

SUBORDINATED CITIZENSHIP: MUSLIMS IN THE HINDU RASHTRA

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India's Citizenship Amendment Act (CAA), which passed in December 2019, violates the letter and spirit of the country's constitution. It blatantly discriminates against Muslims, thereby undermining the constitutional guarantees of equality to all Indians. This article examines the intention of subordinating Indian Muslims that underpins the constitutional amendment. Such subordination is consistent with the Bhartiya Janata Party (BJP)-led government's larger project of building a Hindu Rashtra—that is, an ethnically defined nation where Hindu supremacy is enshrined.

Proponents of the amendment defend the CAA's exclusion of Muslims by citing the "reasonable classifications" provided for in the Indian constitution. These reasonable classifications allow the government to institute protective discrimination in favor of members of Scheduled Castes (i.e., communities oppressed as "untouchable"—also known as Dalits) and Scheduled Tribes (i.e., communities stigmatized as "primitive"—also known as Adivasis). The amendment's supporters claim that the legislation fast-tracks citizenship claims of religious minorities—including Hindus, Buddhists, Sikhs, Jains, and Zoroastrians—persecuted in India's three Muslim-majority neighboring countries of Afghanistan, Pakistan, and Bangladesh.

However, constitutional experts disagree. The eminent scholar Faizan Mustafa (2019) argued that the classification cannot be considered reasonable because it does not cover *all* of India's neighbors. The amendment singles out Muslim-majority countries such as Afghanistan, Pakistan, and Bangladesh for coverage and also excludes Hindu and Muslim minorities persecuted in Buddhist-majority Sri Lanka and Myanmar, respectively. Furthermore, the amendment does not cover all persecuted minorities. It excludes from its ambit the Ahmediya community in Pakistan, the persecution of which is well documented. The Shia minority in all three Muslim-majority countries faces routine discrimination, which the amendment refuses to recognize.

The CAA provisions violate the egalitarian provisions of the Indian constitution. Article 14 states that any person residing within its territory has the right to equality before the law. Therefore, according to Article 14, migrants of the Islamic faith who entered the country before December 31, 2014, should be entitled to citizenship within the same provisions envisaged for members of other communities. Supporters of the amendment point to Articles 29 and 30 of the constitution to argue that the document, in fact, does discriminate in favor of religious minorities in India. They argue that both Articles have provisions to empower minority groups—linguistic, ethnic, and religious—to preserve their identity. However, the two Articles are designed to prevent discrimination against religious minorities in India. Article 29 prohibits discrimination on the basis of religion, race, caste, or language in admission to educational institutions. Article 30 calls for minority groups based on religion and language to set up educational institutions of their choice. Both Articles address discrimination on the basis of religion, which the CAA violates.

India's Home Minister Amit Shah defended the exclusion of Muslims from the amended citizenship laws by making disingenuous claims. He suggests that Muslims in Islamic republics, by

definition, cannot be subjected to religious persecution. The status of these countries as Islamic republics confers preferential treatment to all Muslims, Shah claims. However, he ignores the vast scholarship that suggests that declarations of institutional piety are used to persecute not only non-Muslim minorities but also Muslims allegedly deviating from officially sanctioned Islam. For example, women in Pakistan were subjected to draconian Hudood Ordinances that brought that country's penal code in line with Sharia laws. They could be sentenced to imprisonment, flogging, or death if accused of "crimes" such as adultery. The ordinances made it extremely difficult for women to prove an allegation of rape because they were required to provide evidence of their own good moral character. Indeed, as it happened, the number of women held in Pakistani prisons increased manifoldly within a decade of introduction of the ordinances: from 70 in 1979 to almost 6,000 in 1988. The persecution of Muslim women in Pakistan was arguably religious because their subordination was legitimized in the name of religion. By ignoring this evidence, India's Home Minister betrays the government's commitment toward eliminating discrimination against Muslims.

The explanation offered by the Home Minister is a shameless attempt to legitimize discrimination against Muslims and their subordination to the cause of establishing a Hindu Rashtra in India (Chatterji, Hansen, and Jaffrelot 2019; Rehman 2018; Roy forthcoming). His explanation is consistent with recent decisions adopted and implemented by the Indian government. For example, in August 2019, the government abrogated Article 370 of the constitution, which accorded special status to the country's only Muslim-majority state, Jammu and Kashmir. Not only did it strip the state of its autonomous status; it also divided it into two Union Territories, to be administered directly by Delhi. In November 2019, the Supreme Court awarded a tract of land in the northern Indian town of Ayodhya—disputed between Hindus and Muslims—entirely to the Hindus. A sixteenth-century mosque was demolished by Hindu mobs in 1992 to restore the temple to Rama, over which the mosque allegedly had been built in 1528. The Court awarded the land to the Hindus so they could build the temple. No less than the Prime Minister himself consecrated the temple. The Modi regime thus has built a rather robust reputation as one with a declared objective to subordinate Muslims. Benefiting from the success of both Supreme Court decisions, the CAA consolidates the concerted attempt by the BJP-led government to establish a subordinated citizenship for Muslims in India.

These attempts have a well-established genealogy in India. Vinayak Damodar Savarkar, who famously coined the term *Hindutva* to define Hindu-ness in 1923, envisaged a second-class status for Muslims (Noorani 2002). Distinguishing between Fatherland and Holy Land, he was prepared to concede that India may well be the Fatherland for India's minorities, given the fact of their birth in the country. However, it could never be their Holy Land because their places of worship were outside of the territory of India. The Rashtriya Swayamsevak Sangh (RSS), spiritual mentor to the BJP government, was even clearer: K. B. Hedgewar, who founded the RSS on September 27, 1925, famously compared Muslims to snakes. M. S. Gowalkar, another prominent ideological guru of the RSS who led the organization from 1940 until his death in 1973, made his aversion to Muslims clear in the following observations:

"If we (Hindus) worship in the temple, he (the Muslim) would desecrate it. If we carry on bhajans and car festivals (rath yatras), that would irritate him. If we worship the cow, he would like to eat

it. If we glorify woman as a symbol of sacred motherhood, he would like to molest her.”¹

To be sure, proponents of a Hindu Rashtra have refrained from calling for the liquidation or annihilation of Muslims; the sheer number of Muslims makes this impractical.² Rather, Hindutva

diverse, and distinct cultural and religious identity, which historically has been safeguarded by the Indian constitution. “By obliquely indicating that Hindus are the preferred community, the state is forcing Adivasis to switch sides to enjoy aids and benefits,” explained Neetisha Xalxo (personal communication

Rather, Hindutva ideologues and activists prefer a political community in which Muslims are disenfranchised and subordinated to the majority-Hindu community. The CAA’s blatantly discriminatory attitude toward Muslims moves India closer to their goal.

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NOTES

1. See M. S. Gowalkar, 2019, “The RSS Chief Who Remains Guruji to Some, a Bigot to Others.” www.theprint.in (accessed May 31, 2021).
2. For an incisive analysis on the challenges that Indian Muslims confront under the BJP rule, see Mujibur Rehman (2021 forthcoming), *Shikwa-e-Hind: Political Future of Indian Muslims*. New Delhi: Simon & Schuster.

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ACCEPTABLE CITIZENSHIP: INDIGENOUS COMMUNITIES AND INDIA’S NEW CITIZENSHIP LAWS

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On March 4, 2020, members of India’s indigenous communities, known as Adivasis (i.e., original inhabitants), gathered at Jantar Mantar—an iconic protest site in New Delhi—to register their objections against the Citizenship Amendment Act–National Register of Citizens–National Population Register (CAA–NRC–NPR). The protesters, who came from different parts of India, opposed them mainly on three grounds.

First, they were concerned that a large segment of Adivasis may not be able to prove their citizenship due to the lack of identification documents and, therefore, could lose their citizenship.

Second, the protesters believed that the Bharatiya Janata Party (BJP) and its affiliates are using the CAA–NRC–NPR to send a message that Adivasis should come within the Hindu fold, either by choosing Hinduism as their religion in government documents (including the upcoming 2021 Census) or by converting from their current faith. This “forced mainstreaming,” many Adivasis believe, may lead to the loss of their centuries-old, rich, vibrant,

with author), a Delhi University professor and an Adivasi from the eastern state of Jharkhand. “Many Adivasis are willing to convert for material gains and also to avoid trouble with the state. But they must realize they will be second-class citizens in the Hindu fold.”

Third, the protesters feared that Hindu refugees who come to India, using the CAA route, could usurp control of their natural resources—the Adivasis source of food and livelihood—with the help of an accepting government.

These anxieties are not unfounded for India’s 700-plus Adivasi communities,¹ whose members are scattered across India, concentrated in the central and northeastern parts of the country (Yengde 2020). This article discusses the Adivasis engagement with the CAA, focusing on indigenous communities in central and eastern India, where many of India’s Adivasis are concentrated. A significant number of Adivasis live in India’s northeastern states; however, recognizing their specific politics, this discussion is limited to indigenous communities in central and eastern India.

Resource Crunch

The fear of losing control over natural resources is not baseless. Although they have state-granted legal protection, successive government programs have forced generations of Adivasis to vacate their land and forests for development projects, mining, and implementation of forest and wildlife conservation laws. For a long time, the different regimes viewed the Adivasis as detrimental to forests and animals, as well as the cause of natural disasters, political violence (i.e., Maoism), and economic migration (Nilsen 2019; Shah et al. 2018).

The dire socioeconomic status of the Adivasis is evident in the data. The 2011 Census counted 104 million Adivasis, comprising 8.6% of the population. However, 51% of Adivasis live below the poverty line, compared to the 40.2% national average, and 65% are landless.² In 2006, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act accepted this fact and recognized the customary rights of forest dwellers, including their right over commons areas and their right to manage and sell forest produce (Chemmencheri 2015). “However, its implementation has been unsuccessful, thanks to inadequate community awareness, conflicting laws, lack of dedicated structural implementation, administrative roadblocks and government deficit,” according to Debjcet Sarangi, who was involved with the Kondh community in Odisha (*India Development Review*, <https://idronline.org/how-development-excludes-adivasi-peoples>).

Identity Crisis

The fear of losing control over resources and being forced out of their land is the result of a genuine problem that many Adivasis