

A gradual anomaly in citizenship: In particular reference to non-citizens/refugees in India

Abstract

After India's independence (1947), the fundamental rights and responsibilities of citizens and non-citizens about citizenship were described in detail in the Indian Constitution, perceived as secular foundations of citizenship. At the commencement of the Constitution, India's citizenship policy was more inclusive based on the *Jus soli* principle for citizens and non-citizens, seen as an instrumental base of India's secular commitments. After five years of the commencement of the Constitution of India, the Citizenship Act, 1955, came into force to deal with the different categories of identity-related issues of Indian citizenship legally. But, over the years, India's citizenship policy has seen several consecutive amendments to the Citizenship Act, 1955, such as Citizenship (Amendment) Act, 1986, Citizenship (Amendment) Act, 2003, Citizenship (Amendment) Act, 2019. Each amendment was seen as not only challenging Indian norms of secularism but also moving away from the *jus soli* norms of citizenship, one the one hand. On the other hand, it moved closer or gave way to the blood-based *jus sanguinis* norms of citizenship. Or in other words, it was seen moving towards more inclusive to less inclusive citizenship.

The paper will describe gradual changes in citizenship "from more inclusive to less inclusive" diffusely, especially for non-citizens and refugees, by going far back in history to trace its roots in India. In the same vein, the Citizenship (Amendment) Act, 2019 presents a recent example of this depiction where it paves the way to grant Indian citizenship to some particular group of people such as Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians based on religious persecution in Pakistan, Afghanistan, and Bangladesh while excluding others such as Rohingyas from Myanmar, Ahmadiyya's from Pakistan, and Uighurs from China. By understanding the meaning of citizenship from a post-colonial perspective, the paper would argue that the inclusion of preferable categories and exclusion of others in the citizenship (Amendment) Act, 2019, has its root in the historical past in post-colonial trajectories or post-colonial citizenship practices. In addition, the paper hypothesises that India's citizenship policy regarding immigrants/refugees has been becoming less inclusive and, to some extent, exclusionary over the years under religious grounds.

Keywords: citizenship, India, non-citizens/refugees, Act