

Reinventing the Republic: Faith and Citizenship in India²

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Abstract

In India, a new legal regime and political ecosystem has been enacted for India's Muslim minority that effectively undermines the constitutional commitment to secularism. This article examines the legal, political, social, moral, and international implications of an assemblage of law and policy—namely, the Citizenship Amendment Act 2019, as well as two other initiatives, the National Register of Citizens and the National Population Register—that cumulatively animates an ambitious project to reinvent the nature of the Indian republic, from a pluralist, multi-ethnic and multi-religious civic community to a political community marked by ethno-religious majoritarianism.

Keywords

Citizenship, Citizenship Amendment Act, National Register of Citizens, minorities, religion

Introduction

The mobilization of religion for political purposes has a long and troubled history in the Indian subcontinent, from the consolidation of electoral blocs to inter-community violence. Its deployment to define and circumscribe legal citizenship is relatively new in India, though arguably not in the subcontinent, the very object of whose bifurcation in 1947 was to separate citizens into two nations based on religion. It is the politicization of that historical divide that animates recent attempts to recast citizenship in India along religious lines. In effect, it is an attempt to construe Indian citizenship as faith-based, in consonance with the idea of a Hindu majoritarian nation, of which Hindus are natural citizens while Muslims, in this view, properly belong to Pakistan or Bangladesh. Perfecting this congruence is the object of the new project of citizenship.

As the determinant of membership in a political community, legal citizenship is self-evidently the bedrock of every other type of citizenship—social, cultural, feminist, environmental, and so forth. This

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² The article draws upon my essay 'Faith Based Citizenship', The India Forum, 13 November 2019. https://www.theindiaforum.in/article/faith-criterioncitizenship?utm_source=website&utm_medium=organic&utm_campaign=category&utm_content=Law

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foundational quality of legal citizenship was signalled most eloquently in Hannah Arendt's reflections, in the shadow of the Second World War, on the predicament of the millions of people rendered homeless and stateless as a result of religious persecution and war. When these millions lost their membership in the nation-state, they also lost all their rights, leading Arendt to argue that human rights, in and of themselves, are no protection of any kind, and cannot be defined separately from the rights of citizens. She highlighted the irony of the fact that the very rights that had been declared as inalienable, appeared to be imperilled as soon as there was no authority, no institution, no government to guarantee and enforce them (Arendt, 1958, p. 292). It is only citizenship—membership in a political community—that can provide such a guarantee. The holding of rights is thus a condition that obtains only within the framework of citizenship, with citizenship in turn being something that is enriched by the practice of rights as citizens engage in public-spirited political activity.

Thinking about citizenship in this 'thin' legal sense of the status of membership in a political community receded somewhat in the aftermath of the Second World War. Even as recently as the 1990s, it was simply taken for granted, as it was the task of building 'thick' citizenship, through, for instance, multicultural policies, that engaged societies, especially in the Global North (Kymlicka & Norman, 1995, p. 285). It was in the context of globalization, accelerated population flows and immigration, that the question of legal citizenship came to acquire renewed significance, finding acknowledgement as a necessary precondition for any other kind of citizenship.

Recent decades have seen animated debates among political theorists as to what rights accrue to new entrants into a political community, such as immigrants, as also the question of whether it is the prerogative of a state to admit immigrants without necessarily committing to accord them citizenship rights. While few advocate, as Joseph Carens has done, the idea of open borders, or even the moral importance of the length of stay (even if unauthorized) within the borders of a nation-state (Carens, 1995), it has been widely recognized, both in theory and in international law, that statelessness is a violation of human rights. Michael Walzer's theory of just membership, for example, rests on the argument that political rights are important for aliens because of their participation in the economy and the fact that they are governed by laws in the making of which they do not have a voice. While states have, he argues, the right to determine first admission, once people are admitted, they must have the right to naturalize as citizens (Walzer, 1983). Seyla Benhabib seeks to extend the scope of cosmopolitan theories of justice to cover just membership, asserting first admittance as a moral right for refugees and asylees (Benhabib, 2004).

In most theoretical discussions on this issue, it is the immigrant non-citizen or the undocumented alien who is seen as the putative claimant and potential bearer of citizenship rights. Most of these discussions also assume that the recognition of their legal status as citizens places immigrants and undocumented aliens on par with other citizens, in terms of their relationship to the state as well as to each other. In other words, once citizenship is granted, there is a presumption of universality and equality, with no hierarchies or gradations of citizenship.

Recent legislative developments in India bring these assumptions into question in two distinct ways. First, the latest amendment to the citizenship law offers privileged access to citizenship to migrants belonging to particular faiths, thus introducing a distinction on the basis of religion that is seen to violate the right to equality under the Indian Constitution. Second, the proposal to put into effect the National Register of Citizens (NRC) seeks to administer a test of citizenship to those who have been residing, sometimes for generations, within its borders. Underlying such an exercise is the official presumption that, whether or not they are in possession of the documentary accoutrements of citizenship, not everyone is *actually* a citizen, and that illegal immigrants masquerading as citizens need to be sifted and sorted

from genuine citizens. The case of Assam shows that this exercise is also underwritten by the predisposition to differentiate on the basis of religious identity.

Such a presumption would of course need to be tested against the legal and constitutional architecture of citizenship in the state. As far as the basis of legal citizenship is concerned, it has been customary to divide the world of sovereign states into those where the basis of citizenship is *jus soli* (birth on the soil of the country) or *jus sanguinis* (blood, descent or race), with the first being typically considered the more inclusive and progressive of the two. In reality, there has been an increasing hybridization of these principles across the world. In India, despite being progressively diluted over time, the constitutional commitment to *jus soli* was in consonance with the idea of universal and equal citizenship in the Indian Constitution, and with the civic nationalist ideals of the freedom movement, that grounded Indian nationalism in civic identity rather than any cultural identity.

The constitutional design of civic universalism has, in recent times, been undermined by the form of exclusionary nationalism that has come to dominate Indian political discourse, through the encouragement provided by hyper-nationalism to societal practices of the systematic ‘othering’ of, and vigilante violence against, vulnerable minorities as well as through amendments to the law of citizenship.

The reinvention of citizenship is a key element of the political project of the Bharatiya Janata Party (BJP), whose ascent to power over two decades ago was based on its claim of representing the cause of Hindu unity and of counteracting the alleged ‘appeasement’ of religious minorities under previous secular regimes, through a demonization of India’s largest minority, the Muslims. This was the narrative framework for its strategy of political mobilization, in which almost every component of its political programme was cast as a form of redress for the historical grievances of Hindus, and of undoing and avenging the history of Hindu oppression by Muslim rulers in centuries past. The demolition of the Babri Masjid in 1992 was an important milestone on this journey and, though the BJP first held power from 1998 to 2004, Prime Minister Atal Behari Vajpayee stewarded a coalition government in which divisive issues were placed on the backburner. In 2014, the BJP led by Narendra Modi became India’s first majority government since 1984 and the first non-Congress government ever to win such a majority, giving an impetus to the project of Hindutva.

The Sachar Committee Report (Government of India, 2006) had established that the indicators of social and economic development, education, and employment for Muslims were even lower than those for Dalits and Adivasis. Muslim political representation had already declined to abysmal levels as extant tokenistic practices of symbolic representation were abandoned. Early in Modi’s first term, everyday forms of social discrimination and violence began to grab the headlines, with campaigns of *gau raksha* or cow protection, targeting the consumption of beef; *love jihad*, the claim that any marriage between a Hindu woman and a Muslim man was a form of jihad³; and *ghar wapsi* or homecoming, inspired by the ‘reconversion’ of Muslims to the Hindu fold. In effect, anyone suspected of carrying any form of meat, or legitimately transporting cattle, or marrying for love, could be lynched to death by vigilante mobs. Such barbaric violence, visited mostly on Muslims, invariably went unpunished with an unspoken but reliable assurance of police protection and legal impunity. Hate crimes, however, were rarely acknowledged by government even as the criminals responsible for them were publicly feted by leading politicians, even ministers, of the ruling party demonstrating the *de facto* second-class citizenship of Muslims. The controversial 2019 amendment to the citizenship law, in tandem with the proposed register of citizens, seeks to convert that into *de jure* second-class citizenship.

³ ‘Love jihad’ is witnessing a revival with some BJP-ruled states threatening to enact laws preventing ‘forced’ conversion on account of marriage. In 2013, vigilante attempts to discourage inter-faith marriages in the Muzaffarnagar district of Uttar Pradesh had led to violence in which over 60 people were killed and 50,000 Muslims displaced.

In its second term, fortified by a massive legislative majority, the government aggressively launched a series of legislative initiatives including the forced ‘amelioration’ of Muslim women by the criminalization of the *triple talaq* mode of divorce, and the striking down, in early August 2019, of the special constitutional status of India’s only Muslim majority state, the erstwhile state of Jammu and Kashmir. In a matter of 7 years, a new and openly hostile ecosystem has been ruthlessly put in place for India’s Muslim minority, effectively undoing the constitutional commitment to secularism as a doctrine governing the conduct of public life.⁴ This is the ideological and political context for making sense of the most recent controversy around the amendment to the law on citizenship, the Citizenship Amendment Act (CAA) 2019, as well as two other initiatives, the NRC and the National Population Register (NPR), that the government pledged to pursue in tandem with this, to better achieve its objective. In this article, I interpret the legal, political, social, moral and international implications of this assemblage of law and policy that cumulatively animates an ambitious project to fundamentally reinvent the nature of the Indian republic, from a pluralist, multi-ethnic and multi-religious civic community to a political community marked by ethno-religious majoritarianism.

The Legal and Constitutional Architecture of Citizenship in India

The constitutional principle of citizenship was settled in the Constituent Assembly as it dealt with the vexed question of citizenship for the millions of people, mostly Hindus and Sikhs, moving from the newly created state of Pakistan to India in the wake of the Partition. The Assembly was divided on whether Muslims who had fled to Pakistan but applied to return to India to reclaim their properties and livelihoods after the violence abated should be incorporated as citizens. Eventually, after a long and fractious debate, it unambiguously chose the principle of *jus soli* (birth on the soil of the country), as a modern, civilized, enlightened and democratic principle over the racial principle of *jus sanguinis* (based on blood, race or descent) as the primary means for acquiring citizenship.⁵ The Constitution also provided for a universal conception of equal citizenship to all, regardless of religion, race, caste and gender. On both dimensions—*who* is eligible for citizenship and *what* are the rights and entitlements it guarantees—that are integral to the promise of citizenship, the Indian Constitution adopted egalitarian and inclusive principles. This was both a normative and a practical imperative in a polity encompassing such staggering civilizational diversity. Cementing it was the idea of civic nationalism, a sense of belonging that transcended, even as it celebrated them, the multiple identities of cultural community. The Constitution recognized this diversity through its commitment to equal citizenship and an inclusive architecture of governance with normative and institutional commitments to democracy, secularism and federalism built into its design.

Having provided for the exigencies of citizenship in the extraordinary time of the Partition and having provided the normative framework for citizenship in the new republic, the Constituent Assembly left it to Parliament to legislate on citizenship for ordinary times. This it did by the enactment of the Citizenship Act in 1955, and the recent controversy is about the latest amendment to this statute, called the CAA

⁴ In an interesting twist, the term ‘ecosystem’ has very recently been owned by the Hindu Right with the formation, in November 2020, of an organization called the Hindu Ecosystem, sponsored by a BJP leader Kapil Mishra who acquired notoriety on account of his inflammatory calls to violence against the anti-CAA protestors. The organization claims to have enrolled 18,000 members within a day of its announcement. Members can opt to work online on social media or on the ground, on a variety of ‘special areas of interest’ such as cow protection, love jihad, temple building and Hindu unity (Chakravarty, 2020).

⁵ For a detailed account, see Jayal (2013, Chapter 2).

2019 and referred to in short as the CAA. The next section of the article discusses the provisions of the CAA at greater length. Here it suffices to say that the controversial provision of the CAA pertains to the acquisition of citizenship by naturalization. It offers fast-track citizenship to ‘persecuted minorities’ specified as Hindus, Sikhs, Christians, Buddhists, Jains, and Parsis, in three countries, namely, Afghanistan, Bangladesh, and Pakistan. The exclusion of Muslims is justified by the fact that these are Muslim-majority countries.

Despite being an amendment of less than a hundred words, and that to an ordinary law, the CAA represents a foundational shift in the conception of the Indian citizen embodied in the law and the Constitution. It entrenches definitively the move from soil to blood as the basis of citizenship and openly introduces a religious category into a religion-neutral law. Both these shifts were already prefigured in earlier amendments to the law on citizenship which, initially a product of political compacts with the then ruling Congress party on the vexed question of immigration in Assam, came to be more aggressively politicized by the BJP.

It was the political discontent over immigration in Assam since the 1980s that triggered the first move away from the original *jus soli* conception of citizenship in the direction of a *jus sanguinis* or descent-based conception of citizenship. Assam has more than a century long and complex history of in-migration, mostly from Bengal.⁶ From 1947 onwards, it experienced substantial in-migration from what had just become East Pakistan. This peaked at the time of the Bangladesh conflict in 1971 and continued steadily thereafter. Many of these immigrants acquired forms of what Kamal Sadiq has called ‘documentary citizenship’ through ‘networks of complicity’ and ‘networks of profit’ (Sadiq, 2009). These included voter IDs, triggering nativist fears of being swamped through the ballot.

In 1985, in the wake of a gruesome massacre, the students’ organizations that had spearheaded the agitation against the enfranchisement of migrants from Bangladesh entered into the Assam Accord with the Rajiv Gandhi government. This resulted in an amendment to two aspects of the citizenship law. The first, relating to naturalization, created categories of eligibility for citizenship based on the year in which a person had migrated to India. All those who came before 1966 were declared citizens; those who came between 1966 and 1971 were struck off the electoral rolls and asked to wait 10 years before applying for citizenship; and those who came after 1971 were simply deemed to be illegal immigrants. The second inserted a new requirement into the provisions relating to citizenship by birth, such that only individuals born before 1 July 1987, are citizens regardless of their parentage. To be a citizen by birth, a person born in India between 1987 and 2003 must have one parent who is an Indian citizen.

An even more stringent requirement was introduced in 2003–2004,⁷ making ineligible for citizenship by birth a person born in India who has one parent who is an ‘illegal migrant’ at the time of his or her birth. It introduced, albeit covertly, a religion-based exception to what was until then a religion-neutral law, since the term ‘illegal migrant’ signalled the religious identity (Muslim) of many of the migrants from Bangladesh, even though the anti-immigrant sentiment in Assam was about Bengali ethnicity and language rather than religion *per se*. Simultaneously, the Citizenship Rules were amended to exclude ‘minority Hindus with Pakistani citizenship’ from the definition of ‘illegal migrants’. This achieved the legal destigmatization of Hindu migrants who had come into the border states of western India, Gujarat and Rajasthan, from Pakistan. The amendment to the law smuggled in a religious category covertly; the

⁶ For a brief account of the politics of immigration in Assam, see Hazarika (2018, pp. 141–143). However, as Sanjib Baruah has argued, in this region where the issue of migration has lain ‘at the heart of successive episodes of ethnic and civil violence—there is no consensus in sight on who is an unauthorized cross-border migrant and who is not’ (Baruah, 2020, p. 138).

⁷ The amendment is dated December 2003 but came into effect in January 2004.

amendment to the Rules did so explicitly. If these amendments completed and entrenched the transition from soil to blood, the 2019 amendment gave unambiguous voice to exclusion based on religion.

This amendment too was animated by political purpose. The Citizenship Amendment Bill, originally introduced in 2016, as redemption of an electoral pledge in the state election in Assam, was eventually passed in 2019. In parallel, the BJP's project received an impetus from the Supreme Court decision of Chief Justice Gogoi to conduct a court-monitored NRC in the state of Assam.⁸ Under the Court's direction, this exercise began in 2015, with the objective of recording all those who had documentary proof of being Indian, and of them or their ancestors having been in India before midnight on 24 March 1971. The twinning of the citizenship law with the register of citizens had been inaugurated.

The result of the NRC demonstrated how easily undocumented nationals could be deprived of their citizenship status. A total of 32.9 million people applied to be included in the Assam NRC. At the end of the first round, 4 million people were excluded. 3.6 million of these filed fresh claims for inclusion, but even at the end of this process, in August 2019, 1.9 million remained unauthenticated. The surprise and disappointment of champions of the NRC was palpable, as large numbers of Hindus were among the excluded, with the percentage of exclusion being higher in areas inhabited by indigenous people and lower in border areas where illegal migrants have settled. In a society as historically undocumented as India, and in a region moreover that is notorious for natural calamities like floods, many people cannot produce documents to establish their ancestry. As a matter of fact, native inhabitants of multiple generations may be undocumented even as immigrants have acquired 'paper citizenship' (Sadiq, 2009). Those left out included a former anti-immigration activist and a local BJP leader, retired officers of the Indian Army, the nephew of a former Indian president, and even the only woman chief minister Assam ever had. There were cases in which children's documents were found acceptable, but not those of their fathers.

As the outcome of the NRC clearly contradicted the expectations of those who had been most enthusiastic about it, Hindu fears of deportation were assuaged with the assurance that they would be reinstated as citizens, through the Citizenship Amendment Bill, based on their religious identity. The unspoken promise had been that only undocumented people belonging to the Muslim faith and, therefore, having no recourse to the CAA, would be excluded, on the assumption that they were not Indian nationals. On the other hand, documented (even possibly illegal) migrants who belonged to non-Muslim faiths were assured of inclusion. This was why, despite the unexpected outcome of the NRC, the government and the ruling party continued to affirm the nationwide implementation of a NRC.

This intent is abundantly evident in the clandestine pre-history of the CAA. From 2015 onwards, protective coverage was incrementally extended to the same groups from the same set of countries as those specified in the CAA. In 2015, both the Rules under the Passport Act and the Orders under the Foreigners Act were amended to exempt the very same religious groups as the ones mentioned in the

⁸ Compiled in 1951, the first National Register of Citizens for Assam had remained dormant until it received a new lease of life in the 2000s. In 2005, then Prime Minister Manmohan Singh chaired a meeting between the Centre, the Assam Government and the AASU, which resolved to take steps towards updating the NRC to fulfil the requirements of the Assam Accord. In 2009, an NGO called Assam Public Works filed a petition in the Supreme Court, asking for the work of updating the NRC to begin. Former Chief Justice of India Ranjan Gogoi, in his memoir, describes the decision of the 2005 meeting as 'nothing but lip service'. Speaking of 'the decades of struggle and sacrifice of a race to preserve and protect its culture and linguistic identity' and of 'the feelings and aspirations of the people of a Northeastern state which still reels under a strong wave of anti-national feeling and of separation from the rest of the country', he provides ample evidence of his personal commitment, as an Assamese, to the updating of the NRC, thus lending credence to the view that he should have chosen to recuse himself from the bench on this issue instead of giving it momentum and a deadline (Gogoi, 2021, pp. 161–172).

CAA from (a) the requirement of holding valid passports and visas and (b) exempting them from being prosecuted or deported, on the same grounds that they ‘were compelled to seek shelter in India due to religious persecution or fear of religious persecution’. The significant thing to note is that, being Rules or Orders under the Acts, these did not need Parliamentary approval and could be simply inked in by the executive.

On 26 March 2018, the Reserve Bank of India (India’s central bank) amended the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations that govern foreigners purchasing property in India. A new clause was introduced permitting some holders of ‘long-term visas’ (LTVs) to buy property in India.

A person being a citizen of Afghanistan, Bangladesh or Pakistan, belonging to minority communities in those countries, namely, Hindus, Sikhs, Jains, Buddhists, Parsis, and Christians, who is residing in India and has been granted an LTV by the Central Government may purchase only one residential immovable property in India as dwelling unit for self-occupation and only one immovable property for carrying out self-employment (Reserve Bank of India, 2016).

The exclusion of Muslim LTVs, of whom there are many from the same three countries—Afghanistan, Bangladesh and Pakistan—residing in India, was striking. In November 2018, this was followed by the Foreign Exchange Management (Deposit) (Amendment) Regulations of 2018, permitting citizens belonging to the same minority communities of Bangladesh and Pakistan, whose application for an LTV was under the consideration of the Central Government, to open a Non-Resident Ordinary (NRO) bank account, with the provision that this could be converted to a resident account once the individual became a citizen of India. It was reported that the forms for opening such an account would have a column specifically eliciting the religious identity of the applicant.⁹ In a rather disingenuous rebuttal, sidestepping the real question, the finance secretary clarified that ‘no Indian citizen’ would be asked to state their religion on the Know Your Customer form of a bank (India TV News, 2019).

In early 2019, the Ministry of External Affairs also introduced new and discriminatory penalties on those visitors from Afghanistan, Bangladesh, and Pakistan who overstayed their visas. Those who belonged to the ‘majority community’ in these three countries would have to pay a penalty 200 times higher than that levied on non-Muslims. For the latter category, the rules of the Foreigner Regional Registration Office levy a penalty of ₹100 for up to 90 days, ₹200 for 91 days to 2 years, and ₹500 for more than 2 years. The corresponding penalty for Muslims is ₹21,000 (USD 300) for up to 90 days, ₹28,000 (USD 400) for 91 days to 2 years, and ₹35,000 (USD 500) for more than 2 years (The Wire, 2019).

In the period 2015–2018, thus, it became legal for members of the so-called ‘minority communities’—Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians—in neighbouring countries to overstay their visas (and to pay differential rates of penalty from those levied on similarly overstaying Muslims) and to open bank accounts and to purchase property, both residential and business. In all these instances, it is not the inclusions that are objectionable, but rather the exclusions that are entailed.

⁹ See, *inter alia*: <https://twitter.com/CNBCTV18Live/status/1208295480175628290?s=20>. ‘This is absolutely scandalous and unconstitutional. There is no basis for discrimination by religion under Article 14. You can prohibit investment in a particular activity – like earlier they didn’t want foreign migrants to get involved with plantation and agriculture. But this is outrageous’, said Rabintra Hazari, a lawyer at the Bombay High Court (quoted in Sinha & Chitra, 2019).

With the CAA, discrimination based on religious identity, having already found its way into the rules and orders relating to passports, foreigners and prospective investors, insinuated its way into the law on citizenship.

The Citizenship Amendment Act 2019 and Its Accomplices

The CAA amends provisions of citizenship by naturalization for immigrants without proper papers, officially labelled ‘illegal migrants’ rather than the less humiliating and internationally accepted term ‘undocumented migrants’. The antecedent law provided for such migrants to be eligible for citizenship by naturalization after a waiting period of 11 years. This amendment reduces that period to 5 years, but such fast-track citizenship is offered not to all such migrants, only to select groups among them: specifically, Hindus, Sikhs, Christians, Buddhists, Jains, and Parsis, from three countries, namely, Afghanistan, Bangladesh and Pakistan. The obvious exclusion of Muslims from this list of faiths, as well as the exclusion of Sri Lanka and Myanmar as neighbouring countries from which migrants may and do come, has been officially justified by saying that the new law will only cover persecuted religious minorities in the three specified countries.¹⁰ It is moreover implied that all persecution ended on 31 December 2014—for that is the cut-off date in the law.¹¹

Two implications are notable. First, only Muslim states are persecutors, and their targets are people belonging only to these six faiths; and second, that non-Muslim (Buddhist) states like Sri Lanka and Myanmar do not persecute anyone at all. This is contestable given the persecution of Ahmadiyyas in Pakistan, Hazaras in Afghanistan, the Rohingyas in Myanmar, and Tamil Hindus in Sri Lanka. It also offers no justification for why those who have suffered other forms of persecution, ethnic, racial, political or any other, should not be entitled to our compassion.

The CAA thus facilitates a pathway to citizenship by naturalization for such once ‘illegal migrants’ from these three countries and promises citizenship by birth to their descendants, so long as they are not Muslims. Though the Statement of Objects and Reasons of the Bill stated that this provision was meant to help religious minorities who were victims of persecution, the law nowhere mentions religious persecution, and only the Rules, as and when they are formulated, will clarify if there is any requirement to establish persecution, any procedure to validate it, or indeed even to validate the religious identity of an individual. Such persons will also no longer be called ‘illegal migrants’; by implication, only Muslims will.

¹⁰ Despite the claim that there are hundreds of thousands of such persecuted minorities clamouring for citizenship, the report of the Joint Parliamentary Committee on this Bill provided a figure of 31,313 persons, based on inputs from the Intelligence Bureau. It stated that in response to its query as to the numbers of people who would benefit from the bill, it received the following response from the IB: ‘As per our records, there are 31,313 persons belonging to minority communities (Hindus - 25447, Sikhs - 5807, Christians - 55, Buddhists - 2 and Parsis - 2) who have been given Long Term Visa on the basis of their claim of religious persecution in their respective countries...’ (Lok Sabha, 2019, 39, Sec. 2.17).

¹¹ The official reason for this is to prevent ‘misuse by infiltrators from neighbouring countries such as Pakistan’. The actual explanation, going by the submission by the Ministry of External Affairs to the Joint Parliamentary Committee, is that the date was chosen, as ‘a natural corollary’ of Ministry of Home Affairs notifications of 7 September 2015—amending the Passport (Entry Into India) Amendments Rules and the Foreigners (Amendment) order, both of which ‘regularised the stay of such people who entered into India on or before 31st December 2014’. (Lok Sabha, 2019, 36, Sec. 2.7) These, the Ministry says, were ‘essentially in the nature of a one-time waiver or amnesty granted to these migrants from minority communities’ (Lok Sabha, 2019). It is unusual that the silences in the language of a statute should rely on more explicit but unrelated notifications to give them meaning.

The Supreme Court is yet to decide on whether this apparently discriminatory provision violates the constitutional right to equality as also the principle of secularism, which has been pronounced a part of the basic structure of the Constitution. The shift from soil to blood as the basis of citizenship now appears to have been consolidated in a definitively exclusionary way, by openly introducing a religious category into a hitherto religion-neutral law. The very admissibility of the idea that it is acceptable to discriminate on the basis of religion seems to strike at the root of everything the Indian constitutional project stands for. It provokes the concern that once the principle of discrimination on the basis of religion (barred by Article 15 of the Constitution) is admitted on the question of who can be a citizen of India, it may not be possible to limit or contain its further application to other realms, or to a tiered citizenship.¹²

As the CAA opens pathways to citizenship for favoured groups of migrants, deemed acceptable only on grounds of their faith and their countries of origin, it is complemented by another initiative, the NRC, which opens paths to statelessness for groups that are disfavoured only on the basis of their faith. The CAA and the NRC are manifestly conjoined in their objectives, as faith is set to become the exclusive criterion for determining who is an Indian citizen and who is not, for inclusion as well as for exclusion. Together, they have the potential of transforming India into a majoritarian polity with gradations of citizenship rights that undermine the constitutional principle of universal equal citizenship, with privileges of inclusion being attached to some categories of citizens while others suffer the disabilities of exclusion.

The NRC is technically based on the NPR, both of which have been on the statute books since 2003. The repeated attempts at assuaging anxieties, by citing the sequence (or ‘chronology’)¹³ holds the key to understanding it. The NPR is just that: a register of usual residents, not of citizens, but of people who have lived in that area for a period of 6 months and who anticipate living in the same place for the next 6 months. When the NPR is compiled, it will be the prerogative of the local sub-registrar, an official of rather modest status, to identify ‘doubtful’ persons or to put down as ‘doubtful’ persons that other non-doubtful persons in the locality identify as ‘doubtful’. A robust rent-seeking economy in the manufacture and certification of papers can be reasonably expected to flourish. Those on this list who get authenticated will appear on the NRC; those who remain Doubtful will have to follow a process of trying to prove that they legally exist through appeals, first in the Foreigners’ Tribunals (FTs) and then through the courts.

It is not clear what precisely their doubtful status will involve as the adjudication of claims meanders slowly up from one level to another, but disenfranchisement and disqualification for government benefits would obviously be entailed. In the final analysis, there is the horrific prospect of incarceration in detention centres, for which generous financial provision has already been made. In Assam alone, the construction of a large detention camp, with a capacity of 3,000 detainees, has begun with 10 others planned to fit a thousand people each. Deportation on a large scale may be unlikely (Northeast Now News, 2020), but large-scale statelessness is plausible. Especially alarming is the possibility of inherited statelessness. Take the predicament of infants and children in the case of the Assam NRC. The child of someone who has been designated ‘Doubtful’ or whose case is awaiting decision by a FT will be excluded

¹² In her legal and normative critique of the CAA, Farrah Ahmed describes it as ‘giving effect to a narrative in which Indian Muslims may have all or many of the legal benefits of citizenship, but are only citizens in an attenuated and marginal sense; the paradigm or central case of a citizen is not Muslim. Against this familiar narrative, the Act is recognizable as a subordinating speech act’ (Ahmed, 2020, p. 16).

¹³ On 20 November 2019, the home minister told Parliament that the NRC would be conducted nationwide. In Parliament, as in several political meetings, he had stated that all concerns were baseless if the ‘chronology’ was appreciated: first the CAA, then the NPR (the National Population Register on which the NRC is based) and finally the NRC (Venkataramakrishnan, 2019).

from the NRC because of the previous amendment stipulating that she can be an Indian citizen only if one of her parents is an Indian citizen and the other is not an ‘illegal migrant’. A person born in India between 1987 and 2003 (hence between the ages of 18 and 34 years today) to immigrant parents is ineligible for citizenship by birth. A person born after 2004 (hence 17 years of age or less today) to one parent who is an Indian and another who is an ‘illegal migrant’ is also ineligible for citizenship by birth. Their parent(s) may have come in over three decades ago, even likely have voted in elections. They have themselves lived their entire lives in India and known no other home but this. It is clearly unjust to render them stateless and amounts to punishing them for something they had no control over—the place of their birth.¹⁴

It could be objected that the concern that exclusions will be faith-based is unwarranted, for this could arguably affect anyone who is undocumented. But that pushes us to consider who the undocumented are: the poor, the marginalized, and the vulnerable. It is no secret that the social groups that overwhelmingly populate the ranks of the poor and marginalized are Dalits, Adivasis, and Muslims. This is why the repeated insistence on minding the ‘chronology’ points to the path to citizenship that has thoughtfully been made available in advance, enabling some to declare their undocumented selves as members of a persecuted religious minority. The only section of people that does not have such recourse to the CAA is the Muslims.

The rationale for a nationwide NRC, its feasibility and above all its moral legitimacy are questionable. Under the Foreigners’ Act 1946, the burden of proof rests on the individual charged with being a foreigner. Since the Citizenship Act provides no independent mechanism for identifying aliens, the NRC effectively places an entire population under suspicion of alienage. With what justification a state that does not have the ability to ‘detect’ aliens, or even to secure its borders against illegal immigrants, can set out to find aliens by elimination is not clear. As Mohsin Alam Bhat puts it in the context of the Assam NRC, the universalization of ‘the suspicion of foreign-ness’ implied that ‘everyone in the state was an alien until proven not’ (Bhat, 2019). The nationwide NRC seeks to universalize this suspicion across India.

To find aliens by elimination is arguably a task requiring greater state capacity than that with which to ‘detect’ aliens or to secure borders against illegal migration. Even were this morally unexceptionable, it is questionable if India has the state capacity required to accurately sift and sort citizens from non-citizens. The costs entailed by the NRC—financial, logistical, and administrative—are enormous. In Assam alone, extrapolating from the huge expenditure on the NRC in Assam and the number of officials deployed to enrol just 3.3 million people, a back-of-the-envelope calculation of what a nationwide NRC might cost yields a mind-boggling figure, two and a half times the combined budgetary outlay for health and education (Budget 2020), apart from the deployment of approximately 40% of the total number of existing government employees in India across all sectors. In other words, practically every other service provided by the state, and every other administrative function performed by it, would need to come to a standstill for this to be implemented.

The experience of Assam with the state-level NRC offers a chilling preview of what could ensue if this path is pursued (Saha, 2021). Establishing citizenship through what Prateek Hajela, the NRC State Coordinator called ‘legacy data’, a combination of legacy documents and legacy linkage, is especially difficult in a society where large numbers of people are undocumented and even unlettered. Applicants were required to produce documents to show that their parent, grandparent or ancestor was resident in Assam in or before 1971, and another set of documents to prove linkage that the applicant is indeed a

¹⁴ Abhinav Chandrachud contrasts the predicament of such children and young people with the opportunities offered to ‘Dreamers’ in the USA, who were granted temporary permits to stay and work in the USA (Chandrachud, 2020, p. 21).

descendant of the former. Individuals could also be summoned by a FT, the quasi-judicial bodies that verify complaints against those suspected to be ‘foreigners’. Women were particularly adversely affected. The verdicts in two cases of women appealing their designation as D-voters (doubtful voters) and their detention as foreigners, both decided by the Gauhati High Court in 2020, are instructive (*Jabeda Begum vs. Union of India and 5 Ors.*, 2020; *Nur Begum vs Union Of India And 5 Ors.*, 2020). In the first case, Jabeda Begum had submitted 14 valid documents, but her claim was rejected on multiple grounds, including that a certificate issued by a Village Gaon Bura (village headman) cannot be proof of citizenship. It can ‘only be used by a married woman to prove that after her marriage, she had shifted to her matrimonial village’ (*Jabeda Begum vs. Union of India and 5 Ors.*, 2020, 4/4). The court also held that not only were several other documents—including the PAN card, voter ID card, bank documents, and land revenue receipts—submitted by her not proof of citizenship, she also could not prove her linkage with her parents. In the second case, Nur Begum submitted eight documents, and her mother also testified to their relationship. Neither the documents nor the oral testimony of her mother were treated as admissible evidence.

The ‘linkage’ document in both cases was the certificate from the village panchayat, with the village headman certifying their marriage and permanent residency in the village. Panchayat certificates were originally recognized as valid and acceptable documents for the NRC process and approved as such by the Central Government and the Registrar General of India. Over 4 million such documents had been submitted to the NRC but were invalidated by the Gauhati High Court in a series of cases starting with *Monowara Bewa alias Manora Bewa vs. Union of India* (2016). In *Rupajan Begum vs. Union of India* (2017), the Supreme Court set aside the High Court’s order in *Monowara Bewa alias Manora Bewa vs. Union of India* (2016) and clarified the purposes for which certificates issued by the G.P. Secretary could be validly used, namely, ‘to establish a linkage between the holder of such certificate and the person(s) from whom legacy is being claimed’ (*Rupajan Begum vs. Union of India*, 2017, para 18). Despite this ruling about the ‘limited use’ to which the panchayat certificate could be put, the Gauhati High Court in *Nur Begum* provided no reason why this document was not valid, while in *Jabeda Begum*, it said that ‘Gaon Buras are not entitled to issue certificate supporting the citizenship of a person’.

A study of 15 orders passed by FTs to determine the citizenship of women based on eight different types of documents—land records, marriage certificates, educational certificates, Gaonburah certificates, electoral ID cards, electoral rolls, the 1951 NRC, and affidavits clarifying spelling discrepancies—found that these were frequently rejected on the basis of overly stringent criteria and arbitrary grounds. The study underlined the disproportionate impact of this process on ethno-religious minorities and especially women belonging to these groups (Sabhapandit & Baruah, 2021, p. 256).

In addition to these contested procedures, there are several inconsistencies between the verdicts of different High Courts as to what documents can count as proof of citizenship. For the Gauhati High Court, in cases of *Nur Begum* and *Jabeda Begum*, the electoral photo ID card is not proof of citizenship, while the Bombay High Court has ruled that it is. Indeed, the Bombay High Court had, in 2013, held that an Indian passport was not proof of citizenship; the same court, in 2019, ruled that it was. For most people in this precarious situation, the veracity of documents is ascertained by FTs, which are quasi-judicial bodies that have even been called ‘kangaroo courts’. In proving citizenship, the burden of proof is placed on the individual, rather than the state, to prove that she/he is not a foreigner.

Through these tribunals, as Talha Abdul Rahman has argued, ‘a legally untenable process is being applied to determine whether some of the Indian residents are Indian citizens’ (Rahman, 2020, pp. 121–122). Quite apart from the fact that the FTs have been created by administrative order rather than by

parliamentary enactment, the method of their constitution and processes of functioning are opaque, giving rise to serious concerns about ‘the potential role of the FTs in a broader ethno-nationalist project that results in marginalising Muslim citizens of India’ (Rahman, 2020, pp. 113). Neither the appointment of members of these tribunals nor the conditions of eligibility or of service are regulated by statute.¹⁵ The requirement of ‘judicial experience’ for members of FTs does not mean that they have to have held judicial office; any form of connection, even bureaucratic, to the judicial system, is acceptable. The lack of transparency in the selection process is compounded by a lack of judicial training. In their functioning, there are no guarantees of due process, as the over 300 tribunals have the power to determine their own rules and procedures. Such discretionary powers and the absence of procedural safeguards, Rahman argues, make the FTs opaque and not in conformity with the requirements of the rule of law.¹⁶ It is scarcely surprising then that 60% of the orders in the 129,009 cases adjudicated by the FTs in Assam, were passed without the presence of the person concerned (Rahman, 2020, p. 129).¹⁷ Further, an order passed by an FT is not subject to appeal on the basis of facts, a position that has been upheld by the Gauhati High Court in *Munindra Biswas vs. Union of India and 4 Ors.* (2020), enabling the court to uphold FT orders that deem documents to be untrustworthy, unreliable and hence invalid. In the latter case, as in many others as recorded by Sabhapandit and Baruah (2021), there is a distrust of the documents submitted unless the issuing authority comes forward to testify to them, a condition that is manifestly difficult to fulfil.

In both legal and political terms, the aftermath of the completion of the Assam NRC is notable. The 1.9 million people excluded have not received ‘rejection slips’ from the state NRC office. It is these slips that are expected to provide reasons for an individual’s exclusion, without which they are unable to file appeals. In parallel, there has been a public disavowal of the outcome of the Assam NRC by state politicians. The Chief Minister of the time, Sarbananda Sonowal, sought to reassure the excluded, promising legal assistance to those who needed it. Hemanta Biswa Sarma, a cabinet minister at the time and now chief minister of Assam, said that many undeserving names had been included in the NRC due to the ‘manipulation of legacy data’, and that a process of re-verification in 20% of border districts and 10% in the rest, should be undertaken (Bhagawati, 2019). In October 2020, Sonowal called the NRC ‘totally flawed’ (Dutta, 2020) and unacceptable.

Meanwhile, Assam Public Works, the NGO that had gone to the Supreme Court in 2009 asking for the 1950 NRC to be updated and was, in that sense, the prime mover behind the entire exercise, filed a criminal case against Prateek Hajela for manipulating the family tree verification process. In October 2019, barely 2 months after the NRC was notified, Hajela was transferred. He was apparently punished for having delivered a list in which the inclusions (‘illegal immigrants’) and exclusions (‘genuine Indians’) were both politically unpalatable (Karmakar, 2021). At the Centre, Home Minister Amit Shah offered assurances of repeating the NRC in Assam alongside the national NRC, and of course the more important additional pledge of the CAA 2019. The central government has also, for the fifth time, sought an extension of the 6-month period (until 9 July 2022, at the time of writing) (Mint, 2021) within which

¹⁵ The renewal of their terms is apparently based on an appraisal of how many foreigners they declared (Sagar, 2019). The process of selection and renewal makes them vulnerable to executive control as well as political pressure.

¹⁶ The Gauhati High Court explicated the distinction between courts and tribunals in *Idrish Ali vs. Union of India and 5 Ors.* (2019), and on the grounds that strict rules of evidence are not applicable in tribunals, set aside the order of the Tribunal pronouncing Idrish Ali a foreigner and placing him in a detention camp.

¹⁷ Family members and journalists are also not permitted to be present. On occasion, it has even been observed that lawyers for the petitioner are not allowed to cross-examine investigating officers who referred the individual as a suspected foreigner to the tribunal (Sagar, 2019).

an Act is given effect through the notification of the Rules, with the COVID-19 pandemic being the reason given for the delay.

The NRC is a nightmarish prospect for poor and unlettered citizens who are unable to produce acceptable documentation, rendering them vulnerable to harassment and extortion. As in Assam, such an enrolment drive could put undocumented nationals at risk of losing their citizenship in a futile search for non-national migrants who are invariably better documented. Its impact will fall most grievously on the undocumented poor whose forbears have lived in India for multiple generations but who could, for lack of documentation, be rendered stateless and incarcerated in detention centres.

The minutiae of implementation are, however, only cautionary arguments. The compelling argument against this lies in its adverse repercussions for the delicate but fraying plural social fabric of the Indian nation; for the civilizational qualities of humaneness and hospitality that have marked its history; and above all for the equality of citizenship, based on birth and without regard to creed, that its Constitution guarantees.

From a Civic to an Ethno-national Community

India was constituted as a civic rather than a cultural community. The CAA in combination with the NRC signals a transformative shift from a civic-national conception to an ethno-national conception of India, as a political community in which identity will determine gradations of citizenship. This is a slippery slope to a new conception of Indian nationhood itself, one that is defined in terms of religious majoritarianism. Access to citizenship determined differentially by religious identity redefines Indian nationhood and threatens to convert citizens into aliens. Alienage may not lead to expulsion, but it can entail disenfranchisement and the comprehensive deprivation of civil and political rights including the right to own property. The tragedy is that this production of alienage arises out of nothing, except prejudice and hate based on faith, to which political morality, to say nothing of constitutional morality, is hopelessly hostage.

Though the CAA ostensibly relates only to migrants seeking the legal status of citizenship, this is arguably not just about migrants. The threat, rhetorical or otherwise, of a nationwide NRC shows that the fig leaf of illegal immigration is being used to bring the citizenship of all Muslim citizens into question. Migrants—beginning with those in Assam—are fast becoming a pretext to fabricate and advance a much more ambitious and nationwide project of ‘othering’. The multiple identities that have historically been at play in Assam make it disingenuous to present the animosity towards migrants exclusively in terms of Hindu sentiments against Muslims. When it visited Assam in May 2018, the Joint Parliamentary Committee on the Citizenship Amendment Bill was petitioned by hundreds of organizations agitating against the Bill, expressing not only the secular constitutionalist objection to introducing religion-based citizenship provisions but also the fear of both Assamese-speakers and indigenous tribal communities—such as the Tai tribes, the Garos or the residents of the Barak Valley—of becoming minorities in their own land. The attempt to extrapolate lessons for a national-level Hindu political consolidation from the Assam situation is based on a possibly deliberate misrecognition of identities in that state and on a flawed singularizing of its plural identity-related anxieties.

Following the Assam NRC, 3,331 people have already been placed in six detention centres, living in sub-human conditions; 335 of these have spent 3 years in camps; 30 persons declared ‘foreigners’ have died in the detention camps; and an estimated 33 persons have been driven to suicide by the fear of not possessing papers. Although the Supreme Court has passed orders for the improvement of the conditions

in these centres, there is a genuine moral concern about the very idea of such detention centres that is at odds with India's constitutional values and more generally with the idea of human rights.

In democratic states, stripping a person of citizenship and rendering them stateless is not taken lightly. Criteria of such a stripping being 'conducive to the public good' must be formally established. In the UK, for instance, it gathered momentum from 2017 onwards and has mostly been used for Islamic State (IS) recruits. Even so, the courts and the House of Lords have weighed in on the issue, and the Home Secretary has, until recently, enjoyed the power to cancel the citizenship of dual or multiple nationality holders so that no statelessness ensues.¹⁸ The propensity to formalize exclusion through the law of citizenship always exists and requires vigilance. In 1950, Hannah Arendt pointed out that universal human rights were of no avail to people without membership, or citizenship, in a polity. The condition of statelessness is a necessary prelude to rightlessness. That was why, she argued, the Nazis stripped the Jews of their citizenship before marching them off to concentration camps to be exterminated.

The Universal Declaration of Human Rights (UDHR) gives every human being, regardless of identity, the right to moral and legal personhood. It was unusual but not altogether surprising, therefore, that the United Nations High Commissioner for Human Rights filed an intervention application in the Supreme Court of India against the CAA, seeking to remind India of the duty, placed on states by the UDHR, to avoid taking actions that result in statelessness and the deprivation of citizenship. Likewise, over 600 members of the European Parliament moved six resolutions opposing the CAA, but the vote on this was deferred due to diplomatic intervention. Sardar Vallabhbhai Patel seemed to have been prescient when, in his defence of the principle of birthright citizenship in the Constituent Assembly, he said: 'It is important to remember that the provision about citizenship will be scrutinized all over the world. They are watching what we are doing'.

India's neighbours—especially friendly neighbours like Bangladesh and Afghanistan—were indeed watching and hearing the implied accusations about their treatment of minorities. Alert to this possibility, the Joint Parliamentary Committee had already expressed concern about 'whether it would be prudent to raise the issue of religious persecution in Bangladesh with whom India was maintaining friendly and cordial relations' (Lok Sabha, 2019, 48, Sec. 2.38). The Ministry of Home Affairs assured the Committee that the Government of Bangladesh was committed to protecting and preserving the rights of minority groups in their country and ensuring their security. The Committee, however, allowed itself to wonder aloud about the 'violent incidents impacting the minority community in Bangladesh in the past' (Lok Sabha, 2019). In the end, Bangladesh was persuaded at the highest inter-governmental level, that the political rhetoric of sending the 'termites' and 'infiltrators' back to Bangladesh is an internal matter, and that there will be no deportation. In fact, the impressive economic indicators of Bangladesh today give rise to the speculation that there may be less migration from Bangladesh to India now than in the reverse direction. Already host to 1.1 million illegal Indian immigrants, Bangladesh is the fifth largest sender of remittances to India. The outgoing High Commissioner of Bangladesh in India stated that his people would rather swim across the seas to Italy than come to India in search of employment (Sirur, 2019). These incidents suggest some deterioration in a hitherto robust bilateral relationship. Afghanistan too was hurt by the insinuation that Hindus and Sikhs are persecuted in their country. In fact, some instances of persecution after the passage of the CAA have come to light. It is well known that Pakistan's treatment of its minorities is far from good, and that untouchability is also practised against its Dalit citizens,

¹⁸ This has been modified by the recent amendment to Clause 9 of the Nationality and Borders Bill of the UK, which gives the government the right to deprive British people of their citizenship without informing them first. It has been clarified, in this context, that such a person does not have to be a dual national and can be rendered stateless so long as the Secretary of State has 'reasonable grounds' for believing that the person could be eligible for citizenship of another country (van der Merwe, 2021).

but present-day India is scarcely in a position to lecture others on the question of how minorities should be treated.

While it is chiefly legal citizenship that is at stake in this discussion, the implications for social citizenship are not insignificant. Even as the CAA excludes Muslim migrants from the provisions for fast-track citizenship, Indian Muslims who are full citizens by birth have long been experiencing the abrogation of their constitutionally guaranteed rights of equal citizenship. Poor indicators of social and economic development have paralleled under-representation in every sphere, from politics to the public and private sectors. The unprecedented increase in incidents of vigilante violence against them over the past few years, and the impunity enjoyed by the perpetrators of such violence, signifies a systematic political and ideological attempt to render them second-class citizens. Along with such everyday practices of social discrimination, in an ecosystem of violence, fear and insecurity, the citizenship of the vast majority of Indian Muslims has been substantively second class. With this amendment to the law, even their formal citizenship is endangered. Should the nationwide NRC result in disenfranchisement because of the de-recognition of their citizenship, it will only complete the political marginalization of Muslims. In the past few years, it has been repeatedly made clear that they are not deserving of representation; this could make them legally unrepresentable.

Further, the gap between formal and substantive citizenship will widen not just for Muslims but for all poor and document-poor Indians, including and especially Dalits and Adivasis. Given the marginalization and vulnerability of these groups, given the convergence between poverty and the absence of documents, and given the histories of prejudice in our society, these groups, more than others, will—through the instruments of the CAA and NRC/NPR—be pulled backwards, perhaps even deprived of the formal legal status of citizenship. This would be a move from the substantively second-class citizenship they currently hold to formal legal second-class citizenship—or worse.

As the NRC threatens to convert legitimate citizens into illegal immigrants and illegal immigrants into stateless people, both destined for the camp; as the CAA selectively legalizes illegal migrants; and as minorities are rendered second-class citizens by the insidious use of the law, India stands on the edge of a dangerous precipice where not just its constitutional values but also its moral compass is at grave risk.

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References

- Ahmed, F. (2020). Arbitrariness, subordination and unequal citizenship. *Indian Law Review*. <https://doi.org/10.1080/024730580.2020.1761142>
- Arendt, H. (1958). The decline of the nation-state and the end of the rights of man. In H. Arendt (Ed.), *The origins of totalitarianism*. A Meridian Book, The World Publishing Company.
- Baruah, S. (2020). *In the name of the nation: India and its Northeast*. Stanford University Press.
- Benhabib, S. (2004). *The rights of others: Aliens, residents and citizens*. Cambridge University Press.

- Bhagawati, R. (2019, August 31). *Final NRC list published in Assam: As Sarbananda Sonowal tries to quell panic, document draws criticism across political lines*. Firstpost. <https://www.firstpost.com/india/final-nrc-list-published-in-assam-as-sarbananda-sonowal-tries-to-quell-panic-document-draws-criticism-across-political-lines-7261911.html>
- Bhat, M. A. (2019, January 3). *Stateless and hyperlegalized: The Indian state weaponizes paperwork*. The Baffler. <https://thebaffler.com/logical-revolts/stateless-and-hyperlegalized-alam>
- Carens, J. H. (1995). Aliens and citizens: The case for open borders. In R. Beiner (Ed.), *Theorizing citizenship*. SUNY Press.
- Chakravarty, I. (2020, November 18). *Why the new 'Hindu ecosystem' that BJP leader Kapil Mishra is aiming to build sounds so menacing*. <https://scroll.in/article/978782/why-the-new-hindu-ecosystem-that-bjp-leader-kapil-mishra-is-aiming-to-build-sounds-so-menacing>
- Chandrachud, A. (2020). Secularism and the Citizenship Amendment Act. *Indian Law Review*. <https://doi.org/10.1080/24730580.2020.1757927>
- Dutta, R. (2020, October 12). NRC is flawed, won't accept in present form: Assam CM Sarbananda Sonowal. *Times of India*. <https://timesofindia.indiatimes.com/city/guwahati/nrc-is-flawed-wont-accept-in-present-form-assam-cm-sarbananda-sonowal/articleshow/78612627.cms>
- Gogoi, R. (2021). *Justice for the judge: An autobiography*. Rupa Publications.
- Government of India. (2006). *Social, economic and educational status of the Muslim community of India: A report*. Government of India.
- Hazarika, S. (2018). *Strangers no more: New narratives from India's Northeast*. Aleph.
- Idrish Ali vs. Union of India and 5 Ors.* (2019). Gauhati High Court WP(C) 4116/2019.
- India TV News. (2019, December 21). *No Indian citizen will be asked to state their religion on bank KYC form: Govt rejects news report*. India TV News. <https://www.indiatvnews.com/business/news-banks-religion-kyc-forms-caa-muslim-migrants-fema-573035>
- Jabeda Begum vs. Union of India and 5 Ors.* (2020, February 12). Gauhati High Court, Case No. WP(C)7451/2019.
- Jayal, N. G. (2013). *Citizenship and its discontents: An Indian history*. Harvard University Press.
- Karmakar, R. (2021, June 26). Prateek Hajela, a bureaucrat many in Assam love to hate. *The Hindu*. <https://www.thehindu.com/news/national/other-states/prateek-hajela-a-bureaucrat-many-in-assam-love-to-hate/article34985247.ece>
- Kymlicka, W., & Wayne, N. (Eds.). (2000). *Citizenship in diverse societies*. Oxford University Press.
- Lok Sabha. (2019, January 7). *Report of the Joint Committee on the Citizenship (Amendment) Bill 2016*. Sixteenth Lok Sabha.
- Mint. (2021, July 27). Citizenship Act: Govt seeks extension till 9 Jan for framing rules on CAA. Mint. <https://www.livemint.com/news/india/citizenship-act-govt-seeks-extension-till-9-jan-for-framing-rules-on-caa-11627382664977.html>
- Monowara Bewa alias Manora Bewa vs. Union of India*, (2016). Gauhati High Court WP(C) No. 2634.
- Northeast Now News. (2020, November 16). *6 Bangladeshi Nationals deported from Assam*. Northeast Now News. <https://nenow.in/north-east-news/assam/6-bangladeshi-nationals-deported-from-assam.html>
- Munindra Biswas vs. Union of India and 4 Ors.* (2020, February 12). Gauhati High Court, Case No. WP(C) 7426/2019.
- Nur Begum vs Union Of India And 5 Ors.* (2020, February 18). Gauhati High Court, Case No. WP(C) 1900/2019.
- Rahman, T. A. (2020). Identifying the 'outsider': An assessment of the foreigner tribunals in the Indian State of Assam. *Statelessness and Citizenship Review*, 2(1), 112–137. <https://statelessnessandcitizenshipreview.com/index.php/journal/article/view/141>
- Reserve Bank of India. (2016). *Master direction—Acquisition and transfer of immovable property under Foreign Exchange Management Act, 1999*. <https://rbidocs.rbi.org.in/rdocs/notification/PDFs/07MIP0101168C51C4CB845342D09E8A4A613B1F1C6D.PDF>
- Rupajan Begum vs. Union of India.* (2017, December 5). Supreme Court of India, Civil Appeal No. 20858 of 2017 [Arising out of Special Leave Petition (Civil) No. 13256 of 2017].

- Sabhapandit, T., & Baruah, P. (2021). 'Untrustworthy and unbelievable': Women and the Quest for Citizenship in Assam. *Statelessness and Citizenship Review*, 3(1), 236–258.
- Sadiq, K. (2009). *Paper citizens: How illegal immigrants acquire citizenship in developing countries*. Oxford University Press.
- Sagar. (2019, November 6). Case closed: How Assam's Foreigners Tribunals, aided by the high court function like kangaroo courts and persecute its minorities. *Caravan*. <https://caravanmagazine.in/law/assam-foreigners-tribunals-function-like-kangaroo-courts-persecute-minorities>
- Saha, A. (2021). *No land's people: The untold Story of Assam's NRC crisis*. Harper Collins India.
- Sinha, P., & Chitra, R. (2019, December, 21). Bank KYC forms may seek details of clients' religion. *Times of India*. http://timesofindia.indiatimes.com/articleshow/72910153.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst
- Sirur, S. (2019, November 20). *Bangladeshis would rather swim to Italy than come to India, says outgoing envoy*. The Print. <https://theprint.in/diplomacy/bangladeshis-would-rather-swim-to-italy-than-come-to-india-says-outgoing-envoy/323985/>
- The Wire. (2019, December 21). *Not Just CAA, Indian banks and visa penalty rules discriminate against foreign Muslims*. <https://thewire.in/government/caa-controversy-property-bank-rules>
- van der Merwe, B. (2021, December 8). What does the nationality and borders bill mean for you? *The New Statesman*. <https://www.newstatesman.com/the-explainer/2021/12/what-does-the-nationality-and-borders-bill-mean-for-you>
- Venkataramakrishnan, R. (2019, December 20). *Who is linking Citizenship Act to NRC? Here are five times Amit Shah did so*. <https://scroll.in/article/947436/who-is-linking-citizenship-act-to-nrc-here-are-five-times-amit-shah-did-so>
- Walzer, M. (1983). *Spheres of justice: A defense of pluralism and equality*. Basic Books.