of citizenship and immigration laws. Amnesty International, *Designed To Exclude*, 5.

⁴¹¹ Some may have practiced for two to three years, while others may not have practiced at all. They are “recruited on a contractual basis and trained for only four days” with “modalities of the training . . . unknown.” Amnesty International, *Designed To Exclude*, 5.

⁴¹² Tribunal members are: “appointed based on their knowledge of Assam and its history,” so they: “often fail to appreciate the specific features of documentation maintenance and management in other states.” Amnesty International, *Designed To Exclude*, 52.

⁴¹³ Amnesty International, *Designed To Exclude*, 22.

⁴¹⁴ Amnesty International, *Designed To Exclude*, 52.

⁴¹⁵ Constitution of India, 1950, Article 14, https://www.constitutionofindia.net/constitution_of_india/fundamental_rights/articles/Article%2014.

⁴¹⁶ Constitution of India, 1950, Article 15, https://www.constitutionofindia.net/constitution_of_india/fundamental_rights/articles/Article%2015.

⁴¹⁷ Constitution of India, 1950, Article 21, https://www.constitutionofindia.net/constitution_of_india/fundamental_rights/articles/Article%2021.

⁴¹⁸ Sagar, “Case Closed,” *The Caravan*, November 5, 2019, <https://caravanmagazine.in/law/assam-foreigners-tribunals-function-like-kangaroo-courts-persecute-minorities>.

⁴¹⁹ “NRC Barrier for ‘Foreigners,’” *The Telegraph*, May 21, 2019, ProQuest Document 2227894109.

⁴²⁰ Stated by a Ministry of Home Affairs official. Ministry of Home Affairs [Government of India], “Lok Sabha Unstarred Question No.1724 to the Ministry of Home Affairs: Detention Centers,” July 2, 2019, <http://164.100.24.220/loksabhaquestions/annex/171/AU1724.pdf>, 2. Also, Amnesty International, *Designed To Exclude*.

⁴²¹ Mander, “The Dark Side of Humanity and Legality: A Glimpse Inside Assam’s Detention Centers For ‘Foreigners.’”

⁴²² Mander, “The Dark Side of Humanity and Legality: A Glimpse Inside Assam’s Detention Centers For ‘Foreigners.’”

⁴²³ Utpal Parashar, “Hear Person Concerned on Citizenship Instead of Ex-Parte Order: Gauhati HC.”

⁴²⁴ In relation to Assam’s implementation of the NRC, a Foreign Policy article pointed out that a) the database of names may not match the information on papers exactly, as “names [are] frequently misspelled (or incorrectly transliterated),” b) migrant workers and vulnerable and displaced communities may not have all the right papers, and c) many would lose valuable working time and wages to establish their status. Agrawal and Salam, “The Great Indian Disenfranchisement.”

⁴²⁵ Failure to do so disproportionately targets poor people, oral cultures and those without formal education.

⁴²⁶ ANI, “Assam to Give Legal Aid To Underprivileged People Excluded From NRC List,” *NDTV*, September 3, 2019, <https://www.ndtv.com/india-news/assam-to-give-legal-aid-to-underprivileged-people-excluded-from-nrc-list-home-ministry-2094689>.

⁴²⁷ Amnesty International, *Designed To Exclude*, 36, 41-42, 47.

⁴²⁸ (PCRes-Berkeley: 2020-21).

⁴²⁹ (PCRes-Berkeley: 2020-21).

⁴³⁰ Pisharoty, “Women Without Parents.”

⁴³¹ (PCRes-Berkeley: 2020-21).

⁴³² In 2020, it was reported that: “about 40 percent of girls in Assam were married before they were allowed to vote at age 18.” Human Rights Watch, “*Shoot the Traitors.*”

⁴³³ Amnesty International, *Designed To Exclude*, 30. Further, “[w]omen, as a social class, [struggle] to prove a linkage with their parents and grandparents...The procedure, therefore, is completely removed from the social, cultural and economic reality of India wherein women continue to struggle to access any kind of state-issued documentation.” Amnesty International, *Designed To Exclude*.

⁴³⁴ Amnesty International, *Designed To Exclude*, 32, 39.

⁴³⁵ Naqvi and Davies, “An Arrest, a Suicide and Fears of Internment Camps as India Debates New

Citizenship Law.” A report by *The Wire* reportedly found legal ambiguities, omissions and discrepancies in Assam and inconsistent applications of the document verification process, including incidents where documents (such as school documents) that were accepted for the verification process from one woman but not another. Another group of women reported that their paternal family could establish their citizenship, even as their male spouses and children were left out of the NRC. Another stated that both parents were in the NRC, but the children’s names were left out. Pisharoty, “Women Without Parents.” ⁴³⁶ (PCRes-Berkeley: 2020-21).

⁴³⁷ (PCRes-Berkeley: 2020-21).

⁴³⁸ Amnesty International, *Designed To Exclude*, 38-39.

⁴³⁹ In August 2019, the *New York Times* noted that various persons who were left off of the NRC list and faced the Foreigners Tribunal process and possible detention, committed suicide. Gettleman and Kumar, “India Plans Big Detention Camps for Migrants. Muslims Are Afraid.”

⁴⁴⁰ Amnesty International, *Designed To Exclude*, 40-43.

⁴⁴¹ Tribunal member Gautam Soren. Singh and Karmakar, “Why Does Assam Need More Foreigners Tribunals?” *The Hindu*, June 15, 2019, <https://www.thehindu.com/news/national/other-states/why-does-assam-need-more-foreigners-tribunals/article27951416.ece>.

⁴⁴² Amnesty International, *Designed To Exclude*, 4.

⁴⁴³ Amnesty International, *Designed To Exclude*, 32.

⁴⁴⁴ “Assam Decides Tribunal Member’s Term on Rate of Declaring Foreigners: Amnesty,” *The Hindu*, March 12, 2020, <https://www.thehindu.com/news/national/other-states/assam-decides-tribunal-members-term-on-rate-of-declaring-foreigners-amnesty/article31051919.ece>.

⁴⁴⁵ Amnesty International, *Designed To Exclude*, 54.

⁴⁴⁶ Arunabh Saikia, “Assam NRC-rejects Struggle to Get Passports and Jobs – Even as Rejection Slips are Yet to Arrive,” *Scroll*, February 19, 2020,

<https://scroll.in/article/953552/assam-nrc-rejects-struggle-to-get-passports-and-jobs-even-as-rejection-slips-are-yet-to-arrive>. In September 2019 the Indian Home Ministry had issued a statement that persons excluded from Assam's NRC would lose no rights until all legal remedies had been exhausted, Indian news media reported in February 2020 that some people were facing hiring discrimination and difficulties in applying for passports in connection to their exclusion from the NRC. "Assam NRC: Won't Lose Any Rights Till Legal Options Exhausted, Says Center," *Hindustan Times*, September 2, 2019, <https://www.hindustantimes.com/india-news/assam-nrc-won-t-lose-any-rights-till-legal-options-exhausted-says-centre/story-cUNav1pJxkwGAzilp63vbl.html>. On December 16, 2019, NCM Vice Chair, George Kurian, issued a statement that the Citizenship Amendment Act is "good" for Christians and that everyone should welcome it. "Minorities Commission lauds Citizenship Amendment Act, says Good for Christians." *The Sentinel*, December 18, 2019, <https://www.sentinelassam.com/national-news/minorities-commission-lauds-citizenship-amendment-act-says-good-for-christians/>; On December 22, 2019, NCM announced that it would implement a Helpdesk for the public on citizenship issues. The Helpdesk included an email address and a toll-free number and was scheduled to launch on December 23, 2019. In November 2020, NCM reportedly had one member. "Minorities Panel to Launch Helpdesk," *Times of India*, December 22, 2019, ProQuest Document 2329487823; Esha Roy, "Vacancies Unfilled, Minorities Panel has Only One Member," *Indian Express*, November 23, 2020, ProQuest Document 2462823842; On September 2016, National Commission for Minorities (NCM) Member Farida Abdullah Khan visited Assam. Khan wrote to the Home Ministry and Assam state government out of concern that the state was employing indiscriminate detentions of suspected immigrants as part of a "systematic hate campaign." She noted that the majority of the detainees she saw were Muslims, and in many cases, women and children detainees were kept in the same facility as regular criminals. IANS, "'Migrant' Women, Children Jailed In Assam, NCM Writes to Home Ministry,"

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⁴⁵⁶ *The Hindu*, "Last 'D-voter' Walks Out of Assam Detention Centre"; Bikash Singh, "2.98 lakh Cases Disposed Of By The Foreigners' Tribunals: Assam Government."

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⁴⁸⁷ (PCRes-Berkeley: 2020-21).

⁴⁸⁸ Assam Police [Government of Assam], "History and Objectives," accessed May 10, 2021,

<https://police.assam.gov.in/portlet-sub-innerpage/history-and-objectives-0>.

⁴⁸⁹ Prasanta Mazumdar, “NRC Contestation to Recommence from March 20 in Assam,” *The New Indian Express*, March 3, 2020, <https://www.newindianexpress.com/nation/2020/mar/03/nrc-contestation-to-recommence-from-march-20-in-assam-2111578.html>.

⁴⁹⁰ Singh, “Covid-19: Issuance of NRC Rejection Slip Postponed.”

⁴⁹¹ Press Trust of India, “3 Districts in Assam Flooded; 11,900 People Affected,” *NDTV*, August 18, 2020, <https://www.ndtv.com/india-news/assam-floods-2020-three-districts-in-state-still-flood-hit-11-900-people-affected-2281015>; Singh, “Covid-19: Issuance of NRC Rejection Slip Postponed”; Arunabh Saikia, “A Year After Assam’s NRC Released, Citizenship of Two Million People Remains Under A Cloud,” *Scroll*, August 28, 2020, <https://scroll.in/article/970901/a-year-after-assams-nrc-released-citizenship-of-two-million-people-remains-under-a-cloud>; Ministry of Home Affairs [Government of India], “Lok Sabha Unstarred Question No.1264 to the Ministry of Home Affairs: NRC in Assam,” February 9, 2021, <https://www.mha.gov.in/MHA1/Par2017/pdfs/par2021-pdfs/LS-09022021/1264.pdf>, 2.

⁴⁹² Ministry of Home Affairs [Government of India], “Lok Sabha Unstarred Question No.1264 to the Ministry of Home Affairs: NRC in Assam,” 2.

⁴⁹³ Saikia, “A Year After Assam’s NRC Released, Citizenship of Two Million People Remains Under a Cloud.”

⁴⁹⁴ To enable the digital operations. Ministry of Home Affairs [Government of India], “Lok Sabha Unstarred Question No. 4401: Pending Cases With Foreigners Tribunals.”

⁴⁹⁵ Sridhar Acharyulu, “NRC in Assam: Further Agony in Store for Those Rejected,” *The Federal*, April 1, 2021, <https://thefederal.com/opinion/stateless-in-assam/>.

⁴⁹⁶ Critics warned of the possible havoc that may result and pointed out that Assam’s present NRC list had not yet attained legal status as the Registrar General of India had not yet issued a gazette note confirming it. Acharyulu, “NRC in Assam: Further Agony in Store for Those Rejected.”

⁴⁹⁷ During the pandemic, some government workers from Home and Railways discouraged unnecessary travel by raising fares, which likely made it harder for appellants who needed any government-related services or to travel long distances to secure more paperwork or a supporting witness(es). Bikash Singh, “Covid-19: Issuance of NRC Rejection Slip Postponed”; Kalita, “One Year On, 1,600 FT Appointees Stage Protests Over Delay In Hiring.” In April 2021, India’s witnessed a second COVID-19 surge. Hospitalization and death rates rose precipitously, straining India’s under-resourced healthcare system to the breaking point. The rate of infection reached 300,000 per day for nine consecutive days by end April and the death toll exceeded 200,000, though experts judged such figures to likely be undercounts, at least partly due to reported government pressure. Devjyot Ghoshal and Krishna Das, “Scientists Say India Government Ignored Warnings Amid Coronavirus Surge,” *Reuters*, April 30, 2021, <https://www.reuters.com/world/asia-pacific/exclusive-scientists-say-india-government-ignored-warnings-amid-coronavirus-2021-05-01/>; Jessie Yeung, “As Covid Sweeps India, Experts Say Cases And Deaths Are Going Unreported,” *CNN*, April 28, 2021, <https://www.cnn.com/2021/04/27/india/india-covid-underreporting-intl-hnk-dst/index.html>; Jeffrey Gettleman, Sameer Yasir, Hari Kumar and Suhasini Raj, “As Covid-19 Devastates India, Deaths Go Undercounted,” *New York Times*, April 24, 2021, <https://www.nytimes.com/2021/04/24/world/asia/india-coronavirus-deaths.html>.

⁴⁹⁸ Baksa FT member Kamallesh Kumar Gupta wrote to Minister Himanta Biswa Sarma. Gupta was dismissed and other FT members backtracked after public outcry. Abhishek Saha, “Our COVID Aid Not for Tablighis, Jihadis, Write Assam Foreigners’ Tribunals’ Members,” *Indian Express*, April 12, 2021, <https://indianexpress.com/article/coronavirus/our-covid-aid-not-for-tablighis-jihadis-write-assam-ft-members-6358438/>; “Assam Discharges Foreigners’ Tribunal Member Who Wrote Letter With Communal Overtones,” *The Wire*, May 25, 2020,

<https://thewire.in/government/assam-discharges-foreigners-tribunal-member>. Further, despite winning the state assembly elections in Assam and consolidating electoral gains in West Bengal in May 2021, the BJP and Sangh Parivar have been buffeted by internal disunity. In part, this was induced by the calamitous management of the COVID-19 pandemic and the mammoth crisis and human tragedy that resulted.

⁴⁹⁹ Hitesh Dev Sarma, the Assam NRC Coordinator, filed an application before the Supreme Court of India on May 8, 2021, to request the implementation of a time-delimited process to re-verify the NRC list, citing “major irregularities” in the earlier process that produced the August 2019 list. See: *The Hindu*, “Assam NRC Authority Seeks Re-Verification Of Citizens’ List.” In May 2021, recently appointed Chief Minister of Assam, Himanta Biswa Sarma, stated that the new government favored a “20 percent re-verification of the updated list of citizens in districts that share a border with Bangladesh and 10 percent in the remaining districts.” See *The Hindu*, “Himanta Seeks 10-20% NRC Re-verification.”

⁵⁰⁰ *The Hindu*, “Assam NRC Authority Seeks Re-Verification of Citizens’ List.”

⁵⁰¹ Social, moral, economic, political, intellectual, embodied, and legal. Saba Mahmood, “Religious Freedom, the Minority Question, and Geopolitics in the Middle East,” *Comparative Studies in Society and History* 54, no. 2 (2012): 418-46. Accessed March 25, 2021, <http://www.jstor.org/stable/41428504>.

⁵⁰² Profess, practice, and propagate their religion (Article 25); Create institutions for charitable and religious purposes, take care of the community’s affairs and obtain and manage property (Article 26); Build and attend religious schools of their faith (Article 28). Constitution of India, “Right to Freedom of Religion,” https://legislative.gov.in/sites/default/files/COI_1.pdf, 29-30. While some fundamental rights, such as the right to equality and the right to life are available to “foreigners,” the right to non-discrimination, to freedom of speech and expression, to protest, to practice any vocation, to freely move around, to form associations, to preserve culture, for example, are only available to citizens.

⁵⁰³ In the “Right to Freedom of Religion” section, Article 25: “all persons are equally entitled to

freedom of conscience and the right freely to profess, practice and propagate religion.” The state can regulate or restrict “economic, financial, political or other secular activity which may be associated with religious practice” such as “providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.” Constitution of India, 1950, Article 25, https://legislative.gov.in/sites/default/files/COI_1.pdf, 29-30.

⁵⁰⁴ In International Law and Conventions, the freedom of religion is the freedom: “to manifest [one’s] religion or belief in worship, observance, practice and teaching” without being subjected to coercion or discrimination that diminishes their ability to exercise their religious freedom. It includes the rights of parents to organize family life in accordance with religious beliefs for their children in ways not “injurious to [their] physical or mental health.” Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, November 25, 1981, available from <https://www.ohchr.org/EN/ProfessionalInterest/Pages/ReligionOrBelief.aspx>.

⁵⁰⁵ Specific practices of religious freedom protected under international law include: Freedom to adopt, change, or renounce one’s religion; freedom from coercion that prevents a person from adopting a religion of their choice; the right to practice or “manifest” one’s religion or belief; to worship, to assemble and practice rites and customary acts of a religion, individually or with others; to establish and maintain places of worship, to not have these places desecrated or destroyed; to use, create, display, and wear religious symbols; to observe holidays and days of rest; To make sure that states have appropriate bodies at which to register one’s faith, to ensure one’s right to manifest one’s religious beliefs is respected; to be able to communicate “with individuals and communities on religious matters at the national and international levels,” https://legal.un.org/avl/ha/ga_36-55/ga_36-55.html; to establish and maintain charitable and humanitarian institutions, and to solicit and receive funding; freedom from discrimination on the basis of religion

or belief; and that the establishment of state religion should not impair the religious freedom of non-adherents to the state religion. See: 1981 Declaration of the General Assembly (1981 DGA); Convention on the Rights of the Child (CRC); Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (DEIDRB); Human Rights Committee general comment 22 (HRC 22); International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR).

- ⁵⁰⁶ (PCRes-Berkeley: 2020-21).
- ⁵⁰⁷ (PCRes-Berkeley: 2020-21).
- ⁵⁰⁸ (PCRes-Berkeley: 2020-21).
- ⁵⁰⁹ 1 bigha = 0.6198347106 acre.
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- ⁵¹¹ (PCRes-Berkeley: 2020-21).
- ⁵¹² (PCRes-Berkeley: 2020-21).
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- ⁵³⁴ (PCRes-Berkeley: 2020-21).
- ⁵³⁵ (PCRes-Berkeley: 2020-21).
- ⁵³⁶ (PCRes-Berkeley: 2020-21).
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- ⁵⁴² (PCRes-Berkeley: 2020-21).
- ⁵⁴³ (PCRes-Berkeley: 2020-21).
- ⁵⁴⁴ (PCRes-Berkeley: 2020-21).
- ⁵⁴⁵ As per FT related order and/or additional documentation(PCRes-Berkeley: 2020-21).
- ⁵⁴⁶ (PCRes-Berkeley: 2020-21); Abdul Kalam Azad.
- ⁵⁴⁷ This information has been documented by the organization Citizens for Peace and Justice and Teesta Setalvad: Citizens for Justice and Peace, “Citizenship and NRC Related Deaths in Assam”; Ali, “107th Citizenship Related Death in Assam!”
- ⁵⁴⁸ (PCRes-Berkeley: 2020-21); Abdul Kalam Azad.
- ⁵⁴⁹ (PCRes-Berkeley: 2020-21).
- ⁵⁵⁰ Abdul Kalam Azad.
- ⁵⁵¹ In the infographic, “male” and “woman” are self-identifications often used locally.
- ⁵⁵² (PCRes-Berkeley: 2020-21); Abdul Kalam Azad.
- ⁵⁵³ (PCRes-Berkeley: 2020-21); Abdul Kalam Azad.
- ⁵⁵⁴ (PCRes-Berkeley: 2020-21); Abdul Kalam Azad.
- ⁵⁵⁵ (PCRes-Berkeley: 2020-21); Abdul Kalam Azad.
- ⁵⁵⁶ (PCRes-Berkeley: 2020-21); Abdul Kalam Azad.
- ⁵⁵⁷ (PCRes-Berkeley: 2020-21); Abdul Kalam Azad.
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- ⁵⁵⁹ (PCRes-Berkeley: 2020-21); Abdul Kalam Azad.
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- ⁵⁶¹ (PCRes-Berkeley: 2020-21); Abdul Kalam Azad.
- ⁵⁶² Case 1: “11 Years in a Cage,” *Pune Mirror*, February 3, 2020, ProQuest Document 2349880049.
- Case 2: Ratnadip Choudhury, “15 Official Documents Can’t Prove She’s Indian: Assam Woman’s Ordeal,” *NDTV*, February 19, 2020, <https://www.ndtv.com/india-news/declared-foreigner-assam-womans-story-predicts-citizenship-list-effect-2182212>.
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<https://scroll.in/latest/955104/assam-gauhati-high-court-sets-aside-foreigners-tribunal-order-calls-it-a-perversity>.

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Case 11: “SC Allows Woman ‘Declared Foreigner’ by FT to Seek Review in Gauhati HC,” *Shillong Times*, January 29, 2021, <https://theshillongtimes.com/2021/01/29/sc-allows-woman-declared-foreigner-by-ft-to-seek-review-in-gauhati-hc/>.

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⁵⁶³ Further, Mr. Modi continued: “I want to assure them – no one can take away your rights, unique identity and beautiful culture. It will continue to flourish and grow.” A second tweet followed: “The Central Government and I are totally committed to constitutionally safeguard the political, linguistic, cultural and land rights of the Assamese people as per the spirit of Clause 6.” “‘Nothing to Worry’: PM Modi Assures Assam on Citizenship Bill,” *Hindustan Times*, August 4, 2020,

<https://www.hindustantimes.com/india-news/no-one-can-take-away-your-rights-pm-modi-assures-assam-on-citizenship-bill/story-jRhLO5hbdTylvQUaOldCel.html>; In January 2019, the RSS-backed student group Akhil Bharatiya Vidyarthi Parishad reportedly had significant presence and influence at 12 colleges in Guwahati. “ABVP Assam Unit Tries to Counter ‘Propaganda’ Against Citizen Bill,” *The Telegraph*, January 22, 2019, <https://www.telegraphindia.com/north-east/abvp-assam-unit-tries-to-counter-propaganda-against-citizen-bill/cid/1682474>.

⁵⁶⁴ Parashar, “BJP Has Stopped Entry of Illegal Immigrants, Says Amit Shah in Assam,” *Hindustan Times*, February 26, 2021, <https://www.hindustantimes.com/india-news/bjp-has-stopped-entry-of-illegal-immigrants-says-amit-shah-in-assam-101614290858496.html>.

⁵⁶⁵ Press Trust of India, “No decision on nationwide NRC yet, says government,” *The Telegraph*, August 10, 2021, <https://www.telegraphindia.com/india/nrc-no-plan-on-nationwide-drill-yet-says-government/cid/1826000>.

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⁵⁶⁷ Further, a new group in Assam, the Jana Gosthiya Samannay Parishad Asom (JGSPA), sought to conduct an unofficial “digital” census of Assamese-speaking Muslims in the state, distinct from Bengali-speaking Muslims. Observers are concerned that such a process would exacerbate tensions between different Muslim communities. Ashis Biswas, “New Unofficial Census May Reignite Ethnic Tensions in Assam,” *National Herald*, June 5, 2021, <https://www.nationalheraldindia.com/opinion/new-unofficial-census-may-reignite-ethnic-tensions-in-assam>.

⁵⁶⁸ Rokibuz Zaman, “Assam Renames Detention Centres As Transit Camps,” *Times of India*, August 20, 2021, <http://timesofindia.indiatimes.com/articleshow/85469196.cms>. An *Indian Express* editorial noted the ethnic violence in the northeast states of Assam, Meghalaya, Mizoram, and Nagaland, urging governments in the region to give up “emphasis on singular identities” and commit to inclusive politics. “Government Should Take Note of the Signals of Unease in Northeast States,” *Indian Express*, August 19, 2021, <https://indianexpress.com/article/opinion/editorials/independence-day-shillong-cherishterfield-thangkhiew-7460380/>

⁵⁶⁹ Constitution of India, 1950, Article 25, https://legislative.gov.in/sites/default/files/COI_1.pdf, 29-30; Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, November 25, 1981, available from <https://www.ohchr.org/EN/ProfessionalInterest/Pages/ReligionOrBelief.aspx>; Convention on the Rights of the Child (CRC); Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (DEIDRB); Human Rights Committee general comment 22 (HRC 22); International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR).

⁵⁷⁰ Social death and social disposability here are linked to biopolitical and necropolitical governance. See: Patterson, Orlando, “Authority, alienation, and social death,” in *Slavery and Social Death: A Comparative Study* (Cambridge and London: Harvard

University Press, 1982) 35-76; Biopolitics, see: Michel Foucault, “The Birth of Biopolitics,” in *Ethics: Subjectivity and Truth: Essential Works of Foucault, 1954-1984, Volume 1*, ed. Paul Rabinow, trans. Robert Hurley and others, series ed. Paul Rabinow (New York: The New Press, 1997), 73-80; Necropolitics, see: Achille Mbembe, “Necropolitics,” *Public Culture* 15, no. 1 (2003), 11-40.

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⁵⁷² (PCRes-Berkeley: 2020-21). Also, see: Hiren Gohain, “BJP is Using Citizenship Act Amendment to Reinforce and Spread Hindutva in Assam,” *The Wire*, January 2, 2017, <https://thewire.in/politics/assam-citizenship-act-amendment-hindutva>.

⁵⁷³ (PCRes-Berkeley: 2020-21).

⁵⁷⁴ Amnesty International, “India’s Courts are Allowing Foreigners Tribunals to Wreak Havoc in Assam,” *Amnesty International*, November 27, 2019, <https://amnesty.org.in/news-update/indias-courts-are-allowing-foreigners-tribunals-to-wreak-havoc-in-assam/>.

⁵⁷⁵ Bilal Kuchay, “India Defends CAA after UN Rights Chief Approaches Supreme Court,” *Al Jazeera*, March 4, 2020, <https://www.aljazeera.com/news/2020/03/india-defends-caa-rights-chief-approaches-supreme-court-200303114701274.html>.

⁵⁷⁶ The already heightened social and legal discrimination faced by Muslims in India today places them at heightened risk of harm when their legal identity is in jeopardy. The habitual and structural inequalities that Muslims, and especially women, are confronted with in everyday life will be further exacerbated when their belonging is placed in question. Coequally, it is of note that in April 2021, the Supreme Court ruled it would not prevent the deportation of approximately 170 Rohingya refugees detained in Jammu, despite the International Court of Justice’s January 2020 order to Burma/Myanmar to safeguard Rohingya Muslims from genocide. Aakash Hassan, “Supreme Court has Signed Our Death Warrant’: Rohingya in India,” *Al Jazeera*, April 9, 2021, <https://www.aljazeera.com/news/2021/4/9/supreme->

court-has-signed-our-death-warrant-rohingya-in-india; British Broadcasting Corporation, “Myanmar Rohingya: Government Rejects ICJ Ruling,” January 23, 2020, <https://www.bbc.com/news/world-asia-51229796>; Also: International Court of Justice, “Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar),” January 23, 2020,” <https://www.icj-cij.org/public/files/case-related/178/178-20200123-SUM-01-00-EN.pdf>; Human Rights Watch, “Interview: Landmark World Court Order Protects Rohingya from Genocide,” January 27, 2020, <https://www.hrw.org/news/2020/01/27/interview-landmark-world-court-order-protects-rohingya-genocide#>; Prashant Bhushan and Cheryl D. Souza, “SC Ruling on Rohingya is Against India’s Commitments to International Law,” *Indian Express*, April 17, 2021, <https://indianexpress.com/article/opinion/columns/supreme-court-ruling-rohingya-refugees-illegal-detention-7277019/>.

⁵⁷⁷ Human Rights Watch, *Burma/Bangladesh Burmese Refugees in Bangladesh: Still No Durable Solution*, 2000, <https://www.hrw.org/reports/2000/burma/burm005-02.htm>.

⁵⁷⁸ Shoaib Daniyal, “A Year Ago, The BJP Focused Its Politics on The CAA. So Why Hasn’t It Been Implemented Yet?” *Scroll*, December 11, 2020, <https://scroll.in/article/980659/a-year-ago-the-bjp-focussed-its-politics-on-the-kaa-so-why-hasnt-it-been-implemented-yet>.

⁵⁷⁹ See: Giorgio Agamben, *State of Exception* (Chicago: Chicago University Press, 2005); and Giorgio Agamben, *Remnants of Auschwitz: The Witness and the Archive* (New York: Zone, 1999).

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⁵⁸³ United Nations High Commissioner for Human Rights amicus curiae in a petition before the Supreme Court: Intervention by U.N. Commissioner for Human Rights (UNHRC) Michelle Bachelet in March 2020, in the matter of Deb Mukharji v. the Union of India, see: Deb Mukharji v. Union of India, Writ Petition 1474 of 2019, <https://www.scribd.com/document/449891277/UN-High-Commissioner-for-Human-Rights-Intervention-Application-CAA-SC>; also see: . Alan Kronstadt, *India: Religious Freedom Issues*, U.S. Library of Congress, Congressional Research Service, August 30, 2018, <https://crsreports.congress.gov/product/pdf/R/R45303/6>.

⁵⁸⁴ Extreme xenophobia that consolidates majoritarian rule. (PCRes-Berkeley: 2020-21).

⁵⁸⁵ Office of the Registrar General & Census Commissioner, India [Ministry of Home Affairs, Government of India], *Population by Religious Community: Assam*, 2011, <https://censusindia.gov.in/2011census/C-01/DDW18C-01%20MDDS.XLS>.

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⁵⁹⁰ Banglapedia [Asiatic Society of Bangladesh], "Population, Spatial Distribution," 2008, https://web.archive.org/web/20081005021333/http://banglapedia.search.com.bd/HT/P_0229.htm.

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