THE CITIZENSHIP QUESTION

The Evolution of a Democratic Republic

Nilanjan Mukhopadhyay*



PHOTO CREDIT: Karan Kumar Deshmukh

The nature of citizenship like that of the state, is a question which is often disputed; there is no general agreement on a single definition; the man who is a citizen in democracy is often not one in an oligarchy. - Aristotle

The decision of the National Democratic Alliance government headed by Prime Minister Narendra Modi to ensure passage of the Citizenship Amendment Act (CAA), is politically the most impactful one since assuming office in 2014. While other decisions, especially the step to render Article 370 ineffective, too will shape the future characteristics of the Indian Republic, the CAA strikes at its fundamentals because the legislation spells out anew who is an Indian, and who is not. Paradoxically however, the momentousness of this decision was not recognised when the process was initiated in September 2015 by the government with its move to amend the Passport (Entry into India) Rules, 1950, followed up with a further tweak in July 2016. When the legislation was first introduced, days before Afghanistan was added to the list of countries from where 'refugees' could become Indian citizens, it did not evoke the scrutiny it deserved. This underscores that while the Bharatiya Janata Party and its affiliated organisations assiduously went about its ideological pursuits, the Opposition -- in electoral politics as well as among the intelligentsia -- was entrapped in the government's strategy of opening several fronts simultaneously. Consequently, the Hindu Right's adversaries focussed on immediate specificities, be it repeated instances of mob lynching, the law criminalising instantaneous divorce among Muslims and the Ram temple issue, etc. As a result, the Sangh Parivar is now close to converting India into the nation of its dreams -- a mirror image of Pakistan.

Who was entitled to be an Indian citizen became a vexed matter the moment partition of British India became reality. Dr B R Ambedkar on August 10, 1949, in fact, remarked in the House that he did not think "that any other article has given the drafting committee such a headache as this particular article. I do not know how many drafts were prepared and how many were destroyed..." Eventually, the Constituent Assembly agreed that it would limit itself to "citizenship on the date of the commencement of (the) Constitution" and that Parliament, which would subsequently come into existence, will have the right to decide on the "business of laying down a permanent law of citizenship."[1]

Yet, divergences on political lines prevailed even on the limited question of who could be called an Indian citizen when the country would become a Republic. As Ambedkar acknowledged, these differences remained within the Drafting Committee as well. Eventually

> ***"Who was entitled to be an Indian citizen became a vexed matter the moment partition of British India became reality."***

* *Nilanjan Mukhopadhyay, journalist and author, is the author of, among others, The RSS: Icons of the Indian Right and Narendra Modi: The Man, The Times.*

five categories of people were drawn up on whom Indian citizenship could be conferred. These were: 1) Persons domiciled and born in India -- principally those who formed the bulk of India's population; 2) Persons domiciled in India but not born in India yet residing in India (chiefly people in Portuguese or French settlements or even the limited number of Iranians who had resided for long. The three other categories were: 1) Original residents of India but who had migrated to Pakistan (and had returned); 2) Original residents of Pakistan but who had migrated to India and finally; 3) Those themselves or their parents were born in India but at that time were residents elsewhere. Of these categories, it was politically logical for Indian citizenship to be conferred on all groups except in the case of those who crossed over twice -- once from the Indian side into Pakistan and thereafter, back to India.

The Islamophobic nature of a significant section of the Indian political leadership is one of the hidden realities in the immediate aftermath of partition. Although Indians chose not to follow in Pakistan's footsteps and define their nationhood on the basis of religious identity, the government applied different yardsticks for Hindu and Muslim immigrants to India. Inter-community violence had reared its head well before the Mountbatten Plan was announced but outbreak of clashes was not synchronised



PHOTO CREDIT: Karan Kumar Deshmukh

A man holds a placard against India's citizenship laws in a protest rally in Mumbai.

across the country. It was thereby evident that the transfer of population would be a long-drawn process. The length of the immigrations process varied from province to province, district to district. Although the focus of administrators was chiefly on Punjab, Sindh and Jammu regions, trauma in Bengal was no less, except that while the operation was 'surgical' in the west, in the east this was a protracted affair.

This may appear odd, but a number of Muslims who went away to Pakistan (both west and east) in the first wave in 1946-47, chose to begin returning to India. These people included, as Jawaharlal Nehru detailed in the Constituent Assembly, on August 12, 1949, those whose "family split up, when a part of the family has always remained here, a bit of it has gone away, the husband has remained here but has sent his wife and children away because of trouble etc.; he thought it safer or whatever the reason, he continued to stay here while his wife and children want to come back." More importantly however, Nehru also listed among the 'returnees' those people "whom you might call the Nationalist Muslims, those people who had absolutely no desire to go away but who were simply pushed out by circumstances...who having gone to the other side saw that they had no place there at all, because the other side did not like them at all; they considered them as opponents and enemies and made their lives miserable for them..."

But it took time for these Muslims to realise they were

unwelcome in Pakistan and they could still make India their homes. Yet, when they returned, they found themselves being discriminated against due to their religious identity. From July 1948, only those who secured permits from the Indian High Commission in Pakistan could return. For such people, it was a double whammy -- they were targeted in Pakistan for their views and in India for their identity, ironically in a country that promised to be home to people of every faith. Peculiarly however, the pressure on the Nehru government to have different yardsticks for Muslims as juxtaposed to Hindus or Sikhs, did not come from a formal Hindu Right platform -- it came from within. In the same Constituent Assembly debate, Nehru said that "one word has been thrown about a lot" and that he would like to strongly protest against its use. The word was actually an accusation. His statement explains that much of the contemporary Sangh Parivar vocabulary is drawn from the past: Nehru said accusations were hurled at his government that it "goes in for a policy of appeasement, appeasement of Pakistan, appeasement of Muslims, appeasement of this and that. I want to know clearly what that word means. Do the honourable Members who talk of appeasement think that some kind of rule should be applied when dealing with these people which has nothing to do with justice or equity? I want a clear answer to that. If so, I would only plead for appeasement. This Government will not go by a hair's breadth to the right or to left from what they consider to be the right way of dealing with the situation, justice to the individual or the group." [2]

Nehru also referred to the much-denigrated principle of secularism or concept of secular State, another word which he said was also "thrown up a good deal." Furthermore, the premier added, "May I beg with all humility those gentlemen who use this word often to consult some dictionary before they use it?... It has a great deal of importance, no doubt. But it is brought in, in all contexts, as if by saying that we are a secular State we have done something amazingly generous, given something out of our pocket to the rest of the world, something which we ought not to have done... We have only done something which every country does except a very few misguided and backward countries in the world."[3]

Significantly, when Nehru used these sharp words, Syama Prasad Mookerjee, former president of Hindu Mahasabha was Industry Minister in the Interim Government and he often found allies within the Congress. In hindsight, Nehru did not realise that the sentiment which had taken Mahatma Gandhi's life did not require a separate political front but had sustained on its own, at times within the Congress too. Not just the issue of citizenship but the principles Nehru cherished, also include his drive for a common Hindu Civil Code, another issue to which there was strong resistance and was again unresolved in the Constituent Assembly and left for Parliament to legislate later. Despite these concessions to the Hindu Right, Mookerjee was increasingly uneasy in the government and utilised the Liaquat–Nehru Pact (also known as the Delhi Pact) as occasion to part company. Days later, on April 19, 1950, Mookerjee explained his resignation: "Circumstances that have led to my resignation are primarily concerned with the treatment of minorities in Pakistan, especially in East Bengal," he wrote to Nehru, the letter later read out in Parliament.[4]

There certainly is history to the Hindu Right Wing's concern about religious minorities in specific countries --- just three countries in the Indian sub-continent while remaining blind to their targeting within India and other nations in the region. Mookerjee's letter was actually a culmination of his run-ins with Nehru on the extent to which New Delhi could exert pressure on Pakistan in dealing with its internal matter. While the former wanted direct intervention on behalf of religious minorities, Nehru's view was that "protection in Pakistan (to Hindus) can be given only by Pakistan." Significantly, Mookerjee also held Muslims

in disdain and even before becoming Mahasabha president was of the view that "Bengali Muslims were, by and large, 'a set of converts' from the dregs of Hindu society."

In his resignation letter Mookerjee also asserted, "let us not forget that the Hindus of East Bengal are entitled to the protection of India." Once again this is the first articulation in independent India that the country is a 'natural home' to all Hindus. In 1949-50, although a member of the union cabinet, Bengal was Mookerjee's primary region of interest. This is the primary reason for him to limit his interventions to Bengal and not extend his thesis to the Hindus of West Pakistan. In any case, the percentage of Hindus in West Pakistan by 1949-50 was miniscule compared to the eastern part. The purpose of recounting the debates in the Constituent Assembly and the reasons Mookerjee advanced for resigning from the government is to point out that the genesis of CAA lies in the past and the shaky foundations of 'secular' India. Despite the strength of the opinion which made a case, whenever occasion permitted, for India to follow Pakistan, it was due to Nehru's towering persona that India did not become a 'Hindu' Pakistan.

It was this pressure on the Sangh Parivar which forced it to mute its viewpoint on the issue of citizenship. Consensus on what was considered politically correct

> ***"Eventually, the Constituent Assembly agreed that it would limit itself to "citizenship on the date of the commencement of (the) Constitution."***

forced the BJP to embrace the Nehruvian definition of the nation and nationhood when it was formed after the Janata Party. While the party's initial advocacy of Gandhian Socialism after its formation in 1980 is well known, little is known about how the party defined the state. In its first-ever election manifesto, for the Lok Sabha polls in 1984, the BJP stated: "In Indian tradition, since times immemorial, the state has always been a civil institution, which makes no distinction between one citizen and another on grounds of his religion. The very idea of a theocratic state is alien to Indian political history. So, when India became independent in 1947, we very naturally declared ourselves a secular state, unconcerned that Pakistan had opted for theocracy."[5] Five years later, in 1989, when the BJP had forged tactical alliances with Janata Dal and through it, with the communist parties, to minimise the split in anti-Congress vote, its manifesto reiterated this position: "The idea of a theocratic state is an anathema to Indian mind and the BJP believes that State in India has always been a civil institution which respects all religions equally and makes no discrimination between one citizen and the other on the grounds of language, gender, caste or religion. It is the duty of the State to guarantee justice and security to all minorities– linguistic, religious or ethnic."[6]

To comprehend reasons for BJP's deceitful endorsement of India's inclusive character, although its ideology was based on the exclusion of Muslims, Christians, Jews and Zoroastrians, one must recall L K Advani's assertion after the Babri Masjid's demolition that the agitation was not just for building a Ram temple at Ayodhya but to popularise the idea of cultural nationalism and the Hindutva project. The wording of CAA demonstrates that BJP always believed in Savarkar's idea that "Muslims in India should be given the same kind of treatment as Pakistan gave to the Hindus in Pakistan. Frankly, the Indian Union was a Hindu State as every nation was called after the name of its national majority."[7] But in the late 1980s and early 1990s, the party was not in a position to push its divisive agenda at a conceptual level. This was best underscored in the decision to put Atal Bihari Vajpayee in harness in 1995 and relegate Advani to the secondary position. But the emergence of Modi marked greater acceptance

of the Hindutva idea and this explains why the BJP pushed its agenda of linking Indian citizenship to religious identity.

Significantly, the issue of "illegal infiltration" from Bangladesh crept into the BJP vocabulary from the late 1980s. Also, significantly, the promise of preparing a national level National Register of Citizens was included in every BJP Lok Sabha poll manifesto from 1989 onward. Even in 2019, the BJP pledged to "implement the NRC in a phased manner in other parts of the country."[8] The government clarifications merely say it has not yet initiated the process for nationwide NRC, but remains silent on whether the matter remains on the party's agenda and intention list. The present BJP definition of citizenship has also evolved through the process of introducing the idea of blood-based nationhood from 1999. This campaign reached its peak in 2004 when women BJP leaders, principally Sushma Swaraj and Uma Bharati raged against the possibility of Sonia Gandhi becoming prime minister. They threatened to tonsure themselves, an act portrayed in Hindu nationalistic narrative as sacrificing the pristine symbol of womanhood, at par with one's sexuality. Blood-nationalism was also the core of the BJP's promotion of the Overseas Citizen of India (OCI), a concept the party championed but which was implemented by the United Progressive Alliance government. The rules governing OCI cards mirror the CAA -- it is not issued to any person whose parents or grandparents are Pakistanis.

The CAA is undoubtedly the culmination of more than a century of efforts to define Indian nationhood on the basis of religious identity. In 2025, the Rashtriya Swayamsevak Sangh shall mark its centenary almost a year after V D Savarkar in his text, *Hindutva! Who is a Hindu?* codified Hindu nationalism. In his booklet, he defined a Hindu as "a person who regards this land of Bharatvarsh from the Indus to the Seas as his Fatherland as well as his Holy Land, that is the cradle of his religion."[9] Savarkar distinguished between *punyabhoomi* (holy land) and *pitribhoomi* or *matribhoomi* (fatherland or motherland), which when extrapolated meant that 'non-Hindus' couldn't call India their nation. In contemporary India, Muslims remain willing to call the country their own, but the BJP is relentlessly pursuing its objective of the nation declaring these people to be not their own. In conversations among the BJP's faithful, it is often said *unka khoon hi kharab hai* or their blood is bad. The legitimacy that this viewpoint has acquired will be difficult to rollback even if the current spate of protests electorally derails the BJP bandwagon. The majoritarian viewpoint requires a holistic opposition which does not look for pragmatic embrace of Hindutva, soft or hard. The CAA's passage has possibly made the emergence of such a political alliance all the more difficult.

(Endnotes)

1. Parliament of India, Lok Sabha. "CONSTITUENT ASSEMBLY OF INDIA DEBATES (PROCEEDINGS) - VOLUME IX, Wednesday, the 10th August 1949." Accessed February 10, 2019. https://bit.ly/39wzVAP

2. Parliament of India, Lok Sabha. "CONSTITUENT ASSEMBLY OF INDIA DEBATES (PROCEEDINGS) - VOLUME IX, Friday, the 12th August 1949." Accessed February 12, 2019. https://bit.ly/39AhRpv

3. *Ibid.*

4. Roy, Tathagata.2012. The Life & Times of Shyama Prasad Mookerjee. Gurgaon: Penguin Random House India. Google Books

5. BJP E-Library. "ELECTION MANIFESTO LOK SABHA ELECTION-1984 – Towards a New Polity." Accessed February 13,2020. https://bit.ly/39ym9O1

6. BJP E-Library. "MANIFESTO Lok Sabha Elections, 1989." Accessed February 13,2020. https://bit.ly/2vxjGox

7. Mukhopadhyay, Nilanjan. 2019. The RSS: Icons of the Indian Right. Chennai: Tranquebar

8. BJP. "Sankalp Patra, Lok Sabha 2019." Accessed February 14, 2020. https://bit.ly/2uBb1RW

9. Savarkar, Vinayak, Damodar.2003. Hindutva,116. New Delhi: Hindi Sahitya Sadan