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Precarious citizenship: detection, detention and 'deportability' in India

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ABSTRACT

In 2019, India made the unprecedented move of listing 1.9 million people in its northeast state of Assam as illegal migrants from Bangladesh in a new National Register of Citizens before passing the Citizenship (Amendment) Act, which overtly discriminates against the country's Muslim minority. Drawing from ethnographic fieldwork, this paper investigates the reality of precarious citizenship under India's increasingly anti-migrant regime, particularly for Bengali-speaking Muslims. Going beyond the predominant notion that illegal migrants acquire documentary citizenship through fraudulent means after crossing the porous border between India and Bangladesh, this essay reveals a reverse scenario: those living with citizenship rights and in a regular social world are subjected to the gradual process of detection, detention and 'deportability' in India. This paper employs the concept of precarious citizenship to unravel this complex and oscillating world of legality and illegality, citizenship and noncitizenship, and the predicaments of life as a Bengali-speaking Muslim in India.

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Introduction

India's migrant population registered an unprecedented increase on 31 August 2019, when the official report of the National Register of Citizens (NRC) listed 1.9 million people in the northeast state of Assam as illegal migrants from Bangladesh. Bengali-speaking Muslims constitute a substantial proportion, but the precise religious demographics have not been officially published yet. The list was severely criticized for its obvious procedural errors, prejudice and arbitrariness, as well as the possible consequence of India's own citizens losing their rights, but that did not stop the Indian Parliament from passing the Citizenship (Amendment) Act (CAA) just a few months later, on 11 December 2019, sparking another controversy across the nation. This act grants citizenship to illegal migrants from Bangladesh, Pakistan and Afghanistan who are persecuted on religious grounds – but only Hindus, Sikhs, Parsis, Jains, Buddhists and Christians, not Muslims. Furthermore, the central government announced the nationwide expansion of the NRC and the implementation of the CAA, which would drive out 'illegal migrants', a dual process that will directly impact the citizenship rights of India's

Muslim minority. However, little has been said about the practices prevalent in Assam, where Bengali-speaking Muslims have faced detection, detention and ‘deportability’ for at least the past two decades. Drawing insights from ethnographic fieldwork among those who have experienced detection, detention and ‘deportability’ (De Genova and Peutz 2010, 4) in Assam, this article aims both to shed light on the citizenship crisis in the South Asian context and, more broadly, to contribute to the nuanced debates of citizenship studies. It unravels the oscillating world of legality and illegality and the irregularities of citizenship status that jeopardise the lives of those suspected of being illegal migrants. I here employ the idea of precarious citizenship, a concept widely used in the literature on migration in the Western context in the recent past, and examine the ways in which it works in an Indian context. The ethnographic insights presented in this essay are primarily gleaned from the life stories of four Bengali-speaking Muslims: Shahera Khatun, Momiran Nessa, Sharu Sheikh and Ajbahar Ali. All four lived as Indian citizens with a regular social life before being detected by the state as suspected illegal migrants. At first they continued to have freedom of movement and access to resources to a great extent, but eventually each was detained and coercively kept in a detention centre. Although all four were finally released from detention for various reasons, they all still live in daily fear of deportation. The themes in this essay – detention, detection and deportability – are organised along the pathways experienced by these four and several others who have been moved in and out of illegality and irregularity.

For the past five decades or so, Assam’s Bengali-speaking Muslims have been invariably seen as illegal migrants and brandished as a threat, accused of, among other things, altering the state’s demography, encroaching on the lands of native communities, taking resources and economic opportunities away from local population, forging documents such as electoral cards, influencing local politics and even threatening the culture (Gohain 1985, 9–12; Hussain 1993, 31–32). Literature on migration in Assam also reinforces this view to a large extent and even posits this threat as a unique challenge in studying the movements of peoples across borders in South Asia (see Baruah 2009, 594; Sadiq 2010, 4; and others). In South Asia, the distinction between a citizen and a migrant is understood as highly blurred, as citizenship rights are illegally extended to migrant groups throughout the region, leading to what Sadiq calls documentary citizenship. Studies highlight the illegal extension of citizenship rights to migrants through fraudulent means, leading to a situation of ‘indistinguishability’ between citizens and non-citizens (Baruah 2009, 594; Sadiq 2010, 71). Because the authenticity of standard paperwork is very weak in developing nations like India, citizenship documents can be bought cheaply and are distributed arbitrarily through networks of bribery and complicity. The legitimacy of democratic citizenship is challenged in such developing nations not by the exclusion of long-term legal immigrants and their children but rather by the easy inclusion of illegal immigrants. Sadiq also refers to ‘suffraged noncitizens’ – (Sadiq, 166) illegal migrants who are able to vote in a country after acquiring only rudimentary documents.¹

It is true that the ‘indistinguishability’ argument offers insights into long-standing cross-border migration to India, but it also legitimizes the predominant political discourse. While a politicized version of this ‘indistinguishability’ has long been a driving force of political mobilisations and ethnic violence in Assam, the academic literature’s excessive focus on mapping and otherwise making visible ‘illegal’ migrants results in

what Nicholas De Genova calls ‘anthropological pornography’ (De Genova 2002, 422), as it exposes migrants to state surveillance. De Genova’s (2002) idea of migrant illegality is useful here to understand how various discursive forms construct Bengali-speaking Muslims’ ‘illegality’, leading to overpowering denunciations, humiliation and rightlessness. However, the experiences described in this essay reveal a more complex situation of irregularities (Isin 2009, 217; Nyers 2019, 30) and movement between legalities and illegalities under various legal and political circumstances (Goldring, Bernstein, and Bernard 2009, 258).

While documentary citizenship is presented as a unique characteristic different from what occurs in the Western migration scenario, it undermines the complexities of the citizenship question in places like Assam². Especially in the borderlands (Van Schendel 2004, 4; Sur 2021, 5), the realities of ‘indistinguishability’ and ‘documentary citizenship’ (Sadiq 2010, 8) undermine a notion of citizenship that is constituted through shared economic, social and cultural practices. Recent literature on migration and citizenship in the Western context has questioned the prevailing binaries in citizenship studies and analysed a wide array of citizenship statuses and complex transitions of migrant subjects in today’s world (Goldring and Landolt 2021, 3; Nyers 2009, 185). This essay demonstrates that documentary citizenship, which allows membership in the nation to those who might not qualify for it, is only one side of the story. There has been a parallel process of citizens’ losing their rights through detection, detention and experiencing deportability in India for at least the past two decades.

The concept of precarious citizenship is a useful anchor for a new reading of the complex citizenship process in India. ‘Precarious citizenship’ captures the complexities of citizenship or its absence among Bengali-speaking Muslims in Assam. Categories such as ‘undocumented citizen’, ‘denizen’, ‘stateless’ and ‘illegal migrant’ are inadequate in this context because although a large chunk of this population are Indian citizens, the status of even those whom the state ostensibly accepts as such has become ambiguous over the past two decades. People with precarious citizenship are unable to gain access to resources and struggle to enjoy the full benefits of citizenship rights in their nation-state for a protracted time (Goldring, Bernstein, and Bernard 2009, 245; Lori 2017, 17; Parla 2019, 21). Precariousness is defined by vulnerability, unpredictability and insecurity, and those in this condition are invariably exposed to the risks of poverty, disease, displacement and extreme forms of violence (Lori 2017, 9). This concept captures the arbitrariness, messiness and fragility of situations where state-driven interventions place a group in an ambiguous position, and it allows us to talk about the continuums between otherwise understood binaries such as citizenship/non-citizenship and insider/outsider, as this complex experience involves being insider and outsider, citizen and non-citizen at the same time (Goldring and Landolt 2021, 2; Lori 2017, 8; Ramirez et al. 2021, 23). Further, precarious citizenship is a result of constant criminalisation of migrants by state and non-state actors which leads to discrimination and extreme forms of violence (Dahinden 2016, 2208; Vertovec 2017, 1577). Scholarship on precarious citizenship across the world shows the role of ad-hoc policies, elite strategies and political maneuvering in pushing their subjects into an indeterminate status for a long time (Goldring, Bernstein, and Bernard 2009; Lori 2017, 9; Ramirez et al. 2021, 57; Sur 2021, 60). Precarious status is multi-dimensional and conditioned by specific state policies, regulations and implementations (Goldring, Bernstein, and Bernard 2009, 256). Banki (2013, 452) introduced the concept

of 'precarity of place' to emphasise the importance of the physical space in which people live the looming threat of losing a livelihood, residence in a nation or a social network and other support. This essay is also informed by the concept of irregular citizenship, which captures the ambivalent, messy and evolving status of migrant populations under specific socio-political and legal conditions (Nyers 2019, 21; Squire 2011, 4). The study understands irregularity as an experience and as a way of being that fundamentally shapes the day-to-day lives of migrants, and it questions the fixed and essentialised notions of legality and illegality in a migrant regime (De Genova and Roy 2021, 354, Squire 2011, 7). Irregularity can describe a variety of things, including ambiguous status, an oscillating experience of citizenship and non-citizenship and the threat of removal and deportation from a nation-state (Nyers 2009, 188).

This essay is an outcome of the field work I carried out in December 2019 and March 2020, primarily in Assam's Barpeta district, as part of a larger research project on migration, ethnic conflicts and the citizenship crisis in northeast India. While the NRC list excludes a huge number of Muslims in Assam, the field work was particularly interested in those who were detected several years back and later detained. This essay highlights insights gleaned from long-term conversations with four Muslims who lived in 'temporary' detention centres for years and managed to get released in the recent past. Though I have interviewed several Muslims who have been detected by the state recently and thus live with the fear of detention and deportation, I have chosen to narrate the stories of just four people, as their decades of struggle with citizenship status illustrate the cycle of detection, detention and 'deportability'. Nonetheless, other stories have informed the ideas presented in this paper. While there are hundreds of people in Assam's detention centers and some have been living there for more than a decade, their stories have never been represented in earlier studies nor even reported in the media until recently. I tried to get access to a detention centre but was denied by officials on security grounds. The state's vigilance and the turbulent political atmosphere in Assam in the wake of NRC and CAA protests made researching this sensitive issue very challenging. In 2019, India's Supreme Court ordered the release of all migrants who had spent at least three years in a detention centre, in response to a petition filed by an Indian human right organization. Despite this court order, only a handful of such detainees managed to get released, as many are still caught up in bureaucratic constraints, including having to furnish a one-lakh bond. I talked to those who were released and willing to share their experiences at their own homes. Here, experiential accounts gleaned from the narratives are privileged over statist and other forms of political discourse and academic works that rely on macro data, because investigation of precariousness and irregular citizenship demands attention to the way life is lived under specific politico-legal conditions. This narrative methodology is especially important to counterbalance ideas like documentary citizenship which are largely drawn from political narratives and governmental data that obscure the complexities of legality and illegality.

I visited their homes and conversed with their family members, as the study involved the precarious lives of entire families and their struggles to overcome these crises that they have been enduring for a long time. As Nathalie Peutz (2006, 217) eloquently demonstrates in her work on 'anthropology of removal', exploring the lives of those who have been removed from the social world and thus made invisible allows us to render visible their horrible experiences and thus open new academic and public

discussions about citizenship crises. All the subjects who were interviewed for my study made clear that they wanted their stories to circulate without any anonymity. Along with their narratives, I have analyzed the judicial documents, petitions and other files pertaining to each of their individual cases presented in the 'Foreigners Tribunal', in order to understand the legal and bureaucratic processes involved in the production of precarious citizenship. This has revealed migrant 'illegality', detention and deportability to be sociopolitical conditions informed by legal discourse and bureaucratic interventions, which makes this study an ethnography of legal and bureaucratic processes too (De Genova 2002, 422). In other words, this essay illuminates how 'illegality' and precarious citizenship are configured on the one hand and experienced on the other (Willen 2019, 73). The article is also informed by literature on migration and citizenship in general and on the historical and contemporary dynamics of migration, citizenship and borderlands in India specifically. While the literature on India offers insights into the context and themes, this essay departs from dominant readings of migration and the citizenship crisis in Assam. Most studies read Assam's citizenship crisis as a direct consequence of illegal migration from Bangladesh, but this article focuses on the process of undoing the citizenship rights of those who have lived in the region for a long time.

Detection and precarious citizenship

Starting in the late nineteenth century, British administrators encouraged migration from East Bengal to Assam (Baruah 2009, 595; Hussain 1993, 23; Van Schendel 2004, 81). Although both India's Partition in 1947 and the Bangladesh War of Independence in 1971 further accelerated the movement of people across this border, a large number of Muslims living in Assam are Indian citizens whose ancestors settled there long before the formation of nation-states in South Asia (Sharma 2012, 296). While 'infiltration' has been a central concern of Assam's politics since Partition, this narrative spread nationwide during the 1970's and became a key weapon of Hindu fundamentalist politics in the 1980's (Van Schendel 2004, 195; Shamshad 2015, 41). In the 1990s, Hindu nationalists, subnationalist politicians in Assam and other government officials painted the Muslim population as 'demographic aggressors' and 'foreign invaders' (Van der Veer 2005) leading to a general perception that they were a threat to Assamese society (Gohain 1985, 21; Hussain 1993, 118; Weiner 1983). The history of violence against Muslims in Assam is a naked expression of this communal politics: various ethnic groups have targeted them with militant assaults and even massacres while leaving the large number of Bengali Hindus alone (Kimura 2013, 79). The violence experienced by Bengali-speaking Muslims in Assam perfectly illustrates that it is not the sovereign power alone that paints this group as illegal migrants and dangerous; instead, armed ethnic groups are equally involved in such constructions and in these attacks, acting for or with the state. While this history of violence is itself emblematic of 'precarious citizenship' in the most visible of ways, legal, political and bureaucratic processes enfold more subtle and complex realities of the lives of Muslims caught between citizenship and rightlessness.

The production of 'illegality' and precarious citizenship, as seen in many other contexts, is entangled with complex legal enactments and arbitrary, anomalous and contradictory bureaucratic state practices (Tuckett 2015, 115). A concrete legal means of detecting 'illegal' migrants from Bangladesh was first formulated in 1985, in the Assam

Accord, a Memorandum of Settlement between the Indian government and representatives of the Assam Movement, a long-term, massive ethnonationalist agitation led by Assamese Hindus and other tribal communities (Baruah 2009; Ranjan 2019; Sharma 2019). Critically, the accord declared all who came to Assam after the formation of Bangladesh (on 25 March 1971) to be illegal migrants and promised that the state would find them. The Illegal Migrants (Determination by Tribunal) (IMDT) Act, passed in 1983, already enabled Assam to establish special tribunals to investigate accusations by ordinary citizens and police against people suspected of being illegal migrants (Jayal 2013, 65; Roy 2016, 46). The responsibility of proving or disproving non-citizenship rested on the accuser, however, and not the accused. Moreover, only people residing within a three-kilometre radius of the alleged illegal migrant could accuse them, and the complaint had to include corroborating affidavits by two more persons also resident within that radius, plus a fee of 100 rupees. This procedure significantly differs from that of India's Foreigners Act, 1946, which enforces an amendment of India's citizenship law (Roy 2016, 45). In the end, the IMDT Act was deemed very ineffective, as only a handful of 'illegal' migrants were detected over a decade and this 'failure' was read along the lines of 'documentary citizenship' and 'indistinguishability', discussed above (Ranjan 2019, 448; Sharma 2019, 533).

The constant threat of detection by the state, whose actual practice here does not match its claims, makes the suspected community vulnerable to economic and other forms of exploitation. Scholarship on flawed and ineffective legal implementations has shown that, far from failures, these are double-edged weapons used by the state to protect various powerful interests, with long-term consequences for suspected 'illegal' migrants (see, e.g. De Genova 2016, 94; Sur 2021, 227; Tuckett 2015, 116). If access to rudimentary documents is possible through a corrupt low-level bureaucracy (Gupta 2012, 33) or networks of complicity, the less-governed postcolonial states characterised by these things also have citizens and natives without documents and thus only 'blurred membership' (Sadiq 2010). These citizens and 'illegal' migrants alike are either allowed to be invisible in 'real' practice, in opposition to 'official' norms (Tuckett 2015, 114), or encouraged to procure rudimentary documents by illegal means, thus risking prison and 'deportability' when a more stringent citizenship test comes into existence or when bureaucrats happen to check their documents (Chauvin and Garcés-Mascreñas 2012, 254). This illegality and precarious citizenship are therefore products of the state and systematic arbitrariness (Gupta 2012, 6; Hull 2012, 253). But the consequences are not so arbitrary, because certain groups are at greater risk of detection, by design. In particular, religious discrimination forces Muslims into this position of 'protracted uncertainty' (Biehl 2015, 58). Even in nation-states that claim to have an inclusive *jus soli* (law of citizenship based on birth in the territory), implicit or explicit favouring of *jus sanguinis* (law of blood-based citizenship) has been decisive in the treatments of migrant populations, and the resulting cleavages along religious and ethnic lines are even more visible under the contemporary migrant regime (Chatterji 2012, 1052; Sigona 2015, 6). While India's recent passage of the CAA is seen as a fundamental shift away from *jus soli*, legal enactments and bureaucratic practices have been embroiled with religious preferences and prejudices since Partition (Zamindar 2010, 26). Though the displaced Hindus who returned from Pakistan after Partition were welcomed and treated as refugees,

unofficial discourse tended to view Muslims as invariably illegal migrants (Chatterji 2012, 1057; Samaddar 2016, 101; Zamindar 2010, 48). The Muslim minority were reduced to ‘bare citizenship’ (Chatterji 2012, 1070) – the immobile, vulnerable situation of those who want to cross borders but cannot. Unlike them, the privileged groups with ‘flexible citizenship’ (Ong 1999) have rights across nation-states, including movement from one to another. Those who wanted to return to occupy their property were deprived of access to it not only by hierarchized citizenship wielded at the legislative and executive levels to dismiss their appeals and deny them opportunities to present their cases but also by interactions among a range of actors at ground level invested in keeping them out of the country. The crucial point is that the conceptual boundary between state and society is often blurred as legal regimes and bureaucratic enactments are infused with societal concerns and ideological manipulations (Hansen and Stepputat 2006, 300; Hull 2012, 256; Mitchell 1991, 84).

The political outcry over the IMDT Act’s failure prompted Assam to introduce the ‘D voter’ (doubtful voter) category, indicating and disenfranchising people without proper citizenship credentials, in 1997. After a mammoth survey, the Election Commission of India identified more than 100,000 people as D voters (Sharma 2019). Subsequently, the ‘reference case’ category was introduced, for possibly illegal migrants to be surveyed in a cluster of villages under the jurisdiction of the border police. D voters and those in the ‘reference case’ category neither are declared illegal migrants nor have complete Indian citizenship rights, and thus enter the state of limbo that Heath Cabot (2012) documents for a different case. In 2005, the Supreme Court scrapped the IMDT Act after a series of legal battles, turning the procedure of detecting illegal migrants upside down: the burden of proving citizenship is now on the accused. To hear these cases, the Assam government established special tribunals, which later sent many suspected migrants to detention centres.

Ethnographic narratives of detected Muslims show the everyday consequences of precarious citizenship and how people living ordinary social lives are pushed into this dark zone. I met Shahera Khatun, a Muslim woman who lives in an interior village off Assam’s Barpeta district, a few months after her release from a detention centre. She was declared as an illegal migrant and spent almost two years in the temporary detention centre inside Kokrajhar town’s district jail before being able to prove her citizenship and return to her village. Her family has suffered from a long history of grave bureaucratic errors. In 2000, while the IMDT Act was still in force, the border police accused her husband, Kalu Mia, of being an illegal migrant (See Judgment and Order 2016). They did not succeed in proving the allegation, but the suspicion remained in the official record. Almost two decades later, in February 2017, Kalu got a letter to appear before the Foreigners Tribunal to provide necessary documents if he wanted to prove that he was an Indian. Migrant ‘illegality’ (De Genova 2002) in Assam functions so arbitrarily (Gupta 2012) that suspects are randomly sent legal notifications and can be detained unexpectedly, so with the help of a lawyer, Kalu furnished all the necessary legacy data to prove his Indian citizenship.³

While his humiliating experience of long-term suspicion and his struggle to prove his citizenship demonstrate the state’s prejudice and irregular practices, his wife’s story exposes much graver bureaucratic violence. She was implicated in the case against her husband and declared an illegal migrant by the Barpeta Foreigners Tribunal. Shahera

Khatun's involvement and detention violated the procedure of the Foreigners Tribunal: there must be an individual case against each accused person, who must be given the opportunity to prove citizenship. The Foreigners Tribunal never asked Shahera for any such proof, instead making assumptions about her details during her husband's trial and simply declaring her 'Bangladeshi'. But it declared Kalu Mia an Indian citizen, and he had furnished documents pertaining to their marriage and place of residence to win his case. This is clear evidence of gendered practices of bureaucracy, as suspicion of her husband's citizenship eventually led to her detection and detention: men are perceived as potential illegal migrants, so the status of their spouse must also be investigated, that too by not following the procedures.⁴ Later, when Shahera furnished documents to try to prove her citizenship, the tribunal found them contradictory, incomplete and error filled. When modern states reform their subjects as visible and governable through documentary practices, those in the margins are caught between legality and illegality (Scott 2009). What made Shahera 'detainable' was exactly her identity as a 'migrant Muslim'. But even if there were mistakes in her papers, that was no reason to declare her a foreigner: there was no complaint against her, and she was never asked for documents proving her nationality. Shahera was taken from her house to the temporary detention centre established to accommodate 'illegal migrants'. While living there, she fought the case, showing the lack of due process in the Foreigners Tribunal's actions and exhibiting sufficient documents to prove her Indian citizenship. On both grounds, she won release. Her experience reveals how precarious citizenship, engendered through a combination of bureaucratic errors and religious prejudice, traps citizens in the 'zone of indistinction' (Agamben 1998, 28), an ambiguous space where rights come into conflict with the brute violence of the state. In the 'zone of indistinction', the lines between citizen and outlaw, legality and illegality and law and violence are blurred.

Momiran Nessa, a middle-aged Bengali-speaking Muslim woman also from the Barpeta district, spent ten years in the Kokrajhar jail before being granted bail in 2019 after the Supreme Court ordered the release of all migrants who had spent at least three years in a detention centre. She was accused of being an illegal migrant in 1997, when the IMDT Act was still in effect, but never responded, since the state took no further action and the border police were responsible for proving the allegation. However, she received a letter in 2009, after the law had changed, calling her before the Foreigners Tribunal (See Writ Appellate-Jurisdiction, 2013). Momiran repeatedly failed to appear, for a couple of reasons. First, D voters and people with 'referred cases' in the late 1990s and early 2000s usually disregarded their new status, since the IMDT Act had never challenged their ability to live in India. Moreover, poor, illiterate people in Assam's rural areas hardly knew of the legal regime's gradual changes or the new political context of accelerated state hunting for illegal migrants, and although they lost the right to vote and were barred from receiving many government benefits, for many years they were not detained. Second, Momiran, like many Bengali-speaking Muslims in Assam, lives in the char (riverine Island) area, which is prone to frequent floods and erosion, and indeed, these forces compelled her to move – but the tribunal's reminders were sent to her original home. Consequently, she failed to furnish appropriate documents, was declared a foreigner and was sent to the detention centre in 2009. Momiran is now back with her family, but her ten-year imprisonment has profoundly shaken her social life.

Sharu Sheikh, a Muslim man also living in the Barpeta district, was the subject of a reference case in 2002 (See Civil Extra-Ordinary Jurisdiction 2016). Though no action was taken against him for years, like several others, he received a letter in 2014 from the Foreigners Tribunal and was subsequently sent to the detention centre in the Golpara jail, where he was kept until 2019, when the Supreme Court's order allowed him to return home. His case is another perfect example of an irregular yet prejudiced bureaucracy's practices (Tuckett 2015, 115) and a citizen's consequent transition to precarious life. The notice did not mention the specific grounds on which Sharu Sheikh was suspected, in violation of the rules for detecting illegal migrants. He nonetheless furnished all the necessary documents to the Foreigners Tribunal to prove his Indian citizenship but was declared a foreigner anyway, because of contradictions and lack of proper evidence in his legacy data. It was Sharu Sheikh's peculiar family history that made him a 'Bangladeshi'. He was born to the second wife of his father, Fetu Sheikh, who had remarried after the death of his first wife. During his first marriage, Fetu Sheikh had six children. His name appears along with those of his first wife and their six children in the National Register of Citizens of 1951 but with those of Sharu Sheikh's mother, Jhakani Bewa, and his elder brother, Baru Sheikh, in the electoral rolls for 1966 and 1970. Sharu Sheikh was not yet enrolled in the voter lists then, and when he finally was, in 1985, his father's name was wrongly recorded as Fetu Choukidar (he was working as a night *choukidar*, a watchman, for a government office). To add to the difficulties, Fetu Sheikh had moved twice, because of flooding, and hence his land record was inconsistent. The result of all these errors and incongruities was that Sharu Sheikh was declared an illegal migrant and left to suffer in a detention centre for five years.

Detention

The plight of precarious citizens is well described by Giorgio Agamben's (1998) formulations of the state of exception, the camp and 'bare life'. For him, the Nazi death camp is the original model of 'bare life', but as later regimes have endeavoured to confine 'stateless', 'undocumented' and 'unwanted' populations the world has witnessed a proliferation of various camp forms (Isin and Rygiel 2007, 83; Rygiel 2012, 807; Sigona 2015, 3): transitory camps, airport waiting zones, detention centres, etc. (Ticktin 2011, 8). State violence prevails over the right to life in these sites of exception, which exist between juridical order and lived experience, public law and political fact (De Genova 2016). What is at stake in such 'detained spaces' is the ability to speak and fight for one's rights, the essence of Arendt's (1958) notion of the political right to have rights (Carpesi 2019; Shachar 2014). The migrant detention centres in Assam clearly enforce this 'rightlessness'. There are six detention centres, all inside normal jails; they are meant to be temporary arrangements to hold detected illegal migrants, more than three thousand people at present (Nizamuddin 2020). This flouts the insistence of the United Nations Human Rights Council (UNHRC) on states' obligation to 'place asylum-seekers or immigrants in premises separate from those persons imprisoned under criminal law' (UN General Assembly 2008, 20).

Ethnography reveals how suspected migrants were forcefully removed from their social worlds. This is how Momiran Nessa remembered her experience:

One day I got a notice to go to the police station immediately. When I reached the Moinbari police station, I was asked to sign some paper. After signing, I was informed that I would be taken to the detention camp shortly. I was first taken to Barpeta district court for some formalities. I felt deeply sad, and I was crying like a baby—I had left my three kids back at home. The officials in the court were making fun of me instead of giving valid advice to deal with the situation. They were grumbling at me to go to Bangladesh! After the procedures at court, they conducted a medical checkup in a nearby hospital and then I was taken to jail. (Interview with Momiran Nessa, 51, 8 January 2020, Barpeta, Assam)

Her narrative is an instructive example of what Agamben (1998, 175) calls ‘dislocating localization’: ‘people are forcibly dislocated from their lives but coercively held in a particular place’ (De Genova 2016, 6). Six months before Momiran’s release, her husband died of cardiac arrest. She was not given the chance to see him one last time nor even informed of the news for a few days, although her family members went to the jail to get permission for her to attend the funeral. But unlike convicts, detained migrants are not allowed furlough, even in the case of a family member’s sickness or death. This right is reserved for prisoners, who are recognized as Indian citizens, unlike detected migrants. In many countries, prison staff escort detainees to visit family and community during crises such as illness and death (US Immigration and Customs Enforcement 2020). The situation in India clearly ignores the UNHRC guidelines, which hold that upon request, a migrant detainee should be allowed to make a phone call, be visited by family and go to their family in times of crisis, such as the death of a member (United Nations High Commissioner for Refugees 2012). However, human rights organisations are generally impotent when it comes to the imprisonment of the undocumented, and not just in India (Cornelisse 2010, 23).

The difference between a detained person and a criminal illustrates the meaning of ‘bare life’. Migrants are guilty of nothing other than their status as ‘illegal’, ‘simply penalised for being who and what they are, and not for any act of wrongdoing’ (De Genova 2016, 4). The ‘zone of indistinction’ (Agamben 1998, 28) in which they are confined by the state is characterised by the absence of clear ‘formalities or due process of law, absence of actual charges levelled, proper evidence shown or clear legal rights stipulated’ (De Genova 2016, 95). Momiran remembered of her days in the detention centre:

I stayed almost two years along with other prisoners. I kept thinking day and night, Why am I kept with criminals? I had no other option but to cry! I was deprived of sleep, I could barely eat food. Without committing a single crime, I was separated from my own people for a long period of time.

The literature on prisons explores how prolonged waiting can itself be a source of extreme suffering, which detainees experience too, despite their significant differences from prisoners. Narratives from the field reveal a constant tension between hoping for change and fearing ‘indefinite stasis’ (Griffiths 2014) or worse. Momiran said that when human rights activists complained, the government authority inspected the jail to see the conditions of the detained and the Supreme Court later ordered the migrants to be put in a cell separate from the convicts. However, this new cell was too small for the large number of female detainees. Likewise, Ajbahar Ali, another detained Muslim man, said of his experience, ‘We had to sleep on a narrow pavement. The sleeping area was barely one and a half feet wide. While we slept at night we ended up colliding with each other’

(interview with Ajbahar Ali, 64, 10 January 2020, Barpeta, Assam). Sharu Sheikh, who was in the same detention centre, said, ‘There was a very small space to sleep there. If you moved, someone would scold you’ (interview with Sharu Sheikh, 47, 18 January 2020, Barpeta, Assam). Since the detention cell is meant to be a temporary arrangement, all the jails in Assam are normally crowded. Detainees are not allowed to do any work in jail, nor earn any wage nor engage in any recreation, in contrast to the convicts. The detention centre offers no entertainment, such as television, newspapers or a library, unlike the part of the jail with the criminals. The crucial point is that criminals are subject to the law and thus the state’s punishment rules, while detainees are instead subject to an administrative apparatus and thus figured as outside the law’s purview altogether (De Genova and Peutz 2010, 24). Sharu Sheikh remembered protesting for bail with other detainees in his jail: ‘We told the jail authorities that even the accused murderer gets 30 days’ leave to go home. Those who are thieves and dacoits are allowed to go home after three months. What offence have we committed that we get neither release from jail nor bail?’ Here it is important to recall Arendt’s (1958, 252) depiction of the irony of Nazi Germany, where common criminals had more legal rights and recognition than those in the concentration camps or those relegated to the status of stateless refugees.

In countries like France, humanitarian considerations have led to state policies that treat pregnancy and biological illness with compassion, granting certain rights to illegal migrants which are otherwise provided only to citizens (Eckert 2018; Fassin 2007, 515; Ticktin 2011, 90). Thus, some migrants acquire political recognition in changing socio-political circumstances, such as new state policies and interventions. While critiques of such humanitarianism (e.g. Fassin 2007, 502; Feldman 2015, 244; Ticktin 2011, 3) have exposed its limit under the capitalist regime, the elements of compassion and humanitarianism itself seem to be completely absent in the Indian situation, where detention is all about the extreme suffering of ‘bare life’. The narratives of detected migrants reveal the intense distress caused by the physical illness and mental torture that they suffer inside detention centres. Momiran Nessa was three months pregnant when she was imprisoned. At about six months, she developed health complications and severe pain, which the jail staff ignored. One day, she was given an injection for tetanus by force, after repeatedly refusing to take it willingly. She explained the painful sequel:

I gave birth to a dead baby boy inside the cell. I did not understand what had happened at first – I fainted. It was later I came to know that I lost my baby inside. Then I was forced to sign some papers by the jail officers. Probably, they wanted to ensure that they were not held responsible. I was forcefully taken to Guwahati Medical College later. But it was too late. It was a very traumatic experience.

Momiran’s story reveals the added risks and vulnerabilities of women in the detention centres. Some women are living with their own small children in the detention centres. There is no mechanisms in the detention centre to address the specific vulnerabilities of women. I visited Shahera Khatun’s house, I found her very weak, even unable to speak to me for long. I asked why, and she explained that she had been physically ill ever since being taken to the Kokrajhar detention centre. While staying there, she was admitted to a hospital a couple of times when her illness became acute, but the jail authorities hardly care about the health of the detainees unless it causes an emergency. Because of this negligence, Shahera’s husband brought her medicine, but the jail authorities often took it

away, saying that drugs from outside were not allowed in the detention centre. Likewise, when I visited Sharu Sheikh's house late one evening for a scheduled conversation, he was sleeping because of fever. As he got up and started talking to me, he was shivering, and I learned that he keeps falling ill, and often, which began with his time in the detention centre. Ajbahar Ali was the weakest of all the detained migrants I met: he is older and has developed multiple health problems, even to the extent of being unable to walk properly. He told me that his health had deteriorated significantly since his wife, unable to cope with his detention, had committed suicide a year after he was taken away. The prolonged illnesses, both physical and mental, of detainees are a consequence of the torturous conditions in their jails, including the protracted uncertainty which De Genova (2016, 7) notes has become 'terribly and terrifyingly normal' for them.

'Deportability'

It is clear from the above sections that precarious citizenship in Assam entails protracted uncertainties, sudden shifts in citizenship status, denial of access to resources, and incarceration. This section investigates 'deportability', which adds complexities and paradoxes. Although the countries have no deportation agreement, India's security forces have at times ceremonially 'pushed' 'illegal migrants' into Bangladesh (Van Schendel 2004, 299), beginning with 'Operation Push Back' in 1992, the first such attempt to produce a border spectacle (De Genova 2016, 93). A recent report by India's National Human Rights Commission (2018) details one particularly egregious instance: a migrant was taken by force from a detention centre and pushed across the border before being caught by the Bangladesh Army and sent back to Indian territory, where he was reimprisoned in the detention centre. When the performative state produces such spectacles of 'illegality', it often exposes migrants to danger at the border zone. The idea of 'pushing back', an impracticable mode of deportation, is evident in bureaucratic performance too. It is striking that when a Foreigners Tribunal declares someone a foreigner, it also proclaims that the 'illegal migrant' should be pushed into Bangladesh. For instance, the verdict on Shahera Khatun, who was falsely declared a foreigner (as discussed above), states:

The Proceedee Shahera Khatun has been held to be a foreigner who entered Assam on or after 15-03-1971. In the result, the Proceedee Shahera Khan is liable to be pushed back to the Specified Territory [Bangladesh] in exercise of power under Sec 3 (13) Foreigners (Tribunal) order 1964, and the Proceedee Shahera Khatun is to be taken into custody and be kept as internee U/S 4 of Foreigner Act, 1946 in an appropriate place till she is pushed back. (judgment and Order, Case no: F.T. (1VTH), Barpeta, Assam, 06-09-17, State Applicant 1st party vs Kalu Mia and other, 2nd party.)

There are 100 Foreigners Tribunals in Assam at present, and they have been accused of many errors and prejudiced judgments. Since there is no extradition agreement between India and Bangladesh, detected migrants in Assam, especially those who accept the state's claim of their illegality, must live in jail indefinitely, and 'deportability', a condition of possible deportation in the future, is an enduring fact in their lives (Peutz 2006, 217). Recent anthropological works move beyond the process of deportation as such and explore 'deportability' as a state tactic and a condition that tremendously impacts the lives of those on whom it is forced (Chavez 2013; De Genova and Peutz 2010, 15). The

NRC, in promising deportation to Bangladesh as the solution to India's migration crisis, has made the state's current situation paradoxical. While actual deportation is impossible, the politics of 'deportability' (De Genova and Peutz 2010, 15) feeds a propaganda of deportation that helps the ruling party to consolidate votes in nationwide elections. Beyond electoral politics, 'illegality' and 'deportability' are extremely helpful in sustaining an economy based on exploitative labour, a tactic employed by most nation-states under the neoliberal regime. Migrant workers have always been a cheap, plentiful source of labour in Assam, and this is increasingly the case in India's metropolitan cities such as Delhi and Mumbai (Gandhi 2017, 13; Misra 2018, 20).

The Assam case also reveals 'bare life' as more than a static condition – the stories of many detainees show how they reclaimed political life after a successful legal fight against the state and returned to their ordinary social world. Additionally, recent literature describes how precarious citizens sometime transit from bare life to citizenship as a result of contingent, changing political circumstances (Fassin 2007, 509; Ticktin 2011, 6). This shows that although bare life is more and more a reality under increasing 'migrant illegality' across the world, it can accommodate transition and dynamism, even to the extent of becoming a locus of political mobilisation (Dines, Montagna, and Ruggiero 2014, 435; Fassin 2007, 510; Feldman 2015, 246; Rygiel 2016, 808). Therefore, Agamben's (1998, 47) tidy distinction between *zoo* (biological life) and *bios* (political life) is erased, and many states engender more complex and confusing scenarios than the citizenship-bare life binary (Fassin 2007, 570; Feldman 2015, 246). The predicaments of those who have returned from prison or detention centres under contemporary migrant regimes have gained significance in recent literature (Aiken and Silverman 2021, 142, 143; Missbach 2021, 225). The life of a released detainee can never return to what it was, because detention irreversibly ruptures all normal material and social conditions. Momiran Nessa, for instance, explained that her life was completely different after ten years in the detention centre:

I was so excited and happy to see my family after such a long time. But how do I say, everything has changed totally. My kids are grown up now. And the terrible thing is that I came back from the jail, but I missed my husband, as he died during my time in jail.

Ajbahar Ali said, 'I used to cultivate rice, till I went into the jail. But now I can't think of doing cultivation – because of my deteriorated health condition, I have become very weak'. Moreover, a released detainee can neither reclaim the past nor expect a stable future, as detainability and deportability don't end with release (De Genova and Peutz 2010, 4), and they must frequently report to the nearby police station as part of routine procedures. Momiran said that her life now is in no way free from anxieties, because it is not the past alone that haunts her but also the possibility that she may be detained again and even deported at some future point. During our conversation, she tried to convince herself not to worry, saying, 'I will never go to Bangladesh, this land is mine, I will not leave this place . . . at any cost . . . I have all the documents to prove my citizenship'. The fear and anxiety provoked by 'detainability' and 'deportability' became a much larger crisis in Assam after the recent NRC list identified 1.9 million persons there as 'illegal

migrants'. To make things worse, the draconian CAA aims to ensure that more Muslims are exposed to 'bare life', and a huge detention centre exclusively for 'illegal migrants' is currently under construction in Assam.

Conclusion

This article has presented a distinctive South Asian scenario of precarious citizenship, under India's increasingly anti-migrant regime of detection, detention and 'deportability'. In India, the legal and bureaucratic enactments in pursuit of driving out illegal migrants have been entangled with religious prejudice against Muslims. The essay has shown how citizens living in a regular social world are labelled 'illegal migrants', subjected to legal and bureaucratic interventions and gradually stripped of their citizenship rights over the years. This process of detection, detention and deportability presents a case of citizenship crisis somewhat comparable to that of the Yugoslavs who lost their citizenship rights after the formation of Slovenia, or to the predicament of Palestinians in East Jerusalem. In India, those with precarious citizenship have lived with citizenship rights for a long time and been gradually subjected to state actions including the suspension of rights and their own removal from the social world. The loss of citizenship through illegalisation in India is an extremely complex political process, characterised by the arbitrariness, prejudice and ambiguities of state interventions and communalised political agendas. This invites us to read the citizenship status of migrant subjects in the Indian context in terms of irregularities, precariousness and constant oscillation, as seen in recent discussions of the subject in the Western context. The history of indeterminate and complex legal and policy interventions regarding Bengali-speaking Muslims reveals the state's ambivalence and double-edged tactics, which produce both illegality and legality contingent on political circumstances and interests. The narratives of detected and detained Muslims detail how bureaucratic and institutional arbitrariness and grave errors play crucial roles in stripping citizens of their rights, tearing them from their social world and imprisoning them in a world of extreme suffering and violence. This arbitrariness of bureaucracy, however, is not very arbitrary: Muslims are easy targets of accusations of migrant 'illegality', as religious prejudice against them goes back at least to Partition and has only increased, owing to changing political circumstances. The release of several detainees in the recent past also illustrates the fluid and increasingly complex situation of Bengali-speaking Muslims in India, who oscillate between leading 'bare lives' and having citizenship rights. However, released detainees cannot fully reclaim their past lives nor return to their earlier worlds, as detention irreparably damages material and social circumstances and they are still susceptible to 'deportability'. While this essay describes the experiences of those who have been detected and detained and faced deportability over the past few years, the recent NRC has exposed even more Bengali-speaking Muslims to extreme forms of precariousness. The complexities, dynamics and predicaments of precarious citizenship in India deserve scholarly attention now more than ever in the context of the NRC and the passage of the CAA.

Notes

1. Sadiq draws his empirical data largely from official sources, records, statistics and political narratives. While his study includes Indonesians and Filipinos in Malaysia and Afghans and Bangladeshis in Pakistan, a large part of the book deals with the issue of migration from Bangladesh to India, especially Assam.
2. However, there is a growing body of literature on how ‘illegal’ migrants in the West can also gain access to formal citizenship rights by informal means (see, e.g. Tuckett 2015).
3. Legacy data is official proof of habitation in India before 1971; families must prove links to the member(s) in possession of such proof.
4. While gender is an important issue in this context, I do not have the space to do justice to it here, although I do signal a couple of points where its importance should be noted.

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