



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2024

Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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THE CITIZENSHIP AMENDMENT ACT: STIRRING CONTROVERSY IN INDIA

The bill of Citizenship Amendment Act was passed in 2019, with the objective to provide faster citizenship process to religious six minorities, excluding Muslims from the neighbouring states of Pakistan, Bangladesh, and Afghanistan. However, the passing of the bill was marked with nationwide protests, violence, and loss of lives, which led to the delay in implementation of the act. However, on March 11, 2024, Monday, the Prime Minister Narendra Modi led National Democratic Alliance (NDA) government implemented the CAA in India. The implementation of the Citizenship Amendment Act (CAA) 2019, further ignited a firestorm of controversy across India, marked by violence, protests and, deep social unrest, with people taking to the streets and showing their dissent towards the act, explaining its discriminatory and anti-secular nature. While the Modi led government, has clarified time and again that the act is not discriminatory and provides for speedier citizenship process to the refugees of religious minorities from the neighbouring states and thus enables such religions to ensure that their rights are secured, protected, and secured.

At the heart of this controversy lies a fundamental question: What does CAA entail, why is it causing such uproar, and why are Muslims particularly concerned? Before delving into these questions, it is essential to understand the context of CAA.

WHAT IS CAA?

The Citizenship Amendment Act¹, enacted in 2019, aims to streamline the citizenship process for the refugees who fled to seek refuge in India from religious persecution, from the neighbouring Muslim-majority nations of, Pakistan, Bangladesh, and Afghanistan, before December 31, 2014.

¹ The citizenship (amendment) act, 2019, §, NO. 47 OF 2019, Acts of Parliament, 2019 (India).

Prior to the CAA, the process of citizenship in India required a lengthy 11-year residency period for the foreign nationals. CAA expedited the citizenship process for Hindus, Sikhs, Parsis, Buddhists, Jains, and Christians, from these specific countries, acknowledging their plight as victims of religious persecution.

The passing of the Bill in the Parliament was followed with violent demonstrations that claimed many lives. People of all faiths who believed the bill compromised India's foundation as a secular republic were drawn to the countrywide rallies. Muslims were especially concerned that the law might be used against them in conjunction with the planned citizenship registry.

WHAT IS THE CONTROVERSY AND THE CHALLENGES CONCERNING THE CAA?

The major controversy arises from the exclusionary nature of the CAA. It is argued that by specifically targeting non-Muslim minorities, the law contravenes India's secular ethos and discriminated against Muslims. This exclusion raises concerns about the government's broader agenda, with accusations of promoting a Hindu nationalist ideology.

Moreover, the potential implementation of the National Registry of Citizens (NRC) exacerbates fears of discrimination. The NRC, coupled with the CAA, could enable the expulsion of undocumented migrants, selectively allowing re-entry based on religious identity. Such policies could institutionalise discrimination against Muslims and marginalise vulnerable communities.

The citizenship bill, according to critics and Muslim organisations, will shield non-Muslims who are not included in the registry, while Muslims may be detained or deported.²

Human Rights organisation Amnesty India declared on Monday that the bill legitimises discrimination based on religion.³ The USA, along with expressing worry, said it will keep a careful eye on India's application of law. The state department spokesperson Matthew Miller

² Harrison Akins, The Citizenship (Amendment) Act in India, 1-3 (2020), https://www.uscirf.gov/sites/default/files/2020%20Legislation%20Factsheet%20-%20India_0_0.pdf.

³ India: Citizenship Amendment Act is a blow to Indian constitutional values and international standards, <https://www.amnesty.org/en/latest/news/2024/03/india-citizenship-amendment-act-is-a-blow-to-indian-constitutional-values-and-international-standards/#:~:text=The%20operationalization%20of%20the%20Citizenship.obligations%2C%20said%20Amnesty%20International%20today> (last visited Mar. 31, 2024).

informed reporters during a daily briefing on Thursday, “Equal treatment under the law for all communities and respect for religious freedom are fundamental democratic principles”.

However, it is essential to highlight the fact that the challenges posed by the CAA extend beyond religious discrimination. There are concerns being raised over practical implication for individuals lacking proper documentation and identification, particularly vulnerable groups like orphans and transgender individuals. Additionally, the moral implications of uprooting individuals who are grown up in India, regardless of their parent’s immigration status, highlight the human cost of such policies.

The act revolves around various issues and questions, the Home Minister has made various remarks and statements explaining how the Act is not discriminatory and that it recognises the rights of the religious minorities who were faced with religious prosecution in the three Muslim-majority nations. Mr. Shah further went on to state that it is the moral constitutional morality to protect and shelter the people who are part of the ‘Akhand Bharat’ but have suffered religious prosecution after the partition, he further went on to state that the part of Akhand Bharat does not belong to Bharat only for the sake of Muslims.⁴ The proponents of the Act believe that the Act is in furtherance of protection of the persecuted minorities while the critics caution against the marginalization of Muslims and the erosion of India’s secular fabric. As the nation grapples with these complex issues, it is imperative to seek solutions that uphold the principles of equality, justice, and compassion for all individuals irrespective of their religious or ethnic background.

Therefore, in the light of free democracy, it becomes essential to ask various question like, is the Act furthering discrimination based on religion or essentially trying to protect the right of the prosecuted religious minorities? If yes, then why are not the Muslim minorities like the Ahmadiyya of Pakistan and the Rohingyas of Myanmar, who faced religious prosecution in their own nations provided with the same protection? Can the act discriminate based on improper documentation concerning the orphans and the transgender individuals, whom the law itself failed to protect in the first place?

⁴ The Times of India, Govt to go on front foot on CAA, ‘expose’ critics: Home Minister Amit Shah, The Times of India, (Mar 15, 2024, 02:54 IST), <https://timesofindia.indiatimes.com/india/govt-to-go-on-front-foot-on-caa-expose-critics-home-minister-amit-shah/articleshow/108503962.cms>.

Thus, the Citizenship Amendment act has become the focal point of controversy in India, stirring debates that extend beyond religious discrimination. Debates based on secularism, inclusivity, human rights, and equality revolves around the implementation of the Act.