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**THE JURISPRUDENCE OF BELONGING IN INDIA: A CRITICAL
STUDY OF CITIZENSHIP LAW THROUGH EQUALITY, DUE
PROCESS, AND JUDICIAL OVERSIGHT**- Harpreet Kaur¹**ABSTRACT**

Citizenship in constitutional democracies functions not merely as a legal status conferred by the State, but as a foundational expression of political belonging and equal moral membership. In India, this conception is deeply rooted in the Constitution's commitment to equality, dignity, & rule of law. This research advances the argument that Indian citizenship law must be interpreted through a jurisprudence of belonging, one that constrains sovereign discretion by constitutional principles of equality, due process, and robust judicial oversight. Through doctrinal and normative analysis, the research examines the constitutional framework governing citizenship, situating Art. 5 to 11 within the broader architecture of fundamental rights, particularly Art. 14 and 21. This research demonstrates that citizenship determinations and exclusions are subject to substantive equality review and procedural fairness requirements, rejecting arbitrary or discriminatory classifications. It further argues that the expansion of due process under Art. 21 necessitates rigorous safeguards in citizenship adjudication, especially given the severe consequences of exclusion, including statelessness and social marginalization. Judicial oversight emerges as a critical constitutional mechanism for preserving inclusivity and preventing majoritarian excesses in citizenship policy. By engaging with constitutional jurisprudence, comparative democratic practices, and principles of constitutional morality, this research conceptualizes citizenship as a relationship of reciprocal obligation between the individual & constitutional order, rather than as a privilege contingent on identity-based criteria. Hence, this research contends that a jurisprudence of belonging is not an abstract moral ideal but a constitutional imperative intrinsic to India's

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pluralistic democracy. It concludes that sustained judicial vigilance and rights-oriented interpretation are essential to ensure that citizenship law remains faithful to the Constitution's transformative vision of equal and inclusive belonging.

Keywords: Citizenship, Constitutionalism, Substantive Equality, Statelessness, Rule of Law, Pluralism.

BACKGROUND

In constitutional democracies, citizenship has undergone a decisive conceptual shift from a narrow juridical status conferred at the discretion of the sovereign to a substantive marker of constitutional belonging grounded in equal moral worth. Classical conceptions treated citizenship as an incident of state sovereignty, an instrument through which the polity defined insiders and outsiders with minimal normative constraint. Contemporary constitutionalism, however, reimagines citizenship as relationship structured by rights, obligations, and participation in a constitutional order. This transformation is anchored in the recognition that citizenship operates as the gateway to the enjoyment of civil, political, and socio-economic rights, rendering exclusion matter of constitutional, rather than merely administrative, concern. The idea of constitutional belonging, thus, foregrounds dignity, equality, and non-arbitrariness, insisting that the power to include or exclude must be justified through principled constitutional reasoning. In this framework, citizenship is no longer a revocable privilege but a status that implicates fundamental rights and is subject to heightened scrutiny, particularly where state action threatens to produce marginalization, statelessness, or civic death.²

The Indian constitutional experience exemplifies this evolution with particular force. Emerging from a history marked by deep social plurality & trauma of Partition, the Constitution consciously embraced an inclusive and secular vision of political membership, rejecting ethno-religious or cultural homogeneity as the basis of citizenship. This commitment is reflected not only in the Constituent Assembly Debates but also in the structural interdependence between citizenship provisions and fundamental rights. Contemporary debates on citizenship law, however, have exposed fault lines between constitutional ideals and exclusionary impulses, rendering citizenship a critical site of

² Amit Kumar Singh, *Critical Analysis of the Citizenship (Amendment) Act, 2019 and Its Socio-Legal Consequence*, Indian J. of Law & Legal Research vol. V, no. III, 1 (2019).

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constitutional contestation. These developments operate as a stress test for India's constitutional identity, raising urgent questions about the permissible limits of legislative and executive discretion. In this context, equality under Art. 14, due process under Art. 21 & power of judicial review emerges as indispensable safeguards against arbitrary and discriminatory constructions of belonging. Judicial oversight thus assumes a constitutive role in preserving the Constitution's pluralist ethos, ensuring that citizenship law remains anchored in constitutional morality rather than transient political majorities.³

CONSTITUTIONAL FRAMEWORK OF CITIZENSHIP IN INDIA

The constitutional framework of citizenship in India, embodied in Art. 5 to 11, reflects a deliberate design choice by the framers to treat citizenship as a transitional and foundational issue rather than a permanently codified constitutional category. Art. 5–8 addressed the exigencies of Partition, migration, and domicile at the commencement of the Constitution, consciously refraining from prescribing enduring or exhaustive criteria for the acquisition and loss of citizenship. This constitutional silence is doctrinally significant, it underscores the framers' intent to confer flexibility upon Parliament under Art. 11, while simultaneously embedding citizenship within the overarching discipline of constitutional supremacy. Judicial interpretation has consistently affirmed that legislative competence under Art. 11 is not plenary in the sense of being immune from fundamental rights review. In *State Trading Corporation v. CTO*⁴ and more decisively in *Maneka Gandhi v. Union of India*,⁵ court clarified that all law-making power, including in domains textually entrusted to Parliament, is subject to Art. 14 and 21. More recently, in *Assam Sanmilita Mahasangha & Ors. v. Union of India & Ors.*,⁶ court acknowledged that citizenship legislation implicates basic constitutional values, thereby attracting heightened judicial scrutiny. Thus, while Art. 11 authorizes Parliament to regulate citizenship, it does not license arbitrariness, exclusion, or classifications that transgress equality, reasonableness, and due process.

Citizenship in India functions not merely as a statutory entitlement but as a constitutional status that mediates access to the full spectrum of political and civil rights. While certain

³ M. Mohsin Alam Bhat, *Constitutional Citizenship in India: Contours and Contradictions*, in *The Cambridge Companion to the Constitution of India* 1 (2024), Queen Mary Law Research Paper No. 439/2025, <https://ssrn.com/abstract=4813677> (last visited Jan. 21, 2026).

⁴ 1964 SCR (4) 89.

⁵ 1978 SCR (2) 621.

⁶ 2015 AIR SCW 296.

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fundamental rights, as to Art. 15, 16, 19, and 29, are expressly confined to citizens, judicial jurisprudence has progressively narrowed the normative distance between citizens and non-citizens by extending Art. 14 and 21 to “all persons”. In *National Human Rights Commission v. State of Arunachal Pradesh*⁷ and *Louis De Raedt v. Union of India*,⁸ court affirmed that non-citizens are entitled to equality before law and protection of life and personal liberty, thereby circumscribing the State’s power to exclude or expel without fair procedure. This rights-expansive approach resonates with the founding vision articulated in the Constituent Assembly Debates, where Jawaharlal Nehru and B.R. Ambedkar explicitly rejected ethno-religious or civilizational tests of citizenship in favour of a secular, inclusive conception grounded in domicile and allegiance to constitutional values. The repudiation of religion-based citizenship was central to India’s constitutional identity, distinguishing it from contemporaneous nation-states formed on confessional lines.

EQUALITY AS THE CORE OF CITIZENSHIP JURISPRUDENCE

Article 14 of the Indian Constitution has emerged as the principal constitutional constraint on the State’s power to classify, include, or exclude individuals from citizenship. While citizenship legislation falls within Parliament’s competence under Art. 11, such power is neither plenary nor immune from constitutional scrutiny. Court has consistently held, beginning with *State of West Bengal v. Anwar Ali Sarkar*,⁹ that any classification must satisfy the twin tests of intelligible differentia and rational nexus with the object sought to be achieved. In the context of citizenship, this requirement assumes heightened significance because classification determines access to political membership & enjoyment of fundamental rights. Court’s jurisprudence has further evolved from a narrow classification doctrine to a robust anti-arbitrariness standard, most notably articulated in *E.P. Royappa v. State of Tamil Nadu & Anr.*,¹⁰ where arbitrariness itself was held to be antithetical to equality. This doctrinal shift was reaffirmed in *Maneka Gandhi v. Union of India*,¹¹ which fused Art. 14, 19, and 21 into a unified rights framework, thereby subjecting all state action, including citizenship determinations, to standards of fairness, reasonableness, and non-arbitrariness. Consequently, citizenship classifications that operate capriciously lack proportional justification, or impose

⁷ 1996 Supreme Court Cases (1) 742.

⁸ 1991 SCR (3) 149.

⁹ 1952 SCR 284.

¹⁰ 1974 SCR (2) 348.

¹¹ *Supra* note 4.

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unequal burdens fail constitutional muster under Art. 14, even if formally grounded in legislative policy.

The prohibition of discrimination, particularly on religious grounds, constitutes a non-derogable aspect of equality in citizenship jurisprudence. While Art. 15 expressly prohibits discrimination on grounds of religion, race, caste, sex, or place of birth, court has clarified that citizenship regimes cannot evade this constitutional mandate by invoking sovereign prerogative. The intersection of Art. 14, 15, and 21 ensures that citizenship laws are evaluated not merely for formal neutrality but for their substantive impact on dignity and equal moral worth. In *Navtej Singh Johar v. Union of India*¹² and *Joseph Shine v. Union of India*,¹³ court reaffirmed that equality is a dynamic, substantive guarantee aimed at dismantling structural exclusion rather than preserving majoritarian preferences. This jurisprudence culminates in the recognition that laws affecting core aspects of identity and belonging warrant strict constitutional scrutiny, particularly where they risk producing exclusionary or stigmatizing outcomes. Court's emphasis on proportionality, reaffirmed in *Justice K.S. Puttaswamy (Retd.) v. Union of India*,¹⁴ further reinforces that citizenship laws must pursue legitimate aims through the least restrictive means and with adequate procedural safeguards. Thus, Indian constitutional jurisprudence has decisively moved from formal equality towards a substantive equality paradigm, positioning citizenship law within a rights-based framework that prioritizes inclusion, dignity, and judicial oversight over unfettered legislative discretion.

DUE PROCESS AND PROCEDURAL FAIRNESS IN CITIZENSHIP DETERMINATIONS

The expansion of due process under Art. 21, following the seminal ruling in *Maneka Gandhi v. Union of India*,¹⁵ marks a decisive constitutional shift from formal legality to substantive fairness, a transformation that has direct and unavoidable implications for citizenship law. By holding that any "procedure established by law" must be just, fair, and reasonable, and not arbitrary, fanciful, or oppressive, court decisively rejected the notion of unreviewable executive discretion in matters affecting life and personal liberty. Citizenship determinations, though often framed as matters of sovereign or legislative policy, undeniably implicate the right to life and dignity, as loss or denial of citizenship exposes individuals to civil death,

¹² AIR 2018 SUPREME COURT 4321.

¹³ 2019 (3) SCC 39.

¹⁴ 2019 (1) SCC 1.

¹⁵ *Supra* note 4.

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detention, disenfranchisement, and social erasure. Subsequent jurisprudence, including *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi & Ors.*¹⁶ and *Justice K.S. Puttaswamy (Retd.) & Anr. v. Union of India & Ors.*,¹⁷ has clarified that Art. 21 protects not mere animal existence but the right to live with dignity, autonomy, and security. In this constitutional context, citizenship adjudication cannot be insulated from due process scrutiny merely by invoking plenary legislative power under Art. 11. Where the consequence of state action is the effective expulsion of an individual from the constitutional community, Art. 21 mandates heightened procedural and substantive safeguards. The denial or deprivation of citizenship thus engages the core of constitutional morality, requiring the State to justify its actions through fair procedures and proportionate means, consistent with the transformative vision of the Constitution.

Procedural fairness in citizenship adjudication is therefore not an administrative courtesy but a constitutional obligation. The principles of natural justice, adequate notice, a meaningful opportunity to be heard, reasoned decisions, and access to judicial remedies, form the irreducible minimum of due process in any proceeding that threatens citizenship status. Judicial interventions in citizenship-related adjudication have repeatedly underscored the dangers of opaque and asymmetric procedures, particularly where the burden of proof is placed disproportionately on individuals lacking documentary resources due to poverty, displacement, or historical marginalization. The insistence on evidentiary fairness flows from Art. 14's prohibition of arbitrariness and Art. 21's protection of dignity, requiring adjudicatory bodies to adopt standards of proof that are realistic, humane, and context sensitive. Most critically, the Constitution exhibits a clear aversion to statelessness, a condition incompatible with human dignity and democratic participation. Citizenship deprivation, as recognized in comparative and domestic constitutional reasoning, constitutes one of the gravest civil consequences the State can impose, short of criminal sanction. It must therefore be subjected to strict scrutiny, procedural rigour, and continuous judicial oversight. Any regime that normalizes exclusion without due process risks converting citizenship from a constitutional guarantee into a contingent privilege, undermining the foundational promise of equal belonging that animates Indian constitutionalism.¹⁸

JUDICIAL OVERSIGHT & ROLE OF CONSTITUTIONAL COURTS

¹⁶1981 SCR (2) 516.

¹⁷Supra note 13.

¹⁸Supra note 1.

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The Indian constitutional scheme places questions of citizenship firmly within the domain of judicial review, notwithstanding the broad legislative competence conferred by Art. 11. The Supreme Court has consistently held that judicial review is part of the basic structure of the Constitution, and consequently, no law relating to citizenship can claim immunity from constitutional scrutiny. Legislative and executive discretion in citizenship matters is therefore not plenary but constitutionally constrained by fundamental rights, the rule of law, and non-arbitrariness. In *State of Arunachal Pradesh v. Khudiram Chakma*,¹⁹ court underscored that citizenship-related exclusions cannot override the State's obligation to protect life and liberty under Art. 21. More recently, challenges to citizenship regimes have reaffirmed that classifications affecting access to citizenship must satisfy the tests of reasonableness, proportionality, and non-arbitrariness under Art. 14. The Court's evolving arbitrariness doctrine further limits legislative power by subjecting citizenship laws to substantive equality review. Within this framework, citizenship law is no longer viewed as a domain of unreviewable sovereign prerogative but as an area integrally linked to the basic structure, insofar as it impacts democratic participation, equality, and constitutional identity.

Constitutional courts have also assumed the role of guardians of constitutional morality, particularly in contexts where citizenship determinations disproportionately affect minorities & vulnerable populations. This counter-majoritarian function is central to constitutionalism, enabling courts to act as institutional checks against exclusionary or populist exercises of state power. In *National Human Rights Commission v. State of Arunachal Pradesh*,²⁰ court explicitly rejected majoritarian hostility as a justification for denying Chakma refugees' protection, affirming that constitutional rights are not contingent on popular acceptance. Court's jurisprudence, particularly in cases concerning citizenship adjudication processes, has emphasized procedural fairness, access to justice, and reasoned decision-making, recognizing that citizenship deprivation carries civil consequences of the gravest kind. The application of proportionality has further strengthened judicial scrutiny by requiring a rational nexus between state objectives and means employed in citizenship regulation.

THE JURISPRUDENCE OF BELONGING: A NORMATIVE FRAMEWORK

The jurisprudence of belonging, when located within Indian constitutional doctrine, decisively moves citizenship beyond a narrow, positivist conception of legal status toward a

¹⁹1993 SCR (3) 401.

²⁰*Supra*note 6.

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normative framework grounded in participation, recognition, and dignity. Judicial interpretation has consistently underscored that citizenship operates as a gateway to meaningful membership in the constitutional community rather than as a mere administrative classification. In *Maneka Gandhi v. Union of India*,²¹ court infused Art. 21 with substantive due process, establishing that any state action affecting life, liberty, or dignity must be just, fair, and reasonable, a standard that necessarily applies to citizenship determinations given their profound civil consequences. Similarly, in *National Human Rights Commission v. State of Arunachal Pradesh*,²² court affirmed that constitutional protections cannot be denied based on contested citizenship status alone, thereby recognizing belonging as rooted in human dignity and social presence rather than formal documentation. This approach reflects an understanding of citizenship as social and constitutional membership, a relationship constituted through lived participation in the polity, access to rights, and recognition by constitutional institutions. The judiciary's emphasis on dignity further reinforces that exclusion from citizenship is not a neutral regulatory act but an assault on personhood, demanding heightened constitutional scrutiny.

Contrasted against ethno-religious nationalism, Indian constitutional jurisprudence endorses a model of constitutional patriotism that grounds citizenship in allegiance to constitutional values rather than identity-based markers. The Constituent Assembly's rejection of religion as a criterion for citizenship finds doctrinal affirmation in *S.R. Bommai v. Union of India*,²³ where secularism was declared a basic feature of the Constitution, binding all exercises of state power. Judicial insistence on substantive equality under Art. 14, particularly the anti-arbitrariness doctrine, positions exclusionary citizenship frameworks as constitutionally suspect. From this perspective, citizenship law must affirm the equal moral worth of all persons subject to the Constitution, resisting hierarchies that fragment the political community. The jurisprudence of belonging thus emerges as a constitutional imperative, the State's authority over citizenship is fiduciary, not proprietary. Belonging is not a discretionary privilege bestowed by sovereign grace but a constitutional promise flowing from the democratic compact. As the Court observed in *Navtej Singh Johar v. Union of India*,²⁴

²¹Supranote 4.

²²Supranote 6.

²³1994 SCC (3) 1.

²⁴Supra note 11.

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constitutional morality requires institutions to protect inclusive citizenship even against majoritarian impulses.

CONCLUSION & A WAY FORWARD

The jurisprudence of belonging in India underscores that citizenship is not a mere statutory or administrative construct but a constitutional entitlement, inherently tethered to principles of equality, due process, and judicial oversight. The constitutional framework coupled with the judiciary's evolving interpretative interventions, demonstrates that arbitrary exclusions or discriminatory classifications are fundamentally incompatible with the transformative vision of the Constitution. While legislative competence confers plenary power to regulate citizenship, this authority is neither absolute nor immune from the constraints imposed by the basic structure, particularly the doctrines of equality, dignity, and constitutional morality. The path forward, therefore, requires a multi-pronged approach. Statutory reforms must embed procedural safeguards, transparency, & non-discriminatory criteria; administrative mechanisms must be accountable, guided by evidentiary fairness and rights-oriented adjudication; and courts must continue to assertively exercise review, ensuring that citizenship law does not erode the inclusive ethos of the Constitution. Furthermore, fostering a jurisprudence of belonging necessitates not only reactive adjudication but proactive constitutional discourse that reconceptualizes citizenship as a relational and participatory status, affirming the equal moral and political worth of all members of the polity. In an era marked by socio-political contestations over identity and exclusion, the consolidation of these constitutional norms is imperative to prevent marginalization, avert statelessness, and reinforce India's pluralistic democratic framework.

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