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NATIONAL IDENTITY AND CITIZENSHIP: EXPLORING LEGAL FRAMEWORK AND CHALLENGES

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ABSTRACT

The research explores at the intricate interplay between **national identity, citizenship**, and the corresponding **legal frameworks** and challenges. The concept of national identity serves as the foundation in shaping policies and practices related to citizenship, exerting significant influence on a nation's socio-political landscape. National identity emerges from association with the national group, and its distinctive qualities are established by the nation. Citizenship is regarded as a dynamic construct and should be viewed as a 'process' through which certain rights and obligations are performed. While citizenship and national identity are interconnected, they represent distinct aspects of belonging and membership within a nation-state. Through an exploration of the legal frameworks governing citizenship in various jurisdictions, this research aims to unravel the complexities surrounding the acquisition, maintenance, and revocation of **citizenship rights**. Additionally, the study investigates the multifaceted challenges confronting these legal frameworks, ranging from issues of inclusivity and discrimination to concerns regarding security and sovereignty with special reference to The **Citizenship (Amendment) Act, 2019**. In the era of **globalization**, there are many evolving issues regarding national identity and these challenges need to be addressed. By studying these dynamics, the research seeks to shed light on the implications for individuals' rights, **societal cohesiveness**, and the broader discussion of national belonging.

Ultimately, this research contributes to a better understanding of the tangled relationship between

national identity, citizenship, and the legal procedures used in navigating the complexities of modern societies.

Keywords: National Identity, Citizenship, Legal Framework, Citizenship Rights, Citizenship (Amendment) Act 2019, Globalization, Societal Cohesiveness

INTRODUCTION

The word "national identity" refers to features of collective self-perception, sensibility, and conduct shared by people living in nation-states. It emphasizes psychological and cultural homogeneity among each country's people, as well as the concept that each nation may be seen as a collective individual, with characteristics identical to the real individuals that residethere.¹ Understanding the social force of feelings of national belonging has returned to this expression, which was first defined in Europe in the second half of the eighteenth century. In India, national identity has evolved in a complicated and diversified manner, affected by a long history, many cultures, and substantial political and social developments.

India is well-known for its enormous cultural variety, which includes a wide range of languages, religions, traditions, and ethnicities. The concept of unity in variety is essential to India's national identity, emphasizing that, despite differences, there is a common sense of belonging to the country. The Indian independence movement promoted solidarity and collective opposition to colonial control, eventually culminating in the foundation of an independent Indian country in 1947. Identities are always developing, and identity development occurs even today. There are also gender identities, which have evolved from abinary concept to a more complex one. The meaning associated with national emblems and flag designs, national bird selections, and national song lyrics. People associate symbols, colours, and words. They have the ability to inspire and bring people together. Countries frequently adopt new emblems when new nation-states establish or after they lose a war.

National identity is a means of defining culture through these limited, essentialized notions of 'being'. Being is associated with 'belonging' in concepts of citizenship.

¹ Libretexts. (2023, July 17). 7.2: What is National Identity? Social Sci LibreTexts. <https://www.sciencedirect.com/topics/social-sciences/national-identity>

Citizenship is defined as a legal/formal position that comprises having a certain nationality, possessing a passport, and derived from this status, enlightenments and claims, constitutional rights, as well as specified obligations and responsibilities². The concept of citizenship,

however, extends beyond the legal-formal framework to imply substantive membership in the political society. The reasons behind the rise of citizenship studies are unquestionably linked to the more general conditions known as "post modernization" and "globalization," as well as their specific manifestations, which include the reorganization of classes, the rise of new international government regimes, new political rationalities, and new regimes of capital accumulation. Amidst these developments, there is a pressing need to reconsider the new social movements and their struggles for recognition and redistribution as political subjects. Important social issues including homelessness, environmental injustices, immigration, refugees, and indigenous peoples' status have all become more widely communicated through the language of rights and responsibilities and, by extension, citizenship.

This study broadens our comprehension of the complex link of citizenship, national identity and the legal procedures needed to navigate the complexity of modern society. The research methodology is primarily doctrinal involves the systematic study and analysis of legal principles, doctrines statutes, journals to explore and develop a particular arguments and conclusion. Data sources, such as websites, journals, and research papers, are also used in the research.

NATIONAL IDENTITY AND ITS SIGNIFICANCE

A person's national identity is shaped by their interactions with other people and groups. It is social in nature, having been formed through social interaction, but it is also political in nature, having been collectively assigned to individuals through highly organized processes, political structures, and means. As a political ideology, nationalism shapes and denotes national identity. In modern times, nationalism is a common philosophy that has greatly impacted people's sense of national identity. Thus, nationalism and the national state must be taken into account in order to

² 2 Kumar, M., & Smith, R. M. (n.d.). Citizenship.

[https://www.deshbandhucollege.ac.in/pdf/resources/1586341345_Plsc\(H\)-VI-Citizenship-Lec_2.pdf](https://www.deshbandhucollege.ac.in/pdf/resources/1586341345_Plsc(H)-VI-Citizenship-Lec_2.pdf)

examine national identity. Nationalism, thus, is crucial to understanding national identity. “If we understand nationalism to consist of cognitive and discursive practices that enact and perpetuate a common-sense understanding of the nation-state as a natural cultural and political entity, then we can ask how such practices came to be taken for granted in the first place (as do scholars of nation-building) and how and when they are evoked in political claims-making and to what ends (as do scholars of political discourse).”³

Nationalism is a movement among nations and ethnic groups seeking political expression in their 'nation-state' as well as global recognition of independence and autonomy. The concept of "self-determination" refers to both liberation nationalisms and separatist movements by ethnic groups and minorities inside existing national entities desiring autonomy. Nationalism is a movement aimed at expanding and glorifying existing national states. Nationalism contributes significantly to shaping and strengthening national identity by fostering a sense of belonging, cultural cohesion, historical narratives, shared values, political unity, and responses to external threats. It is through these processes that individuals develop a strong attachment to their nation and identify themselves belonging to a particular nation.

The significance of national identity lies in its role in shaping individual and collective identities, fostering unity and solidarity, promoting social cohesion, and providing a sense of belonging and purpose within a nation⁴. It creates a shared sense of community, culture, and heritage that connects people across diverse backgrounds and experiences. National identity helps preserve and promote a nation's cultural heritage, traditions, language, and customs. It reinforces the importance of cultural diversity and fosters pride in shared cultural achievements, contributing to the preservation of cultural identities within the globalized world.

A strong national identity contributes to political stability by promoting loyalty to the nation-state and fostering trust in governmental institutions. It enhances social cohesion and reduces the likelihood of internal conflicts or separatist movements. It inspires citizens to contribute positively to society, engage in civic participation, and work towards common goals such as

³ Bonikowski, B. & Department of Sociology, Harvard University, Cambridge, Massachusetts 02138. (2016). Nationalism in settled times. *Annu. Rev. Sociol.*, 427–449. <https://doi.org/10.1146/annurev-soc-081715-074412>

⁴ Croe, N. (2023). Importance of nationality in the formation of personal identity and a sense of belonging. *Longdom*. <https://doi.org/10.35248/2332-0761.23.11.017>

economic growth, social justice, and environmental sustainability. National identity shapes a nation's interactions with other countries and influences its foreign policy decisions. It contributes to the formation of national interests, diplomatic relations, and alliances, as well as the projection of soft power and cultural diplomacy on the global stage. India's status as the world's largest democracy demonstrates its adherence to democratic concepts such as free and fair elections, rule of law, fundamental rights, and pluralistic governance. The democratic process is important to India's national identity, allowing citizens to help shape the country's destiny.

RELATIONSHIP BETWEEN NATIONAL IDENTITY AND CITIZENSHIP

The relationship between national identity and citizenship is complex and interrelated, with both ideas influencing and reinforcing one another in the framework of a nation state. This can contribute to a more harmonious and cohesive society. National identity and citizenship are strongly intertwined. National identity is a sense of belonging and affiliation with a certain nation or country. It includes common ideals, customs, languages, and cultures. Citizenship, on the other hand, is a legal position that confers certain rights and duties within a nation. It represents national citizenship and encompasses privileges such as voting and legal protection. Thus, national identification forms our sense of belonging, whereas citizenship formalizes our legal standing inside a nation.

National identity and citizenship support one another. Individuals who strongly identify with their nationality are more likely to actively participate in civic life, fulfil their obligations as citizens, and contribute to their country's well-being. Citizenship, in turn, provides individuals with a legal framework through which to defend and promote their national identity, guaranteeing that they have a say in defining the nation's destiny. A strong national identity can help immigrants and minorities integrate into the larger national community. When newcomers have a shared sense of identity with the dominant population, they may find it simpler to integrate culturally, linguistically, and socially, shortening the route to citizenship.

Citizenship laws and policies promote secularism and equality, making it simpler for people

from all origins to adapt into Indian culture and get citizenship⁵.

National identity and citizenship are frequently fostered by educational institutions and socialization processes. Citizenship education helps to convey the ideals, history, and symbols connected with national identity to future generations. Education helps to shape active and involved citizens who identify with their national community by providing an awareness of their rights and obligations. National education systems emerged during the state-forming process. A contemporary nation state. Modern education emerged as a means for rulers to establish their legitimacy and carry on their national identity. The history of citizenship education parallels that of contemporary state creation. Citizenship education is influenced by the construction of national ideology and identity, as well as the needs and future demands of the nation. Citizenship is a person's primary identity, regardless of their nationality, socioeconomic rank, or cultural background. He must confront the country as a citizen. Citizenship education may foster identity and a sense of belonging among citizens. It helps citizens identify with the national structure, essential values, and sense of responsibility to the country. These are significant things that shape residents' identity with their nation. Citizenship education aims to foster a strong feeling of national identification among citizens.

LEGAL FRAMEWORKS GOVERNING CITIZENSHIP

Citizenship is an expression of a person's relationship with the state. Citizens are full members of the Indian State and must pledge loyalty to it. They have full civil and political rights. Citizenship is granted under two widely accepted principles: While "jus sanguinis" acknowledges blood ties, "jus soli" awards citizenship purely based on birthplace⁶. According to the Constitution, citizenship is included in the Union List and falls solely under the purview of Parliament. The term "citizen" is not defined in the Constitution; nonetheless, Part 2 of the constitution provides information on the various categories of people who qualify for citizenship (Articles 5 to 11). Articles related to citizenship and its subject matter are discussed below-

⁵ BBC News. (2024, March 12). CAA: India's new citizenship law explained. <https://www.bbc.com/news/world-asia-india-50670393>. <https://www.bbc.com/news/world-asia-india-50670393>

⁶ Guzmán, D. H., & De Velazco, J. H. G. (2023). Global Citizenship: towards a concept for participatory environmental protection. *Global Society*, 38(2), 269–296. <https://doi.org/10.1080/13600826.2023.2284150>

Article 5 deals with Citizenship at the commencement of the constitution

Article 6 conferred citizenship rights for certain individuals who came to India from Pakistan.

Article 7 conferred citizenship rights to certain migrants to Pakistan.

Article 8 guaranteed citizenship rights to certain people of Indian heritage who live outside of India.

Article 9 Provided that any person who willingly acquires citizenship of a foreign state is no longer a citizen of India.

Article 10 deals with continuance of rights of citizenship

Article 11 enables Parliament to establish any legislation concerning the acquisition and termination of citizenship.

The Citizenship Act of 1955 governs the acquisition and determination of Indian citizenship. Indian citizenship can be obtained in four ways: through birth, descent, registration, or naturalization. The provisions are mentioned under the Citizenship Act of 1955.

- **By birth:** Individuals born in India on or after January 26, 1950, are considered citizens if one of their parents is a citizen of India or if the person is not an illegal migrant at the time of birth.
- **By descent:** Individuals born outside India on or after January 26, 1950, are considered citizens if their parents are Indian citizens.
- **By registration:** Certain categories of individuals, such as persons of Indian origin, can acquire citizenship by registering themselves with the relevant authorities.
- **By naturalization:** Foreign nationals who meet specific requirements and have lived in India for a predetermined amount of time are eligible to apply for citizenship through naturalization.

TERMINATION OF CITIZENSHIP

- **Renunciation:** Individuals who hold Indian citizenship and acquire citizenship of another country can renounce their Indian citizenship. This process typically involves submitting an application to the appropriate authorities, such as an Indian embassy or consulate abroad. Once renunciation is approved, the individual is no longer considered an Indian citizen.

- **Deprivation:** Indian citizenship can be deprived if an individual acquires citizenship of another country through naturalization and is subsequently found to have obtained it through fraud, false representation, or concealment of material facts. In such cases, the Indian government may revoke the individual's Indian citizenship.
- **Termination:** If an Indian citizen knowingly or willingly takes up citizenship in any foreign nation, their Indian citizenship may be revoked.

The Act prohibits dual citizenship or nationality. It only confers citizenship to people who meet the qualifications listed above, which include birth, descent, registration, naturalization, and territorial incorporation. The statute has been updated six times, in 1986, 1992, 2003, 2005, 2015, and 2019. Parliament's changes have narrowed the broad and universal ideas of citizenship based on birth.

2003 Amendment made the above condition more stringent, keeping in view infiltration from Bangladesh. With these restricted revisions, India has nearly reached the limiting notion of jus sanguinis, or blood kinship. This states that even if an illegal migrant has been in India for seven years, he cannot obtain citizenship through naturalization or registration. The Citizenship (Amendment) Act, 2015, amended the laws pertaining to Overseas Citizens of India (OCI) in the Principal Act. It has launched a new system named "Overseas Citizen of India Cardholder" that combines the Persons of Indian Origin (PIO) and OCI card schemes.

Citizenship Act of 1955 remains the primary statute controlling citizenship concerns in India. It has far-reaching implications for both those seeking citizenship and the country's overall demographic composition and identity. While the Citizenship Act of 1955 established a legislative foundation for citizenship issues in India, current arguments have centred on the Citizenship Amendment Act of 2019, which altered some aspects of the 1955 Act. The 2019 amendment has been controversial owing to its clauses about citizenship for persecuted minorities from neighbouring countries.

THE CITIZENSHIP (AMENDMENT) ACT, 2019

The Citizenship (Amendment) Act, 2019, often abbreviated as the CAA, is a controversial piece of legislation enacted by the Indian Parliament on December 12, 2019. The primary objective of

the CAA is to grant Indian citizenship to Hindu, Sikh, Buddhist, Jain, Parsi, and Christian immigrants who entered India from Afghanistan, Bangladesh, and Pakistan on or before December 31, 2014, due to religious persecution or fear of persecution⁷. Notably, the Act excludes Muslims from its purview, leading to allegations of religious discrimination. The CAA is part of a broader discourse on immigration and citizenship in India, particularly in relation to the country's religious minorities.

The CAA has been widely criticized both domestically and internationally for several reasons. The CAA contradicts the Assam Accord of 1985, which aimed to identify and deport illegal immigrants, irrespective of their religion, who entered Assam after March 24, 1971. The Act has raised concerns about the implementation of the National Register of Citizens (NRC) across

India, which could potentially render millions of people stateless, especially those who lack documentation or belong to marginalized communities.

Many other South Asian groups, including as Rohingya Muslims, Sri Lankan Tamils, Bhutanese, and Shias, will be barred with no justification under the discriminatory 2019 amendment. These neighbourhoods' tribe, too, have endured hardships as a consequence of their religious identities, and many are seeking refuge in India, their largest neighbour country. Although the amendment seeks to protect individuals facing persecution, it fails to recognize and expand these safeguards to include the Rohingyas, who are widely regarded as the most persecuted minorities in the world and have UN refugee status, in addition to the Sri Lankan Tamils, who make up India's largest refugee community.

The CAA has faced multiple legal challenges in Indian courts, with various petitions filed questioning its constitutionality and compatibility with fundamental rights guaranteed by the Indian Constitution, including the right to equality and non-discrimination. One of the main reasons against the CAA is that it breaches Article 14 of the Indian Constitution, which ensures equal treatment under the law and prohibits discrimination based on religion, race, caste, gender, or place of birth. Advocates claim that by giving preferential treatment to certain religious organizations while excluding others, the CAA discriminates against Muslims, violating the concept of equality.. They contend that by potentially rendering individuals stateless or

subjecting them to persecution based on their religion, the Act threatens their fundamental rights to life and liberty. India's Constitution enshrines secularism as one of its fundamental principles. Critics argue that the CAA undermines this secular character by favouring specific religious communities and creating a religious criterion for citizenship, which goes against the spirit of secularism. These legal challenges highlight the contentious nature of the Citizenship Amendment Act and the complex legal and constitutional issues surrounding it. The resolution of these challenges will depend on judicial interpretations and decisions regarding the constitutionality of the CAA.

CHALLENGES

In this globalized society, people frequently form transnational identities and connections that go beyond traditional concepts of national identity and citizenship. Globalization promotes increasing connection and cultural interaction, causing people to form numerous identities that go beyond their country membership. People may identify with a variety of cultural, ethnic, religious, or ideological groups, making it difficult to define their loyalty purely on the basis of citizenship. Global citizens may emphasize concerns such as human rights, environmental sustainability, and social justice, extending their advocacy and activity beyond national borders.⁸

The alignment of national identity and citizenship can result in exclusionary practices, in which certain groups in society are sidelined or denied full citizenship rights due to perceived disparities in national identity. This can increase societal divisions and inequities, compromising the concepts of inclusion and equity. Conflicting perceptions of national identity can exacerbate ethnic and cultural tensions within society. Disagreements about who belongs to the national community and who is eligible for citizenship can cause tensions and violence, especially in ethnically diverse or multi-ethnic nations. National identity and citizenship can become politicized, resulting in societal differences and polarization. Politicians may use nationalist emotions to seek political advantage, heightening social tensions and weakening democratic values. When politicians abuse nationalist emotions for political benefit, they may damage marginalized groups' rights and freedoms, degrade democratic institutions, and limit civic participation.

Citizenship rules that are viewed as unjust or discriminatory have the potential to undermine

faith in government institutions and democratic processes. When people feel marginalized or excluded from full involvement in society, they may lose faith in their national identity and question their loyalty to the nation-state. Statelessness occurs when individuals are not considered citizens by any country. This can result from various factors, including discriminatory citizenship laws, gaps in birth registration systems, migration, and conflicts. Stateless individuals face significant challenges in accessing basic rights and services, such as education, healthcare, and employment. Migration, whether forced or voluntary, presents challenges to citizenship regimes. Refugee crises, conflicts, and economic disparities often compel people to seek refuge or opportunities in other countries. Citizenship laws may not always accommodate the needs of migrants and refugees, leading to issues of legal status, integration, and protection.

DISCUSSION

Citizenship rules strike a balance between inclusion and exclusivity. Citizenship laws should be inclusive, providing equal rights and opportunities to all people, regardless of background. They express concern about exclusionary rules that could discriminate against specific groups, such as religious minorities or marginalized populations. Citizenship rules should protect the nation's secular foundation by treating all people equally, regardless of faith. They express concerns about aspects that could weaken India's secular citizenship regime. Citizenship laws should not discriminate against religion, caste, gender, or other social factors. They shall adhere to the values of equality and non-discrimination stated in the Indian Constitution. Providing easy access to citizenship for eligible residents, including refugees, stateless people, and expedite the naturalization process for those who meet the criteria should be taken into consideration, citizenship laws must comply with international human rights norms and commitments, such as the Universal Declaration of Human Rights and the Convention on the Rights of the Child

India's citizenship laws are complex and have been a subject of intense debate and controversy. The crisis of national identity is one of the most significant challenges among native people, also known as tribes, which are the primary units of every indigenous group. Today, this catastrophe has spread beyond the Indian subcontinent, threatening human and other forms of life on this planet. National identity crises can occur when citizenship rules create exclusions or divisions within a society, causing people or groups to doubt their feeling of belonging and identity within

the country. These crises frequently occur when citizenship laws are viewed as discriminatory, unjust, or arbitrarily applied. Identity crises can have serious implications, including social unrest, political instability, psychological pain, and emotions of exile. Addressing these difficulties frequently necessitates a combination of legal reforms, social inclusion measures, and attempts to encourage discussion and understanding among various populations across the country. While the government argues that these laws are aimed at protecting persecuted minorities and addressing security concerns, critics raise concerns about discrimination, exclusion, and violations of constitutional principles. The ultimate resolution of these issues will likely depend on judicial decisions, political negotiations, and public discourse.

CONCLUSION

In conclusion, the exploration of national identity and citizenship within the context of legal frameworks and challenges presents a multifaceted landscape of complexities, tensions, and implications. The findings of this research highlight the significance of National identity and citizenship and how they are interlinked with each other and emphasizes the need of investigating identity issues and national identity to get a better understanding of citizenship. Also, it looks upon the loopholes in the laws governing citizenship and how people get affected because of its discriminatory nature. The citizenship amendment act is widely criticized for excluding Muslims from its purview, leading to allegations of religious discrimination. that might result in statelessness for millions of individuals. Our analysis has shed light on the critical role of legal frameworks in forming the boundaries of national identity, functioning as both facilitators and limitations in determining who belongs and who is excluded. Globalization, migration, and cultural variety have increased the demand for nuanced and inclusive approaches to citizenship, challenging old notions and demanding adaptable legal frameworks. Although the relationship between national identity and citizenship should not be bifurcated, the latter seems to address how the difficulties can be resolved by striking a balance between exclusivity and inclusion. It addresses how citizenship laws should be inclusive, giving everyone the same opportunities and rights regardless of background.

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