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Legal Violence in Postcolonial South Asia: Typologies of Exclusion and the Politics of Citizenship Law

Md. Tarik Morshed

Abstract

This article explores how postcolonial states in South Asia employ citizenship law as an instrument of 'legal violence'. It argues that India, Myanmar, and Bangladesh have repurposed the colonial legacies of classification, division, and bureaucratic control to disenfranchise and marginalise certain groups. Taking inspiration from critical legal studies and postcolonial theories, this article demonstrates that law, commonly presented as neutral and objective, is a political instrument with the power to suspend rights and reinterpret identity and belonging. Three different and yet interlinked forms of legal violence have been identified. In India, procedural violence takes the form of legal instruments such as the National Register of Citizens and Citizenship Amendment Act, which together have been deliberately designed to exclude Muslims from their status and rights as citizens. In Myanmar, annihilative violence is institutionalised via the 1982 Citizenship Law, which reduces the Rohingya to a state of non-citizenship and, in formal ensure, brings statelessness and persecution. In Bangladesh, attritional violence is experienced by the marginalized minorities in terms of administrative neglect. Together, these cases help to reveal how postcolonial citizenship regimes recycle colonial logics, produce statelessness, and undermine inclusive democracy.

Keywords: legal violence, postcolonial citizenship, critical legal studies, statelessness, minority rights

Introduction

The post-colonial states of South Asia, the products of the violent partitions of the British empire, inherited from the empire not just its territories and populations but also its laws and bureaucratic structure (Saxena & McClure, 2023). The article contends that this legacy is being repurposed as an instrument of ‘legal violence’ in India, Bangladesh, and Myanmar. This violence does not necessarily operate through the direct command of physical force, but through the so-called ‘neutral, rational, and objective’ language of law to unmake some populations as citizens. In these societies, citizenship regimes are not merely flawed systems of administration, but extremely complex political projects that employ laws, regulations, and courts in the making and also the erasure of citizens, who are excluded, marginalized, and in some cases, made subject to death. This is a direct and continuing inheritance of colonial rule, which perfected the techniques of population control by classification and division that sustained in the post-colonial states in the making of exclusive, majoritarian national identities.

The analysis in this article is a combination of two theoretical perspectives, namely Critical Legal Studies (CLS) and Postcolonial Theory. CLS provided a powerful conceptual tool for debunking the myth of neutrality in law. Emerging in the 1970s, CLS theorists challenge the positivist understanding of ‘law’ as an objective, rational, politically-neutral set of rules; rather, they describe law as an instrument of power (Bianchi, 2017). Quite understandably, they observe law as politics by another means, a mode of stylized discourse that privileges power against the backdrop of given social inequalities and works as a source of new social hierarchies (Wilson & Cella, 2022). One of the central tenets of this critical movement is “legal indeterminacy”, that legal rules are often vague and contradictory, allowing judges and administrators to use their personal and political biases to reach an interpretation that favors the powerful (Bianchi, 2017).

The CLS is informed by postcolonial legal studies, which examine the lasting cultural, economic, and political effects of colonialism (Mawani, 2020). Postcolonialism challenges the Eurocentric legal frameworks and knowledge systems that are imposed on colonized societies and demonstrates how colonial legal logics, power asymmetries, and material injustices continue long after the formal end of the empire (Quijano, 2000). It exposes how colonial powers constructed the colonized as the ‘other’ and created the colonial subject, whose voice and agency have been hegemonic in hegemonic historical narratives (Quijano, 2000). More significantly, a postcolonial analysis reveals how, under the pretense of modernization, and nation

building, post-independence states often reproduce an oppressive legal and ideological infrastructure inherited from the colonial power: reinscribing the colonial system of governance in terms of national sovereignty.

Through the synthesis of the theories above, it is possible to theorize 'legal violence' as a feature of postcolonial state-formation (Mawani, 2011). It is the mechanism through which the state utilizes the *form* of modern, rational law to achieve the *function* of exclusionary social ordering. The law here becomes a technology for producing some people as "illegal" within their own homelands, depriving them of what Arendt (1951) called the "right to have rights". This article will first situate this phenomenon within the colonial architecture of population control in the British Empire, a shared historical root for all three nations. It will thereafter conduct detailed case studies on India, Myanmar, and Bangladesh, illustrating the particularities of the legal violence in these contexts. The analysis shall conclude with a comparative synthesis that brings out the disparate yet connected strategies of weaponization of law in unmaking the citizen in postcolonial South Asia.

The Colonial Blueprint

The crises around citizenship in Bangladesh, India, and Myanmar do not simply originate after independence; it is the direct and deliberate result of a colonial design that categorized, divided, and managed populations for the purposes of imperial control. The British Raj did not simply rule over existing societies, but engaged in an active process of reshaping and even creating them: transforming the fluid social identities into stable, politically charged categories, and drawing administrative lines that became the intractable borders of the future.

The Census and the Reification of Identity

The British colonial census, which was introduced in the late 19th century, was a technology of profound social and political transformation. It was more than the mere act of enumeration: it was an instrument of social engineering through which the complex and fluid social world of South Asia was organized by the logic of a Western, classificatory scheme (Ashesh & Thiruvengadam, 2017). Indigenous concepts of identity, which were often contextual, overlapping, and localized, were forced into discrete, pan-Indian categories of 'religion' and 'caste' (Samarendra, 2011). Colonial administrators, struggling to comprehend Indian society, based their conception of the social on textual interpretation and Brahmin opinion in

order to construct a hierarchical and fixed society that could be quantified, mapped out, and administered (Bhagat, 2006).

In British India, this process of classification and counting had the effect of sharpening and hardening the lines of division between Hindus and Muslims, transforming what once had been porous communities into adversarial, politically competitive blocs (Ashesh & Thiruvengadam, 2017). In the same manner, caste identities reified as previously flexible and local notions of *jati* became incorporated into a more inflexible and pan-Indian hierarchy of *jati*, which was described by the Commissioner for the 1901 Census as “the cement that holds together the myriad units of Indian society” (Shaikh, 2010). Drawing on its experience in India, the colonial administration in Burma created and ranked groups into ethnic categories that separated the majority known as Bamar as different from the ‘hill tribes’ and other minorities (Prasse-Freeman, 2023). This reification of identity as a bureaucratic construct also laid the foundation for all later forms of political mobilization and conflict in the region.

Divide and Rule: Politicizing Difference

The colonial state did not merely categorize, but it also instrumentalized these new categories in a direct ‘divide and rule’ (*divide et impera*) politics. By institutionalizing these divisions in the political and administrative system, the British ensured that the communities would compete with one another for the patronage of the state instead of uniting against the colonial administration (Biswas, 2018). The Reforms that granted Muslims separate electorates, and other like Acts which extended this principle to Sikhs, Indian Christians, and others, are evidence of the principle (Biswas, 2018). In this system, religious communities became separate political communities, and politics started taking the path of communalism.

In Burma, this was reflected in preferential treatment towards ethnic minorities like the *Karen* and *Kachin* over the majority Bamar population, when it came to recruitment into the colonial army and administration (Gravers, 2015). This created a deep-seated resentment from the Bamar, who began to view “the massive immigration from India, the Christian conversion, and ethnic favoritism as subversion of their meaningful order and as a foreign disorder” (Gravers, 2015). During World War II, these divisions were further exploited when the British armed *Rohingya* volunteers to fight the Japanese and their Bamar nationalist allies, leading to brutal inter-communal violence (Bhattacharjee, 2024). In transforming social difference into political antagonism, the colonial state generated enmity amongst rival

communities and passed on a legacy of profound mistrust that would become the hallmark of post-independence politics.

Arbitrary Borders and Manufactured Minorities

The final and most persistent act of colonial violence was to establish international borders arbitrarily. These were not lines between communities based on ethnic, linguistic, or geographical logic but rather based on administrative and strategic considerations of the departing empire (Dalrymple, 2025). The postcolonial borders of India, Pakistan, and Myanmar cross the ancestral or existing homelands of various ethnicities, leaving single communities and networks of kinship stranded between two future nation-states (Dalrymple, 2025).

The British Empire actively promoted and facilitated the migration of huge groups to meet its commercial needs (Bose & Sarkar, 2023). These movements were, at the time as internal migrations within a single imperial boundary. But the drawing of new national borders made these same of these people ‘illegal immigrants’ (Sadiq & Gerasimos, 2021). Post-colonial states inherited this complex demographic situation and froze these borders as the fundamental reality. Here, the ‘foreigner’ is not an outside danger but a product of the colonial state, creating populations through its imperial projects and then rendering them illegal through later actions.

Procedural Violence in India

The Republic of India was founded on a promise of secular, inclusive citizenship, a vision conceived amid the trauma of the subcontinent’s violent partition. But since the country gained its independence, this essential promise has been eroded by a series of laws and processes. This trajectory of legal transformation contains a distinct sort of legal violence: the procedural and bureaucratic violence that employs documentation and law as a weapon to unmake its citizens, and implant a majoritarian, ethno-religious idea of the nation.

From Civic to Ethnic Nation

The framers of the Indian Constitution were deeply traumatized by the religious bloodshed of Partition that led them to deliberately establish a form of citizenship that went beyond religious and communitarian identity. The members of the Constituent Assembly predominantly accepted *jus soli* (right of the soil) as the qualifying principle: all persons born within the territory of India were entitled to be

citizens of India (Constitutional Assembly of India, 1949). This was a hallmark of a “modern, civilized” and democratic nation, in deliberate contrast to the religious logic that led to the creation of Pakistan’s inception.

Yet, the seeds of an alternative, more exclusionary logic were present from the beginning. The trauma of Partition inevitably shaped the debates, and this created pressure to respond to the plight of refugees (Judge, 2022). This resulted in the enactment of the Citizenship Act of 1955. The Assam Accord, signed in 1985, was a significant event that ended six years of agitation against the perceived influx of Bangladeshi immigrants (Das, 2024). For the first time, they undertook a special citizenship mechanism to be operative only in Assam. For citizenship of the state, the Accord provided that all persons who entered Assam after 25 March 1971 would be treated as foreign nationals (Das, 2024). It also codified the decades-old political project to identify and expel people deemed to be “foreigners” who came to Assam after that day. Enshrined in section 6A of the Citizenship Act, this amendment fundamentally altered the fabric of Indian citizenship based on *jus soli* and set a legal precedent of regarding this group of dwellers, largely Bengali-speaking Muslims, as presumptive aliens.

The National Register of Citizens (NRC) in Assam

The Assam Accord’s mandate to identify foreigners remained largely unimplemented for many decades, until the Supreme Court of India directed the update of the 1951 National Register of Citizens (NRC) (Das, 2024). The process required that each resident demonstrate, with specific and almost inaccessible historical documents, that they or their ancestors had lived in India prior to the 1971 cut-off date (Das, 2024). This shifted the general process of the onus of proof; it was not for the state to demonstrate that someone was a foreigner, but for every individual to prove they were a citizen.

This imposed an almost impossible condition on millions, especially amongst the poor, illiterate women, who often lack land papers, birth certificates, or education certificates (Das, 2024). Women were particularly vulnerable since they moved out of their natal villages after marriage, their names were changed, and they were less likely to have property or their name in official records, which is supposed to preclude them from demonstrating the lineage link to a pre-1971 ancestor (Bhowmick, 2020). The final NRC, published in August 2019, excluded approximately 1.9 million people (Das, 2024). There are reports of widespread psychological trauma, severe anxiety about deportation, family separation, and indefinite detention

faced by these people (Bahn, 2019). This is violence not of baton or bullet but of the slow grinding of the inexorable machinery of the state's legal and administrative apparatus.

The Final Crisis

The political implications of the NRC, which surprisingly excluded large numbers of Bengali Hindus, generated a major challenge to the ruling BJP that self-identifies as a Hindu nationalist party (Saikia, 2019). The central government responded to this situation by enacting the Citizenship (Amendment) Act in 2019. This new amendment grants Indian citizenship to Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians who fled persecution from Afghanistan, Bangladesh, and Pakistan and entered India on or before December 31, 2014. For the first time, the CAA makes religion a test of citizenship in India. The law's selective approach is also interesting because it leaves out persecuted Muslim minorities like the *Rohingya* from Myanmar and the Ahmadiyya and Hazara from Pakistan while ignoring non-Muslim refugees like Tamil Hindus from Sri Lanka (Ellis-Petersen, 2024).

The CAA becomes particularly problematic when it is read in conjunction with the proposed nationwide NRC. This combination produces what might be described as a legal pincer movement. The NRC is the first arm of the pincer: a broad net that will disenfranchise millions of people who lack perfect documents and are now threatened with losing their citizenship and being rendered presumptively illegal. The CAA serves as the second arm: a selective filter that provides a lawful escape, a way back to citizenship, but only for non-Muslims. Like Hindus and Sikhs, many Muslims may find the new evidentiary requirements impossible to meet. But what sets Muslims apart is that they do not have an alternative route to citizenship. Even though the law does not formally call Muslims foreigners, it makes them outsiders through the technicalities of documentation and through the discriminatory structure of CAA. Multiple petitions challenging the CAA on grounds of religious discrimination and violation of constitutional principles of equality and secularism are pending before the Supreme Court, which has not yet delivered a verdict. The very legal order itself thus becomes a form of violence, which works to subtly and efficiently undermine the belonging of Muslim citizens and create a hierarchy that endangers their sense of security and dignity by using 'legal indeterminacy'.

Myanmar: The Legal Architecture of Annihilation

In Myanmar, citizenship law is not merely a vehicle of marginalization but an architecture for annihilation. This weaponization of law has played the role of an indispensable legal and moral precondition for decades of persecution, ethnic cleansing, and genocidal violence inflicted upon the *Rohingya* and other ethnic minorities. It provides a stark illustration of how legal violence can function to unmake the existence of a people, rather than just their citizenship.

Citizenship Law as a Tool for Exclusion

The 1982 Citizenship Law is one of the most sophisticated pieces of discriminatory legislation on citizenship. From a more open, post-independence framework to a racialized system, it fundamentally changed who was considered to belong to Myanmar. Quite uniquely, the law distinguishes between three types of citizenship: full citizenship, associate citizenship, and naturalized citizenship. This structure establishes a two-tier system of first- and second-class citizens, where the rights of associate and naturalized citizens are contingent upon the discretion of the state, a clear violation of the principle of legal equality.

At the basis of the lies is the concept of full citizenship. This privileged status is strictly reserved for members of the 135 officially recognized *taingyintha* or “national races”. These groups are designated by the state as those with ancestors that settled in the area now known as Myanmar before 1823, the year of the first Anglo-Burmese War and the onset of the British colonial expansion (Waller, 2020). Anyone who cannot document “conclusive evidence” of such a pre-colonial lineage and who does not fall within one of the officially recognized *taingyintha* groups is denied full citizenship. The *Rohingya*, who are notably excluded from the official list of 135 national races, were therefore made non-nationals in their country of origin. The law effectively institutionalized their statelessness and removed their citizenship, and with it, all basic rights to protection, freedom of movement, education, and political participation.

The Political Construction of the *Taingyintha*

The concept of *taingyintha* is the ideological core of the 1982 law, yet it is a modern political invention. Although the term was used in the colonial period to signify “native” identity, it was developed and weaponized by the post-1962 military regime in its project to construct a particular kind of Burmese nation (Cheesman, 2017). This vision was expressly exclusionary, forging a homogenous national

identity in contrast to “foreign” elements such as ‘Indians’ and Chinese who had come to the colony during the colonial era (Cheesman, 2017). The 1823 is not a mere ‘neutral’ political historical marker; it is an arbitrary, politically charged cut-off year because it post-dates the foundation of the ancient Arakanese kingdom, where early literature on this kingdom clearly reveals the existence of the Rohingyas, and pre-dates the two waves of migration from the rest of British India. Thus, the state can conflate the long-settled people with those coming either later in the colonial period, or still later in the early twentieth century.

Legal Violence as a Precursor to Physical Violence

The 1982 Citizenship Law is a clear example of ‘lawfare’, in which legal means are used to attain strategic political and military objectives (Rusconi, 2023). By recasting the legal status of *Rohingyas* as the “illegal Bengali immigrants” and the “resident foreigner” (Rusconi, 2023), the regime had conducted an act of profound dehumanization. This legal erasure of their identity and history served nothing but to strip away the moral or legal barriers to their persecution during the next few decades. If the *Rohingya* are not citizens, but illegal infiltrators, then the state is not violating their rights but merely enforcing its immigration laws. This legal fiction provided the justification for this ‘apartheid’ and, finally, the rationalization of physical extermination.

The law was the basis of a series of oppressive regulations that followed. Rohingyas’ statelessness rendered them vulnerable to widespread human rights abuses, such as restrictions on movement, marriage, and childbirth, denial of education and healthcare, arbitrary land confiscation, and forced labor (Bhattacharjee, 2024). The 2012 pogroms, 2016–2017 genocidal “clearance operations” by the military (Bhattacharjee, 2024) were the inevitable result of a ‘legal project’ that had for decades already defined the Rohingyas as an unwanted foreign element to be expelled from the nation-state. The lawfare of 1982 intended to transform legislative non-existence into real non-existence. It is this process that epitomizes what can be called the most disturbing forms of legal violence, an annihilative dehumanization where the law is used, not only to exclude, but to efface, the history and identity of people to the end of legitimizing their physical annihilation.

Bangladesh: The Legacies of Partition and War

The mode of legal violence in Bangladesh is unlike the proceduralism of India and the annihilative legalism of Myanmar, as Bangladesh pursues a kind of ‘attritional violence’ that works through legal uncertainty, administrative neglect, and deliberate non-implementation of rights. Based on the traumas of the 1947 Partition and the 1971 Liberation War, the conception of citizenship in this country has always been shadowed by the question of identity and belonging. This has forced minority groups into a precarious legal existence, caught in a legal uncertainty where they are citizens in principle, but in practice are not allowed to exercise their rights.

The Bihari Question

Bangladeshi citizenship is primarily regulated by the Citizenship Act of 1951 and the legislation passed regarding this subject. The Act provides the rules for citizenship by birth, by descent, by registration, and by naturalization, and also for renunciation and deprivation of citizenship. These rules have been repeatedly amended to suit the post-1971 context. The Constitution itself does not fix a definition but instead leaves the matter to legislation. The Bihari community, primarily descendants of Urdu-speaking Muslims, migrated from Bihar and other regions into East Bengal (which later became Bangladesh) around the 1947 Partition of British India (Chatterji, 2007). During their early years, they were neatly accommodated within the Pakistani citizenship regime. The Biharis generally supported the Pakistani army during the 1971 war of independence that gave birth to Bangladesh, and Biharis were increasingly viewed as collaborators of a foreign government (Hashmi, 2024). After independence, the Bangladesh Citizenship (Temporary Provisions) Order 1972 granted citizenship to those who were permanent residents on 25 March 1971 or whose father or grandfather was born in Bangladesh. On paper, this provision included most long-term Bihari residents.

The legal scenario changed with the judgment in *Md Sadaqat Khan v Chief Election Commissioner* (Writ Petition No. 10129 of 2007), where the Court ruled that Urdu-speaking individuals born in Bangladesh who meet legal requirements are entitled to Bangladeshi citizenship and inclusion in the electoral roll. The case established the legal principle of *jus soli* in Bangladesh and was a notable case in Bangladeshi jurisprudence. Quite disappointingly, the lived reality of Biharis presents a different picture. The majority of Urdu speakers still encounter substantial barriers to obtaining documentation, accessing public services, and achieving social recognition, indicating that challenges persist despite the presence of legal

status (Muquim, 2023; Hossain & Billah, 2020). They live in camps, in informal settlements, having little access to identity papers (Muquim, 2023) and thus find themselves stuck in a gap between law on the books and law in action. This situation reinforces a core assumption of Critical Legal Studies: that formal recognition of rights in themselves is not sufficient to secure emancipation, as legal recognition of citizenship does not adequately resolve the deeply ingrained social and structural injustices.

The Thin Citizenship of Jumma Peoples

The Jumma (Chakma, Marma, Tripura, and others) are *de jure* citizens according to the citizenship laws of the country, but their struggle moves from formal recognition to being recognized as indigenous peoples and as an autonomous entity under the 1997 Chittagong Hill Tracts (CHT) Accord. While the Accord had committed to demilitarization, resolution of land disputes, and devolved governance, its implementation has been incomplete, and continuing reports of militarization, dispossession of lands, and obstacles to local governance remain (Asia Indigenous Peoples' Pact et al, 2025). Their formal citizenship is not contested, but they are confronted with daily struggles, delays in the issuance of national IDs, conflicts in mixed-settlement areas, and complications in land-related records (Chakma 2023). It can be observed that the citizenship is formally full, but in fact thin, which obstructs full civic membership in practice.

From the CLS perspective, the citizenship regime of Bangladesh illustrates 'legal indeterminacy' and its political nature in implementation (Unger, 1983). While the liberal courts may issue progressive rulings, it is a broader process of administration, one subject to financial constraints, political decisions, and social prejudice that actually determines the extent to which rights can be realized. When a law is enacted or declared without changes at the structural level, it becomes powerless. From the perspective of postcolonial critique, Bangladeshi citizenship law is underwritten by continuities with colonial notions of nation and territory. The majoritarian cultural characteristics (Bangalee) are endorsed by Article 6 (also Article 23A deals with a similar issue) Constitution, whereas citizenship is referred to as "Bangladeshi." This dualism homogenized cultural nationalism in the legal order by defining the minorities as abnormal in the national imagination. The CHT historically governed a "capitalist frontier" during the colonial period (Hasan & Sharmeen, 2023). continues to be managed through exceptional regimes of militarisation and settlement despite the 1997 Accord. This could be understood as a

form of the existence of a ‘coloniality of power’ (Restrepo, 2017): citizenship is formally equal, but hierarchized by territorialized governance and narratives of state security.

This combination of Critical Legal Studies (CLS) with postcolonial approaches highlights the different thicknesses of citizenship (Bauböck, 1999) experienced by Biharis and Jummas in Bangladesh, illustrating how these frameworks jointly address the complexities of citizenship. While the legal barrier against Biharis was lifted in 2008, they continue to be subject to systematic material exclusion. Such formal citizenship remains ‘thin’ in substance, based on their residence in separate camp settlements, municipal exclusion, and periodic politicization. For Jummas, formal citizenship is contrastingly coupled with the denial of their indigenous status and partial devolution or autonomy according to the CHT Accord. They continue to be restricted in their formal citizenship rights by the de facto militarisation, land disputes, and administrative hurdles. In both cases, citizenship refers not only to a technical legal status but to a lived experience that is fraught and uneven. The Biharis and the Jummas are examples of how the Bangladeshi legal order (informed, as it is, by both historical legacies and contemporary politics) continues to render citizens as unequal in reality even as it proclaims them to be legally equal.

Conclusion

While the contemporary citizenship regimes of India, Myanmar, and Bangladesh have been formed by different national histories and political projects, they bear a common and deeply disturbing legacy of a colonial administration. Citizenship law has been systematically weaponized in these three countries as an instrument of violence. However, this legal violence is not homogeneous in character; it shows various modalities as the preceding analysis indicates: procedural, annihilative, attritional. All of them are designed to unmake the citizen and regulate the boundaries of the nation along exclusionary, majoritarian principles.

This analysis shows that the legal identity of ‘citizen’ in postcolonial contexts is not a stable source of rights and protection, but a site of contestation and struggle. The transformative power of even defining who is a member of the political community involves the violent ‘unmaking’ of those who are not. In India, the combination of the NRC and CA is a model that can be called a complex procedural violence that facilitates a generalized state of precarity open to escape, except for Muslims. The 1982 Citizenship Law in Myanmar is an annihilative violence through which the

history and identity of the *Rohingya* people are legally erased to legitimize their later physical annihilation. In India, the combination of the NRC and CA is a model that can be called a complex procedural violence that facilitates a generalized state of precarity open to escape, except for Muslims. The 1982 Citizenship Law in Myanmar is an annihilative violence through which the history and identity of the Rohingya people are legally erased to legitimize their later physical annihilation. In Bangladesh, violence is attritional because it possesses the characteristic of administrative neglect and an absence of implementation. This has placed communities such as the Biharis and the Jumma in an absolute conundrum where their legitimate rights, legally granted in law books, are rendered meaningless in reality.

Each of these crises of citizenship brings to the surface an essential and possibly terminal paradox of the postcolonial nation-states in South Asia. These states use the liberal modern narrative of constitutionalism, the rule of law, and human rights to realize deeply illiberal, majoritarian ends based on colonial-era identity classifications. The result is a long-lasting conflict and the creation of massive stateless and dispossessed populations. No real resolution to these crises can be sought within the military-judicial structures of violence. It will require a profound re-imagination of political community, one that transcends the colonial logics of ethnic and religious categorization and majoritarian impulse that derive from it, and is instead based on an inclusive, rights-based model of citizenship grounded in the universal principles of international human rights law. Until such transformation occurs, the law will operate not as an instrument for protecting the weak, but as a weapon of the nation-state to target its 'other'.

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