

---

**INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH**

---

**ASSAM ACCORD, THE NATIONAL REGISTER OF CITIZENS, AND  
THE CITIZENSHIP AMENDMENT ACT, 2019 - A CRITICAL LEGAL  
ANALYSIS IN THE CONTEXT OF CONSTITUTIONAL FEDERALISM  
IN INDIA**

- Harpreet Kaur<sup>1</sup>

**ABSTRACT**

The history of citizenship in India has been linked to migration patterns, identity & balance of the center and periphery, especially in the northeastern region of India, namely, Assam. The Assam Accord of 1985, the revising of the National Register of Citizens (NRC), & Citizenship Amendment Act (CAA), 2019 stand as three major interventions that prompt and attempt to address illegal migration. However, these initiatives raise a multitude of inter-related questions about the nature of the constitution as a framework for federalism, as well as the nature of the balance between the fundamental right to equality & constitutional right to secularism & rule of law. This research looks at the intersection of these coalitions, and provides legal and implementation challenges, and constitutional vacuum. This research argues that the Assam Accord, as a negotiated federal settlement to the region's needs is the NRC process & CAA, which violates the federal spirit, consequent to equal and secular constitutionalism. This research, along with the critiques of judicial theory and practices, reflects the growing citizenship jurisprudence in India and its broader implications for the federalism of the country.

*Keywords - Assam Accord, National Register of Citizens, Citizenship Amendment Act, 2019, Constitutional Federalism, Illegal Immigration, Equality, Secularism, Northeast India*

**INTRODUCTION**

The juristic meaning of citizenship is a formal legal status that defines the mutual relationship between an individual & State, an enforceable bundle of rights, obligations, immunities and

---

<sup>1</sup> Research Scholar (Guru Nanak Dev University)

liabilities, and simultaneously a sense of political and civic belonging that is intangible, yet at the same time significant. In the terms of the Indian constitution, citizenship has not been an unchanging concept since the beginning of time; the concept has undergone a process of gradual evolution over time, influenced by the provisions of the constitution, legislative enactments, executive interventions, all responsive to the changing socio-political needs of the times. The dynamics of cross-border migration, where patterns of movement have been both outward and inward, initially, of East Pakistan, and then, of Bangladesh, have created a long-standing demographic panic, struggles over identity and even, instances of socio-political instability making the question of citizenship all the more complex and contentious.<sup>2</sup>

The unrest in Assam, which was mainly initiated by student groups between 1979 and 1985, was a prolonged political mobilization against the perceived infiltration of illegal migrants and its effects upon the cultural and electoral sovereignty of the indigenous people. This movement finally led towards the Assam Accord, a tripartite agreement between the representatives of the agitators & Government. The Accord was aimed at institutionalizing a mechanism for dealing with the problem of illegal immigration by prescribing a certain temporal limit. To be precise, it declared March 24, 1971, as the cut-off date, thus stipulating that any individuals who entered Assam after this date would be liable to detection and deportation as per law. The normative framework of the Accord was then incorporated into the statutory regime through the introduction of a new section, Section 6A, the new section carving out a new exception to apply exclusively to Assam. This provision was an effective regularization of the position of certain categories of migrants who had entered the State before the stipulated cut-off date and, therefore, established a differentiated legal regime within the overall national law on citizenship.<sup>3</sup>

Despite its official inclusion into statutory law, the process of the Assam Accord enforcement was uneven over the course of several decades, which has led to the continued uncertainty and dissatisfaction with the process of the Assam Accord enforcement. Only in 2019, when the renewed institutional attention was paid to these issues, especially in the context of the implementation of the CAA, 2019 in Assam, and judicial recommendations to update the NRC. The citizenship scheme proposed by the CAA, 2019 provided a new framework of granting citizenship that was based upon a set of specified criteria such as a revised cut-off

---

<sup>2</sup> Pervez Rahman, "The Citizenship Amendment Act and its Correspondence with the Assam Accord and the NRC: A Constitutional Analysis", *Journal of Legal Studies & Research*, 9(1), 79 (2023).

<sup>3</sup>*Id.*

date & identification of particular religious groups, namely, Hindus, Sikhs, Buddhists, and Christians, originating in Pakistan, Afghanistan, and Bangladesh. By introducing a differentiated categorization which operates in parallel with the already existing regime under Sec. 6A of the Citizenship Act, 1955, the enactment introduced a differentiated categorization, which is now coexisting with the already existing regime under Sec. 6A of Act, 1955.<sup>4</sup>

The combination of these legal measures, i.e., the provisions of the Assam Accord in the form of the Sec. 6A, the process of updating the NRC & statutory framework proposed by the CAA, 2019, begs some serious constitutional questions with regards to the structure and functioning of the Indian Union. Particularly, these developments imply that the horizontal relationship between citizens inter se & vertical relationship between individuals & State should be critically examined in connection with the principles of equality, secularism and federalism. The visible inconsistencies and overlaps between the two regimes raise a question of whether the two can be reconciled within the constitutional fabric that exists in India or whether there are normative inconsistencies which arise because of these regimes.

### **THE ASSAM ACCORD - A FEDERAL COMPACT**

The Assam Accord, signed on August 15, 1985, exemplifies a federal settlement under the Indian Constitution, particularly focusing on regional issues. An understanding to deal with illegal immigration was reached, but the Assam Accord was also careful to preserve the identity of the Assamese people, which includes their culture, society, and language.

In the Assam Accord, the primary legal provision was Sec. 6A of the Citizenship Act, 1955, which creates a unique framework for the State of Assam. This Act classifies three categories of immigrants -

- The immigrants who came to the State of Assam before January 1, 1966, are recognized as citizens.
- Immigrants who came to the State of Assam between January 1, 1966, and March 24, 1971, are to be detected and then disenfranchised for a period of ten years but are then granted citizenship.

---

<sup>4</sup> *Id.*

- The immigrants who came to the State of Assam after March 24, 1971, are recognized to be illegal immigrants and are to be deported.<sup>5</sup>

This provision suffered from a number of constitutional challenges, particularly with respect to Art. 14 (equality). Court also did not conclusively examine the constitutional validity of Sec. 6A, which still remains open to adjudication. The Assam Accord has been cited and recognized for its historical and political value by court in Assam Accord's cases. Court in *Sarbananda Sonowal v. Union of India*<sup>6</sup> stated the concerns in relation to the illegal immigrants and their effects on the integrity and security of the nation and also pointed out the challenges faced by court in regard to the Illegal Migrants (Determination by Tribunals) Act, 1983 which was found to be unable to serve its purpose.

Court noted that maintaining the status quo of the Assam Accord needed Assam Accord enforcement, accepting the Accord as a legally binding pledge, and politically. Nevertheless, there are those who believe that court's willingness to become involved in balancing acts of enforcement has shifted the scale inevitably in favor of national security at the expense of individual rights.

In the view of federalism, the Assam Accord can be understood as a form of federalism. It did not come about as an imposition by the Union, instead as an agreement of negotiations, focusing on regional participation. The Assam Accord reflects an appreciation of the federalism of Assam's demography and culture. Inconsistency in enforcement of provisions of the Assam Accord also creates political and legal vacuum. This has also contributed to the aggravation of issues of citizenship in Assam and has had an enduring effect on political and legal vacuum.

## **NATIONAL REGISTER OF CITIZENS - FRAMEWORK OF LAWS AND CONSTITUTION**

*Assam Public Works v. Union of India*<sup>7</sup> also paved the way for the NRC to become a part of the most unique and comprehensive citizenship verification program in Independent India. State citizenship as outlined in Assam's NRC was referenced through the Act, 1955, & Citizenship (Registration of Citizens and Issuance of National Identity Cards) Rules, 2003. For applicants to register as citizens of India, they had to demonstrate roots in Assam that

---

<sup>5</sup> Darshana Saikia & Diganta Hatiboruah, "Migrants and Citizenship: Analysing the CAA, 2019 through National and Regional Perspectives with a Focus on Assam", *IOSR Journal of Humanities and Social Science*, 31(2), 23 (2026).

<sup>6</sup> (2005) 5 SCC 665.

<sup>7</sup> AIR ONLINE 2019 SC 2258.

predated the demarcation of what became defined as Assam's border in 1971. The exercise in citizenship verification was a multi-step and complicated exercise. It involved verification of each and every submitted documentation on the list and also involved adjudicating claims and also reviewing the objections to the lists that were published.

Court played an important role in shaping the NRC process. Court provided ongoing instructions to facilitate progress of the update, stipulating a deadline for its completion. While the progress of the update reflected the capability of the judiciary to exercise oversight to ensure accountability, it raised concerns of the judiciary stepping into the role of the executive which over time blurred the boundary of functions.<sup>8</sup>

There has been considerable criticism of the NRC process with the grievances stemming from the complexity of procedural requirements with unclear or arbitrary outcomes. Marginalized groups faced the most repercussions, due to the NRC process being time-consuming and requiring legacy documents stretching back multiple decades.

Lack of proper procedures with a tendency to err have raised concerns about the right to citizenship, threatening the right to personal liberty and dignity as provided by Art. 21. Court has held the right to life encompasses dignity and liberty in *Maneka Gandhi v. Union of India*.<sup>9</sup> Furthermore, for many, the outcome of being left out of the NRC was being thrust into the limbo of the "foreigner" category, leading to detention with serious implications for international relations and human rights.

The NRC process in Assam also represents an increasing trend of the Union government implementing an outcome leaning toward a more simplified and centralized phrasing of the control and alliances over the final outcome of citizenship. It was the central legislative and judicial commands, implemented in Assam to the neglect of the state government. To an extent, the final practitioners in the tiered control language on citizenship were the British colonialists, it has to be said. The challenge to control and partnership in citizenship in a federal system remains.

## **FRAMEWORK AS TO CITIZENSHIP AMENDMENT ACT, 2019**

---

<sup>8</sup>Jayanta Boruah, "Constitutional Validity of Citizenship (Amendment) Bill 2016 with Special Reference to Assam Accord: A Review of the Process of Updating National Register of Citizens", *SSRN Electronic Journal* (2018).

<sup>9</sup> (1978) 1 SCC 248.

The CAA, 2019, introduces religion as a basis for citizenship, fundamentally changing India's citizenship policies. The CAA, 2019 modified the Citizenship Act, 1955 to offer expedited citizenship to Hindu, Sikh, Buddhist, Jain, Parsi, and Christian immigrants from Pakistan, Bangladesh, and Afghanistan who entered India on or before December 31, 2014. Muslims are excluded from this benefit making the law religion based.

The CAA, 2019 has been contested through judiciary on multiple grounds. Critics assert that the religion-based classification is arbitrary and has no rational relation to the purpose of the law. Secularism is a component of the Constitution's basic structure in *Kesavananda Bharati v. State of Kerala*.<sup>10</sup> Court observed that arbitrariness is opposed to equality in *Shayara Bano v. Union of India*.<sup>11</sup> The CAA, 2019 contradicts the Assam Accord by pushing the cut-off date for specific groups of migrants beyond March 24, 1971. This has a direct effect on the Accord's fundamental structure and has caused significant unrest in Assam. From a legal standpoint, this brings to the fore concerns of the extent to which Parliament is justified in overriding a previous political agreement that has been formalized in law by legislation.

### **THE CITIZENS AND THE LAW - CONSTITUTIONAL FEDERALISM AND THEORIES OF CITIZENSHIP**

The interrelationship between the Assam Accord, NRC, & CAA, 2019, manifests this tension in India's federal constitutionalism balancing the distribution of powers, regional identity, & integrity of constitutional morality. Citizenship as per the Seventh Schedule of the Constitution in the Union List (Entry 17), is the sole prerogative of Parliament. However, the enforcement of citizenship legislation, especially in the socio-politically charged region, such as Assam, involves state interests, administrative systems, and regional self-governance. There is a structural dilemma, the Union has the de jure power, & de facto consequences of the power exercised rest with the States.<sup>12</sup>

The Assam Accord is one of the asymmetric federalism cases, where the Union accepted the uniqueness of the historical, socio-cultural, and demographic attributes and concerns of Assam and entered a negotiated settlement. These types of arrangements, in the federal construct of India, are not unfamiliar, especially with the special provisions in Art. 371 & erstwhile Art. 370. The Accord, in this light, was a political and administrative

---

<sup>10</sup> (1973) 4 SCC 225.

<sup>11</sup> (2017) 9 SCC 1.

<sup>12</sup> Neelakshi Talukdar, "Citizenship Debate over NRC & CAA: Assam and the Politics of History", *Asian Ethnicity*, 1 (2021).

arrangement with a quasi-constitutional character providing for regional aspirations in the vertical legal framework of the country. However, the post-CAA, 2019, and in violation of the agreed cut-off date of the Accord, alters the balance of asymmetric federalism, reflecting the sacredness of federal compacts. It indeed poses the question of whether Parliament can transgress courtesy of federalism and sustain the essential character of federalism and cooperation.

More judicial pronouncements have considered federalism to be part of the Constitution's basic structure, thus curbing the scope of amending powers and legislative powers of Parliament. Court held that federalism is a basic structure of our Constitution and there is a delicate balance of unity and diversity in *S. R. Bommai v. Union of India*.<sup>13</sup> Court in *State (NCT of Delhi) v. Union of India*<sup>14</sup> reiterated that the Union must honor the autonomy of the States and must function within the framework of cooperative federalism. The CAA, 2019 is in infringement of the federal bargain, neither respects the federalism essence of balance nor the federally negotiated settlement as enshrined in the Assam Accord.

Moreover, NRC process was primarily influenced, not by the statutory framework, but by a combination of judicial activism and a significant degree of central administration that ignored the State administration's role. Court's intervention in *Assam Public Works v. Union of India*,<sup>15</sup> further strengthened the process diplomatically, but court also took the unusual step of judiciary-centric administrative control. Therefore, the distribution of powers within a federal structure becomes crucial in determining the boundaries of the judiciary, as well as the constraints of the judiciary in complex administrative matters.

### **EQUALITY AND SECULARISM REGARDING THE CITIZENSHIP PARADIGM**

The subversive nature of the CAA, 2019 & constitutional dilemma it creates cannot be evaluated wholly from the perspective of the constitution's framers & document's interpretation. Art. 14 emphasizes the notion of equality and that any distinction must be one of intelligible differentia and be of rational character. The arbitrary classification of the CAA, 2019 that is based on religion, is in questionable breach of the constitution in line with court's evolving perspective on the concepts of arbitrariness and equality.

---

<sup>13</sup> (1994) 3 SCC 1.

<sup>14</sup> (2018) 8 SCC 501.

<sup>15</sup> (2015) SCC OnLine SC 274.

Court in *E.P. Royappa v. State of Tamil Nadu*,<sup>16</sup> extended the interpretation of Art. 14 of the Indian Constitution and ruled that arbitrariness shall be defined as antitheses of equality. The arbitrariness principle on the subject of equality was also sustained with respect to the abolition of the practice of instant triple talaq, where the practice was said to be one of arbitrariness in *Shayara Bano v. Union of India*.<sup>17</sup> By extending the principle of equality and arbitrariness to the issue of CAA, 2019, the policy of exclusion of Muslims from the Act cannot be justified, particularly in view of the fact that the violence and persecution of the discriminated against is not confined to the religion of Islam.

Aside from that, secularism, which was determined as part of the Constitution's basic structure through *Kesavananda Bharati v. State of Kerala*,<sup>18</sup> and which legally binds the State to religious neutrality, derives that the CAA, 2019 contravenes that principle and goes on to grant preferential treatment to religions. Publicly that goes on to establish the CAA, 2019 as a blatant violator of Indian secularism and goes on to establish that citizenship on the basis of religion, rather discriminate on the basis of religion. The NRC&CAA, 2019 have gone on to establish a scenario in which the State has been put on notice to come and rectify this violation of religious discrimination and inequality.

Indicator	Data
Total Applicants for NRC	3.30 Crore
Total included in final NRC	3.11 Crore
Total excluded from NRC	19.06 Lakh
Illegal migrants estimate (Assam)	~40 Lakh (Claimed)
Muslim population in Assam (1971)	24.6% <sup>19</sup>

<sup>16</sup> (1974) 4 SCC 3.

<sup>17</sup> (2017) 9 SCC 1.

<sup>18</sup> AIR 1973 SC 1461.

<sup>19</sup>Mridugunjan Deka, "Lost in Spontaneity: Revisiting the Decline of the Anti-CAA Protests in Assam", *Economic & Political Weekly*, 60(9) (2025).

Muslim population in Assam (2011)	34.2%
Foreigners Tribunals in Assam	100+ functioning <sup>20</sup>
Detention centres (approx.)	6 operational

## CONCLUSION & A WAY FORWARD

The curve of the Assam Accord through the NRC to the CAA, 2019 indicates a greater structural tension in the citizenship system of India, that which vacillates between negotiated federal accommodation and assertive central standardization. The subsequent events, although they demonstrated that region-specific issues could be resolved by means of dialogue and cooperative federalism, signal that a more unilateral approach was now being adopted, which threatens to dilute constitutional guarantees. The resultant structure does not just seek to provide regulation of migration; it transforms the meaning of belonging as such, in a variety of ways that tend to pose challenging questions about equality before the law & secular nature of the State. This stratified development is not deliberate policy development, but the piecemeal reaction to the issue whereby instruments of law are deployed without necessarily having reconciled its constitutional implications.

The tensions between the Assam Accord and the Citizenship Amendment Act, 2019 may also be approached through the doctrine of harmonious construction, a well-established principle of constitutional interpretation which mandates that seemingly conflicting legal provisions must be interpreted in a manner that allows both to coexist without rendering either otiose. Applying this doctrine, Section 6A of the Citizenship Act, which embodies the Assam Accord's region-specific federal compromise, ought to be read in a manner that preserves its distinct cut-off date of March 24, 1971, while interpreting the CAA, 2019 in a way that does not dilute or override this negotiated settlement.

In this light, the CAA, 2019 should not be construed as an implied repeal or modification of the Assam Accord framework in Assam, but rather as a general provision applicable subject to the special regime governing the State. Such an interpretation would uphold the

---

<sup>20</sup> Abu Sufian, "Geopolitics of the NRC-CAA in Assam: Impact on Bangladesh-India Relations", *Asian Ethnicity*, 1 (2020).

constitutional values of federalism, respect for political compacts, and legal coherence, while avoiding direct conflict between parliamentary legislation and historically negotiated regional arrangements.

