



Jurisprudential review of the countrywide civil register

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Abstract

With the rising crisis of identity alongside the globalization of the dimension, it has become important to balance both Assam is a place of affluent lifestyle and ethnicity that the people of Assam are struggling to maintain. With the persevering flood of unlawful Bangladeshis, it ends up posing a danger to Assam's very human identity, which they desperately protect. Consequently, the Assam State National Citizens Register (NRC) is being revised. That once again called it a lot of confusion. Among the vulnerable human beings whose dignity is at stake is a hue and cry. On the other hand, a high quality mind-set appears closer to the same upgrade. This is seen as a way of preserving Assam's people's linguistic, national, cultural identity, as nicely as the changing demographics that are being sought to be restored. This paper, therefore, is an attempt to understand the entire NRC system and to examine its various aspects, including the NRC's jurisprudential dimension.

Keywords: NRC, jurisprudence, Assam, international law

1. Introduction

This article deals with the works of a few well-known authors, Sangeeta Barooah Pisharoty, who writes in THE WIRE and B.S. magazine. Chimni, a renowned scholar. They wrote their views on the matter in depth, as well as Citizenship and its various aspects. It is essentially the theoretical component in which all the theories and concepts and policies were discussed. Theoretically, one that is mentioned is the principle of distributive justice by John Rawl and the concepts of citizenship and nationality under international public law.

1.1 Barooah Pisharoty and Her Writings on the NRC

She is an editor-in-chief at The Wire, where she blogs about literature, politics, and the North East. She was based at The Hindu earlier. She is therefore an eminent figure in the field of media and journalism, who has written ample literature on these crucial issues of society, and one of them is the National Citizens ' Register in Assam^[1].

The article on Sangeeta Pisharoty in "The Wire" states as follows: "One of her many posts, which states the genuineness of the relation between the Assam 1951 NRC Update and the Assam Agreement, fairly asks questions about the institution of the NRC system as a whole and asks whether it is based on the Assam Agreement or not."^[2]

The piece she writes about this is called "Why the NRC OF 1951 is being updated as per the Assam Agreement," published on August 18, 2018. NRC has nothing to do with the Assam Agreement in this article on the basis of which it is being upgraded. According to an article, "It is true that the 'Memorandum of Settlement' signed between Assam, the Central Government, AASU and All Assam Gana Sangram Parishad (AAGSP) does not specify that the NRC of 1951

would be upgraded to its cut-off date. In fact, it only states that "in accordance with the provisions of the Foreigners Act, 1946 and the Foreigners Tribunals Order, 1964, foreigners shall be marked." So, this can be interpreted as those who do not succeed the citizenship test as per the Foreigners Act,^[3] the document across the state, and as per the Foreigners Tribunal order, exclusive to the state, would automatically cease to be on Assam's electoral rolls.

"However, one important change in this line had to be taken into cognisance due to a Apex Court verdict. In December 2006, the Tribunal order of 1964, which was amended in early 2006 after the Illegal Migration (Determination) Act, 1983^[4] was struck down by the apex court, was also set aside by SC, calling it "unconstitutional". So what was left of it to ascertain who is a foreigner in Assam rested – like in the rest of India – primarily on the provisions of the Foreigners' Act", stated the article. It also stated as, "What the NRC authorities said soon after the release of the final draft this past July would only decide who is a permanent citizen of the state; *not decide who is an "illegal immigrant"*. Those who didn't succeed to find their names in it would have to undergo the judicial procedure of the Tribunals, set up exclusively for Assam, to establish their citizenship. They can go to the higher courts if they feel they didn't get justice in the Tribunals.^[5] The answer to why the NRC of 1951 has been updated as per the Accord lies in the genesis of that document itself."^[6]

The 1951 NRC, not a public document, was created in the state from the census slips of 1951". To quote the then census superintendent of Assam, R.B. Vaghaiwalla, "An important innovation of this census was the preparation of a National Register of Citizens in which all important census data was transcribed from the census slips with the

¹<https://thewire.in/author/sangeeta-barooah-pisharoty> accessed on 5th March, 2019.

²Government Of Assam, National Registrar of Citizens (NRC), 1951, (June 26, 2018, 23:00 PM).

³THE FOREIGNERS ACT, *supra note 92*.

⁴The Illegal Migrants Act, *supra note 32*.

⁵Sangeeta Barooah Pisharoty, *supra note 118*.

⁶<https://thewire.in/rights/nrc-assam-accord-updating-residents> accessed on 6th March, 2019.

exception of census question No 6 (displaced persons), No 8 (bilingualism) and No 13 (indigenous persons)". He said, "It will be maintained as a permanent record and kept up to date by collecting information through village officials."^[7] The cause why the office of the RGI felt the requirement to have an exclusive NRC for Assam was because of the Immigrants (Expulsion from Assam) Act, 1950^[8] executed in the state in the starting years of Independence to check undocumented immigration from across the open border with East Pakistan. Enacted by the Parliament on 13th day of February, 1950, though it was extended to whole of India, was only about Assam."

As per the Act, "which regularised a January 1950 ordinance devised by the government, the Centre, either through the state officers or through any Central government assigned officer, could remove a person from Assam if it was of the opinion that the person had entered the state from outside India and was "detrimental" to the interests of the general public or any category of people belonging to the Scheduled Tribes. Such person or persons could be sent back through a route as the removal order would mention."^[9]

The most important part is, the wording of the Act was such that it was meant to protect the Bengali Hindu migrants who entered the state from East Pakistan. It said the law would not apply "to any person who on instance of civil disturbances or the apprehension of such disturbances in any area now forming part of Pakistan has been removed from or has left his place of residence in such place and who has subsequently been residing in Assam."^[10]

"Consequently, the Nehru government set up a legal process to stop the influx of Bengali Muslim immigrants from East Pakistan to Assam. According to this Act, a number of Bengali Muslim families were sent to Bangladesh today in 1950, when the Hindu-Muslim fights took place in eastern Pakistan, causing an immense influx of Hindu Bengali to Assam, specifically Barak Valley."^[11]

"With the continuous in and out of many migrants from East Pakistan then, the decision to bring about the NRC exclusive to Assam was arrived upon in 1951 to have a "permanent record" of who all were residing in the state."^[12] It was nearly a year after the implementation of the Immigrants (Expulsion from Assam) Act.^[13]

By the time they returned, the NRC of 1951^[14] and the Census was over. They not only found themselves excluded from the NRC, but many had not likely voted in the first general elections held in the state in 1952.

Those who claim the NRC is not related to the agreement may not be aware of the meeting between then Prime Minister Indira Gandhi and the leaders of AASU on February 2, 1980. This was the launch of the Assam problem talks. The only demand of the student body was the

expulsion of foreigners according to the NRC of 1951.^[15]

The 75 minute meeting couldn't reach a solution only because the Gandhi regime wanted the AASU team, led by its president Prafulla Kumar Mahanta, to accept March 25, 1971 as the cut-off date to verify foreigners and not the 1951 NRC.^[16] When Zail Singh did a follow-up meeting with the AASU leaders in Guwahati on February 23 that year, they yet again insisted on the 1951 NRC.^[17]

At another meeting on April 1 in Shillong with the then governor L.P. Singh, the government, Murty wrote that after the rejection of 1967, the prime minister, in a statement in the Rajya Sabha, said she "was not insisting on 1971 as the base year and regarded it as a starting point for identification. She had an open mind on the problem".^[18] By then, the AASU leaders came up with a "seven point solution" based on the 1951 NRC^[19] and welcomed the PM's statement in parliament. Some written communication was exchanged thereafter between AASU and the Central government about the demand for 1951 as the cut-off date. Mrs Gandhi also held meetings with opposition leaders on the issue.

The AASU and AAGSP team once again asserted in September 1980, when talks resumed in New Delhi, that 1951 should be the cut-off year. The disagreement over 1951 as the base year emerged in the October meeting with the home minister as well, leading to a stalemate. A member of the AAGSP team recently told this correspondent that after the meeting, "Mahanta circulated a brochure that emphasized the validity of the NRC of 1951."^[20]

"Throughout the time that Indira Gandhi remained PM, "a group of ministers held various meetings with the AASU-AAGSP members and most of them hit a wall only because of the agitators' insistence on making 1951 the base year for foreigner identification based on the NRC. In the meetings that took place between the agitators, the Central government and opposition leaders since January 1982, it was Janata Party leader Ravindra Varma's formula that for the first time included the 1951 NRC as one of the tools to detect foreigners in Assam. Both the AASU and the Centre thought it could provide the basis for a solution and engaged with it for a couple of tripartite meetings before all hell broke loose, once the Gandhi regime decided to go ahead with the assembly elections in 1983, triggering the Nellie massacre."^[21]

The AASU and AAGSP finally had to relent to 1971 as the cut-off year in the Rajiv Gandhi regime for the same reasons cited earlier – the Nehru-Liaquat pact and the Indira-Mujib pact.^[22] Though 1971 became the citizenship cut-off year for Assam, many also overlook the fact that the base date and year for citizenship in Assam is January 1, 1966.^[23] The reason is, those who entered the state between January 1 1966 and March 24, 1971, would not be expelled from the state and that their names would only be taken off the

⁷<https://thewire.in/rights/nrc-assam-accord-updating-residents> accessed on 6th March, 2019.

⁸Immigrants (Expulsion from Assam) Act, 1950, *supra note* 93.

⁹ Sangeeta Barooah Pisharoty, *supra note* 118.

¹⁰http://www.assam.gov.in/documents/1631171/0/Annexure_10.pdf?version=1.0 accessed on 6th March, 2019.

¹¹Memorandum of Settlement, ASSAM ACCORD, (June 27, 2018, 11:40 PM)

¹² THE IMMIGRATION ACT, 1950, *supra note* 93.

¹³<https://indianexpress.com/article/research/nrc-what-the-assam-accord-of-1985-said-about-immigrants-in-assam-5287009/> accessed on 6th March, 2019.

¹⁴ Government of Assam, NRC, *supra note* 26.

¹⁵<https://www.indiatoday.in/magazine/indiascope/story/19810515-pm-indira-gandhi-gives-assam-cabinet-green-signal-to-initiate-discussions-with-agitating-student-leaders-805916-2014-02-26> accessed on 6th March, 2019.

¹⁶Government of Assam, NRC, *supra note* 26.

¹⁷*Ibid.*

¹⁸T.S. Murty, *supra note* 138.

¹⁹Government of Assam, NRC, *supra note* 26.

²⁰Government of Assam, NRC, *supra note* 26.

²¹ASSAM ACCORD, *supra note* 101.

²²*Ibid.*

²³*Ibid.*

electoral rolls for a period of ten years and thereafter they would regain their citizenship. [24] So, in 2005, when the AASU leadership entered into a tripartite agreement with Tarun Gogoi's state government and Manmohan Singh's Central government to update the 1951 NRC as per the Accord's cut-off date, it was not out of the blue. [25] That All Assam Minority Students Union (AAMSU) objected to the 2010 pilot project of NRC carried out in two areas of Assam by the Gogoi government was not because of updating the NRC, but for not providing enough documents as options for applicants to prove their permanent residency in the state. The Supreme Court too, in December 2014, gave the nod for updating the NRC to verify who is a legitimate resident of the state as per the Accord in response to a petition, keeping in mind the existing precedence of a mechanism already in place. Recognising the sensitivity of the festering issue involving 3.29 crore people, it took it upon itself to monitor the update process." [26]

Doubts about 1951 NRC accuracy [27]

"The updating of the 1951 NRC should also be a welcome step provided that in the Assam Movement days there were concerns that the document was not complete and as it was a hidden administrative document, citizens could not check it. Many Bengali Muslims also opposed the 1951 NRC request of the AASU [28] to be the basis of verifying permanent residents was because they were not included in it. That it was completed within 20 days was also a reason for many to doubt its accuracy".

In an article in the Economic and Political Weekly in February 21, 1981 opposing the AASU's demand to make the 1951 NRC the base to identify 'foreigners' in the state, Anil Roychoudhury wrote, "... the authors of the NRC were the enumerators by whom the Census was done. Its basis was the information collected during the census. The enumerators had to complete the work of enumeration in only 20 days. If due to under-enumeration in an area or otherwise the name of a person was omitted in the census, then his name was automatically excluded from the NRC also, and if a person was accidentally not enlisted, he had no opportunity to get enlisted in the NRC subsequently. He could also not file objections. As the NRC was not publicly exhibited and was not a public document, a person could not even know if his name was at all included. "In order to update the 1951 NRC, the authorities finally decided one of the 14 documents could be submitted to prove an applicant or her family's presence in the state before March 25, 1971. [29] Importantly, those whose families' names don't feature in the 1951 NRC were given the option of citing their names from the subsequent electoral rolls till the cut-off date among other documents, thus negating that old fear of "terrible consequences" of not having an accurate NRC and thereby facing the danger of being declared a 'foreigner'. Having suffered the tag of "illegal Bangladeshi" for a long time at the hands of a section of chauvinistic forces, it was precisely this reason that the Muslims of East Bengal origin, among others, reached a political consensus to update the

NRC as per the Accord. [30]

Sangeeta's literatures also includes, articles on Assamese culture, the Citizenship Bill, and many more" [31]

1.2 John Rawl's Distributive Theory of Justice

John Rawl's Theory of Justice, has got two main features. They are,

1. Equal Liberty
2. Social and Economic Equality (Distributive Equality)

In his Theory, he talks about the "Veil of Ignorance", where he says, people in power should make laws without having the knowledge for whom they are making the laws. The people for whom the laws are being made should remain hidden from the law-makers so that they can make the laws very unbiasedly and with a veil on the identity of the people for whom the law are being made. [32]

Rawls says, the Veil of Ignorance is an instrument to achieve equality in the society and also to make a neutral decision. [33]

Rawls in his Theory of Justice, talks about two principles. They are-

- 1st Principle- Equal basic structures for all citizens, such as freedom of speech and religion. [34]
- 2nd Principle- It says that, social and economic inequalities are arranged so that they are both to be the greatest benefit to the least advantaged and attached offices and positions open to all under condition of equal opportunities. [35]

The second principle again has 2 parts. The first part deals with the Difference Principle which says that, there will be inequalities, but we are morally obligated to improve the worst off unless it would make everyone worse off. [36]

The second part of the Second Principle, i.e. Principle of Fair Equality and Opportunity, which says, there must be equal and fair opportunity to all groups of people who are even unequal. [37]

Rawls in his theory, basically wanted to prove that he wanted to create a just and fair society, and hence to do so, he came up with two principles in his theory. [38]

Relevance of this Theory in the context of the National Register of Citizens

The Assamese people is seeing the Bangladeshis as a threat, because they are growing in number day by day and as a result of which the indigenous people are becoming minority hence posing a threat to their both culture and identity. [39]

³⁰Sangeeta Barooah Pisharoty, *supra note* 118.

³¹<https://thewire.in/author/sangeeta-barooah-pisharoty> accessed on 7th March, 2019.

³²<https://www.libertarianism.org/guides/lectures/rawlss-distributive-justice> accessed on 10th March, 2019.

³³http://documents.routledge-interactive.s3.amazonaws.com/9781138793934/A2/Political/JusticeRawlsN_ozick.pdf accessed on 11th March, 2019.

³⁴John Rawls, "*John Rawl's Theory of Justice. Justice as fairness*", Publisher Grin Verlag.

³⁵*Ibid.*

³⁶John Rawls, *supra note* 156.

³⁷*Ibid.*

³⁸<https://plato.stanford.edu/entries/justice-distributive/> accessed on 15th March, 2019.

³⁹<http://www.legalserviceindia.com/articles/art222.htm> accessed on 16th March, 2019.

²⁴Government of Assam, NRC, *supra note* 26.

²⁵ASSAM ACCORD, *supra note* 101.

²⁶Sangeeta Barooah Pisharoty, *supra note* 118.

²⁷*Ibid.*

²⁸Government of Assam, NRC, *supra note* 26.

²⁹Government of Assam, NRC, *supra note* 26.

But its also important to look from the point of view from the Bangladeshis, that after facing a lot of problems and rejection from their own country they are bound to flee to another nation in threat to their life as per India's Constitution Article 21. So the persecution which they have dealt with in thie own nation is also an injustice from their point of view in context of justice, but however nothing can be sacrificed on account of something else. Therefore, an only solution to this phenomena could be finding a middle path, which gives proper and adequate justice to all kinds of people be it the indigenous Assamese people or be it the persecuted people from Bangladesh. ^[40]

1.3 B.S. Chimni, and his immigration legal thoughts

According to reality, "B. S. Chimni is an academic and legal scholar. His fields of specialization include international law, international commercial law, and international law on refugees. It stated, "He is currently the chairman of the Jawaharlal Nehru University, New Delhi Centre for International Legal Studies. He was vice-chancellor of the West Bengal National University for two and a half years. ^[41] He has been a Visiting Professor at the International Centre for Comparative Law and Politics, Tokyo University, a Fulbright Visiting Scholar at Harvard Law School, Visiting Fellow at Max Planck Institute for Comparative and Public International Law, Heidelberg, and a Visiting Scholar at the Refugee Studies Center, York University, Canada. ^[42] He served as a member of the Academic Advisory Committee of the Office of the United Nations High Commissioner for Refugees for the period from 1996-2000. He is on the editorial board of several national and international journals like Indian Journal of International Law, International Studies, International Refugee Studies, Georgetown Immigration Law Journal & Refugee Survey Quarterly. Chimni is part of a group of scholars who self identify as the Third World Approaches to International Law (TWAIL) scholars." ^[43]

He is a prominent person in India who has put forward elaborate views on immigration and refugee laws. He also lectured at the British Academy as part of The Refugee Problem & Refugee Conference. ^[44]

In 1999 he delivered the first Barbara Harrell-Bond Lecture at Refugee Studies Centre, Oxford University. ^[45] In March 2006, at the centennial annual meeting of the American Society of International Law, Chimni delivered the Grotius Lectures, titled "A Just World Under Law: a View from the South." In January 2008, "he gave the State of Forced Migration Studies address at the 11th biennial conference of the International Association for the Study of Forced Migration in Cairo. In February, 2010, he delivered lecture to the Asian-African Legal Consultative Organization (AALCO) Training Program: Basic Course on the World Trade Organization with his JNU's centre and school colleagues, such as Dr. V.G.Hegde, Dr. Archana Negi at

AALCO Permanent Headquarters, New Delhi, India." ^[46]

"Some of his major contributions were,

- "Outside the bounds of citizenship: the status of aliens, illegal migrants and refugees in India" in *Civil Society, Public Sphere and Citizenship: Dialogues and Perceptions*. Edited by Rajeev Bhargava and Helmut Reifeld. New Delhi: Sage, 2005." ^[47]
- "The International Law of Humanitarian Intervention", in *State Sovereignty in the 21st Century*. Institute of Defense Studies & Analysis, New Delhi. pp. 103–129
- "The Global Refugee Problem in the 21st Century and the Emerging Security Paradigm", in *Legal Visions of the 21st Century: Essays in Honour of Judge Weeramantry*. The Hague, Kluwer Law International, 1997. pp. 283–289
- "Post-conflict peace-building and the return of refugees: Concepts, practices and institutions" in *Refugees and Forced Displacement: International Security, Human Vulnerability, and the State*. Edited by Edward Newman & Joanne van Selms. United Nations University Press, 2003.
- "Development and Migration" in *Migration & International Legal Norms*. Edited by T. Alexander Aleinikoff & Vincent Chetail. Cambridge University Press, 2003. ^[48]
- "Legitimizing the international rule of law" in *The Cambridge Companion to International Law*. Edited by James Crawford and Martti Koskeniemi. Cambridge University Press, 2012. pp. 290-308 ^[49]

In one of his renowned books, "*International Refugee Law: The Reader*" ^[50] he has, focused on the 1951 United Nations Convention on the Status of Refugees. "This book is a comprehensive introduction to all aspects of international refugee law. Different chapters examine: the definition of a 'refugee'; the law of asylum; ^[51] the role of the United Nations High Commission for Refugees; humanitarian assistance; gender issues and refugee children; laws governing state responsibility; internally displaced people; and the range of available solutions. With numerous case study examples, including a postscript on Kosovo, this Reader is the definitive source on laws, practices and issues in refugee matters." ^[52]

"Regarding the Constitutional Framework for Protection of the Refugees, the Constitution of India guarantees certain Fundamental Rights to refugees. Namely, right to equality (Article 14), right to life and personal liberty (Article 21), ^[53] right to protection under arbitrary arrest (Article 22), right to protect in respect of conviction of offences (Article 20), freedom of religion (Article 25), right to approach Supreme Court for enforcement of Fundamental Rights (Article 32), are as much available to non-citizens, including

⁴⁶*Ibid.*

⁴⁷B.S. CHIMNI, "Outside the bounds of citizenship: the status of aliens, illegal migrants and refugees in India" in *Civil Society, Public Sphere and Citizenship : Dialogues and Perceptions*. Edited by Rajeev Bhargava and Helmut Reifeld. New Delhi: Sage, 2005.

⁴⁸ B.S. CHIMNI, *supra note* 169.

⁴⁹*Ibid.*

⁵⁰B.S. CHIMNI, "*International Refugee Law: the Reader*", New Delhi, Sage 2000.

⁵¹*Ibid.*

⁵²https://www.goodreads.com/book/show/599788.International_Refugee_Law accessed on 21st March, 2019.

⁵³J.N. PANDEY, *supra note* 95.

⁴⁰<https://plato.stanford.edu/entries/justice-distributive/> accessed on 17th March, 2019.

⁴¹ B.S. CHIMNI, "Global Administrative Law: Winners & Losers", International Law & Justice Working Papers.

⁴² B.S. CHIMNI, "The Law and Politics of Regional Solution of the Refugee Problem: The Case of South Asia", *RCCS Policy Studies* 4. Colombo, 1997

⁴³B.S. CHIMNI, *supra note* 164.

⁴⁴*Ibid.*

⁴⁵B.S. CHIMNI, "The Geopolitics of Refugee Studies: A View from the South", *Journal of Refugee Studies*, Vol.11, No.4 (1998) pp. 354–374

refugees, as they are to citizens.^[54]

The Supreme Court has taken recourse to Article 21 of the Constitution in the absence of legislation to regulate and justify the stay of refugees in India. In *NHRC v. State of Arunachal Pradesh*,^[55] the Government of Arunachal Pradesh was asked to perform the duty of safeguarding the life, health and well-being of Chakmas residing in the State and that their application for citizenship should be forwarded to the authorities concerned and not withheld. In various other cases, it was held that refugees should not be subjected to detention or deportation and that they are entitled to approach the U.N High Commissioner for grant of refugee status. In *P. Nedumaran v. Union of India*,^[56] the need for voluntary nature of repatriation was emphasized upon and the Court held that the UNHCR, being a world agency, was to ascertain the voluntariness of the refugees and, hence, it was not upon the Court to consider whether consent was voluntary.^[57] Similarly, according to *B. S. Chimni*, the Supreme Court has erred in concluding in *Louis de Raedt v Union of India* that there is no provision in the Constitution fettering the absolute and unlimited power of the government to expel foreigners under the Foreigners Act of 1946.^[58]

1.4 International public law-analysing the NRC with respect to nationality definitions

Under India's Public International Law, the word nationality varies from citizenship, although it is used interchangeably on many occasions. Nationality is the standard of belonging to a particular state of international awareness of the individual. Nationality thus establishes a legal relationship under international law between a state and the citizen^[59] Citizenship, on the other hand denotes the relation between the person and the municipal law. The concept of Citizenship is therefore irrelevant to International Law. A citizen possesses full civil and political rights. In other words, all the nationals who enjoy full civil and political rights are called citizens, as distinguished from nationals, who may not enjoy full political rights despite their domicile in the country.^[60] Thus, all the citizens may possess the nationality of a particular state, but it is not necessary that all nationals will be the citizens of the particular state. For example the U.S.A. *Nationality Act, 1940* lays down that the citizen is, as a rule, employed to designate persons endowed with full political and personal rights within the United States, while some persons- such as those belonging to territories and possessions which are not among the states forming the Union-are described as Nationals. They owe allegiance to the United States and are United States Nationals in the contemplation of International Law; they do not possess full rights of citizens in the United States.^[61] *Statelessness under International Public Law* is again when

a person do not possess the nationality of any state, he is called a stateless person. A person may be without nationality knowingly or unknowingly, intentionally or through no fault of his own. A person, by birth or after birth, maybe stateless. When an illegitimate child is born in a state that does not apply jus soli to an alien mother under whose national law the child does not acquire her nationality, or when in such a state a legitimate child is born to parents who do not have nationality themselves, the child will be stateless. After birth, statelessness may also occur.^[62]

The 1954 Convention on the Status of Stateless Persons describes stateless persons pursuant to Article 1 as an individual who is not treated as a citizen by any State under the rule of law.^[63] Therefore in order to eliminate the position of a person from becoming stateless, few attempts have been made in the past. The Convention on the Conflict of Nationality Laws in 1930 was formulated which provide U/A 1 that the Contracting states agree to accord nationality to a person born in their territory who would otherwise be stateless, and by Article 4 to a person, not born in the territory of contracting states, if the nationality of one of the parent during the person's birth was that of the state. Again the Universal Declaration of Human Rights of 1948 provided under 15 that each person is entitled to have nationality and the nationality of any person cannot be taken or snatched arbitrarily. However, it did not lay down as to how the right may be exercised in case a person becomes a stateless. Later few treaties were also concluded to abolish statelessness as a whole. Conventions relating to Status of Refugees of July 28, 1951, and the Convention relating to the status of Stateless Persons of September 28, 1954 are relevant in this regard.^[64]

Nationality in India also, has a relevance in this topic her. Nationality is nowhere mentioned in the Constitution of India. Instead the expression 'Citizenship' has been used. These are clearly mentioned under the Chapter II of the Constitution of India. Article 11 also empowers the Parliament to legislate a comprehensive statute on these matters. And then the Citizenship Act, 1955 was legislated, which provided for the acquisition of citizenship by 6 ways.^[65] However this Act was amended again in 7th January, 2004 by further amending the previous Act of 2003. The Act amended the provision as to acquisition of Citizenship by birth and by descent. The most important provision of the Act was to grant of overseas citizenship of specified countries to the person of Indian origin.^[66]

Overseas Citizenship- In order to provide citizenship to those persons who were of Indian origin but later became a citizen of a specified country, elaborate provisions were made under the Act of 2003. Under Section 7-A(1), of the Act, stated that the Central Government may subject to such conditions of reciprocity, register any person on application made on this behalf as an Overseas Citizen of India (OCI) if that person is of Indian origin with the required capacities for Citizenship of a country, or has obtained citizenship of a specified country on or after the commencement of the

⁵⁴<https://www.lawteacher.net/free-law-essays/international-law/refugee-law-the-indian-perspective-law-essay.php#ftn17> accessed on 21st March, 2019.

⁵⁵*NHRC v State of Arunachal Pradesh*, (1996), AIR 1234, S.C.C. (1) 742.

⁵⁶*P. NEDUMARAN v UNION OF INDIA*, W.P. 3792 of 1993.

⁵⁷*Ibid.*

⁵⁸<https://www.lawteacher.net/free-law-essays/international-law/refugee-law-the-indian-perspective-law-essay.php> accessed on 22nd March, 2019.

⁵⁹H.O Agarwal, *International Law and Human Rights*, page number 259, 20th Edition, Central Law Publications.

⁶⁰<https://www.meripustak.com/International-Law-and-Human-Rights-153718> accessed on 23rd March, 2019.

⁶¹http://eudo-citizenship.eu/docs/chapter1_Hailbronner.pdf accessed on 23rd March, 2019.

⁶²H.O Agarwal, supra note 181.

⁶³H.O Agarwal, *International Law and Human Rights*, chp on Nationality, Page number 249.

⁶⁴H.O Agarwal, *International Law and Human Rights*, chp on Nationality, Page number 249.

⁶⁵<http://unpan1.un.org/intradoc/groups/public/documents/APCITY/UNPAN021528.pdf> accessed on 23rd March, 2019.

⁶⁶<https://indiankanon.org/doc/949775/> accessed on 23rd March, 2019.

Citizenship Act, 2003 and who was a citizenship of India immediately before such commencement or that person is a minor of a person mentioned in clause (a) or (b). The above implies that such foreign citizens who became OCI shall have double citizenship. These OCIs are also certain rights and facilities under the Indian Constitution of India. They are as follows-^[67]

- Right to equality of opportunity in matters of public employment as provided under Article 16 of the Constitution to the Citizens of India.
- He/She shall not be eligible for the election as President or Vice-President of India.
- An OCI shall not be eligible for the appointment as a judge of the Supreme Court of India or in any High Courts.
- He/she shall not be registered as voters.
- He/she shall not be eligible for appointment of any of the houses of the Parliament or State Assembly or Council.
- He/she shall not be eligible for the appointment for the public services of both centre and state.^[68]

Study of the NRC with respect to the Nationality

Definitions - The NRC scheme to be introduced for the first time in 1951 was directed by the Supreme Court with the purpose of filtering out the non-Indians from India, especially Assam. Nevertheless, this initiative was taken into consideration in order to safeguard the cultural and linguistic identities of Assam's indigenous people. However, according to the NRC's regulations, it is not specified that these citizens will be evacuated from the state after screening, which is also not allowed under public law in India. India, however, has provisions for OCIs that can be clearly recognised as Indian people, but as stated above, their fundamental rights would be limited. The foreigners residing in Assam since ages and who have migrated into the country after 1971 have now deep roots into the place, and just for the sake of removing them, government cannot do so.

But the main issue lies, unlike other foreign countries for example U.S.A. who have the concept of both Citizenship and Nationals, in India both the terms accounts to be the same. There is no different term as such as 'National' or 'Citizen' in India. Any Indian who goes abroad will be considered as 'Indian Citizen' as a whole and in such case that Indian will be given all due facilities and provisions under International Law. India shall be responsible and liable for every good or bad activity that person commits outside the land. Therefore even if we try to analyse the whole matter with consonance with the definitions given under the Public International Law, we cannot make separate provisions for Nationals and Citizens separately in India.

However, there is also a point that the national identity only works in India, when one moves out of the land, at domestic use there we donot assign any national identity to any person in India. In India, we have the policy of 'Single Citizenship' also and hence there is also no need of any other identities as such to be assigned with in the land of India.

Coming to the matter of NRC, after the final draft issued where the foreigners(alleged) shall be identified, it is not possible as per the situation given in India to differently label people as Citizens and Nationals after such long period of Independence. But however, at the end of the day, no person shall not remain stateless too as per the provisions of the International Law. Therefore now it completely depends on the hands of the government to decide the future status of the people who shall be identified as 'foreigners' in the near future after the final draft of NRC is issued.

Conclusion

The emphasis was on the NRC's jurisprudential dimension. The chapter refers to the writings of many renowned authors such as Sangeeta Barooah Pisharoty and academician such as B.S Chimni. Such people's writings have expanded with minute and fascinating information on the ideas of the problems. This in fact will assist readers in interpreting the matter well. Pisharoty also noted here that the NRC was not at all the product of the Assam Agreement because the NRC was only an update, a routine review of the people in the state. While it was primarily demanded in the Assam Agreement that the foreigners be returned from Assam. She argued that this was a very relevant point here. In addition to these, John Rawls ' Distributive Theory, which was relevant to the issue of Bangladeshi imports from Assam, was stated here as people also have the right to life and equal treatment. It was therefore very necessary to mention this theory in which Rawl's wrote extensively about the principles and rules in which distributive justice should prevail and equity should proceed. Also to be taken into account was the definitions given in this chapter under the Public International Law as law must prevail above all. In reference to the issue concerned, the distinguished meanings provided under the International Public Law for ' Nationals' and ' Citizens' were very noteworthy. Although we don't have two separate treatments in India for nationals and people, it would have been a reasonable solution to the problem, but these concepts and their information were of great importance in the sense of the issue described here.

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