



Paper Citizens: Legal Equality and the Silent Architecture of Exclusion

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The modern democratic state presents itself as the champion of universal rights. To be a Muslim citizen of India is to inhabit a constitutional order that guarantees your equality set against a political order that systematically designs your exclusion. Hamlet asked, ‘to be or not to be?’ a question of agency and belonging. The Indian Muslim, however, does not concern himself with the question. The answer is decided for him already: be, but with conditions.

India’s Constitution is one of the most carefully constructed founding documents in the modern world. Written in the shadow of Partition, shaped by people who had watched identity become a weapon of division within living memory, it built in deliberate and specific protections. Article 14¹ guarantees equality before the law. Article 15² prohibits discrimination on grounds of religion. Articles 29 and 30³ protect the cultural and educational rights of minorities. On paper, India’s 200 million Muslims today were made full and equal citizens.

Partha Chatterjee wrote about the postcolonial state’s bifurcation with respect to its own subjects. In *The Politics of the Governed*,⁴ he argues that citizens (civil society) are the rights bearing members of society. In contrast, populations (political society) are constantly rearranged by the government as targets of policy.⁵ His argument is that postcolonial states consider its subjects as governed populations. When a governed population demands something from the State, it must make an exception to accommodate that demand. The accommodation is not a matter of right, but the State makes a political decision to declare an exception that is conditional, negotiable and one that would never harden into an entitlement.

This piece argues that Muslims in India are not merely excluded from civil society but are structurally positioned in political society. In addition to that, their position is exceedingly removed farther from

the negotiating leverage that political society normally confers. They occupy a position that is outside the boundaries of political society. Historically, these were the low caste groups who do not participate in agriculture or tribal people who depend on forest products.⁶

Utter marginalization deprives groups from the strategy of electoral mobilization. After the 2024 general elections, the Bharatiya Janata Party, which won 240 of 543 Lok Sabha seats, had not a single Muslim MP. The entire ruling NDA coalition, which governs a country of 1.4 billion people and whose cabinet sets national policy, returned 293 MPs without one Muslim among them.⁷ India's Muslims, who are 14 percent of the population, hold 4.4 percent of Lok Sabha seats and every single one of those seats is in the opposition.⁸ Muslim candidates are systematically denied tickets during elections, and this decline has been sharper since 2014.⁹ For the 2024 national elections, the number of Muslim candidates nominated by parties (including the opposition parties) has been the lowest since India became a republic.¹⁰

Compromising Political Representation

Political representation is further attacked through three mechanisms. The first is arithmetic reduction of electoral majorities. With a population of roughly 14% of the nation, geographical dispersion of Muslim populations prevents proportional political weight. Successive delimitation exercises have produced constituencies that fragment Muslim majority concentrations with a recurrence beyond coincidence.¹¹ The result is a community with politically significant numbers, but whose votes are designed to rarely occupy a decisive bloc compelling attention.

The second mechanism divorced collective Muslim vote to prove loyalty to a majority electorate. Every previous major political formation in independent India operated on the premise that the Muslim vote was worth competing for. However, a decisive innovation now changed the community's status from a vote bank that parties sought to a community whose exclusion parties campaign on. Muslim political visibility today works as a liability that attaches to any party visibly responsive to Muslim claims. However, despite the diminishing number of Muslim candidates nominated, the number of Muslims elected to Parliament remained relatively uniform- dropping from 26 in 2019 to 24 in 2024.¹² Perhaps the inability to nominate Muslim candidates stems less from their winning potential and more from the attached liability of Muslim representation.

The third mechanism creates a vicious trap. Parties that visibly represent Muslim interests are accused to be proxies for the majoritarian government. It is claimed that their presence splits the secular opposition vote. The accuracy of these accusations is not delved into here, but the effect is the same: it renders moot the possibility of autonomous Muslim representation. A community that votes for autonomous representation is accused of weakening the opposition. The alternative is to settle for secular parties providing representation without a voice. Often, these ‘secular parties’ may prove to be more hazardous for the collective Muslim welfare, than the overtly majoritarian parties like the BJP, under the garb of a safe, inclusive appearance.¹³ This mechanism benefits everyone except the community caught inside it.

Delegitimizing Protest

What remains when the most basic democratic right is systematically erased is the body in public space. Shaheen Bagh, in this sense, remained not an alternative to political participation but its most basic form. It was the moment when systematic exclusion of a community translated into a constitutionally literate response, intolerable to those who administered it. The protests of 2019-2020 where students, visibly Muslim women and families gathered in peaceful, sustained sit-in against the Citizenship Amendment Act and the proposed National Register of Citizens, were arguably the first major citizen-led protest movement and youth mobilization of their kind in contemporary India.

The protestors, however, were labelled as ‘misled’, at best. The dominant political and media framing was not of citizens exercising a constitutional right, but of foreign backed people with an agenda paying other ‘poor and uneducated’ people to occupy a road for a good Biryani lunch.¹⁴ The response to a monumental mobilization of this kind was not engagement on merits but delegitimization of the arguers based on the religion of the community involved. A constitutional protest was reduced to a transaction.

What follows from this is a particular kind of manufactured political silence. When Muslim voices raise concerns about their conditions, the response is rarely to engage with the substance of their grievances. The concerns get reframed as communal politics, as appeasement, as paid theatrics, or as proof of divided loyalties. The same asymmetry is manifested in how dissent is received. When students took to the streets over alleged irregularities in the 2026 NEET examinations, the protests

were widely covered as a legitimate youth uprising, a 'new generation' finally demanding accountability from the state.¹⁵

The demands of the collective Muslim, however, deserve no State attention. The identity of the person making it is treated as sufficient grounds for dismissal. That is not equality but is a system in which the very act of asking for equal treatment means that those in power have decided that you do not deserve it.

The demonization of Shaheen Bagh accomplished something more than the immediate discrediting of the CAA-NRC protest.¹⁶ It created a template for the treatment of Muslim dissent as a category. The message was not only to undermine the particular protest but to regard Muslim political claim-making as inherently suspicious. The subaltern did speak at Shaheen Bagh.

Procedure and the Postcolonial

How does the State answer when delegitimization alone does not work? The answer is that it reaches for law. Nasser Hussain, a legal scholar, argued about the use of procedure to create a competing environment. One that allows the rule of law to be maintained through a substantive cover and another that absorbs within this cover the 'despotic' acts required by the State.¹⁷ These were the contrasting considerations of the British Raj's mission: moral responsibility to be bound by the rules of law and the political consideration of force to discipline its colonial subjects.

The Unlawful Activities Prevention Act (UAPA) is described as an anti-terror law and is an inheritance to independent India from its colonizers.¹⁸ One of UAPA's most notorious lineages is the Rowlatt Act of 1919 that led to nationwide protests against British rule. The Act allowed the colonizers to indefinitely imprison persons it suspected of terrorist activities without trial. These 'terrorist acts' were nothing, but what the colonizing state considered a threat to its 'sovereignty'.

Terror laws have been used routinely to stifle democratic dissent instead, anything those in power consider antithetical to their political principles is inflated to the status of what hurts the national interest or the citizens. Chatterjee argues that a democracy like India allows the hegemonic tendencies of those in power to continue (through acts like the UAPA) and that postcolonial democracies do not uphold the normative idea of democracies.¹⁹ UAPA reverses the burden of proof on the accused,²⁰ who is not granted bail unless the court is satisfied that there exists no prima facie case against him.²¹

There is no immediate judicial remedy available, and the result is the procedure becoming the punishment.

Autocratic Legalism

Political scientist Javier Corrales used the term ‘autocratic legalism’ in the context of democratic backsliding in Venezuela to describe the ‘use, abuse and non-use of law in service of the executive branch’²² which is relevant to India as well in the given circumstances.

Corrales accounts for the *use* of autocratic laws passed by the advantage of dominance of the ruling party in legislative bodies. He cites a number of laws, under Chavez, in his work, including the *Law for Social Responsibility* (2004) that banned the broadcasting of material that could ‘incite or promote hatred and violence’ and the 2005 penal code amendment that makes it illegal to be ‘disrespectful of government officials.’ This arsenal of autocratic laws has two features: 1) The autocratic aspects are not always overt but are buried articles and clauses, and 2) They have been enacted through constitutional channels.²³

The second element of autocratic legalism is the *abuse*²⁴ of law. This refers to the inconsistent and biased implementation of laws and regulations. A study by the Article 14 group and SOAS University of London, published in 2026, found that 84.6 percent of UAPA accused in Karnataka over a 20-year period between 2005 and 2025²⁵ were Muslim, despite Muslims being around 13 percent of the state’s population. 80 percent of the convictions in these cases were from guilty pleas.²⁶

The third element of autocratic legalism is a paradox: reliance on illegality. This is carried out mainly through electoral irregularities. One of Chavez’s most notable authoritarian legacies, according to Corrales, is an irregular electoral environment governed by a biased regulatory agency, the National Electoral Agency (CNE).

The recent investigation by the *Indian Express* may cast similar aspersions to what might be considered an irregular electoral environment.²⁷ Both Election Commissioners referred to the action

of the Chief Election Commissioner during the Special Intensive Revision (SIR) as ‘unauthorized’ and ‘illegal.’ They claim to have objected on record to decisions and orders made without their knowledge. The unilateral decision making by the Chief Election Commissioner is repugnant to the democratic ethos underlying a constitutional state and what was envisioned for the Commission’s functioning.

The Election Commission of India has faced questions on its credibility, ranging from voter fraud to inconsistencies in electoral rolls. Leader of opposition, Rahul Gandhi has accused the constitutional body of voting theft and colluding with the ruling government.²⁸ The SIR exercise was also claimed by the opposition to disenfranchise minority groups, particularly Muslim, to benefit the ruling government.²⁹

The Muslim citizen in India is not only politically marginalized but is positioned in a relationship with the state that the Constitution was enacted to make impossible. Yet, this has happened without a single constitutional amendment and overtly discriminatory legislation.³⁰ This is not a paradox but an achievement. This architecture of exclusion derives its legitimacy from its invisibility. To map the invisibility is to try to determine the kind of democracy India, in the end, will be.

¹ Constitution of India 1950, art 14.

² Constitution, art. 15

³ Constitution, arts. 29, 30

⁴ Partha Chatterjee, *Politics of the Governed* (Columbia University Press, 2004)

⁵ Partha Chatterjee, 'The State' in Nirja Jayal and Pratap Mehta (eds), *The Oxford Companion to Politics in India* (OUP 2010)

⁶ Chatterjee (n 5)

⁷ Dipak K Dash, 'No Muslim MP in NDA, No Minister from Community' (*The Times of India*, Delhi, 10 June 2024) <<https://timesofindia.indiatimes.com/city/delhi/no-muslim-mp-in-nda-no-minister-from-community/articleshow/110855178.cms>>.

⁸ Anjishnu Das, 'Muslim Representation in New Lok Sabha: 24 MPs, None from BJP-Led NDA' (*The Indian Express*, 8 June 2024) <<https://indianexpress.com/article/explained/explained-politics/muslim-representation-lok-sabha-24-mp-9378860/>>.

⁹ Harsh Mander, 'Excluded by the BJP, Shunned by the Opposition: Indian Muslims and the Crisis of Non-Belonging' (*Scroll.in*, June 2024) <<https://scroll.in/article/1069251/excluded-by-the-bjp-shunned-by-the-opposition-indian-muslims-and-the-crisis-of-non-belonging>>.

¹⁰ Mander (n 9).

¹¹ Ali Javed, 'How Delimitation Shapes Muslim Representation in India's Democracy' (*Nous Network*, 24 April 2026) <<https://www.nousnetwork.org/how-delimitation-shapes-muslim-representation-in-indias-democracy/>>.

¹² Zeeshan Shaikh, 'Far Fewer Contested, but Muslim MP Tally Almost Same This Time' (*The Indian Express*, 6 June 2024) <<https://indianexpress.com/article/india/far-fewer-contested-but-muslim-mp-tally-almost-same-this-time-9374865/>>.

¹³ Intzar Saifi, 'A Politics Yet to Come: On the Significance of Sharjeel Imam' (*The India Forum*, 29 January 2026) <<https://www.theindiaforum.in/politics/politics-yet-come-significance-sharjeel-imam>>.

¹⁴ Press Trust of India, 'Shaheen Bagh Protesters Get Biryani Through "Foreign Funds": BJP's Dilip Ghosh' (*NDTV*, 15 February 2020) <<https://www.ndtv.com/india-news/shaheen-bagh-protesters-get-biryani-through-foreign-funds-bengal-bjps-dilip-ghosh-2180797>>.

¹⁵ Ajaz Ashraf, 'Why India's Political Class Fears the CJP' (*Frontline*, 12 October 2026) <<https://frontline.thehindu.com/columns/cockroach-janata-party-gen-z-politics/article71075202.ece>>.

¹⁶ Saba Rahman, 'Why Shaheen Bagh Matters: It Offers Protest Template, Rejects Clergy, Challenges Patriarchy' (*The Indian Express*, 19 February 2020) <<https://indianexpress.com/article/opinion/shaheen-bagh-caa-protests-6271972/>>.

¹⁷ Nasser Hussain, *The Jurisprudence of Emergency: Colonialism and the Rule of Law* (University of Michigan Press 2003)

¹⁸ Harsh Mander, 'The UAPA Is One of Many Modern-Day Avatars of the Draconian, Colonial Rowlatt Act' (*Article 14*, 30 July 2021) <<https://article-14.com/post/the-uapa-is-one-of-many-modern-day-avatars-of-the-draconian-colonial-rowlatt-act--6102c435172cf>>.

¹⁹ Partha Chatterjee, 'The Curious Career of Liberalism in India' (2011) 45 *Modern Asian Studies* 1087.

²⁰ Unlawful Activities (Prevention) Act 1967, s 43E.

²¹ UAPA 1967, s 43D.

²² Javier Corrales, 'The Authoritarian Resurgence: Autocratic Legalism in Venezuela' (2015) 26(2) *Journal of Democracy* 37.

²³ Corrales (n 23).

²⁴ Corrales gives the most notable example of 'communicational hegemony' to describe this abuse. This means that the balance between private independent media and government-controlled media has shifted in favor of the latter.

²⁵ Lubyathi Rangarajan, 'Our Three-Year Analysis Reveals How India's Anti-Terror Law Is Used to Jail People Without Clear Offences' (*Article 14*, 17 February 2026) <<https://tribe.article-14.com/post/our-three-year-analysis-reveals-how-india-s-anti-terror-law-is-used-to-jail-people-without-clear-offences-6993da7ad6c87>>.

²⁶ Mohit M Rao, ‘80% Convictions Under UAPA in Karnataka From Guilty Pleas in Past 20 Years: New Research’ (*Article 14*, 9 February 2026) <<https://article-14.com/post/80-convictions-under-uapa-in-karnataka-from-guilty-pleas-in-past-20-years-new-research-6988e31545d9c>>.

²⁷ Ritika Chopra, ‘14 Times in 10 Months, Two Election Commissioners Objected on Record to Poll Panel Steps’ (*The Indian Express*, 23 September 2026) <<https://indianexpress.com/article/express-exclusive/election-commission-sir-14-objections-gyanesh-kumar-sukhbir-singh-sandhu-vivek-joshi-10889737/>>.

²⁸ Nikhil Inamdar, ‘Why India’s Election Commission is Facing a Test of Credibility’ (*BBC News*, 22 August 2025) <<https://www.bbc.com/news/articles/cj9w43p7741o>>.

²⁹ Hannah Ellis-Petersen and Shaikh Azizur Rahman, ‘India’s Electoral Roll Revision Threatens Democracy and Muslims, Say Critics’ (*The Guardian*, 16 December 2025) <<https://www.theguardian.com/world/2025/dec/16/india-electoral-roll-special-intensive-revision-threatens-democracy-muslims>>.

³⁰ ‘2023 Act in Focus: Experts Question Blanket Immunity for CEC, ECs’ (*Frontline*, 13 October 2026) <<https://frontline.thehindu.com/news/section-16-immunity-cec-eci-accountability-gyanesh-kumar-controversy/article71575308.ece>>.