



The passage of the Citizenship (Amendment) Act, 2019 (CAA) has exposed the Indian state's trust deficit with its people. As it stands today, one needs to prove that at least one parent is a legal citizen. Being born in your country is no longer enough to belong in India! For Goans, this amendment may be in direct contradiction to the Goa, Daman, and Diu (Citizenship) Order, 1962, which granted them Indian citizenship.

The CAA ostensibly aims to give refuge to persecuted non-Muslims from Afghanistan, Bangladesh, and Pakistan. While the protocols and modalities of establishing persecution and refugee status are unclear, many commentators observe that the new amendment is a backdoor approach of accommodating the lakhs of Hindus identified as foreigners after the Assam NRC exercise.

The original law, the Citizenship Act, 1955, was enacted with the express purpose of recognizing all people as citizens within the newly-constituted India. This law liberally granted citizenship to people especially since India was a new nation formed after the demise of British colonialism. The liberal outlook of the law was in sync with standard democratic practices across the world. Thus, in India citizens were recognized on the basis of birth, descent, registration, and naturalization. Subsequent amendments to this Act (by Congress and BJP governments) restricted the liberal outlook of the law.

After the annexation of Goa, Daman, and Diu, the Indian government issued an order, appended to the Citizenship Act, 1955. Similar to the original law, the order extending Indian citizenship to Goans was also liberal in its outlook. Thus, the order states, "Every person who or either of whose parents or any of whose grand parents was born before the twentieth day of December, 1961, in the territories now comprised in the union territory of Goa, Daman and Diu, shall be deemed to have become a citizen of India on that day."

Though India had granted citizenship to Goans in 1962, the diplomatic tussle between New Delhi and Lisbon over the sovereignty of Goa, Daman, and Diu continued till 1975. India, in 1962, recognized that the problem of sovereignty and citizenship did not have a clear solution. Hence, the 1962 order left the option open for any person in Goa, Daman, and Diu to maintain the preexisting citizenship by notifying in writing to the administration or any other authorities.

In 1975, under the leadership of the then president of Portugal, Mario Soares, who was keen to normalize relations with India (following decolonization in Africa and East Timor), Portugal recognized India's sovereignty over Goa, Daman, and Diu. This treaty, signed on 14 March 1975 recognized India's sovereignty by backdating it to 1961. By normalizing diplomatic

relations, both Portugal and India recognized that Goans were Portuguese citizens and that the transfer of sovereignty did not extinguish preexisting citizenship rights. These rights could be preserved, redeemed, or renounced. At least in the letter of the laws and treaties, the option to choose was with the individual.

Following the wave of decolonization in the 1970s, Portugal ensured that the right of preserving or redeeming Portuguese citizenship was not eroded once Portuguese territories were incorporated into newly-independent (and expanding) nations like India and Indonesia. By enacting the Decree-Law 308-A/75 of 24 June 1974, Portugal kept the option open for Goans to redeem their right of preexisting Portuguese citizenship.

Goans effectively became Indian citizens because a new territory was incorporated into the Union of India (a legal provision available in the Act of 1955). Descent or naturalization did not apply to the Goan case due to the armed intervention of the Indian army. Conversely, in the case of Portuguese citizenship, Goans can legally claim birth or descent because the Portuguese state, at least from the early twentieth century if not earlier, recognized birth and descent as legitimate means of granting citizenship.

Both the Order of 1962 (India) and the Decree-Law of 1974 (Portugal) operate based on the will of the individual (or at least that is the essence of the letter). While the Indian law required an individual to give in writing to refuse Indian nationality, the Portuguese law requires an individual to reclaim his citizenship by providing the appropriate documents establishing descent to (former) Portuguese citizens. The Indian law assumes the silence of the individual as tacit acceptance of Indian citizenship, while the Portuguese law assumes that an individual or his descendant would like to reclaim preexisting citizenship at any moment in time.

The CAA contradicts the legal history that the Union of India shares with Goa and Goans since 1962. The state of India cannot ask Goans to prove their citizenship as the legal basis for Indian citizenship is not birth or naturalization but conquest. If at all the Indian state can ask any question regarding citizenship, it is if Goans want to opt in or out of Indian citizenship. More than 50 years after the armed annexation, such a question is a *fait accompli*. Nevertheless, it does not change the fact that Goans can enjoy multiple legal rights of citizenship that nation-states should proactively protect.

As we have seen in the diplomatic relations between New Delhi and Lisbon, citizenship in Goa is tied to national and internal politics. Goans need to think of their citizenship rights in broader terms. They must also think of citizenship historically. The benefits of citizenship depend on knowing how citizenship was recognized in the past, what is its status now, and what it should be in the future.

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Indian Citizenship and Goan Belonging

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