

***Title- The Questions of Contested Territoriality and Identity Under a Liberal
Constitutional Framework: A Case Study of the National Register for Citizens(NRC)
drafting procedure in Assam***

Abstract

The issue of identity and citizenship has always been one of the most contentious and vexed propositions in the discourse of the modern state. The history of modern South Asia is replete with instances in which territorial and juridical boundaries failed to co-opt and legitimize demands of multi-layered identities based on race and religion and multi-dimensional sense of belonging of many sections of people. This inherent dichotomy between territorial borders and psychological borders has historically marred the terrain of South Asia amongst other parts of the globe. The most gruesome and brutal manifestation of such a dichotomous interaction between territoriality, identity and sense of belonging can be traced in the displacement of a gargantuan magnitude of people during such critical moments of convulsions regarding nationhood like partition between India and Pakistan in 1947 and subsequently during the Bangladesh liberation war in 1971. Besides these crucial junctures of perceptible disenfranchisement and persecution, the instances of forced migration due to contested ideas of identity and territoriality has continued unabated in various parts of South Asia. And such mass migration of people due to harsh and inadvertent conditions of politico-socio-economic compulsions have moulded, shaped and determined the politics in a number of south Asian nations. One such case is the unfolding politics over the drafting of a fresh National Register for Citizens (NRC) for the people of Assam. It is yet another instance of how the contested ideas of identity and citizenship are making space for politics of “otherisation” and polarisation in the state of Assam in India. The diabolical procedure of drafting the fresh NRC might lead to the disenfranchisement, detention and deportation of a large number of hapless people without any recourse to legal, political or diplomatic assistance. In all probability, the dispossessed lot might be rendered as “in between people” as either indeterminate citizens or indeterminate stateless people after the final formulation of the NRC.¹ The ambiguity and speculation regarding the fate of people whose names would be excluded from the draft might lead to a situation of massive human rights crisis and violence in India. In the above background, the paper would excavate how the questions of territoriality and identity are interacting with the Indian constitutional and legal framework by taking NRC drafting procedure in Assam as a case study. The paper first attempts to broadly

look at how the notions of contested territoriality and identity were perceived in the foundational constitutional framework that shaped the idea of citizenship at the time of the commencement of the Indian constitutional order. Furthermore, the paper intend to look at the constitutionality and legality of the NRC drafting procedure in Assam to trace how the questions of dealing with the issues of forced eviction and human agony transpired over the years under the Indian constitutional framework for preventing the threat of human rights violation and further dehumanization of the disenfranchised lot. Finally, the paper would study the NRC process in Assam to extrapolate how the imperatives of political expediency impacted the constitutional discourse on identity, citizenship and human rights. Hence, this research might enable us to understand whether a liberal constitutional framework under democratic condition is capable of acting as a part of the protection regime for the casualties emanating from such contested identities in the South Asian context.

ⁱ Banerjee, Paula, Anasua Basu Ray Chaudhury and Atig Ghosh (eds.), *The State of Being Stateless*, (New Delhi: Orient BlackSwan, 2016)