Global policies and local realities: Examining idea of inclusive citizenship in post-CAA India

Determining who is a citizen requires determining who is not a citizen. This simple truism underlies the discourse that India has been propelled into having with the CAA and NRC. The exclusionary tendencies enshrined in these are not unique.

Citizenship, migration, and asylum policies in countries in the developed world (Canada, UK, US etc.) govern population movements at their borders and protect their sovereignty. But citizenship is not only about exclusion, but it is also about articulating policies on inclusion, integration, and tolerance, which can be a complex and imperfect process.

The experiences of traditional immigrant-receiving countries provide a useful starting point to discuss the terms of exclusion and inclusion for Indian citizenship. Despite the violence and contestation in India around the implementation of the CAA and NRC, this critical juncture offers a chance to imagine the possibility for more inclusive terms of belonging in India.

There are no easy comparisons of the trajectories of citizenship among former imperial states such as the UK, settler-colonial states such as Canada and Australia, and postcolonial nations such as India. Each of these countries bears their unique imprint and legacy of violence and colonisation.

For instance, countries like Canada, the United States, and Australia are created on indigenous land and their very existence and citizenship is a violation of indigenous rights. In fact, indigenous groups often cite the ways in which newer migrant groups are complicit in ongoing processes of colonization because of their
limited acknowledgement of indigenous exploitation and land disputes.

Historically, citizenship policies across Europe, North America, Australia, and New Zealand enshrined colonial relations by restricting the rights and entitlements of non-white persons, particularly from former colonies. They introduced measures such as the 1885 Chinese Immigration Act and 1908 Continuous Journey Act in Canada and the White Australia Policy (formally Immigration Restriction Act of 1901).

These measures served to categorically restrict the admission, settlement, and family reunification of non-white persons. For example, in Canada, the 1885 Chinese Immigration Act in Canada applied a “head tax”, a fixed fee to each Chinese person entering Canada.

Similarly, the Single Continuous Journey regulation prohibited the landing of any immigrant who did not arrive on a continuous journey. This regulation targeted many Indian labourers who often had to stop in Japan before heading to Canada. In addition to higher fees and impossible requirements, early Chinese and Indian labourers to Canada were not permitted to bring their families in order to eliminate any chances of permanent settlement.

Over time, these traditional immigration-receiving countries have removed explicit discrimination and preferential treatment based on social identity factors (race, gender, religion, etc.) from their citizenship laws in recognition of economic and societal needs. For example, Canada and Australia introduced a points system to select newcomers based on careful consideration of migrant contributions to economy, society, and politics.

This system favoured skilled persons wherein, skill served as a proxy for educational and work experience. Existing familial, kinship and community relations were also considered in different classes of migration, such as the Family Class in Canada and allowed for migrants to sponsor dependents. While these policies continue to be critiqued for systemically excluding poorer racialised minorities,
they have evolved in response to these concerns and incorporated inclusive measures.

In contrast to the above countries, India does not have a comprehensive and integrative framework for migration, refugee determination and citizenship. The 1955 Citizenship Act employed years of residency to determine eligibility for naturalisation.

Despite further amendments, including the 1985 Assam Accord and the 2003 CAA, which added notions of “illegality” and recommendations for the NRC, India maintained largely porous borders. India is also host to one of the largest refugee populations in South Asia. Currently, it accords rights to migrants and refugees largely on an ad-hoc basis.

For example, Tibetan and Sri Lankan refugees were accorded documentation and access to some government support. But the same treatment was not extended to the Bangladeshi refugees and more recently Rohingya refugees were turned back. At a fundamental level, the 2019 CAA and announcements to rollout an NRC can be seen as an attempt to formalise the citizenship process for migrants in India, which historically has been informal and therefore unpredictable.

In principle, the 2019 CAA does not question the citizenship of Muslims already residing in India. It is intended to create pathways to citizenship for persons fleeing religious persecution from Bangladesh, Pakistan and Afghanistan. However, it is the use of religion as a basis for exclusion that is highly contentious and has raised suspicions about the Indian state's desire to be less accessible to Muslims.

India’s use of religion as a basis of admission is regressive compared to the tried and tested regimes in the developed world that moved away from a social sorting logic towards an economic and human capital-based approach. Moreover, the idea of selection articulated in the CAA is only one part of what can become India’s vision.

An integrated framework of citizenship is incomplete without an articulation of the rights, responsibilities, and entitlements of
incoming migrants as well as policies to successfully integrate them into the host society while ensuring that one group, culture, or religion does not dominate.

Exclusionary tendencies must be developed alongside inclusionary measures with the aim of negotiating a legal, economic, social, and cultural contract between migrants and citizens. In addition to points systems, border walls, and a gamut of visas, Western democracies have introduced their unique renditions of multiculturalism and integration policies to achieve this goal.

A prime example is multiculturalism in Canada, which was introduced in 1971 with the intention to manage French nationalism in Quebec and increase Canada’s cultural diversity. In the 1980s and 1990s multiculturalism removed European preference systems and introduced human-capital based immigration policies, which describe, prescribe, and enforce the coexistence of different cultures, traditions, and practices.

Multiculturalism articulates a social contract, which recognises the integration of new citizens is a two-way street. Just as immigrant citizens are expected to make a commitment to their new society and to learn about its language, history, and institutions, so too the larger society must express a commitment to its immigrant citizens and adapt its institutions to accommodate their identities and practices.

Concurrently, multiculturalism entails policy measures such as cultural diversity training for police and health care professionals, government funding of ethnic cultural festivals, and ethnic studies programs among others.

Despite its ability to bring discussions of cultural tolerance and diversity in the mainstream, multiculturalism has been critiqued for remaining at a symbolic level and not challenging forms of structural racism and discrimination. Moreover, multiculturalism policy has been perceived as prioritising group rights and fueling ghettoisation of ethnic groups and disintegration of “the nation”.

This sentiment has been mobilised by a growing number of populist parties to support acts of white supremacist violence or far-right
terrorism in several countries in the developed world (e.g. shootings in a mosque in Christchurch, New Zealand, El Paso Walmart, and a synagogue and shisha bars in Germany in 2019). Britain’s public divorce with the EU (Brexit) rehearsed these same arguments of gaining control over borders and protecting against the threat and costs of foreigners.

The argument here is not for India to reproduce western multiculturalism but rather, use the current tension and existing constitutional principles such as secularism to facilitate greater dialogue around fairer naturalisation policies and develop an Indian notion of inclusive citizenship. While implementing modes of detection and selection such as CAA and NRC, the Indian government and people must grapple with some difficult questions: what is the vision of Indian society and culture that migrants/newcomers are expected to integrate to? Which economic, social, and political compromises are Indians willing to make to facilitate the integration of newcomers? What are the economic, social, and civic expectations of the host society from newcomers? As India grapples with the idea of citizenship, these conversations, which remain to be had, capture the tensions inherent in determining a larger cultural contract between migrants and citizens.

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