



What is citizenship and what does it mean to lose it: An Analysis of the Citizenship Amendment Act of India

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Abstract

This paper analyzes the concept of citizenship and its different elements. Using Hannah Arendt's analysis of human rights and citizenship, the paper discusses how both the ideas are inextricably linked. Taking the case study of India's new Citizenship Amendment bill, the paper explains how it reduces the status of Muslims to non-citizens by taking away their human rights.

Keywords: Citizenship; humanness; human rights.

1. Citizenship

The term citizenship has been conceptualized by many scholars including the most prominent Enlightenment philosophers. Traditionally, citizenship was defined in terms of political knowledge of the citizens in regard to the duties towards the state, common histories between the citizens and legal recognition of the citizens provided by state. Citizenship remains constant in space and time i.e. a person remains the citizen of the state from one's birth to death and the person's citizenship in a state will be unaltered by the current place of residence. Aristotle provides the conditions that define citizenship i.e. place of birth, social interaction between human beings and language which provides a common identity to the citizens of the state of being equal and free. (Johnson, 1984).

Citizenship is the heart of relationship between individual and state connected through a web of rights and duties and political actions. The concept of citizenship and human rights are more convolutedly interwoven than they seem to. (Owen, 2017). Both the concepts trace their origins from the traditions of philosophy gyrating around the ideas of equality, access to rights and resources to people who are from the same community or possess the same qualities. This idea is concomitant with the concept of citizenship too which is laid on the premise that all citizens of a particular nation-state will be entitled to same kind of rights, for example, everyone would have a right to vote in that state. With the

Westphalian¹ order in place, the concepts of citizenship and human rights became almost inseparable with state being the source of both.

2. Civil, Political and Social: Ingredients of the dish

T.H. Marshall, a British sociologist defines three components of citizenship viz. civil, political and social. (Marshall, 1950). The civil component contains rights for individual freedom like liberty, freedom of speech and thought, freedom to hold property, freedom to pursue an occupation of choice, etc. The civil component of citizenship allows citizens to seek justice in the judicial institutions if their civil rights are infringed.(Marshall, 1950, p. 148). The civil component existed in feudal societies too in the name of social contract². The political component gives the individual the right to participate in the political system, as a member of it or as a voter to choose their representative. The political rights and later universal suffrage got inextricably linked to the idea of citizenship in the 19th century. Lastly, the social component includes social rights to live with dignity and right to healthcare and education and economic welfare of citizens. They were not woven in the fabric of citizenship until the 20th century(Marshall, 1950, p. 153), however, have been a vantage point from where individuals used to seek membership in a community.

Apart from bestowing these galore rights, citizenship is also a thread that binds people like beads in a necklace, each bead with a sense of belonging to every other bead and then a sense to gratitude and belonging to the entire necklace which holds them. In fulfilling their duties towards the state, the citizens get bound by the sense of commonality, fraternity and oneness. Citizenship, thus, also gives birth to feelings of nationalism, patriotism and in certain cases jingoism where the individual feels deeply responsible and indebted to the state. This feeling of being connected is consolidated not just by sharing a sense of belonging with fellow citizens but also by extensively excluding others i.e. that are not the part of the nation state. As Butler rightly points out that the sense of self is continuously made by abjecting the other. (Butler, 1993). Therefore, citizenship rights work on a continuous abjection and exclusion of non-citizens. However, this type of abjection is not just ideological, it translates to violence, both physical and emotional. The citizens constantly abject the non-citizens or the state abjects the non-state subjects by different forms of violence. This thereby leads to exploitation and marginalization of non-citizens. Since human rights are profoundly embedded in the citizenship rights, the non-citizens or stateless people are effectively stripped off from their very basic natural human rights like right to live with dignity and are perpetually abused by the state and its citizens under the fear of a total disenfranchisement. This reduces their condition to that of sub-human beings, not having any rights or freedoms.

3. Structural (in)equality: Human and Sub-Human

Hannah Arendt in her work *Origins of Totalitarianism* explains the intermeshing relationship between citizenship and human rights by defining citizenship as the “right to have rights” (Arendt, 1973, p.248). She basically argues that if one has to be free, one can only be a free person in a free state which means that one has to be a citizen of the state. The complex relationship between citizenship and human rights leaves the ‘stateless’ persons unfree, deprived of legal protections from the state and excludes them from the political community. This loss, she argues, leads to a loss in human

¹The Treaty of Westphalia in 1648 laid down the concept of nation-states, territorial boundaries, sovereignty and integrity and independence of all nations in its state of affairs (SOTIROVIĆ, 2017)

²Social Contract, as used by Rousseau, meant the contract or exchange between citizens and the state/ruler where the citizens surrendered their personal liberty to the state/ruler in exchange of the protection they were supposed to provide against foreign invasion. (Rousseau, 1895).

dignity expelling the person from the humanity. (Arendt, 1973, p.297). The individual loses the right to be make decisions and even be recognized as a person. Such kinds of situation increase the vulnerability of the individual to be exploited in the hands of the state and other forms of private powers. Lack of citizenship sabotages individuals' physical, mental and emotional health as well as mutilates their rights to autonomy, free thinking and decision-making. This renders state a huge power to exercise in terms of rendering a person stateless and throwing one to a position of a sub-human. Thus, for individuals to have some basic human rights, a right to citizenship becomes a prerequisite.

These universal human rights, thereby, become conditional emanating from state (and can be taken away from the state) rather than what called as natural inalienable human freedom (as conceptualized by John Locke) which emanates from a source not in control of humanly disposition and therefore cannot be taken away. (Tuckness, 2020)

According to article 15 of the Universal Declaration of Human Rights, "Every person has a right to nationality." (*Universal Declaration of Human Rights*, 2015). However, there are around 10 million stateless people in the world. (Human Rights, 2018). Since the absence of citizenship determines the essence of basic human rights, statelessness can literally translate to being non-human/sub-human.

4. Muslims are India's stepchildren: Citizenship Amendment Act justifies non-citizenship to Muslims

The ruling BJP (Bharatiya Janata Party) government (which came into power in 2014 and was re-elected in 2019) changed the citizenship law of India³ by amending it with the new Citizenship Amendment Act on 10th January 2020. This amendment of the citizenship law will fast-track citizenship for religious minorities including Hindus, Sikhs, Jains, Christians, Parsees and Buddhists who are being prosecuted in three neighbouring countries viz. Bangladesh, Pakistan and Afghanistan. (BBC News, 2019). This Act blatantly discriminates against Muslim minorities being prosecuted in these countries. Not just this, it also violates the secular nature of the Indian constitution (articles 25 to 28) by giving citizenship on the basis of religion. This Act is upheld by the government and its supporters as being in accordance with its assimilation and humanitarian values, giving citizenship to stateless and people facing prosecution. It also violates articles 14 and 15 of the Indian constitution (right to equality and non-discrimination on the basis of religion).

However, this Act is not just to be viewed independently but within the tandem of NRC (National Register of Citizens), which is BJP's wider plan to implement all over India. (Shankar, 2020). NRC was also listed as one of the its major agendas in the 2014 electoral process. The demand for NRC started with a north-eastern state Assam's movement to deport all the illegal migrants who crossed the porous borders between India and Bangladesh during the war in 1971 (in which Bangladesh got its independence). During this time both Bengali-speaking Hindus and Muslims crossed the border and entered Assam. The pioneers of Assam movement claim that this has dramatically disturbed the indigenous tribal population of Assam and therefore they demanded to citizenship registry to identify non-indigenous people for deportation. However, this sub-nationalist movement was pro-indigenous population but never anti-Muslim in principle and sentiment. But the right-wing BJP government is using it as a tool to usher its Hindu-nationalist, anti-Muslim agenda. The NRC in Assam was officially started in 2015 and the updated list of citizens of Assam was released on 31st August 2019 rendering around 1.9 million people non-citizens. The list of non-citizens includes both Hindus and Muslims who have been living there since decades and the exercise was highly condemned in the state and there were large scale

³See appendix

protests by sub-nationalist organisations condemning that even Hindus were rendered as non-citizens by this Act. (Shankar, 2020).

If the NRC is implemented all over India (which is one of the key agendas of this government), a large number of Indian citizens, especially the poor or the people who were displaced during the war and lost their documents, would be left stateless for a lot of them do not have ancestral documents to prove their Indian lineage. However, when seen in the context of citizenship amendment, all non-Muslim communities will be given Indian citizenship through fast-track courts and would be assimilated in the population. Therefore, the only people who will face the wrath of this act would be Indian Muslims, especially poor and those lacking sufficient ancestral documents. India has the second largest Muslim population in the world (around 201 million) and such a law would be death blow to this huge section, rendering lot of them stateless.

The current government has shown its anti-Muslim stance by stripping locking communication in Kashmir for over 5 months (Dixit, 2020) and stripping it of its special status and then later the Supreme Court ruled the construction of a temple over a conflicted area in Ayodhya, Uttar Pradesh (BBC News, 2019) which has been a contentious zone between Hindus and Muslims causing widescale violence.

5. Discursive Politics: Let's talk (Un)Reason(ably)

The anti-Muslim discourse propagated by this government is not new to India. It has been there, but in latent forms, like seeing Muslims as non-indigenous to the country, as invaders and foreigners. Rashtriya Swayamsevak Sangh (RSS), a Hindu right-wing paramilitary volunteer organization which has deep ideological and material affiliations with the BJP (in the sense that most of the BJP leaders are members of RSS) has been the harbinger of the anti-Muslim discourse in the country since its inception. Its founder Saravkar believed that Hindus were the only original inhabitants of India and Muslims like British have colonized India for centuries. Through selective reading of Muslim rule history and (mis)remembering Muslim rule, he was of the view that the Hindu majority has always been mistreated by the Muslim minority. Therefore, Muslims can never be trusted and can never be integrated into the Indian nation which belongs to Hindus rightfully. The contemporary right-wing politics also rests on Savarkar's arguments, borrowing largely from his anti-Muslim narrative. (Misra, 2004, pp. 17-18). This type of discourse of Muslims being not trustworthy, not indigenous and invaders paints them as anti-national elements which have to be filtered out of this nation. Therefore, the current right-wing party is effectively using 'discursive governance' (Korkut&Eslan-Ziya, 2016, p. 556) to instill a fear of the 'other' (Muslim minority) in the hearts of the Hindu majority. The continued depiction of this image of Muslims through media channels is done to 'interpose ideas' (Korkut&Eslan-Ziya, 2016, p. 556) of Hindunationalism and hatred against the Muslims.

However, the reason for such a drastic step of rendering Muslims stateless is not just hatred and anti-Muslim rhetoric of BJP but also has political motives i.e. enlargement of their vote banks. (PTI, 2020). The foreigners who would be given citizenship would become the patrons of the BJP government and with their newly acquired voting rights they would always vote for the government which 'benevolently' gave them citizenship. On the other hand, Muslims who are usually anti-BJP due to the party's anti-Muslim ideology would be stripped out of their citizenship and then voting rights. This would, therefore, effectively cut down BJP's non-supporters, and hereby, increase its vote bank cumulatively.

6. A Bullfight: Students versus the Government

This law which clearly flouts the secular nature of the Indian constitution had sparked nation-wide protests and criticism at both national and international level. The protests are led by students of liberal arts universities all over the country. The protestors came on streets in large numbers to challenge the Hindu nationalist propaganda, reading the preamble of the constitution, holding marches and sitting on strikes for days and weeks. (CNN, 2020). The opposition has also shown verbal criticism on this law. However, the government did not take any steps back and is adamant on maintaining the new law, instead, it incurred severe brutalities against the peaceful protestors accusing them of disrupting public safety and order. (Economic Times, 2020).

Citizenship has always been a privilege; however, it is hard for people who possess this to acknowledge it. It has been always conferred upon the ruling elite of a country to romanticize their humanness and vis-à-vis the un-humanness of the marginalized, suppressed and poor. This is the reason why women had to fight so much to be recognized as a full human-being and ask for their rights which was always conceptualized in terms of their roles as wives and mothers in family. (Lake, 1993). The new citizenship law of India is a huge step-back in the democratic fabric of India, since the independence from colonialism made every Indian a full citizen, giving them equal rights irrespective of class, caste, religion and gender. But this citizenship is inclined to reduce a bunch of citizens to non-human beings, pushing them to poverty and statelessness.

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Appendix:

According to the Citizenship Act of India, 1955

every person born in India:

- (a) on or after the 26th day of January 1950, but before the 1st day of July 1987;
- (b) on or after the 1st day of July 1987, but before the commencement of the Citizenship (Amendment) Act, 2003 and either of whose parents is a citizen of India at the time of his birth;
- (c) on or after the commencement of the Citizenship (Amendment) Act, 2003, where-
- (i) both of his parents are citizens of India; or
- (ii) one of whose parents is a citizen of India and the other is not an illegal migrant at the time of his birth, shall be a citizen of India by birth.

Author's Biography



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