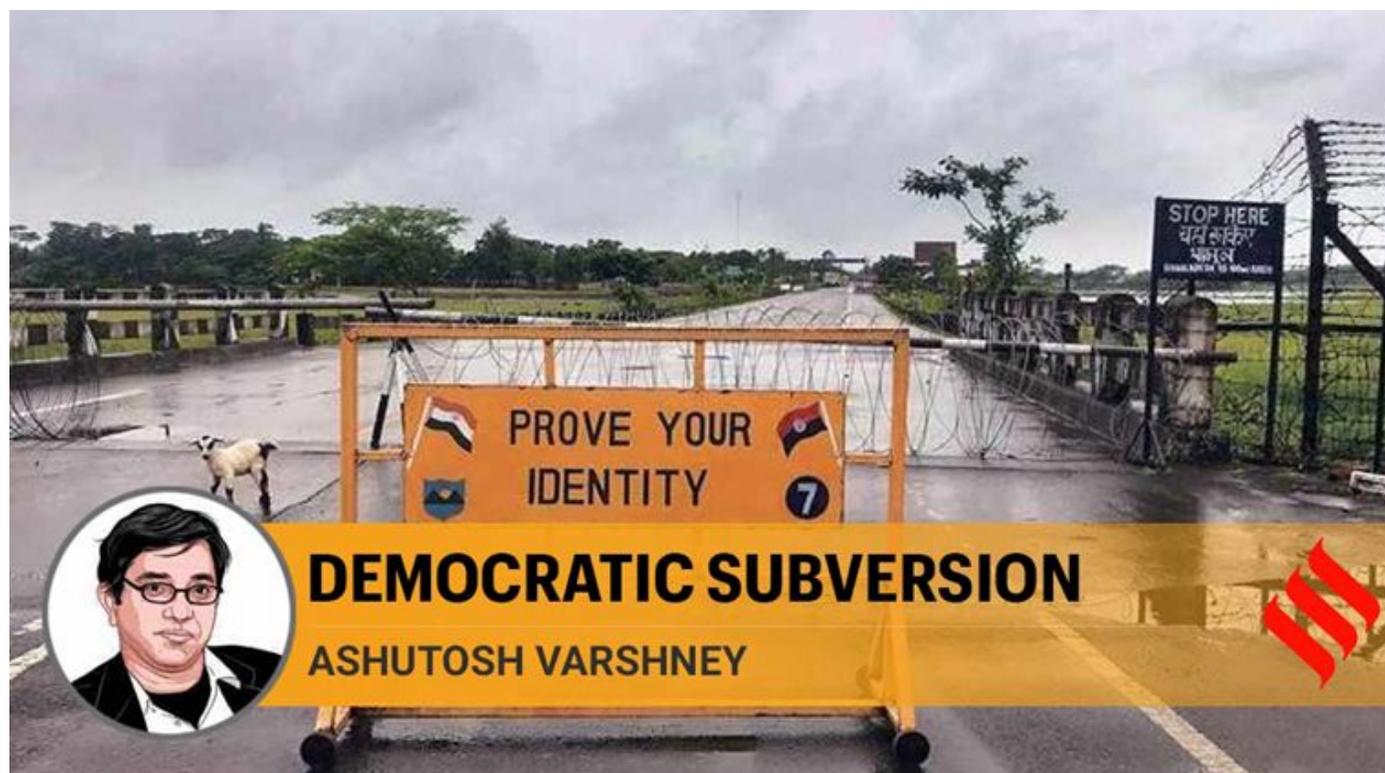


Recent exclusionary steps can only bring India's international image down

A fusion of law and exclusivist ideology is in the making. Brute arithmetic is being used for majoritarian ends.

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Right since 1945, up until recently, few democratic polities moved from

inclusion to exclusion in their citizenship practices and laws. The big exceptions were mostly authoritarian, the Chinese treatment of Uighurs being the most recent. Some democratic polities might have remained as exclusionary as before, but, by and large, when change came about, democratic polities edged towards larger inclusion. And when new exclusions were proposed, as in Trump's America or in the Le Pen version of France, political battles have been launched by the forces opposed to such curtailments.

By its bi-focal citizenship move — one, excluding Muslim immigrants as citizens while accepting all other communities from Pakistan, Afghanistan and Bangladesh on grounds of persecution, and two, promising to introduce a [national register of citizens](#), which will render stateless all those Muslims who don't have the documents to prove their Indian ancestry, even if they were born in India and have lived in the country for decades — Delhi is taking two of the darkest steps in the history of democratic citizenship since the European excesses of the 1940s.

The implications are so profound that one should pause to take a larger comparative and historical look. India's strengths and weaknesses are often better understood that way.

Citizenship is basically a legal code for the kind of political community a society is, or would like to be. It says who can be a member of the community — and with what bundle of rights. Since the American and French Revolutions of the late 18th century and the German Unification of 1871, the idea of citizenship has witnessed two models: Birth in a territory (*jus solis*) and blood-based inheritance (*jus sanguinis*). Ignoring ethnicity, race or religion, the former is often, if not always, built around the ideals of a society. The latter hooks citizenship to ethnicity or race, sometimes also to religion, especially in societies where religion is not viewed as a matter of

choice, but as a blood line, functioning almost like race or ethnicity. India is moving from the former model to the latter.

The voluminous literature on citizenship — and its cousin, nationhood — identifies the US and France as exemplars of the territorial model, and Germany and Japan as the epitome of blood-based citizenship. The consensus is that a community based on ideals is more inclusive — and harder to build — than one based on bloodlines.

Of course, even inclusive polities have their infirmities. The US is the best known. Formally embracing the ideals of freedom and equality in 1789, it kept Black slaves, who were neither free nor equal, and after the 1880s, it excluded Asians from its immigrant pool. It took the US until the 1860s to end slavery — and till the 1960s to de-link citizenship from ethnicity. Similarly, in France, questions about the loyalty of Jews existed right until the 1910s, and controversy has also marked the status of Muslims after the 1970s. But exclusions are challenged in such polities.

The blood-based models work differently. At the dissolution of the Soviet Union, Russian-speaking ethnic Germans, Soviet citizens until then, simply became citizens of Germany, once they demonstrated German ancestry. Non-ethnic members do exist in such polities, but they receive lesser citizenship, or an inferior bundle of rights. For some time, millions of Turks in Germany were “guest workers”, and naturalisation of even Germany-born Turks was notoriously hard. But after becoming a member of the European Union, Germany also eventually moved in a more inclusive direction. Japan remains a great exception.

Where did independent India fit in? It was undoubtedly closer to the territorial model. In contrast, Pakistan was conceptualised as a Muslim homeland, where non-Muslims could be citizens, but would have fewer

rights. India was never envisioned by Gandhi, Nehru and Ambedkar as a Hindu homeland. Furthermore, Indians in South and East Africa, or Southeast Asia, were not allowed to acquire automatic Indian citizenship. They were citizens of their adopted lands. In those foundational days, even Muslims returning from Pakistan could reclaim Indian citizenship.

The recent exclusionary steps can only bring India's international image down. India under Nehru was lauded worldwide for its constitutionally enshrined inclusive citizenship. If America's constitutive ideals were freedom and equality, India's founding values were equality, including religious equality, diversity and tolerance. Later, riots would often hurt religious minorities more, sometimes damningly so, but in the eyes of the law, there was no distinction between a Hindu or a Muslim. Even if politics deviated from the basic constitutional principles, the law did not follow suit.

Now, a fusion of law and an exclusivist political ideology is in the making. The government's claim that a modern polity must inevitably draw a distinction between *sharanarathi* (refugees) and *ghuspaithiye* (infiltrators) is mendacious. For, it is patently clear that if the existing Muslim citizens of India are unable to produce documents of Indian ancestry, the national register later, using citizenship amendments, can easily call them "infiltrators", making them an object of internment or expulsion. In contrast, if the Hindus have a similar documentary deficit, they would neither be interned nor expelled. They can claim they are welcome only in a Hindu homeland, not elsewhere in South Asia, and thus acquire Indian citizenship. Assam is already burning, partly for this reason.

The government's second claim that the citizenship amendment is not anti-Muslim — for it will give refugee status not only to Hindus, but also to Christians and Parsis — is also political sophistry. Why should the refugee status, and therefore the possibility of citizenship, be reserved only for those

persecuted in three Muslim-majority neighbours, not in the Buddhist-majority Sri Lanka or Myanmar? Both are India's neighbours and have a record of persecuting minorities. And what about the Ahmediyas, whom the Pakistani state, since the mid 1970s, has declared non-Muslim and oppressed? Is Delhi's heart really bleeding for the persecuted minorities?

After Kashmir, Delhi has yet again used brute parliamentary arithmetic for majoritarian ends. Democracy now urgently requires the judiciary and the streets. The Supreme Court may, or may not, act in a resolute manner — hence, protests are also necessary. Non-[BJP](#) state governments can exercise the option of non-cooperation, too. Most of the machinery for implementation of laws is, after all, with state governments. The threat of electorally and legally enabled exclusionary horrors is knocking at the door.

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