

SYMPOSIUM ON THE BANDUNG CONFERENCE AT 70: INTERNATIONAL LAW'S MANY THIRD WORLDS

BANDUNG, STATE-MAKING, AND CITIZENSHIP IN SOUTH ASIA

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Introduction

The Final Communiqué of the Bandung conference included a set of ten principles that emphasized “respect for the sovereignty and territorial integrity of all nations” and “abstention from intervention or interference in the internal affairs of another country.”¹ In this essay, I examine the impact of these emphases on the domestic law of one of the Bandung states, specifically the law of citizenship in India. Given the significance of state sovereignty and the demarcation of the domestic and international spheres, international law has only generated partial and uneasy responses to questions of citizenship and the intentional creation of statelessness through state policy.² Using the Indian case study, I argue that Bandung’s focus on borders has facilitated the disenfranchisement of religious minorities, requiring a rethink of the nation-state as the basis of the international order.

Bandung and Nation-Building

Aligned with the provisions of the United Nations Charter,³ the Bandung principles were also the result of the specific history of the Asian and African states present at the conference: the states were invested in maintaining their sovereignty and territorial integrity by limiting external interference in “domestic” matters as they emerged from centuries of colonial rule or semi-colonial domination.⁴ This emphasis on territorial integrity and non-intervention went hand in hand with the desire to participate in global trade on equal terms.⁵ For leaders of many newly independent states, the ability to compete in the international economic system depended on their success in crafting a sovereign nation-state with a strong central government that could exercise effective control over its territories.

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¹ *Text of Final Communiqué of Asian-African Conference*, in [SELECTED DOCUMENTS OF THE BANDUNG CONFERENCE](#) 29–35 (1955).

² Neha Jain, *Manufacturing Statelessness*, 116 *AJIL* 237 (2022).

³ The principles were in line with the prohibition on the use of force in Article 2(4) and on non-intervention in Article 2(7) of the Charter of the United Nations.

⁴ *Supplementary Speech by Premier Chou En-Lai, April 19, 1955*, in [SELECTED DOCUMENTS OF THE BANDUNG CONFERENCE](#), *supra* note 1, at 21; *Statement by Chou En-Lai to the Political Committee of the Bandung Conference on April 23, 1955*, in [SELECTED DOCUMENTS OF THE BANDUNG CONFERENCE](#), *supra* note 1, at 26–27.

⁵ Antony Anghie, *Bandung and the Origins of Third World Sovereignty*, in [BANDUNG, GLOBAL HISTORY, AND INTERNATIONAL LAW: CRITICAL PASTS AND PENDING FUTURES](#) 547–48 (Luis Eslava, Michael Fakhri & Vasuki Nesiah eds., 2017).

Given the significance of territorial integrity and non-interference, independence and the creation of a post-colonial nation-state often required a move from layered notions of sovereignty to absolutist ideas of territorial sovereignty and the concomitant prominence of borders. In the Indian context, for instance, the state-making process involved not only the bloody partition of British Indian territory (to form the states of India and Pakistan) but also the “integration” of the semi-sovereign princely states and the merger of French and Portuguese territories. This territorialization was supposed to provide an effective basis for economic planning and development.⁶

However, the nation-building process buttressed by the Bandung principles also created complications in the independent but ethnically mixed states of Africa and Asia since nation-states were “understood to be relatively homogenous populations that were completely loyal to the new post-independence state.”⁷ Much ink has been spilled about the often deleterious impacts of the focus on sovereignty and territorial integrity on minorities within post-colonial states. Cyra Akila Choudhury has used the example of Bangladesh to argue that Bandung’s preoccupation with colonial legacies excluded minorities since “[o]nce independence had been achieved, the theory of self-determination was no longer applicable to internal populations.”⁸ There is also extensive scholarship on how the heightened significance of borders in independent nation-states such as Myanmar, Indonesia, Kenya, Sri Lanka, Bhutan, Ghana, etc. was accompanied by increasing suspicion of populations who had lived in these polities for decades but were seen as “outsiders.” Such persons often faced difficulties in obtaining citizenship rights.⁹ In the Indian context, Ratna Kapur has thrown light on the process of “othering” Muslims by examining the tension between Bandung’s embrace of equality and its vision of post-colonial nation-states as civilizationally distinct from the west.¹⁰ This essay also takes up the question of “othering” of Muslims, but it contributes to the conversation by shining a light on the relationship between the Bandungian principle of territorial integrity and changing definitions of citizenship. The following section calls the Bandung principles’ focus on territorial integrity into question by exploring the role of borders in the construction of religious minorities as foreign “others” in Indian citizenship law.¹¹

Bordering and the Law of Citizenship in Post-colonial India

Since Bandung normalized and globalized the nation-state form,¹² it also legitimated the use of the language of territorial integrity to define the nation and sharpen the distinction between the “inside” and the “outside.” Fixing territorial boundaries is, as Anupama Roy contends, a key element of statecraft that enables the polity “to make a

⁶ PRIYASHA SAKSENA, *SOVEREIGNTY, INTERNATIONAL LAW, AND THE PRINCELY STATES OF COLONIAL SOUTH ASIA* 178–87, 201–03 (2023).

⁷ Anghie, *supra* note 5, at 543.

⁸ Cyra Akila Choudhury, *From Bandung 1955 to Bangladesh 1971: Postcolonial Self-determination and Third World Failures in South Asia*, in *BANDUNG, GLOBAL HISTORY, AND INTERNATIONAL LAW*, *supra* note 5, at 323.

⁹ Donald Rothchild, *Kenya’s Minorities and the African Crisis Over Citizenship*, 9 RACE 421 (1968); Ousman Kobo, “*We Are Citizens Too*”: *The Politics of Citizenship in Independent Ghana*, 48 J. MOD. AFF. STUD. 67 (2010); Sunil Amrith, *MIGRATION AND DIASPORA IN MODERN ASIA* 117–26 (2011); SUSAN BANKI, *THE ECOSYSTEM OF EXILE POLITICS: WHY PROXIMITY AND PRECARIY MATTER FOR BHUTAN’S HOMELAND ACTIVISTS* (2024).

¹⁰ Ratna Kapur, *The Colonial Debris of Bandung: Equality and Facilitating the Rise of the Hindu Right in India*, in *BANDUNG, GLOBAL HISTORY, AND INTERNATIONAL LAW*, *supra* note 5, at 311.

¹¹ For an examination of state practice that turns minority citizens into foreigners and possible international law responses, see Michelle Foster & Jade Roberts, *Manufacturing Foreigners: The Law and Politics of Transforming Citizens into Migrants*, in *RESEARCH HANDBOOK ON THE LAW AND POLITICS OF MIGRATION* 218 (Catherine Dauvergne ed., 2021).

¹² Partha Chatterjee, *Empire and Nation Revisited: 50 Years After Bandung*, 4 INTER-ASIA CULTURAL STUD. 487 (2005).

citizen a stable and enumerable category, amenable to specific governmental practices.”¹³ Scholars such as Kamal Sadiq have argued that Indian law originally imagined “inclusive, broad, *jus soli* (civic-based, citizenship by birth) conceptions of citizenship” but soon transitioned to including “exclusionary, narrow, *jus sanguinis* (blood or descent-based) features.”¹⁴ The scope of Indian citizenship was initially debated in the aftermath of the violence of the partition of British India, with members of the constituent assembly (the body responsible for drafting the Indian constitution) having to agree on a definition when millions of people were crossing newly demarcated borders.¹⁵ Given this uncertain political context, the Indian constitution, which came into effect in 1950, only defined the individuals who became citizens of India on the date of the commencement of the constitution while authorizing parliament to make laws on citizenship for subsequent times.¹⁶ Under the Citizenship Act 1955, any person born in the territory of India was an Indian citizen; the only exceptions were children of diplomats and enemy aliens.¹⁷

Despite this inclusive definition, there was a tension between the *jus soli* and *jus sanguinis* conceptions of citizenship from the very beginning of the republic.¹⁸ Niraja Gopal Jayal has analyzed debates in the constituent assembly to trace how Hindus fleeing violence in what became Pakistan were euphemistically referred to as “refugees” who would be entitled to Indian citizenship, while Muslims escaping to Pakistan and then seeking to return to their homes in India were labeled “migrants” whose claims to citizenship were subject to intense scrutiny and litigation.¹⁹ Religion also played a significant role in negotiations between India and Pakistan over the protection of refugees: specifically, the Pakistani government was responsible for the protection of Muslims in India while the Indian government managed the welfare of Hindu and Sikhs in Pakistan.²⁰ As Joya Chatterji argues, the demarcation of borders at the time of the birth of the Indian nation-state was accompanied by the emergence of “minorities . . . as a distinct legal category of citizens who were not fully protected by the states within which they lived.”²¹ Despite the support for birthright citizenship, therefore, there appeared to be the implicit idea that India belonged to Hindus, with Muslims being viewed as “foreigners,” in line with the views of Hindutva ideologues such as V. D. Savarkar, who associated Indian territory with “Hindu culture and the Hindu people.”²²

Since territory itself became associated with religion, the process of bordering that followed from the Indian state’s espousal of the Bandungian principle of territorial integrity enabled the creation of exclusionary citizenship policies. The foremost example of this comes from the state’s legal responses to the existence of a relatively porous eastern border, where people moved between East Pakistan and the Indian state of Assam, continuing patterns of migration that had started during the colonial period. There was a significant increase in the movement of people during the conflict that led to the creation of Bangladesh in 1971, with millions of refugees fleeing to Assam, many of whom remained there even after the hostilities concluded. The presence of “foreigners” created unease about demographic change within Assam and a popular movement soon arose to demand their expulsion, sometimes exploding into large-scale violence, including the Nellie massacre in which

¹³ ANUPAMA ROY, *CITIZENSHIP REGIMES, LAW, AND BELONGING: THE CAA AND THE NRC* 59 (2022).

¹⁴ KAMAL SADIQ, *PAPER CITIZENS: HOW ILLEGAL IMMIGRANTS ACQUIRE CITIZENSHIP IN DEVELOPING COUNTRIES* 9 (2008).

¹⁵ NIRAJA GOPAL JAYAL, *CITIZENSHIP AND ITS DISCONTENTS: AN INDIAN HISTORY* 56–57 (2013).

¹⁶ IND. CONST. Arts. 5–11.

¹⁷ SADIQ, *supra* note 14, at 9–10.

¹⁸ JAYAL, *supra* note 15, at 52; *see also* ROY, *supra* note 13, at 97–98.

¹⁹ JAYAL, *supra* note 15, at 56–62, 69–70.

²⁰ Amani Ponnaganti, *The Racialisation of Citizenship in Post-Colonial India*, 45 S. ASIA: J. S. ASIAN STUD. 906, 912 (2022).

²¹ Joya Chatterji, *South Asian Histories of Citizenship, 1946–1970*, 55 HIST. J. 1049, 1070 (2012).

²² CHRISTOPHE JAFFRELOT, *THE HINDU NATIONALIST MOVEMENT AND INDIAN POLITICS: 1925 TO THE 1990s* 27 (1996).

nearly 2,000 people (mostly Bengali-speaking Muslims) were killed.²³ After the signing of the Assam Accord to end the movement, the Citizenship Act was amended to provide that an individual born in India after July 1, 1987 could only claim citizenship by birth if either of their parents was an Indian citizen.²⁴ There was, however, the so-called Assam exception: individuals who came to Assam from territories that became Bangladesh before January 1, 1966 would be considered to be Indian citizens; those who came between January 1, 1966 and March 24, 1971 (the day before the outbreak of the Bangladesh war) would be disenfranchised for ten years; those who came on or after March 25, 1971 were supposed to be detected and expelled as foreigners.²⁵

The concern with alleged illegal immigration from across the country's borders continued to drive further changes to citizenship law, highlighting the challenges that come with the Indian state's emphasis on territorial integrity: another amendment to the Citizenship Act in 2003 limited citizenship by birth to individuals with at least one parent who was an Indian citizen and the other not being an "illegal migrant."²⁶ Although the Assam movement was against all "outsiders" rather than being about religion, the term "illegal immigrant" in the Citizenship Rules was redefined to exclude "minority Hindus with Pakistani citizenship," thereby introducing religion into the scope and definition of citizenship.²⁷ The latest amendment to the Citizenship Act, carried out in 2019 (known as the Citizenship Amendment Act or CAA), introduces a more explicit link with religion: fast-track citizenship is offered to "illegal immigrants" but only if they are Hindus, Sikhs, Christians, Buddhists, Jains, or Parsis from Afghanistan, Bangladesh, or Pakistan, with the exclusion of Muslims being justified on the basis that the identified groups are persecuted religious minorities in those countries.²⁸ As Niraja Gopal Jayal notes, "[t]he CAA thus facilitates a pathway to citizenship by naturalization for such once 'illegal migrants' from these three countries and promises citizenship by birth to their descendants, so long as they are not Muslims."²⁹ However, not all non-Muslim refugees are offered paths to citizenship, with the most prominent exclusion being that of Sri Lankan Tamils, most of whom identify as Hindu.³⁰ The Indian state, therefore, makes an explicit distinction between what it considers to be persecuted groups in specifically Muslim states and refugees from other states, thereby linking territory with religion in its construction of citizenship law.

This conception of Muslims being the foreign "other" has only grown stronger in the past two decades, fueled by judicial decisions on citizenship that have highlighted the significance of borders and territorial integrity in defining who is considered to be an "illegal immigrant" rather than a "citizen."³¹ While deciding on the constitutionality of a statute that outlined the procedure for the identification of "foreigners" in Assam, the Supreme Court of India linked the "large scale immigration of Bangladeshi nationals" to Assam with an increase in Islamic fundamentalism in the region.³² Consequently, migration could be classified as "external aggression,"

²³ Sanjib Baruah, *The Partition's Long Shadow: The Ambiguities of Citizenship in Assam, India*, 13 CITIZENSHIP STUD. 593, 595–96, 600 (2009).

²⁴ ANUPAMA ROY, *MAPPING CITIZENSHIP IN INDIA* 37 (2010).

²⁵ *Id.* at 96–97.

²⁶ SADIQ, *supra* note 14, at 10.

²⁷ Niraja Gopal Jayal, *Reinventing the Republic: Faith and Citizenship in India*, 10 STUD. IND. POL. 14, 18–19 (2022).

²⁸ For the argument that the CAA is unconstitutional, see Farrah Ahmed, *Arbitrariness, Subordination and Unequal Citizenship*, 4 IND. L. REV. 121 (2020); Abhinav Chandrachud, *Secularism and the Citizenship Amendment Act*, 4 IND. L. REV. 138 (2020).

²⁹ Jayal, *supra* note 27, at 21. The CAA does not necessarily match up with Assamese ethnonationalist sentiment, which is largely against Bengali-speakers regardless of their religion; there were, therefore, serious protests against the CAA in Assam not because it was seen as anti-Muslim but because it provides a path to citizenship for some "foreigners." See Arunabh Saikia, *Why Guvahati Exploded in Protests – And What Explains Assam's Resistance to the Citizenship Bill*, SCROLL (Dec. 12, 2019).

³⁰ Urvi Pathak, *Statelessness and the Citizenship Amendment Act, 2019: The Case of Sri Lankan Tamil Refugees*, 17 SOCIO-LEGAL REV. 156 (2021).

³¹ Neelakshi Talukdar & Akhil Ranjan Dutta, *Adjudicated Citizenship in Assam, India: Layers of Contestation*, 9 IND. L. REV. 28 (2025).

³² *Sarbananda Sonowal v. Union of India*, [2005] Supp (1) SCR 472, para. 37.

with it being “[t]he foremost duty of the Central Government . . . to defend the borders of the country, prevent any trespass and make the life of the citizens safe and secure.”³³ Nearly a decade later, the Supreme Court made more overt statements to demonize religious minorities by relying on crude, anti-immigration rhetoric, including a 1931 report by a colonial official that declared that “the invasion of a vast horde of land-hungry immigrants, mostly Muslims, from the districts of East Bengal” had changed Assamese civilization. The court also cited to a 1998 report that claimed that “[t]he influx of illegal immigrants is turning these districts into a Muslim majority region.”³⁴ These pronouncements then became the basis for the institution of a court-monitored process to prepare a National Register of Citizens (NRC) specifically for the state of Assam.³⁵

The Assam NRC process was concluded in 2019 and resulted in 1.9 million people being omitted from the final list on account of their inability to produce the requisite documents to prove their citizenship.³⁶ Although a large number of Hindus have also been excluded from the Assam NRC, the Indian government has assured non-Muslims of their ability to apply for citizenship under the CAA; “[t]he unspoken promise had been that only undocumented people belonging to the Muslim faith and, therefore, having no recourse to the CAA, would be excluded.”³⁷ Although the legal status of many of the excluded individuals remains unclear, with multiple legal procedures to be completed, it is likely that they will be disenfranchised, disqualified from government benefits, confined to detention camps, or deported.³⁸ The Assam NRC exercise may be a hint of what is to come since the 2003 amendment to the Citizenship Act requires the Indian government to prepare an NRC for the entire country although the process is yet to commence.³⁹ The NRC process presumes that “not everyone is *actually* a citizen, and that illegal immigrants masquerading as citizens need to be sifted and sorted from genuine citizens,”⁴⁰ with this process of exclusion ultimately supposed to be a means to protect the Indian state’s sovereignty and territorial integrity, at least as conceptualized by judicial decisions on the issue.

Concluding Reflections

International law scholarship has relied on a turn to human rights to argue for restrictions on the ability of states to control the boundaries of their membership.⁴¹ While this move is welcome, focusing on an individual right to citizenship may be a limited response. The many changes to Indian citizenship law and procedure demonstrate how, as Amani Ponnaganti argues, citizenship is “intimately related to ideas of the nation-state and borders, and often conflated with nationalistic identity,” with “[t]hose who do not conform within such hegemonic constructions of belonging [being] cast outside the legal boundaries of citizenship.”⁴² By linking actions against alleged illegal immigration with the defense of the sovereignty of the nation-state, the Supreme

³³ *Id.*, paras. 38, 32.

³⁴ *Assam Sanmilita Mahasangha v. Union of India*, [2014] 14 SCR 744, paras. 2, 13.

³⁵ *Id.*, para 48.

³⁶ ROY, *supra* note 13, at 33–34.

³⁷ Jayal, *supra* note 27, at 19.

³⁸ *Id.* at 22.

³⁹ ROY, *supra* note 13, at 33. Although there is no move to create a national NRC yet, there are concerns that “special” revisions of the electoral roll requiring documentary evidence of citizenship might have the same exclusionary effect, as seen in the recent case of the state of Bihar. See Harsh Kumar, *Bihar’s Electoral Revision Puts the Poor’s Rights at Risk*, THE INDIA F. (July 7, 2025).

⁴⁰ Jayal, *supra* note 27, at 15–16.

⁴¹ Peter Spiro, *A New International Law of Citizenship*, 105 AJIL 694 (2011); ALISON KESBY, *THE RIGHT TO HAVE RIGHTS: CITIZENSHIP, HUMANITY, AND INTERNATIONAL LAW* (2012).

⁴² Ponnaganti, *supra* note 20, at 906.

Court of India has entrenched the idea that law is a key tool for drawing boundaries around the political community with physical borders being guarded through the legal definition of citizenship. Citizenship, therefore, becomes the site on which the state is constructed, with the long process of state-making that drew its sustenance from the Bandung principles of sovereignty and territorial integrity ultimately culminating in explicit exclusion. Given the complex legacy of Bandung, as highlighted by the example of the citizenship laws in the Indian context, it seems essential to move beyond the foundational emphasis on state sovereignty to building alternative, transnational polities for a more just world order.⁴³

⁴³ One possibility to move beyond the insularity of the nation-state could be efforts to build class solidarity across territory. See Marcel Radosław Garboś, *"National Nihilism" Reconsidered: Rosa Luxemburg, Polish Industrialisation, and the Possibilities of Post-Imperial Polity*, CRITICAL LEGAL THINKING (Nov. 25, 2022).