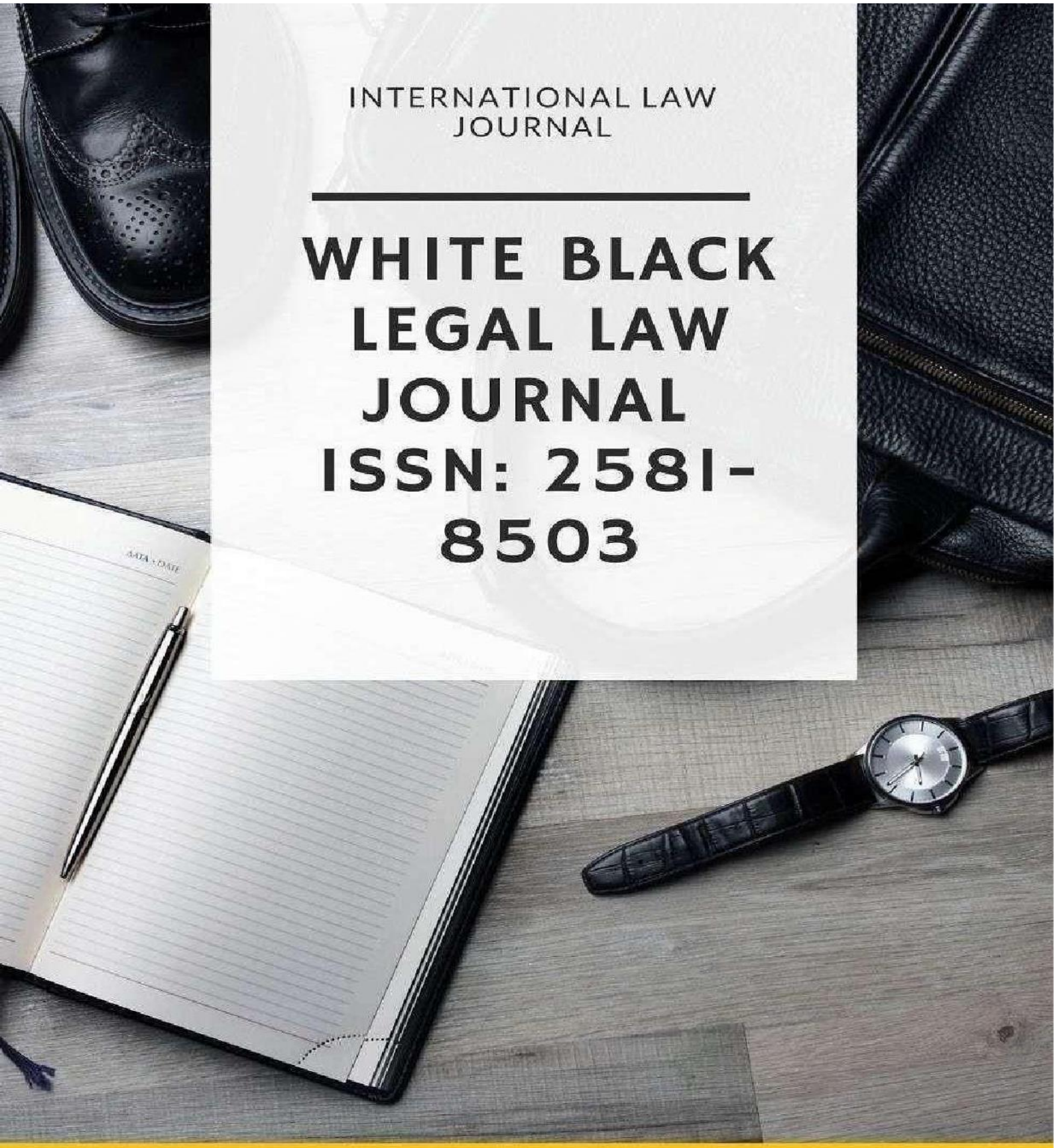


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STATELESSNESS AND CITIZENSHIP IN INDIA: RECONCILING CAA-NRC DIRECTIVES WITH GLOBAL HUMAN RIGHTS NORMS

AUTHORED BY - RAJ ARYAN*

Abstract

The Indian law is faced with the necessity to distinguish between formal non-citizenship, disputed nationality, documentary exclusion and legal statelessness in citizenship administration. This Article will explore that distinction by analysing the constitutional scheme of Articles 5-11 of the Constitution, the Citizenship Act 1955, the Citizenship (Amendment) Act 2019, the Assam National Register of Citizens and the statutory framework for a National Register of Indian Citizens (NRIC) and the current foreigner law. It uses a doctrinal approach, Supreme Court decisions, official records, scholarship, and International Human Rights instruments to support its approach. The analysis reveals that the Citizenship (Amendment) Act, 2019 and citizenship verification systems are two distinct legal mechanisms and hence, should not be examined as a single legal programme. It also determines that the lack of inclusion in a citizenship register is, in and of itself, not a testament to statelessness, but that gaps in documentation and adjudication can nevertheless lead to a nationality limbo and to statelessness. Material evidentiary bases, the principle of procedural fairness and judicial review have gained new relevance in the context of nationality disputes recently, with the constitutional challenge against the Citizenship (Amendment) Act, 2019 still pending. International standards provide binding guarantees in some human rights treaties and provide persuasive guidelines in conventions to which India is not a party related to statelessness. In it, the author suggests the technical adoption of an "individual determination" constitutional statelessness prevention framework that is accompanied by a reasoned process, effective review, child-sensitive protections, and a separate determination of whether another State recognises the individual as its national.

Keywords: Citizenship; Statelessness; Citizenship (Amendment) Act, 2019; National Register of Indian Citizens; Right to Nationality

1.1 Introduction

Citizenship in India is a constitutional status as well as a status of a legal relationship. The Articles 5 till 11 of the Constitution[1] finalized the issue of citizenship at commencement and Article 11 maintained the powers of Parliament, in matters of acquisition, termination and such like, as could be gathered from the foregoing. The Citizenship Act, 1955[2] then became the main legislation. Citizenship today is a topic of current debate, and it is debated via different ways: the Citizenship (Amendment) Act, 2019; the Assam National Register of Citizens; the possibility of a statutory National Register of Indian Citizens; and the foreigner determination. There are different reasons for invoking these mechanisms, procedures for doing so, and their different effects, and their different contexts need to be seen as distinct.

Of course, what is at stake is not just who does or does not qualify for citizenship, but what it signifies to be a person whose citizenship is in question – and what it means if it is not granted. The term "stateless" relates to the question of whether or not the person is a national of any State as per the determination of the State itself. This is less than not being documented, not being in a register or not being able to immediately prove citizenship. It is important for the difference, as administrative exclusion may lead to serious legal insecurity, but does not necessarily lead to statelessness. It also focuses on the way that evidence, individual adjudication, procedural safeguards and legal consequences of an unresolved nationality claim are brought to the fore by the Convention.[3]

This Article suggests that Indian constitutional debates be distinct in addressing three questions: legislative classification in acquiring citizenship; verification and contestation of citizenship; and an independent assessment of statelessness. The research is limited to India's constitutional and statutory principles and international human rights standards are taken as a tool for testing interpretative and procedural standards, not for supplanting domestic law. In March 2023, the latest official parliamentary answer retrieved from an all-India National Register of Indian Citizens had no mention of any decision to prepare such a register in the country. The question of inquiry is thus one of the powers available under the law, the completed process in Assam, existing implementation measures and the constitutionally defensible safeguards.[4]

1 The Constitution of India, arts. 5-11.
2 The Citizenship Act, 1955 (Act 57 of 1955), ss. 3-10.
3 Convention relating to the Status of Stateless Persons, 1954, Art. 1(1).
4 Ministry of Home Affairs, Government of India, "Lok Sabha Unstarred Question No. 3389: National Register of Indian Citizens" (March 21, 2023).

1.2 Statement of the Problem

The research problem is the discrepancy between the detailed rules in India for acquisition of citizenship and foreigner determination, and the lack of explanation surrounding the legal approach of what to do with a person who is indeterminate a citizen or who may become stateless. The Citizenship (Amendment) Act, 2019 establishes a selective facilitated path for citizenship, and the registration and the foreigner procedures have different kinds of questions to answer in relation to citizenship. Documentary requirements, disjointed records and false reference documents can however turn a verification dispute into a long, lingering legal uncertainty. The constitutional challenge that has been raised against the 2019 amendment adds to the equality analysis. The study thus poses the question of whether the administration of sovereign citizenship and its violations can be balanced against Article 14 and 21 and the international standards banning arbitrary deprivation of nationality or statelessness in childhood.[5]

1.2.1 Research Questions

1. How should citizenship exclusion, foreigner status, undetermined nationality and statelessness be distinguished in India?
2. Are the citizenship and foreigner-determination procedures in India constitutionally compliant and do they meet the standards of equality and procedural fairness?
3. How may binding and persuasive global human rights norms legitimately inform Indian citizenship administration?
4. How can safeguards reconcile effective citizenship administration with the avoidance of wrongful exclusion and statelessness risk?

1.2.2 Research Objectives

1. To distinguish the constitutional and statutory citizenship, foreigner, undetermined nationality and statelessness.
2. To discuss some of the Supreme Court's influential and recent cases concerning citizenship, proof, foreigners and equality and procedural fairness.
3. To appraise the applicability of the global notions of nationality and statelessness in India based on their status under law.
4. To develop a Evidence, Individual Process, Review and Child Sensitive Safeguarding Framework to prevent statelessness.

[5] Chetna Sharma, "National Register of Citizens and Citizenship Amendment Act 2019: Following the Logic of Citizenship Securitization in India", 50 *Journal of Ethnic and Migration Studies* 4850 (2024).

1.2.3 Research Methodology

Doctrinal, analytical and limited historical methodology is used. Primary materials encompass Supreme Court decisions, United Nations treaties and treaty status records, official notifications, parliamentary materials, Citizenship Act, 1955 and citizenship rules and amendments, and the Constitution of India. Secondary materials include books, peer-reviewed journal Articles and authoritative institutional reports. Judicial decisions are analyzed with respect to its facts, issue, governing principle, ratio, reasoning, legal impact and limits. Official quantitative data are used descriptively and not as a basis for legal analysis. The study does not involve any jurisdiction comparison or empirical field work and is limited to India; the interpretation and evaluation is done with the help of international law.[6]

1.2.4 Literature Review

- **Niraja Gopal Jayal, Citizenship and Its Discontents: An Indian History.**

Jayal considers citizenship as status, rights and identity, and demonstrates the interaction between formal constitutional citizenship and social and institutional exclusion. The book provides a lengthy historical context for the distinction between legal nationality and substantive belonging, but does not reflect the 2019 Citizenship (Amendment) Act, or the Supreme Court's 2024 decisions about citizenship.[7]

- **Anupama Roy, Mapping Citizenship in India.**

Roy examines the Citizenship Act, 1955, from the perspective of Partition, state formation, statutory amendment and liminal membership. Her account can inform you why documentation is not only administrative. This Article contributes to that understanding, but much more specifically, to the legal distinction between adverse citizenship determination, undetermined nationality and statelessness.[8]

- **Ornit Shani, How India Became Democratic: Citizenship and the Making of the Universal Franchise.**

Shani's archival research demonstrates the significance of electoral registration in the institutionalisation of democratic citizenship prior to the Constitution's coming into force. It shows the potential of administrative records as citizenship practices. The concern of its principle is the democratic founding, and the present study carries the records question to the

[6] Terry Hutchinson and Nigel Duncan, "Defining and Describing What We Do: Doctrinal Legal Research", 17 *Deakin Law Review* 83 (2012).
[7] Niraja Gopal Jayal, *Citizenship and Its Discontents: An Indian History* 51 (Harvard University Press, Cambridge, Massachusetts, 1st edn., 2013).
[8] Anupama Roy, *Mapping Citizenship in India* 33 (Oxford University Press, New Delhi, 1st edn., 2010).

current determination of nationality.[9]

- **Madhav Khosla, India's Founding Moment: The Constitution of a Most Surprising Democracy.**

The Constitution building is construed as the project of making democratic subjects by the legal institutions, according to Khosla. The work aids in the location of Articles 5-11 in the broader institutional framework of the Constitution. While not focused on statelessness, it can be used to assess citizenship administration as constitutional governance instead of a technique of the executive.[10]

- **Sanjib Baruah, In the Name of the Nation: India and Its Northeast.**

Baruah places Assam's citizenship issues in contexts of border, migration, sovereignty, and the Northeast. This is important as the Assam National Register of Citizens emerged out of a unique settlement context. This study follows that caution that one must not automatically assume Assam to be a template for the nation.[11]

- **Niraja Gopal Jayal, Reconfiguring Citizenship in Contemporary India.**

According to Jayal, current citizenship projects focus more and more on difference, belonging and belonging through descent. The Article asks important questions of equality prior to the passage of the Citizenship (Amendment) Act, 2019. The current study provides a more up-to-date analysis of implementation and Supreme Court doctrine without speculating on the result of the constitutional challenge currently pending before the Court.[12]

- **Sanjib Baruah, The Partition's Long Shadow: The Ambiguities of Citizenship in Assam, India.**

According to Baruah, "Partition and border realities have been historically ambiguous factors affecting Assam's citizenship practices. He gives a rather detailed analysis as to why it is so hard to administer a simple citizen-alien binary. That history is utilized in the present Article to assess how legal processes do and do not distinguish between foreign nationality and evidentiary uncertainty.[13]

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[9] Ornit Shani, *How India Became Democratic: Citizenship and the Making of the Universal Franchise* 21 (Cambridge University Press, Cambridge, 1st edn., 2017).

[10] Madhav Khosla, *India's Founding Moment: The Constitution of a Most Surprising Democracy* 1 (Harvard University Press, Cambridge, Massachusetts, 1st edn., 2020).

[11] Sanjib Baruah, *In the Name of the Nation: India and Its Northeast* 47 (Stanford University Press, Redwood City, 1st edn., 2020).

[12] Niraja Gopal Jayal, "Reconfiguring Citizenship in Contemporary India", 42 *South Asia: Journal of South Asian Studies* 33 (2019).

[13] Sanjib Baruah, "The Partition's Long Shadow: The Ambiguities of Citizenship in Assam, India", 13 *Citizenship Studies* 593 (2009).

- **Sahana Ghosh, "Everything Must Match": Detection, Deception, and Migrant Illegality in the India-Bangladesh Borderlands.**

Ghosh ethnographically demonstrates what documentary mismatches come to mean in borderland citizenship practices. The study clarifies the significance of technical discrepancies, and the reason they can have serious consequences. This Article does not extrapolate those field findings to the whole country but rather utilises them to fine focus doctrinal issues regarding evidence and administrative error.[14]

- **Lucy Dubochet, Citizenship as Burden of Proof: Voting and Hiding Among Migrants from India's Eastern Borderlands.**

Dubochet explores the functioning of evidentiary burdens in migrants' everyday citizenship scrutiny. The Article sheds light on the asymmetries that are induced by proof requirements. Here, it is treated as an illustration of one of the empirical contexts, and so as a source of analysis about procedural fairness and about the documentation.[15]

- **Amrita Hari and Sugandha Nagpal, The National Register of Citizens (NRC) in India and the Potential for Statelessness in Situ: A Cautionary Tale from Assam.**

Hari and Nagpal link the Assam exercise with the possibility of statelessness and stress a procedural clarity. They explain the risk in their analysis. The present Article does not go so far as to suggest a broader legal proposition, namely that exclusion may result in a de facto situation of "undetermined nationality" or "statelessness risk", but statelessness does not necessarily result from exclusion.[16]

1.3 Indian Citizenship Framework

Indian citizenship law is a legally differentiated multilayer. There are so many aspects of constitutional membership, Parliament's legislative power, statutory acquisition and termination, Assam-specific arrangements, registration and foreigners' law needs to be separated to be assessed. This also will stop taken Citizenship (Amendment) Act, 2019 from being used interchangeably with citizenship verification.[17]

1.3.1 Constitutional Foundations

Articles 5-11 provide for citizenship at the start of the Constitution and uphold the power of the Parliament under Article 11. That skill continues to be under the Constitution. Articles

[14] Sahana Ghosh, "Everything Must Match: Detection, Deception, and Migrant Illegality in the India-Bangladesh Borderlands", 121 *American Anthropologist* 870 (2019).

[15] Lucy Dubochet, "Citizenship as Burden of Proof: Voting and Hiding among Migrants from India's Eastern Borderlands", 27 *Citizenship Studies* 107 (2023).

[16] Amrita Hari and Sugandha Nagpal, "The National Register of Citizens (NRC) in India and the Potential for Statelessness in Situ: A Cautionary Tale from Assam", 30 *Contemporary South Asia* 194 (2022).

[17] The Citizenship Act, 1955 (Act 57 of 1955), ss. 3-10, 14A, 18.

14 and 21 deal with "persons" whereas Article 19 deals with certain freedoms to be given to citizens. In *Mr Louis De Raedt and Others v. Union of India and Others*[18], the Supreme Court ruled that the foreigner will not have the right to reside and settle (Article 19(1)(e)) but will have access to Article 21. Legal differences may thus be based upon citizenship status; but not all constitutional guarantees are null for non-citizens.

In *National Human Rights Commission v. State of Arunachal Pradesh and Another*[19], where the Supreme Court ruled in favour of the Chakma, it had stipulated that the question of citizenship should be processed lawfully and that the life of the Chakmas should be protected. This decision was not a decision granting a general right of foreigners to Indian citizenship. This evergreen moment is institutional: in controversy over your citizenship, you have no justification for private coercion, and your executive administration is still limited by constitutional protections and proper legal procedure.

1.3.2 Assam and Citizenship Adjudication

The legal history of Assam is an outstanding one. Section 6A of the Citizenship Act, 1955 provides for a special settlement in relation to migration from the area that is now Bangladesh. The Supreme Court in *Sarbananda Sonowal v. Union of India and Another*[20] held that the Illegal Migrants (Determination by Tribunals) Act, 1983 was unconstitutional, reinstated the Foreigners Act in Assam and highlighted Article 355 of Indian Constitution and Section 9 of the Foreigners Act, 1946 as the statutory burden. There remain thus a strong link between citizenship issues and Foreigners Tribunals and documentary evidence.

The case of *Assam Sanmilita Mahasangha and Others v. Union of India and Others*[21] raised important constitutional issues with regard to Section 6A to a larger Bench. However, in *Abdul Kuddus v. Union of India*[22], the Supreme Court held Foreigners Tribunals as quasi-judicial bodies and identified important consequences arising from their decisions and retain the constitutional judicial review. The cases illustrate the importance of first instance accuracy: if the status determination is wrong it may impact on a range of legal proceedings, if not review is effective and available.

In *Md. In Rahim Ali also known as Abdur Rahim v. State of Assam and Others*[23], the Supreme Court set aside a foreigner declaration holding that there was no sufficient material

[18] (1991) 3 SCC 554.
[19] (1996) 1 SCC 742.
[20] (2005) 5 SCC 665.
[21] (2015) 3 SCC 1.
[22] (2019) 6 SCC 604.
[23] 2024 INSC 511.

basis for the allegation of foreigner and also noticed certain procedural deficiencies. The decision does not relieve of the obligation to provide a statutory burden of proof. It does not mean that the State has to have anything at hand to begin the case, but rather to provide the person with sufficient material to respond to the case. This draws a distinction between an evidentiary burden and unsupported initiations of proceedings.

In Re: Section 6A of the Citizenship Act, 1955[24], it was a Constitution Bench case that decided the validity of Section 6A. Most supported the provision, with a variety of views on the reasoning and implementation. The judgment suggests the specific historical and statutory basis of the Assam settlement. It therefore warns against assuming Assam's arrangement would necessarily qualify as legal way forward towards a national registration exercise.

As can be seen in Fig. 1, the Assam exercise cannot be said to be legal denial of nationality as it does not involve conversion of administrative exclusion into a legal conclusion regarding nationality. A total of 31,121,004 of a total of 33,027,661 applicants were included, while another 1,906,657 were not included in the final published register. This latter category, in turn, will need to be later determined under the law and cannot be equated statistically with statelessness.[25]

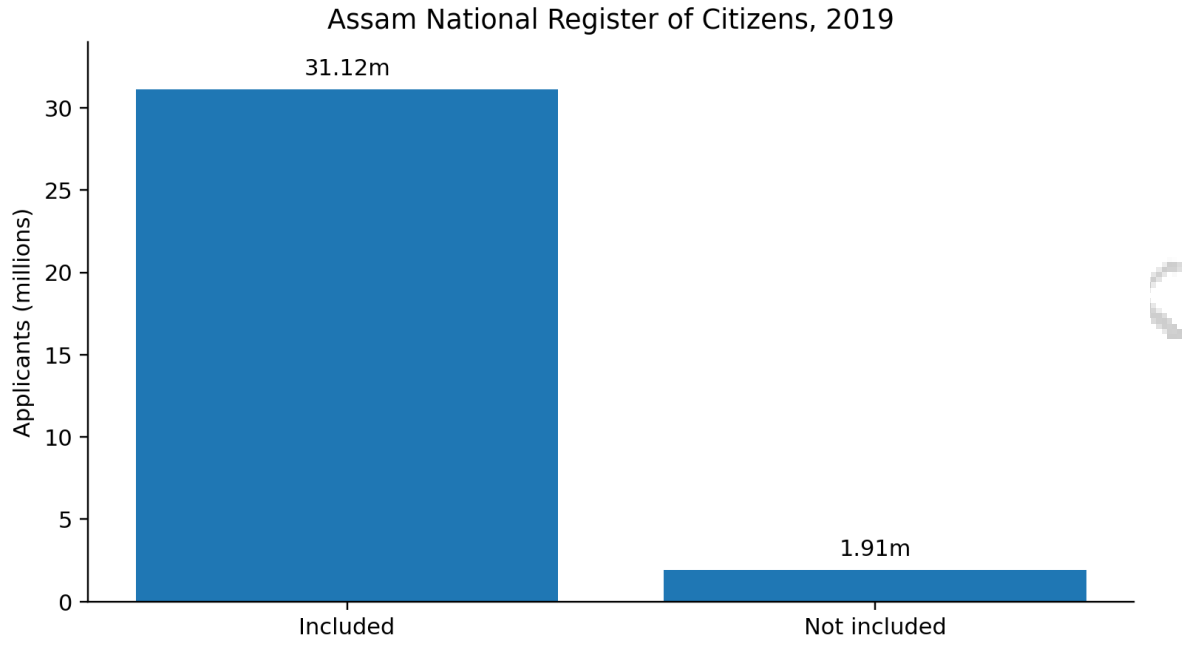


Figure 1: Assam National Register of Citizens, Final Inclusion and Non-Inclusion, 2019

1.3.3 Citizenship Amendment Framework

The Citizenship (Amendment) Act, 2019[26] extends a fast-track mechanism for citizens

[24] 2024 INSC 789.
[25] Office of the State Coordinator, National Registration, Assam, *"Press Brief on Final NRC"* (August 31, 2019).
[26] The Citizenship (Amendment) Act, 2019 (Act 47 of 2019), s. 6B.

from Afghanistan, Bangladesh and Pakistan belonging to the Hindu, Sikh, Buddhist, Jain, Parsi and Christian faiths to acquire citizenship of India. Under the Citizenship (Amendment) Rules, 2024[27], the government has put into practice the provisions of Section 6B applications. This is an acquisition mechanism for a defined class. It does not establish itself a system by which citizenship is to be cancelled for those outside that class.

Implementation was altered in 2026. The Citizenship (Third Amendment) Rules, 2026[28] mandates that the specified beneficiaries under Section 6B would file applications at the prescribed Collector of their jurisdiction and the Collector would docket, scrutinise and dispose of the applications. A statutory order was made at the same time to move certain pending applications to Collectors. These changes are related to an institution's competence and processing only and in no way determines the constitutional validity of the basic classification.[29]

1.3.4 Registration and Current Foreigner Law

In *Indian Union of Muslim League and Others v. Union of India and Others*[30], there is no need for an analytical merits holding which was not found in the context of the case. The Petitioners argue that the Citizenship (Amendment) Act, 2019 is unconstitutional under various provisions of the Constitution, such as Article 14, and that it violates the constitutional commitment to secularism. The batch for 22-September is mentioned in the latest Supreme Court order, dated 24 July 2026. This Article is thus neutral as far as validity is concerned and does not attempt to make a prediction.

There is a different source of the National Register of Indian Citizens. There is no ban on compulsory registration and the central Government is authorised to keep such a register under Section 14A of Citizenship Act, 1955[31] and the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003[32] gave administrative architecture to it. A completed nationwide exercise is not evidenced by statutory power. Analysis should thus check the power and its safeguards while drawing no conclusions about any process already implemented in the country.

A significant number of the leading judgments have related to the Foreigners Act, 1946 and the Foreigners (Tribunals) Order, 1964. The Immigration and Foreigners Act, 2025[33]

[27] The Citizenship (Amendment) Rules, 2024, G.S.R. 172(E), r. 10A.
[28] The Citizenship (Third Amendment) Rules, 2026, G.S.R. 578(E), August 19, 2026.
[29] Ministry of Home Affairs, S.o. 4583(E), August 19, 2026.
[30] W.P.(C) No. 1470 of 2019, order dated July 24, 2026.
[31] The Citizenship Act, 1955 (Act 57 of 1955), s. 14A.
[32] The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003.
[33] The Immigration and Foreigners Act, 2025 (Act 13 of 2025), ss. 3-16, 29, 36.

enforced from 1 September 2025[34] now regulates the entry, stay, movement and exit of foreigners. While historical cases are still good for precedents in what they held, modern cases must identify the current statute, rather than using the precedent from the previous statute as the entire contemporary statute.

1.4 Global Human Rights Framework

Global norms can only have relevance for citizenship law in India once it has been properly classified. There are some nationality guarantees contained in treaties binding on India, an influential non-treaty standard from the Universal Declaration of Human Rights, and specialised principles from the main statelessness conventions that are not currently binding on India as a party.[35]

1.4.1 Right to Nationality and Treaty Obligations

Everyone has the right to a nationality, and no one can be deprived of theirs arbitrarily, as is stated in Article 15 of the Universal Declaration of Human Rights (UDHR)[36]. Treating obligations under a treaty as binding is more specific. India has ratified the International Covenant on Civil and Political Rights[37], which in its Article 24(3) stipulates that every child has the right to belong to a country as well as Article 26 which guarantees equality before the law. India is also party to the Convention on the Rights of the Child[38] (with Article 7 on birth registration, and acquisition of nationality), and to the International Convention on the Elimination of All Forms of Racial Discrimination[39]. While these instruments do not prescribe any model citizenship law, they do limit arbitrary and discriminatory administration within the scope of the instruments.

The rules are important for the child as well, in light of the possibility that the nationality contest may be intergenerational. Where births were not registered, records are incorrect or there are disputed family relationships, a system which heavily depends on documents provided by the parents or ancestors can cause complications. International obligations do not automatically provide an answer to what constitutes an adult Indian citizen, but they support the argument for procedures that take an independent look at children, maintain birth registration, and prevent unnecessary passing on of unresolved nationality status. They are as much procedural as substantive, in that they help make State decisions more accurate, and

[34] Ministry of Home Affairs, S.o. 3981(E), August 31, 2025.
[35] United Nations High Commissioner for Refugees, *"Handbook on Protection of Stateless Persons"* (2014).
[36] Universal Declaration of Human Rights, 1948, art. 15.
[37] International Covenant on Civil and Political Rights, 1966, Arts. 24(3), 26.
[38] Convention on the Rights of the Child, 1989, art. 7.
[39] International Convention on the Elimination of All Forms of Racial Discrimination, 1965, arts. 2, 5.

minimise the risk that documentary deficiencies erode into permanent exclusion.[40]

1.4.2 Statelessness Conventions

The prevailing definition of statelessness is provided in the Convention relating to the Status of Stateless Persons of 1954[41]: Stateless persons are those who are not considered to be citizens of any State under the laws in force. The Convention on the Reduction of Statelessness (1961)[42] deals with the prevention of statelessness, with provisions on acquisition, loss and deprivation. According to the current status report of the United Nations Treaty Collection 99 parties have ratified the 1954 Convention and 82 parties have ratified the 1961 Convention, India is not among the parties to either of the Conventions[43]. Therefore, the conventions cannot be termed as treaty obligations on India. They are still useful as special reference points to help differentiate between statelessness and missing documents.[44]

The global background in Figure 2 is illustrative and not an estimate for India. According to the 2025 end-of-year data from the United Nations High Commissioner for Refugees (UNHCR), there are approximately 4.5 million stateless persons and persons of undetermined nationality (PUDN) in the world, of whom some 2.6 million are in Asia and the Pacific. The agency warns that the figures could be higher.[45]

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[40] Convention on the Rights of the Child, 1989, art. 7.
[41] Convention relating to the Status of Stateless Persons, 1954, Art. 1(1).
[42] Convention on the Reduction of Statelessness, 1961, arts. 1, 5-8.
[43] United Nations Treaty Collection, "Convention Relating to the Status of Stateless Persons", *available at:* https://treaties.un.org/pages/ViewDetailsII.aspx?chapter=5&clang=_en&mtdsg_no=V-3&src=TREATY (last visited on September 27, 2026).
[44] United Nations Treaty Collection, "Convention on the Reduction of Statelessness", *available at:* https://treaties.un.org/pages/ViewDetailsII.aspx?chapter=5&mtdsg_no=V-4&src=TREATY (last visited on September 25, 2026).
[45] United Nations High Commissioner for Refugees, "Asia and the Pacific Regional Trends: Forced Displacement and Statelessness 2025" (August 20, 2026).

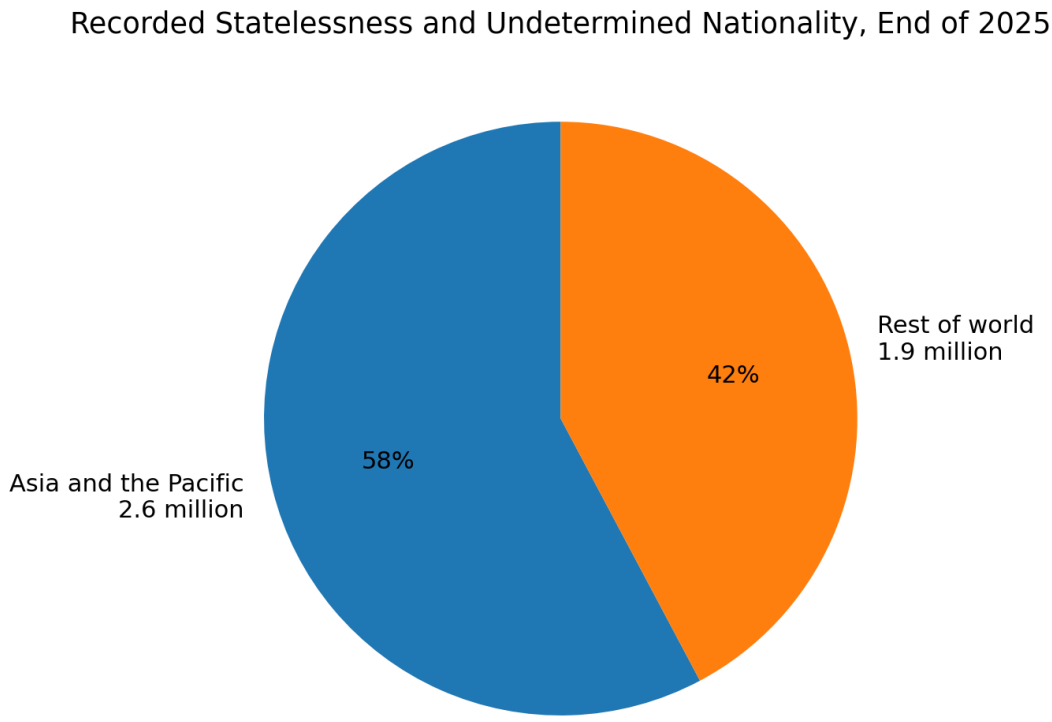


Figure 2: Recorded Statelessness and Undetermined Nationality, End of 2025

1.4.3 Domestic Reception of International Law

Indian courts have concluded that, while international law is relevant, it is not a self-executing law which would be binding over municipal law. At the interim stage, the Supreme Court in *Mohammad Salimullah and Another v. Union of India and Others*[46], upheld that Articles 14 and 21 apply to all people, irrespective of their citizenship, but drew a distinction between the concept of citizenship, which is governed by Article 19(1)(e). It also said that in countries that do not have conflicting municipal laws, national courts can be inspired from international conventions. That means that the order does not stand for either a total freedom of action for the executive over the constitution or an automatic incorporation of any international refugee / statelessness standard.

A more general interpretive principle is seen in *Vishaka and Others v. State of Rajasthan and Others*[47] where the Supreme Court applied international norms that are compatible with the idea of the fundamental rights to fill a lacuna in domestic law. In citizenship law that has to be done carefully as Parliament has made laws with details. Another clear indication from both Article 51(c) and Article 253 is that the Constitution differentiates between encouragement of respect for international law and Parliament's power to implement treaties.

[46] 2021 SCC OnLine SC 296.
[47] (1997) 6 SCC 241.

International statelessness standards can thus shed light on interpretation and design of procedures which are rights-consistent, but not on the vehicle of modifying the eligibility requirements in legislation.

1.5 Critical Analysis, Findings and Original Contribution

The constitutional challenge is to balance the State's control over nationality with the possibility that exclusion, either through classification, documentation or through an adjudicative process, might yield an incorrect or inconclusive result. Analysis needs to be made of the validity of legislative categories and the fairness of status determination; instead, the safeguards for each problem need to be identified.[48]

1.5.1 Equality and Classification

The Citizenship (Amendment) Act, 2019 poses an Article 14 challenge pertaining to the connection between the selected countries, religions, date and legislative purpose. The Union defence focuses on Article 11 competence of Parliament, scheme devised for certain minorities from adjoining States. Petitioners say religion and geography discriminate against similarly situated individuals and collide with the concepts of equality and secularism which govern the constitution. Neither of the positions are judicial holdings; the pending batch lacks a merits judgment. The question of doctrine is whether the classification meets intelligible differentia, rational nexus and any relevant non-arbitrariness scrutiny.[49]

No connection with registration shall be made with equality analysis. The amendment of 2019 is related to "acquisition for a defined class[50]", and a citizenship register is about the verification of current citizens[51]. Although they may be of significance to individuals, the mechanisms are not one legal test. Precision denotes the specific State action is at issue, such as classification in access to citizenship, verification of an existing claim, foreigner adjudication, or removal.

1.5.2 Documentation and Procedural Fairness

A different constitutional problem obtains with documentary citizenship. A facially neutral rule may create a record that is prone to error if the records are old, not available, inconsistent or have variable names. The absence of matching is not proof of citizenship while minor inconsistent matching should not automatically be considered proof of foreign nationality. In

[48] Chetna Sharma, "National Register of Citizens and Citizenship Amendment Act 2019: Following the Logic of Citizenship Securitization in India", 50 *Journal of Ethnic and Migration Studies* 4850 (2024).
[49] John Sebastian, "Under-Inclusive Laws and Constitutional Remedies: An Exploration of the Citizenship (Amendment) Act 2019", 7 *Indian Law Review* 341 (2023).
[50] The Citizenship (Amendment) Act, 2019 (Act 47 of 2019), s. 6B.
[51] The Citizenship Act, 1955 (Act 57 of 1955), s. 14A.

2024, the Supreme Court made the approach on unsupported references a threshold issue prior to the burden of the individual being the deciding factor. The necessary elements of the administration of fairness are thus, a reason to suspect, a disclosure of the reasons, the reasonable opportunity to respond and a reasoned evaluation of the entire record.[52]

Foreigners Tribunals have jurisdiction over questions of immense consequence with regard to liberty, residence and family life. Although constitutional review is essential, a subsequent review will not necessarily correct an inadequate initial procedure. A more robust design principle is to prevent errors through trained adjudicators, available records, understandable notices, documented reasons and standardized evidentiary standards. These are not relinquishing of sovereignty, but improving the precision of the application of sovereign classifications.[53]

1.5.3 Statelessness and Undetermined Nationality

However, Statelessness is to be tested individually. An excluded person from Assam National Register of Citizens may be declared Indian, may be a citizen of any other country or may be of unknown nationality. On the other hand, an individual who does not show in a register exercise may be stateless. This means that the nationality law of every State that has a conceivably legal connection needs to be explored in order to come to a conclusion in application of the 1954 definition. The term “stateless” applies to all those who are excluded from citizenship in the different countries, thereby making an administrative determination the construction that no State recognizes nationality.[54]

The difference also enhances remedy design. However, where it is in question, Indian citizenship is the first issue, and the immediate one. If citizenship in India is denied, then it is necessary that the citizenship authorities try to determine if another country recognizes him/her as its citizen and if there is a means for lawful removal. A separate statelessness procedure may be used to assess status and determine a consequence of documentation and/or residence. This "sequence" ensures that no one walks away from several questions in one that are legally distinct.[55]

1.5.4 Findings

The results of the analysis are connected with the research questions. They relate to conceptual classification, constitutional procedure, legal status of the international norms and institutional

[52] 2024 INSC 511.
[53] (2019) 6 SCC 604.
[54] Convention relating to the Status of Stateless Persons, 1954, Art. 1(1).
[55] United Nations High Commissioner for Refugees, *“Handbook on Protection of Stateless Persons”* (2014).

design. The findings are limited to the authorities and the data analysed and do not assume the result of the pending challenge to the Citizenship (Amendment) Act, 2019.

1. First, Indian law should differentiate between established citizenship, foreign nationality and nationality which is either not determined or disputed and statelessness. The non-inclusion figures show the extent of verification, which cannot prove statelessness in Assam. If these two categories are lumped together, the constitutional debate and numeric reporting become skewed.[56]
2. Second, Supreme Court doctrine entails a fusion of the State's power and operational procedures. Although citizenship may be subject of legislation by Parliament, and non-citizens are deprived of some rights reserved for citizens, the rights to lawful notice, an evidentiary basis, reasoned adjudication and judicial review are significant safeguards.[57]
3. Thirdly, global norms come in different degrees of legality. India is committed to obligations under treaties to which it is a party under the nationality related provisions[58], and the 1954 and 1961 statelessness conventions are specialised persuasive instrument and not treaties binding India[59].[60]
4. Fourth, the problem is there is no clearly distinguished statelessness-determination phase following a denial of Indian citizenship. An approach which only considers citizenship-versus-foreigner categories may leave an issue of lack of recognition of another State's nationality undefined.[61]

1.5.5 Constitutional Statelessness-Prevention Framework

There is no need for a judicial rewriting of substantive eligibility rules for a constitutional statelessness prevention framework. Firstly, a statutory basis for proceedings should be needed and a material should be identifiable. Second, people should be notified, given access to documents on which they rely and be provided with the opportunity to generate documents and explanations that speak to the important evidence[62]. Thirdly, review should be provided prior to the finalizing of effects. Fourth, authorities should make a distinct enquiry as to nationality

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56 Office of the State Coordinator, National Registration, Assam, *"Press Brief on Final NRC"* (August 31, 2019).
57 2024 INSC 511.
58 International Covenant on Civil and Political Rights, 1966, Arts. 24(3), 26.
59 United Nations Treaty Collection, "Convention Relating to the Status of Stateless Persons", *available at:* https://treaties.un.org/pages/ViewDetailsII.aspx?chapter=5&clang=_en&mtdsg_no=V-3&src=TREATY (last visited on September 27, 2026).
60 United Nations Treaty Collection, "Convention on the Reduction of Statelessness", *available at:* https://treaties.un.org/pages/ViewDetailsII.aspx?chapter=5&mtdsg_no=V-4&src=TREATY (last visited on September 25, 2026).
61 United Nations High Commissioner for Refugees, *"Handbook on Protection of Stateless Persons"* (2014).
62 2024 INSC 511.

being recognised by any other State. Finally, child sensitive safeguards must not mechanically resolve a child's citizenship based on the parent's situation[63].

The framework does not presume that all bad decisions are unconstitutional and that international law establishes an absolute right to Indian citizenship. This is about institutional accuracy. The stronger the legal certainty of the state authority in identifying the statutory category, evidence review route, and the actual nationality consequence, the better. Also separation of eligibility, proof, foreigner status and statelessness enables courts to consider the precise issue before them.[64]

1.6 Conclusion

Indian citizenship law is not only a part of the constitutional membership, legislative competency, and border administration, but also of equality and human dignity. The Assam National Register of Citizens, the Assam National Register of Citizens framework as prescribed under the statutory Citizenship (Amendment) Act, 2019 and foreigner law are in the public discourse and have distinct legal entities. One amendment relates to facilitated acquisition, one to a register for a verification, foreigner adjudication asks for a legal foreignness and statelessness asks for the question of which State recognises nationality. It is important to keep these distinctions in mind for proper doctrinal application and the use of data.[65]

The judicial record upholds State authority in line with the constitutional process. Persons are guaranteed protection under both Articles 14 and 21, guarantees in Article 19 are citizen specific[66], determinations by tribunals are reviewable[67], and in recent Supreme Court decisions, the material foundation is required before the evidentiary burdens will determine a nationality dispute[68]. It is also incorrect to assume the validity of the Citizenship (Amendment) Act, 2019 has been conclusively settled in the proceeding relied upon in the present case as the merits of the case were not addressed[69]. International analysis also needs to differentiate between binding treaty obligations and persuasive standards to the effect of statelessness.

Reconciliation is thus more of a procedural and classificatory nature. Citizenship and immigration laws and procedures can be applied that are based on individual evidence, intelligently notified to the public, reasoned, subject to effective review, treated independently

63 Convention on the Rights of the Child, 1989, art. 7.
64 Chetna Sharma, "National Register of Citizens and Citizenship Amendment Act 2019: Following the Logic of Citizenship Securitization in India", 50 *Journal of Ethnic and Migration Studies* 4850 (2024).
65 The Citizenship Act, 1955 (Act 57 of 1955), ss. 3-10, 14A, 18.
66 (1991) 3 SCC 554.
67 (2019) 6 SCC 604.
68 2024 INSC 511.
69 W.P.(C) No. 1470 of 2019, order dated July 24, 2026.

with respect to children, and provide for an independent determination if there is no other citizenship established. These safeguards do not presume who should be included in the Indian visibility. They make citizenship powers easier to exercise and legally accountable and minimise the risk that negative citizenship decisions are covertly converted into a declaration of statelessness.[70]

1.6.1 Suggestions

The following reforms help fill the quantitative and qualitative gaps in procedure, evidence, institutions, and nationality status noted in the analysis above.

1. **Create a distinct statelessness-determination procedure:** Parliament or the Central Government should set up a procedure to be followed only, when Indian citizenship is finally denied and when another nationality is not yet verified. The procedure should involve arriving at a reasoned status decision as to whether the individual has been recognised as a national by any State.
2. **Require a documented basis before reference:** All authorities conducting foreigner/s or citizenship proceedings should document exactly what they see as leaving a 'true status question'. The notice must provide some indication of the basis if not to the extent of what is narrowly justified by confidentiality considerations, then at least enough to provide the person affected with an opportunity to respond to the case.
3. **Standardise evidentiary evaluation:** The competent authorities should take formal or binding steps to review the criteria used in assessing legacy records and name variations, address residence, family-link documents and late civil registration. The guidelines must involve an evaluation of the record as a whole and not the blanket rejection of it for minor inconsistencies.
4. **Guarantee accessible reasoned decisions:** All adverse nationality decisions should detail the statutory provision relied on, the evidence relied on and/or rejected, and the rationale for resolving material conflicts. Decisions should be provided in a language accessible to a person and in a way that is legible to them.
5. **Protect review before irreversible action:** Regular review and constitutional remedies should continue to be in practical effect prior to a detention or removal as a result of the challenged nationality determination. If removal is suggested, the receiving State's recognition and the source of the admission should not be taken for granted.
6. **Adopt child-specific nationality safeguards:** Where there are disputes regarding a child's

[70] United Nations High Commissioner for Refugees, *"Handbook on Protection of Stateless Persons"* (2014).

nationality, authorities should make their own assessments and ensure that universal birth registration remains in place regardless of parents' citizenship status. Administrative regulations should clearly take into account India's responsibilities under the principle of every child's right to have a nationality.

7. **Separate Citizenship (Amendment) Act processing from verification records:** Administrative systems operating Section 6B applications should be distinctly different from the verification of either citizenship in place or citizenship generally. Where exercising a statutory power, official communication should specify that power being exercised, to avoid the possibility of a mix-up with different consequences.
8. **Publish anonymised outcome data:** The Ministry of Home Affairs and the relevant State authorities should release statistics on applications, approvals, rejections, references, outcomes of tribunals and review outcomes and number of unresolved cases of nationality on a periodic basis on an anonymous basis. Avoid using categories to label a person as stateless if the legal status of a person has not been determined.
9. **Provide specialised adjudicator training:** There is a need for regular training of officials and members of tribunals dealing with nationality issues on citizenship laws, the legal definition of statelessness, principles of natural justice, evidentiary reasoning, and child-specific issues. In training materials, it is important that Indian law is discriminated from persuasive international standards.
10. **Review treaty and domestic-law options transparently:** The Union needs to review, on a regular basis, the implications of accession to the 1954 and 1961 statelessness conventions, as well as domestic options that would replicate aspects of safeguards. A published legal evaluation of compatibility with existing citizenship, immigration, federal and security mechanisms should accompany any decision.

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