

Constitutional Studies
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Lecture 9
Citizenship: Challenges and Future

Welcome back to lecture 2 on citizenship in the Constitutional Studies course, we are in week 4 as you know and, in this lecture, we will focus on the challenges and the possible future for debates around citizenship in India and abroad.

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The slide features a dark blue background with the text "Part I" in large white font, followed by the question "How should a political society decide who belongs?" in a smaller white font. To the right of the slide, a list of topics is displayed in white text: "Jus Soli", "Jus Sanguinis", "Aliens", "Immigrants", and "Refugees". A small video inset shows a man in a white shirt speaking. The NPTEL logo and the National Law School of India University logo are visible in the top right corner of the slide area.

Let me quickly recap, so far in this week we introduced the key ideas around citizenship the Latin phrases “Jus Soli, Jus Sanguinis” which form the alternative models for the grant of citizenship. We also looked at common vocabulary around insiders and outsiders in political societies, who are aliens, who are immigrants, who are refugees and so on and so forth that was in part one of the lecture.

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Part II

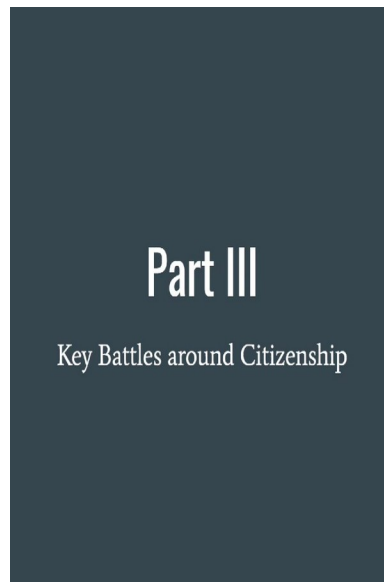
Citizenship in the Indian Constitution

- Core Provisions
- Power to Parliament
- Non-Discrimination
- Rule of Law
- Fundamental Rights Claims

We then turned in part 2 to look at some co-provisions of the Indian constitution as well as the key legislation in the field which is the citizenship act 1955. We noticed that parliament had been given considerable power in this field. And over the years has defined this field by the legislation and subordinate legislation.

We looked at whether citizens were entitled to all fundamental rights, whereas non-citizens were excluded from fundamental rights and we found that the picture is more complicated, we noticed that non-citizens enjoy rights as well, but citizens above all enjoy the right to public office as well as the rights of political participation striking both in international law and domestic law. Non-citizen residents may also have rights to social and cultural and in some cases economic benefits even if they do not have political rights. That was the broad survey and discussion that we had in lecture 1.

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Partition

Tibetan Special Status

Sri Lankan Tamil Refugees

CAA and NRC

OCI and NRI



In lecture 2, we are going to focus on the key battles around citizenship India like the United States has been forged around ideas of migration of people but in a very different way, while the US has the mainstream narrative of the US history would emphasize how the country has been built by streams of inward migration mostly referring to European migration and its openness as a culture and a animation to migration.

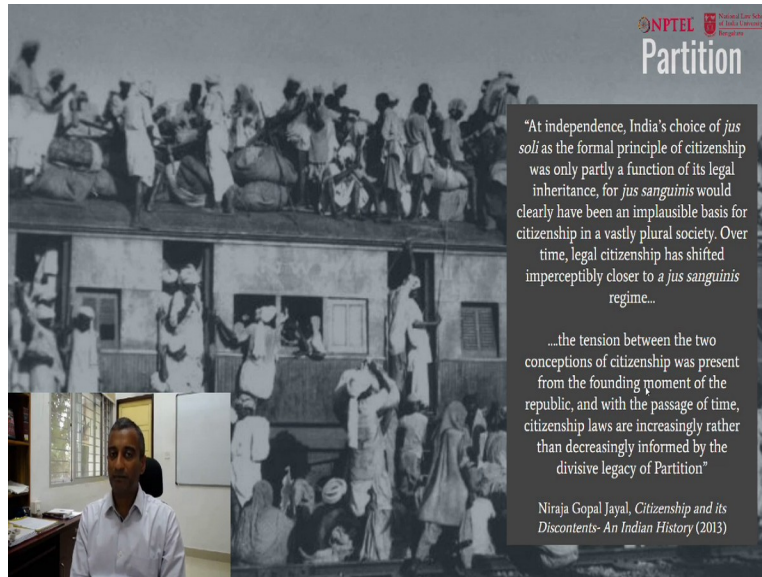
Indian history has been framed by a very different narrative around the question of migration we were founded in that period 1947 to 1950 by varying a very bloody exchange of large populations that we know that we call partition. Subsequently, India received a rather large influx of refugees from Tibet and this was accommodated in a particular way which we want to understand here.

Sri Lankan refugees streamed in the 1980s and recent debates focused on the new Citizenship Amendment Act primarily on Bangladesh migration into northeast India. I want to conclude with a brief review and overview around debates on OCI and NRI status these are not debates about people who want to come into India, but these are debates about Indian expatriates all over the world.

And in many ways is the other side of the coin to a debate about migration oftentimes debates about migration tend to be only debates about people who want to come into India maybe imagine that we think and consistently about the problem so that both those who come into India

and those who leave India in search of economic opportunity may be treated similarly in a common framework of citizenship.

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Let us begin first with the debates around partition and I think most of you would know that partition was arguably the largest movement of people across political boundaries in the history of mankind and that occurred in a very short period of time accompanied by remarkably high levels of violence and especially sexual violence.

Partition also meant that by the drawing of political boundaries in the creation of two nations, people who were accustomed for many generations to thinking about South Asia as a single political entity suddenly had to make choices about where they belonged. While one country Pakistan defined itself primarily around an axis of religious identity, in India the early republic was decidedly secular and hence people could choose whether they sought to stay in India or leave for Pakistan.

What followed was a decade, two decade long movement of people while much of this happened in a period of 3 to 4 years immediately following independence and partition. The movement of people continue over an extended period of time giving rise to the entire body of cases around citizenship.

In this lecture, I will not cover this body of case law or explain how the Indian Supreme Court and other courts dealt with questions and movement of people. For this lecture I am just going to focus on a very insightful and accessible book on “Citizenship in India” written by Professor Niraja Gopal Jayal of which I have a small extract and let me read this.

“At independence India's choice of *Jus Soli* as the former principle of citizenship, remember *Jus Soli* was birth citizenship, was only partly a function of its legal inheritance, for you sanguinary would clearly have been an implausible basis for citizenship in a vastly plural society.”

So, decently citizenship what does it mean to be of Indian descent? The Indian descent, India as a political entity contained people from all over a very vast and plural country and included many British residents which are chose to stay back. So, descent-based citizenship could be a citizenship that relied on this plural mass but India in the initial years Professor Jayal reminds us emphasized a *Jus Soli* model.

Over time, she suggests legal citizenship has shifted imperceptibly closer to a *Jus Sanguinis* regime and remember here that when we start thinking about recent moves to a descent based model of citizenship we have in mind a particular idea of who is Indian not the expansive idea that all those people who reside in the subcontinent are Indian by definition not a geographical idea, but a cultural idea of who might be.

She goes on, the tension between the two conceptions of citizenship was present from the founding moment of the republic meaning partition, but with the passage of time citizenship laws increasingly rather than decreasingly informed by the divisive legacy of partition. Put simply professor Jayal asks us have we learnt the lessons of partition when we are changing our citizenship laws?

And arguably she hints that India has not learned the lessons of partition with respect to its citizenship laws by trying to define citizenship in narrow cultural or religious terms we run the deep risk of reigniting the horrors of partition which occasion the movement of people in this dramatic way. And these are challenges that we will come back to when we discuss the citizenship amendment act and its future representations.

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The slide is titled "Tibetan Special Status" and features a list of four bullet points. To the right of the text are three images: a black and white photo of two men, a yellow registration certificate, and a red identity certificate. A small inset photo of a man speaking is in the bottom right corner.

Tibetan Special Status

- First wave of Tibetan refugees arrived with Dalai Lama after the 1959 Tibetan Uprising. They were granted 'legal asylum', allotted land and housing and were automatically issued a Registration Certificate (RC). This policy was discontinued in 1963.
- RC serves as an identity document for Tibetans in India and permits them to reside, work and travel within India. A separate Identity Certificate is issued on the basis of RC for international travel.
- India has about 100,000 Tibetan refugees. They enjoy different rights and services depending on their date of arrival in India.
- India has refused to sign the UN Convention Relating to Status of Refugees of 1951 and its 1967 Protocol, which sets out the rights of refugees and responsibilities of the host States towards them.

Image: TibetanReview.net

So, much for the partition as I said, I am not going to work through the details of the partition but if the partition occurred in the early years of the republic the next challenge for the Indian laws of citizenship was the Chinese annexation of Tibet. Now, those of us who are familiar with that period of history will remember that in 1959 the Dalai Lama arrived in India and when the Tibetan uprising was brutally suppressed in Tibet.

They were granted legal asylum the Dalai Lama did not come alone he came with a large group of followers and residents of Tibet, they were granted legal asylum though not formally under the UN convention relating to the status of refugees of 1951 and the 1961 protocol because India did not sign either the convention or the protocol.

However, they were allotted land and housing and were automatically issued a registration certificate. This policy was continued all the way to 1963 all Tibetans who came to India at that point but was discontinued in 1963 some scholars speculate because of India trying to mend fences and consolidate its relationship with China.

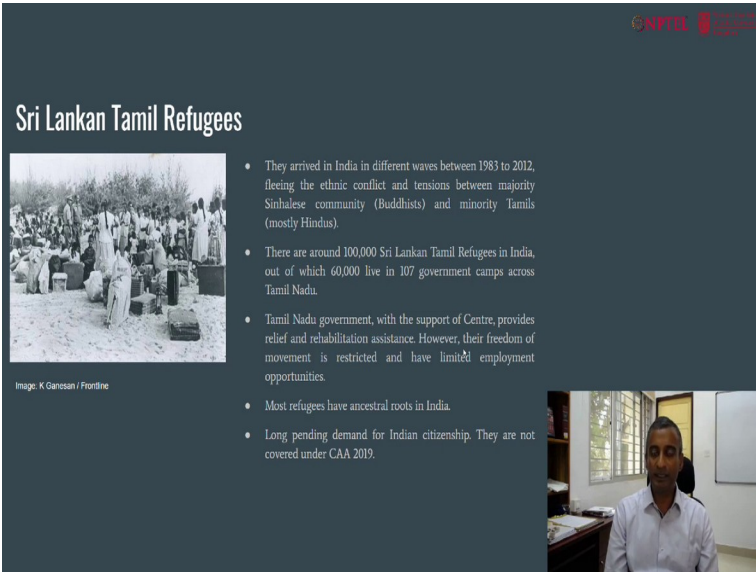
What is the registration certificate? It is not a document a full citizenship, however, it is an identity document for Tibetans which allows them to live in India, to work in India, travel within India rather freely, a separate identity certificate is issued for international travel. So, when you look at the two documents on your right, the one in yellow is the identity the registration

certificate identity document Indian travel and the one in is maroon is the one for international travel.

Now, India has over a period of time received almost a hundred thousand Tibetan refugees this is not a small number. They however, they enjoy different rights and services depending on their period of arriving, those who have arrived post 1963 have a much more difficult time than those who arrived before that period.

India's position on the convention on refugees has been ambivalent if not hostile. India has often taken the position that this convention suits European countries, its Eurocentric but does not suit the conditions that a developing country like India faces in Asia. It is not clear what the extent and the dimensions of that argument might be, but there has been some recent writing on these questions that those of you who are interested might want to turn to. So, in the 50s we were defined by the partition exchange of populations in this 60s we were Indian debates were shaped by the exodus of Tibetans leaving Tibet and entering India.

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The slide features a dark blue background with the NPTEL logo in the top right corner. The title 'Sri Lankan Tamil Refugees' is displayed in white text. Below the title is a black and white photograph of a group of people, likely refugees, standing in a camp. To the right of the photo is a list of five bullet points. In the bottom right corner, there is a small video inset showing a man in a white shirt speaking.

Sri Lankan Tamil Refugees

- They arrived in India in different waves between 1983 to 2012, fleeing the ethnic conflict and tensions between majority Sinhalese community (Buddhists) and minority Tamils (mostly Hindus).
- There are around 100,000 Sri Lankan Tamil Refugees in India, out of which 60,000 live in 107 government camps across Tamil Nadu.
- Tamil Nadu government, with the support of Centre, provides relief and rehabilitation assistance. However, their freedom of movement is restricted and have limited employment opportunities.
- Most refugees have ancestral roots in India.
- Long pending demand for Indian citizenship. They are not covered under CAA 2019.

And then in the in the 80s the Indian debates around immigration and migration were shaped by the Sri Lankan Tamil conflict which arose because of the ethnic conflict and tensions between the Sinhala community the majority Sinhala community and the minority Tamil community, some might see this as a conflict arising out of language or ethnicity and some might even suggest religion the language and ethnicity seem to explain much of what occurred in that period.

Almost a hundred thousand Sri Lankan Tamil refugees live in India and of these 60,000 live in 107 government camps across Tamil Nadu. So, please note that while the partition was the largest number, the number of refugees and the number of Tibetan refugees are roughly inline. The Tamil Nadu government together with the central government provides a range of relief and rehabilitation but nothing remotely resembling the package that was developed for Tibetan refugees.

Not only is the freedom of movement of Tamil refugees restricted, their limited employment opportunities and they certainly were not given any lands. Strikingly many of these Tamil refugees might claim historical origin from South India. Nevertheless, their long pending demands for Indian citizenship have not been heated and they remain, we noticed that India has not signed the convention, so they are not officially regarded as refugees. So, they remain in this in between state in various parts of Tamil Nadu.

Surprisingly the Sri Lankan Tamil influx was not dealt with even by the recent amendments on the citizenship amendment time, for various reasons it appears that the government of India is deeply concerned about questions of Bangladeshi immigration into Northeast India but the same level of attention has not been paid to the nearly hundred thousand Sri Lankan Tamil refugees in Tamil Nadu.

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OCI and NRI

NRI: Indian citizen residing overseas. Tax classification dependent on number of days spent in India

PIO (withdrawn in 2015): Citizen of another country but an Indian by birth or descent citizen

OCI: Citizen of another country but

- a former citizen of India, or was eligible to be a citizen of India at the time of commencement of Constitution or belonged to a territory that became part of independent India, or
- a child or grandchild or great-grandchild of such a citizen

Constitution Amendment Act, 2003

- Recommendations by a High-level Committee on Indian Diaspora for provision of 'dual citizenship' to citizens of specified countries.
 - Australia, Canada, Finland, Ireland, Italy, Netherlands, UK and USA.
- OCIs have life-long visa validity. They can apply for Indian citizenship after 5 years as OCI with a minimum stay requirement of 1 year.
- OCIs cannot vote or contest in elections to the Lok Sabha and State Assemblies.
- OCIs cannot claim right to equal opportunity in public employment under Art. 16. and are not eligible for certain public offices.

GNPTIL

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Dr. S. S. Ravi

From looking at the three debates around the influx of people into India I am going to shift my attention in this path to focusing on this part where those who leave India, people who travel out of India in search of work are given something approximating citizenship status even though they may not even be resident in India, this is a curious set of developments and let us spend a little bit of time understanding how this might have occurred.

The first category we need to pay attention to is the category of the Non-Resident Indian. The non-resident Indian is an Indian citizen, this is the first and important notable point that we must remember, but this citizen is not resident in India is resident overseas. The classification that you may be a non-resident Indian depends on the number of days that you spend in India in any financial year.

At various points the number of days required to be considered a non-resident Indian has shifted so it is for all intents and purposes a tax category, it gives Indian citizens some benefits with respect to their taxable income and some many Indian affluent Indian citizens may choose to maintain an NRI status to prevent extensive tax liabilities in the country.

Subsequently a category called persons of Indian origin emerged. Now, a person of Indian origin is a citizen of another country is not an Indian citizen, but may be able to show a connection with India either by birth or by descent. This category emerged and became reasonably influential but has now been subsumed after 2015 and the wider category that we call the overseas citizen of India.

Let us pay some attention to the overseas citizen of India which is the current legal category by which we grant certain benefits to non-citizens of India in various ways. An overseas citizen of India is not a citizen of India at the moment but may have been a citizen of India, a former citizen or may have been eligible to be a citizen of India at the time of the commencement of a constitution or belong to a territory that became part of independent India or and this is the so that is one part which deals with a historical connection to India.

And the second part is purely a question of descent, one is either a child or a grandchild or a great grandchild of such a citizen. So, three layers, three generations of connection to India would entitle a person who is legally not a citizen of India to claim to be an overseas citizen of India.

The constitution amendment act of 2003 created this category and the category has been developed based on the recommendations of a high-level committee on cultivating relationships with the Indian Diaspora which argued for the provision of dual citizenship but only to a few select countries essentially the developed world Australia, Canada, Finland, Ireland, Italy, Netherland, UK and the USA.

The amendment acts though what emerged out of this report was a broader category that we just discussed the definition of the overseas citizen of India which is neutral to the citizenship that one current currently possesses. OCIs have lifelong visa validity, they can come into India at any time using their OCI card they have a right of entry.

Moreover, unlike the rules of naturalization that we had studied in the previous lecture where one might have to be in India for 9 out of the last 12 years OCIs may apply for Indian citizenship after 5 years with the minimum stay requirement of just 1 year. So, you hold the OCI card for 5 years and you stay in India for 1 year and you can apply for Indian substitution.

OCIs do not have political rights, they can neither vote nor can they contest in elections to the Lok Sabha state assignments, nor can they claim any rights to public employment and are not eligible for public offices. However, barring these restrictions on political rights and public employment OCIs are treated as Indian citizens in almost any other set of services.

For example, with respect to application and the ability to write exams, competitive exams for admission to Indian Universities OCIs have a preferred status almost equivalent to those of Indian citizens. So, it is quite remarkable that while India has been quite skeptical and indifferent to according refugee status to those who have come into India from Tibet or Tamil Nadu, India has been quite willing to grant a quasi-citizenship status to those who might not even seek to reside in India but who have had some connection usually by descent we think.

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The slide is titled "Identifying Citizens: UIDAI, NPR, NRC, CAA 2019" and features the NPTEL logo in the top right corner. It contains the following text and images:

- CAA 2003**
 - Compulsory registration of every citizen of India
 - Enumeration exercise and verification of citizenship status by Local Registrar
 - National Identity cards to all Indian Citizens
- NPR and UIDAI**
 - Comprehensive identity database of the "usual residents in the country" for six months or more
 - Both demographic and biometric data (through Aadhaar) is collected
 - Providing Aadhaar details is voluntary
 - NPR to serve as feeder for NRC

Images on the slide include a close-up of an Aadhaar card with the number 6449 8733 8741, a person's face being scanned, and a man in a white shirt speaking in a video inset.

Image: The Hindu

After moving, we began with questions of migration and the movement of people I then moved to a question related to the recognition of non-citizens and the granting of them of special status, granting to them of special status on the basis of their connection with India. And now I turn to the contemporary debates around the identification of citizens.

In the early years of the republic the problem of identification of citizenship was not a pressing one no large effort was made to create a national database of citizens nor was there an effort to require all citizens to acquire a national identity card or some such other identification document. However, all of that began to change around 2003.

The citizenship amendment act mandated both through the main legislation and through the rules and regulations the compulsory registration of every citizen of India, local registrars were empowered to conduct an enumeration exercise and to verify citizenship status. Ostensibly national identity cards would be issued to all citizens at the end of that process.

This is the origin of what was called the national population register and then what then became the national register of citizens. So, NPR emerges at this early stage in 2003. At a later stage the evolution of the UIDAI 'The Unique Identifier Legislation and Authority' also known as Aadhaar was dovetailed into the ongoing efforts to develop an NPR and later in NRC.

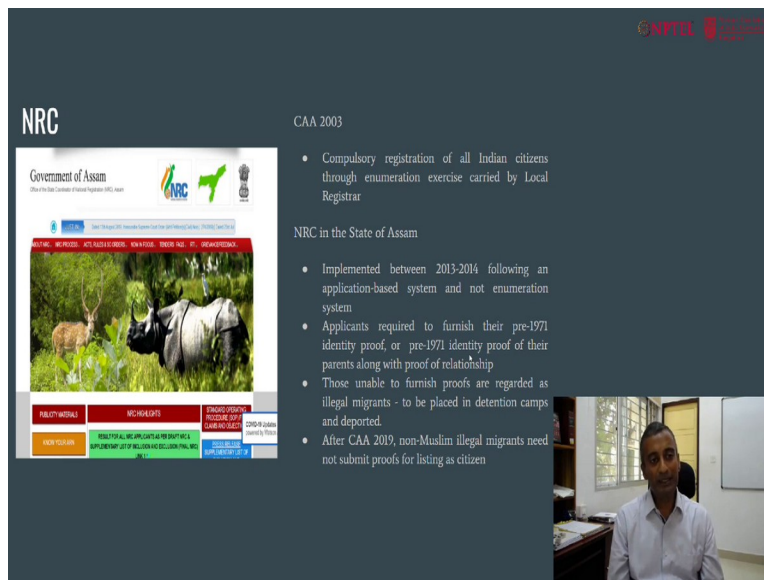
The UIDAI the Aadhaar effort was intended to yield a comprehensive identity database of the usual and notice the reference residence in the country for six months or more. The other registrars were not interested in making a determination about citizenship, they were only entitled to make, they were entitled to issue cards based on ordinary residents.

Aadhaar as we know collected both demographic and biometric data. So, it was meant to be a unique identifier without having to settle the question of citizenship. Notably providing of Aadhaar details was legally voluntary though as we know through creeping rules and regulations and it became quasi-mandatory in that process.

While notionally the NPR and the NRC process, the national registry of citizens process were meant to be distinct from the Aadhaar project at various points there were suggestions that one could be interpolated into the other mixed up with the other to generate a larger integrated database.

So, Aadhaar, NPR, NRC. Now, the Aadhaar act as was initially established sought to use Aadhaar as the basis for personal identity but after the Supreme Court struck down various provisions of the Aadhaar act this no longer came into effect. So, Aadhaar serves as one form of identification among others.

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NRC

Government of Assam
Office of the State Registrar of Assam (SRAS)

CAA 2003

- Compulsory registration of all Indian citizens through enumeration exercise carried by Local Registrar

NRC in the State of Assam

- Implemented between 2013-2014 following an application-based system and not enumeration system
- Applicants required to furnish their pre-1971 identity proof, or pre-1971 identity proof of their parents along with proof of relationship
- Those unable to furnish proofs are regarded as illegal migrants - to be placed in detention camps and deported.
- After CAA 2019, non-Muslim illegal migrants need not submit proofs for listing as citizen

Let us now turn to the NRC process, the NRC process was critically shaped by the question of the politics of the northeast in particular the state of Assam. In 2013-14 there was an application based system for the NRC and not an enumeration based system where people went out and counted those who were there.

In this application based system applicants were allowed to furnish their pre 1971 identity proof, 1971 being the relevant year for the creation of Bangladesh and as the concern was primarily about Bangladeshi immigration all applicants were required to show a pre 1971 proof of their parents having resided in India and their relationship with India.

Those unable to furnish these groups were to be regarded as illegal migrants and to be placed in detention camps and subsequently deported. So, the NRC already had developed a method by which one would be compelled to make an application and furnish proof to the relevant authority and if one failed to provide this proof one could be treated as an illegal migrant and potentially deported.

Then the citizenship amendment act of 2019 added another layer, another filter to this process because non-muslim illegal migrants were not required to submit proofs for listing as a citizen. So, non-muslim illegal migrants were removed from the scope of the NRC process in Assam, as we know that led to several protests but we need to better understand what is the citizenship amendment act the CAA of 2019 to develop a fuller picture of what these debates and protests are about.

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CAA 2019

- Objective: To grant citizenship to migrants belonging to persecuted religious minorities in certain countries
- CAA 2019 amends definition of **illegal migrant** under the Citizenship Act, 1955
- It makes provision for citizenship by naturalisation or registration for persons belonging to:
 - Hindu, Sikh, Buddhist, Jain or Christian community, and who migrated from
 - Afghanistan, Pakistan and Bangladesh before 31 December 2014
- Exempts them from application of Foreigners Act 1946

भारत राजपत्र
The Gazette of India

THE CITIZENSHIP (AMENDMENT) ACT, 2019

Under challenge before the Supreme Court on grounds that it violates of Art. 14 (Right to Equality), Art. 21 (Right to Life and Personal Liberty) and discriminates between persons on the basis of religion

What was the citizenship amendment act 2019? The stated objective of the act was to grant citizenship to migrants belonging to certain religious minorities in certain countries. The assumption was that these religious minorities persecuted and in these neighboring countries and it almost seemed to grant a right of return to certain populations to independent India.

The citizenship amendment act 2019 amends the definition of illegal migrant under the citizenship act of 1955. It allows for citizenship by naturalization or registration for persons belonging to Hindu, Sikh, Buddhist, Jain or the Christian community who migrated from Afghanistan, Pakistan and Bangladesh before 31st December 2014.

Now, you might ask why 31st December 2015 and you will find some explanations for that data. But what it essentially does is it paves a special path for citizenship to a selected group of religious migrants into India from select neighboring countries. It also exempts them from the application of the Foreigners Act.

Now, many of you will recall that the NRC process and its intricate interconnections with the Citizenship Amendment Act of 2019 presented, resulted in a range of political protests across India, currently this legislation is under challenge, it is before the Supreme Court on the ground that it violates a right to equality and a right to life and that it discriminates between similarly situated people on the basis of religion and we will find in the next few months to come a decision at the Court that might well settle these controversies.

But notice and I will say something in conclusion that the quotation that we read from Professor Jayal that the Indian model of citizenship is moving from a birth model to a descent model is writ large in the processes related to the NRC and the CAA.

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Part IV

Core International Issues with
Citizenship

Indian Expatriates and Immigration

Global and National Citizenship?



I now move to part 4 and the last part in of the lectures on citizenship and here I will focus on some core issues, global issues around citizenship, I want to talk a little bit about Indian expatriates and their immigration status in different parts of the world because it is important for India and Indians to think about citizenship not simply as a problem of those who want to come into India but also of Indians who want to be a part of various countries around the world for various reasons. I also want to spend a little bit of time talking about potential futures of citizenship a global or a national citizenship and what might we expect in the years to come.

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The slide is titled "Indian Expatriates" and features the NPTEL logo in the top right corner. It is divided into two main sections: "West Asia" and "Europe and North America".

West Asia

- Before the COVID crisis an estimated 7 million Indians lived and worked in West Asia
- Though labour and living conditions can be very hard for a majority of immigrants, the exchange rates make such migration attractive
- These immigrants do not have a path to citizenship despite paying taxes
- This is the largest group of Indian expatriates in any part of the world

Europe and North America

- The US Immigration and Nationality Act, 1965 permitted Indians to secure entry into the US in large numbers
- Nearly 1.2 million Indians reside in the US on H1B Visas and Green Cards pressing for a path to citizenship
- In Singapore, Canada and Australia, Indians have applied in record numbers to become Permanent Residents as a first step towards citizenship
- European nations are less welcoming of Indian immigration though the UK may be an exception

A small inset photograph in the bottom right corner shows a man in a white shirt sitting at a desk in a classroom or office setting.

We know that India has a large Diaspora, Indian expatriates have traveled across the world in search of work for other personal reasons for centuries but in recent decades this outward migration path has grown. West Asia is one of the most important areas to which most Indian migrants have gone right up until the Covid crisis we estimate almost 7 million population of Indians living and working in West Asia.

Often, we read in the papers about dismal labor conditions and very hard conditions of work for a vast majority of these migrants. But nevertheless, the exchange rate and the opportunity of work make such migration attractive. These immigrants pay their dues, their taxes and other levies in West Asia but there is no clear path to citizenship, it is unclear even if one is a resident in these countries for long periods of time whether there is a basis for making citizenship claims.

Significantly for India, West Asia is the largest group of Indian citizens, Indian expatriates in any part of the world. So, whenever we think of expatriates with the Indian discourse seems to focus excessively on the Diaspora in Europe and North America and ignores the Diaspora in West Asia. But this is indeed the region where the largest number of Indians are migrated.

Let me turn my attention to Europe and North America. The US immigration and nationality act of 1965 brought about a sea change in US immigration law which was still up until that point racially tinged, there were racial quotas on immigration and Indians did not have a significant part of that quota.

But once racial quotas and racial preferences were eliminated in the immigration process Indians emigrated in large numbers to the United States. Today almost 1.2 million Indians reside in the US on H1B visas or Green Cards navigating their way to a very complicated path to citizenship. Now, the concerns of these Indian expatriates has and because of the social class and the superior human development indicators that these migrants have usually very educated and wealthy Indians in the United States they have garnered a disproportionate amount of attention both political and cultural and among the Indian expatriates.

In Singapore, Canada and Australia, Indians have applied in record numbers to become permanent residents as a first step towards citizenship, as we know in the last half decade the numbers emigrating to these three jurisdictions have skyrocketed. European nations are less welcoming of Indian immigration overall though the UK may be something of an exception given a long cultural and historical connections albeit colonial ones.

European nations have a complicated model of citizenship though that is coming under some pressure and may while change in the next decade. But the populations of Indians in Europe is significantly smaller than in North America and West Asia. Oftentimes you will find Indian arguments for increased and relaxed rules of citizenship and migration in West Asia, in Europe and North America while simultaneously strong support for very strict rules against migration and citizenship in India.

It is something this contrast paradox in the nature of arguments about citizenship by Indians who emigrate outside India and by those who we want to keep outside India is something that we must think through and reconcile in thoughtful ways.

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The slide is titled "Future of Citizenship Debates" and features two columns of text. The left column is under the heading "Global Citizenship" and the right column is under "Nations and Citizenship". A small video inset in the bottom right corner shows a man in a white shirt speaking.

Global Citizenship

- Thousands of immigrants die each year trying to make perilous border crossings into the United States or Europe
- Despite the presence of refugee law, national legal and cultural regimes make safe migration rare
- The alternative is to move towards Open Borders with the Free Movement of Labour
- Such a policy would emphasize naturalization as the primary model of citizenship where birth and descent were secondary criteria.

Nations and Citizenship

- Jus Soli v Jus Sanguinis
- Civic citizenship v. Ethnic or Racial Citizenship
- Recent debates in India and elsewhere test whether a religious or civilizational basis for citizenship will replace a civic constitutional citizenship
- For eg: an Israeli Right of Return extends to every person of Jewish descent no matter where they were born or reside
- India's recent CAA amendments resemble the Israeli descent based model of citizenship

So, in the last in the conclusion of this lecture in the last slide I want to focus on how we might think about citizenship debates more generally, how should we think about it and can we reconcile at least be alert to the problems that might arise by taking certain positions both domestically and globally.

One approach is to think about the problem of citizenship as a problem of global citizenship, why are not we just citizens of the world, do we need national models of citizenship? We understand that despite the presence of refugee law and states that have signed up to the convention on refugees in the 1967 protocol, national legal and cultural regimes make safe migration into Europe and North America extremely rare.

Thousands of migrants die each year trying to make these very difficult perilous border crossings into the US and into Europe. How could we sort this problem out? We understand the economic logic of migration but how could we create a legal regime that respects this economic logic, while at the same time regulating and properly channeling questions and migration?

Is the alternative to move towards positions around open borders for Indians migrating out of India into various countries this is a very attractive option why should we be restricted if we choose to work in Dubai or in some other part of the world in Singapore, there should be a free movement of labor, if we are well trained and qualified to do these jobs then why should we be restricted?

But that same rule might apply to a migrant of some other South Asian state who may choose to pursue an economic career in India. If we indeed move in this model of citizenship, a global citizenship, we would emphasize that the most important criteria for citizenship would be naturalization, do you want to live in a particular country, are you willing to pledge allegiance to the constitution and institutions political institutions of that country?

If the answer to these two questions is yes, that all countries might adopt a naturalization protocol that did not have racial, cultural or linguistic restrictions, so long as people were willing to move voluntarily sought to move they may be allowed to live. Many might argue that this form of global citizenship is a utopian aspiration because countries seem to be pushing in precisely the opposite direction towards more nationalist restrictions on citizenship.

So, the other model would be to have a model of citizenship that was highly nationalist and restricted, such a model might rely on a Jus Sanguinis kind of model as we discussed with India and CAA 2019 or it might rely on a Jus Soli model that is required compulsory birth in a country in any event a Jus Soli, Jus Sanguinis model would emphasize a blood or a biological connection to a land rather than emphasizing where one wants a voluntary connection to a land.

Models of citizenship might be built around ideas of civic citizenship the fact that we belong to a country, one country under a constitution or might emphasize models of ethnic or racial citizenship if we say that for example that a country is a theocratic country that emphasizes one religion.

So, if Sri Lanka emphasizes its Sinhala identity or if India emphasizes its Hindu identity, the basis for citizenship a membership in those political societies would be shaped and molded around these identifiers rather than our willingness to conform to a constitution or to its plural values.

Recent debates in India CAA, NRC debates test whether a religious or civilizational basis for citizenship will replace a civic constitutional citizenship in India. This kind of replacement will not be peaceful nor is it likely to occur quickly, it appears to be a long shift and we might have to watch these shifts carefully to understand where India is going.

One pathway for a CAA 2019 is to resemble something like the Israeli right of return which extends to every person of Jewish descent, no matter where they were born or assigned. So, this is a Jus Sanguinis model of citizenship purely based on a cultural slash religious identity based marker which can give rise to a full citizenship in a country irrespective of where one might actually reside or one might have grown.

The really critical question for all of us to think about as we conclude this section on citizenship is whether the recent CAA amendments resemble a shift to this kind of an Israeli descent based model of citizenship? Now, whatever our individual and independent views on these questions might be, we must recognize that such a descent based model of citizenship should it grow would affect not only those who might want to come into India and those who are residing in India but those who choose to move out of India because arguably this kind of model of citizenship when adopted elsewhere would be hostile to Indian expatriate communities wherever they are as they would be treated as perpetual outsiders or worse in their countries, their current country's residents.

The ability of all of us as citizens of the country to take this inside, outside view of citizenship is critical for us to formulate a position that is both constitutionally sound as well as politically and economically sound for the billion plus people who live in this country called India. With that I close lecture 2 of week 4, look forward to seeing you back in week 5.