

# ANALYSING THE CITIZENSHIP (AMENDMENT) ACT, 2019

## Abstract

The Citizenship Amendment Act (CAA) has emerged as a contentious legislative measure sparking debates, protests, and legal challenges across India. Enacted in December 2019, the CAA introduces amendments to India's Citizenship laws, providing a pathway to Indian citizenship for undocumented migrants from specific religious minorities in neighbouring countries. However, the Act excludes Muslims, leading to accusations of discrimination and concerns regarding its compatibility with India's secular constitution. This chapter aims to provide a concise overview of the Citizenship Amendment Act, exploring its historical context, key provisions, controversies, and implications. It delves into the socio-political dynamics underlying the enactment of the CAA, including its intersection with identity politics, religious tensions, and national security concerns. Furthermore, it examines the legal challenges mounted against the Act, highlighting debates surrounding constitutional validity and human rights implications.

**Keywords:** Citizenship Amendment Act, Constitutional Provisions

## Author

**Harpreet Kaur**  
Research Scholar  
Department of Law  
Guru Nanak Dev University  
Amritsar, India  
harpreetbhatti135@gmail.com

## I. INTRODUCTION

India is indeed known for its incredible diversity because of which framers of our Constitution faced so many challenges and complexity while making of the constitution.<sup>1</sup> They want to protect some of the principles that include freedom of religion, equality before the law, and secularism, which means that the government does not favor any particular religion or religious group. There is a need to promote unity in diversity to ensure that all citizens of India are treated fairly and equitably.<sup>2</sup> As Mahatma Gandhi famously said, “Our ability to reach unity in diversity will be the beauty and test of our civilization.”<sup>3</sup> By valuing and guarding the principles of freedom, equality, secularism, and liberty, India can continue to move towards a more just and harmonious society for all of its citizens. India adopted a secular principle which provides that no one should be discriminated on the grounds of their religion or someone’s belonging to particular religion. Everyone on our country is treated equality and no one is faced partiality on the basis of religious matters. In India, there are many religions practised by the people but Hindus form the majority at 83 per cent, followed by Muslims and Sikhs. The existence of diverse religious groups sometimes leads to demands for separate sovereign states based on religious identity. The principles reflect the core values and aspirations of the Indian Constitution and guide the functioning of the Indian state and society. The principles of the Indian Constitution such as equality, fundamental rights, fundamental duties, the nature of the state, and fraternity, shape the rights, responsibilities, and sense of belonging associated with citizenship in India.

## II. CONCEPT OF CITIZENSHIP

Citizenship is a fundamental concept in modern democracies, it confers legal recognition, a set of rights and responsibilities, shared values and beliefs, and political capacity. Only citizenship can ensure a continuous relationship between people, based on equality and mutual respect, which is crucial for the health and stability of a modern democracy.<sup>4</sup> Citizenship has indeed become a prominent issue in today’s world due to various global developments and challenges to the traditional boundaries of the nation-state. The modern concept of citizenship recognizes that individuals have the capacity to shape their own lives and make decisions that are not solely determined by factors such as race, religion, class, gender, or any other single aspect of their identity.

## III. DEFINITIONS

*“Participation in a political society is what it means to be a citizen, and it implies a duty of loyalty on the part of the adherent as well as a duty of protection on the part of society. These are collective responsibilities, with one serving as atonement for the other.”*<sup>5</sup>

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<sup>1</sup> Ashok Acharya, *Citizenship in A Globalizing World* 49 (Pearson Education India, 1<sup>st</sup> edn., 2012).

<sup>2</sup> *ibid* at 52.

<sup>3</sup> Available at: <https://atpolgar.wordpress.com/2013/05/29/our-ability-to-reach-unity-in-diversity-will-be-the-beauty-and-test-of-our-civilization-what-will-it-take-to-reach-the-human-developmental-potential/> (Visited on July 02, 2023).

<sup>4</sup> Bellamy Richard, *Citizenship: A Very Short Introduction* (Oxford University Press, Oxford, 2008)

<sup>5</sup> *Luria v. United States* (Decided on October 20, 1913)

*Citizenship is portrayed as the state's retribution in the exodus law's application. Citizenship law paradox... Citizenship legislation... turns into a site where one can see a cutting depiction of the perplexing nature of globalization: both inclusions and exclusions are increased here.*<sup>6</sup>

*Catherine Dauvergne*

*The participation in jurisdictional or dogmatic office is the best way to define a citizen in the true sense of the word.*<sup>7</sup>

*Aristotle*

It means that, Citizenship entails certain right and responsibilities, which includes right to vote and to participate in a political process. The concept of citizenship has various dimensions that encompass legal, political, social, and cultural aspects. Here are some key dimensions of citizenship<sup>8</sup>:

- Citizenship has a legal dimension that defines the rights, privileges, and responsibilities of individuals as members of a particular nation-state.
- Citizenship carries a political dimension, as citizens have the right to participate in the political process of their country, which includes the right to vote, run for public office, and engage in political activism.
- Citizenship has a social dimension that relates to the interactions and relationships among citizens within a society and it involves the sense of belonging, identity, and solidarity that individuals share with their fellow citizens.
- The cultural dimension of citizenship refers to the shared values, traditions, and cultural practices that shape a particular community or nation. It encompasses language, customs, traditions, and the cultural heritage that defines a sense of national identity and belonging.
- Citizenship also has an economic dimension that relates to the rights and responsibilities of citizens in economic activities. This includes access to employment, education, social welfare, and economic opportunities.
- In an increasingly interconnected world, there is a growing recognition of the global dimension of citizenship. Global citizenship emphasizes the responsibilities and rights of individuals as members of the global community, transcending national boundaries.

It's important to note that the dimensions of citizenship can vary across different countries and cultures, as each nation may have its own specific laws, rights, and expectations associated with citizenship.

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<sup>6</sup> Aoileann Ní Mhurchú, *Ambiguous Citizenship in an Age of Global Migration* 1 (Edinburgh University Press Ltd., 2014)

<sup>7</sup> Donald Morrison, "Aristotle's Definition of Citizenship: A Problem and Some Solutions" 16 *JSTOR* (1999).

<sup>8</sup> *supra* Note 1.

#### IV. EVOLUTION OF THE CONCEPT OF CITIZENSHIP

The inkling of citizenship has advanced over several historical periods as its form and substance have not remained the equivalent, but have rehabilitated according to precise bygone contexts. The idea of the citizen as an individual with rights regardless of caste, class, color, gender, ethnicity, and other factors was established in Ancient Greece and the Roman Empire before changing with the growth of capitalism and liberalism.<sup>9</sup>

The concept of citizenship has gone through several distinct eras from ancient Greece to the modern era. In ancient Greece and Rome, citizenship means participation in the political life of the city-state.<sup>10</sup> Children, adult, male residents usually born to citizen parents enjoyed full citizenship rights as it conferred political rights, such as the right to vote and hold office, as well as legal protections. During the Middle Ages, citizenship was closely linked to feudal relationships and the hierarchical structure of society. Citizenship rights were granted by feudal lords to individuals within their domains, often in exchange for military service or agricultural labor. Commoners had limited rights compared to the nobility. The Renaissance and Enlightenment periods marked a shift in the concept of citizenship. Influenced by philosophical ideas of individual rights and social contracts, citizenship began to be associated with natural rights and the consent of the governed.<sup>11</sup> Thinkers like John Locke and Jean-Jacques Rousseau played significant roles in shaping these ideas. The late 18th and early 19th centuries witnessed revolutionary movements, including the American and French Revolutions, which further transformed the concept of citizenship.<sup>12</sup> These revolutions emphasized the idea that citizenship is a right bestowed upon individuals by virtue of their humanity, and not just by birth or social status.

This period saw the rise of notions such as equality, individual rights, and representative government. The 19th and early 20th centuries saw the rise of nation-states and the consolidation of citizenship based on nationality. Citizenship became linked to the idea of belonging to a particular nation or ethnic group. Nationality and birth within the territory (*jus soli*) or descent from citizen parents (*jus sanguinis*) became the basis for citizenship rights and obligations. Throughout the 20th century, citizenship expanded to include broader rights and protections.<sup>13</sup> Women's suffrage movements led to the granting of voting rights to women in many countries. Civil rights movements fought against racial discrimination and advocated for equal citizenship for all. The Universal Declaration of Human Rights and subsequent International human rights instruments further reinforced the idea of universal citizenship rights. In the modern era, globalization and increased migration have raised questions about the boundaries and obligations of citizenship. Dual citizenship, multiple allegiances, and the emergence of global citizenship as a concept challenge the traditional understanding of citizenship tied to nation-states. Discussions on the rights and responsibilities of non-citizens and the integration of diverse populations have gained prominence. The evolution of citizenship continues to be a dynamic process, shaped by ongoing social, political, and legal developments.

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<sup>9</sup> *supra* Note 1.

<sup>10</sup> Robert F. Gorman, "Citizenship, Obligation, and Exile in the Greek and Roman Experience" 6 *JSTOR* (1992).

<sup>11</sup> Available

at: <https://vtechworks.lib.vt.edu/bitstream/handle/10919/26438/etd4.pdf?sequence=11&isAllowed=y>

<sup>12</sup> <https://www.britannica.com/event/French-Revolution> (Visited on: May 23, 2023).

<sup>13</sup> Graziella Bertocchi, Chiara Strozzi, "The Evolution of Citizenship: Economic and Institutional" 53 *JSTOR* (2010).

## V. CONSTITUTIONAL AND STATUTORY PROVISIONS REGARDING CITIZENSHIP IN INDIA

The need of defining “who is the Citizens of India” commenced at the time of adoption of the Citizenship on 26 November, 1949. The date of the adoption of the Citizenship on 26 November 1949, the date on which the Constitution of India was adopted by the Constituent Assembly because the status of people of India changed after partition.

The provisions regarding the citizenship are mentioned from Article 5-11<sup>14</sup>. Various amendments had been made in the Constitution of India with regard to Citizenship with the changing time.

The Citizenship Act, 1955 is an important legislation in India that governs matters related to Indian citizenship. The Act defines who is considered an Indian citizen, the modes of acquisition and loss of citizenship, and the procedures for registration and renunciation of citizenship and it provides provisions for the modes of acquisition, renunciation and termination of citizenship.<sup>15</sup> There is an addition of Article 6 by the amendment made in 1986 in the Citizenship Act 1955 which provide the provisions regarding the special provisions for ‘citizenship of persons covered the Assam Accord’. After this, Citizenship (Amendment) Act, 1986, deals with the eligibility criteria for acquiring Indian citizenship were relaxed for these specific religious minority groups. It allows them to apply for citizenship through naturalization if they have resided in India for a minimum of six years, instead of the usual requirement of 11 years.<sup>16</sup> Citizenship Amendment Act, 1992 says that if a child is born outside of India and if his mother was Indian citizen then he is able for the acquisition of Citizenship of India. Prior to this act, any child born outside India could acquire citizenship of India only if his father was Indian Citizen. The 2003 amendment introduced the concept of “illegal Immigrants” and it mandates the Government of India for the application of National Register of Citizens (NRC). Sec 14A was inserted that provided for conducting headcount of Indian citizens and preparation of the NRC.<sup>17</sup> On February 27, 2015, the Amendment Act was introduced in the Lok Sabha, and on March 2, 2015, it was approved by the Lok Sabha. After that, it was presented in the Rajya Sabha, where it was approved on March 4, 2015. The law is considered to have entered into force on January 6, 2015, having acquired the President of India’s assent on March 10, 2015.

The focal modification introduced by the Amendment Act is the concept of an ‘Overseas Citizen of India Cardholder’ (OCI Cardholder). This new category essentially replaces and merges the previously existing categories of ‘Overseas Citizens of India’ (OCIs) and ‘Personsof Indian Origin’ (PIOs). This consolidation simplifies the status of individuals of Indian origin living abroad.

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<sup>14</sup> Anupama Roy, *Mapping Citizenship in India* 36 (Oxford University Press, New Delhi, 2010).

<sup>15</sup> *ibid.*

<sup>16</sup> Available at: <https://www.drishitias.com/to-the-points/Paper2/citizenship-of-india> (Visited on June 20, 2023).

<sup>17</sup> Prabhas K. Dutta, “Nationwide NRC: Why there is no need to a new law” *India Today*, December 26, 2019.

## VI. CITIZENSHIP (AMENDMENT) BILL, 2016

On 19 July 2016, the Citizenship (Amendment) Bill, 2016 was drafted by the Ministry of Home Affairs, Government of India to amend the Citizenship Act, 1955. After being endorsed by individuals and associations/ held for consideration, the bill was referred to the joint parliamentary committee for examination and presentation of a report. The basic objective of this bill is to allow illegal migrants belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian religious communities, coming from Afghanistan, Bangladesh or Pakistan, not to be deported. imprisonment or deportation. To apply for citizenship, a person must have resided in India for 11 years, but this bill calls for a reduction in this period.<sup>18</sup>

Some of the Most Important point raised in the report<sup>19</sup>:

In this report certain important issues were raised. Such as giving fair-treatment to those who had migrated because of cruelty etc. There is a demand to decrease the time of stay to 3 years under Section 4. If action is being taken against any person who is covered under section 7D (da) then reasonable opportunity of being heard should be given to him. People from Nepal, Bhutan, Sri Lanka, Myanmar and Maldives be made eligible and all non-Muslims and all non-Bengali speaking persons in Pakistan and Bangladesh be made eligible for Indian citizenship. There a need to reduce the time to get citizenship by naturalisation i.e., from 12 years to 5 or 6 years and changes should be made under the definition of “illegal migrant”. The automatic grant of citizenship should be made to Hindus who entered from Bangladesh to India. Due to oppression faced by minority immigrants from Afghanistan, Pakistan and Bangladesh they may be eligible for applying for Indian Citizenship. They are minorities in that countries. Overseas Citizenship of India cancellation on the basis of violation of provisions of Citizenship Act and any other law should be removed because it is ambiguous.

To get first hand inputs at the field level, the study visit was undertaken by the Migrants/ NGOs/Public Representatives. The study visit was made at three places i.e., Jodhpur, Ahmedabad and Raikot.

In these places, migrants were forced to convert their religions, girls were forcefully converted to Islam. In Pakistan ladies have to wear Muslim dress ‘Burka’ and in case of men they have to wear skull cap. Hindus are suppressed there as untouchability was practiced in Pakistan. There were many cases of discrimination among Hindu children in schools and they tortured them mentally in school or college. Medium of study in Pakistan was Urdu language only.<sup>20</sup>

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<sup>18</sup> *Ibid.*

<sup>19</sup> *id.*

<sup>20</sup> *id.*

- 1. Citizenship (Amendment) Act, 2019:** Both the houses of parliament passed the *Citizenship (Amendment) Bill, 2019* (CAB) and it got assent of President and become Citizenship (Amendment) Act, 2019. The CAA provides a path to Indian citizenship for certain religious minorities who are residing in India illegally or are undocumented immigrants from Afghanistan, Bangladesh, and Pakistan. The religious communities worthy for this route to citizenship are Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians. The CAA sparked significant controversy and protests across India due to its religiously discriminatory nature. However, the countries mentioned in CAA are duty bound but failed in their duty to protect minorities in their countries.
- 2. Analysis of Citizenship (Amendment) Act, 2019 and Basic Structure Doctrine of the Constitution:** There are three reasons for the rejection of The Citizenship (Amendment) Act, 2019. There is a lot of criticism against this act such as it is violating the letter and spirit of Constitution of India, it violate the human rights and the third one is that there is lot of tussle between the tworeligions in India that is Muslim and Hindu, so it impose the politics and philosophy of Hindutava. Our constitutional tenets are in jeopardy, and no individual who has faith in our egalitarianism can afford to be inaudible and detached in what is happening around us.<sup>22</sup>

The deployment of creed for dogmatic tenacities in India has a long history, but recent attempts to reorganize citizenship along religious outlines are new-fangled. This challenge to interpret Indian citizenship as faith-based is in contour with the idea of a Hindu majoritarian homeland, where Hindus are natural citizens and Muslims belong to Pakistan or Bangladesh.<sup>23</sup>

The recognition of legal status as citizen's places immigrants and undocumented aliens on par with other citizens and with the current legislative enlargements in India introduce a distinction based on religion that violates the right to equality under the Indian Constitution. The proposal to put into effect the National Register of Citizens seeks to administer a test of citizenship to those who have been residing within its borders, under the official presumption that not everyone is actually a citizen.<sup>24</sup>

The annihilation of the Babri Masjid in 1992 was significant momentous in this excursion and the BJP's ascension to power in 2014 gave an stimulus to the project of Hindutva.

- **CAA and basic Structure Violation:** The Citizenship Amendment Act (CAA) has been criticized by many legal experts, activists, and citizens of India, who argue that it violates the basic structure of the Indian Constitution.

<sup>21</sup> Press Information Bureau Government of India, "Parliament Passes the Citizenship (Amendment) Bill, 2019" (Ministry of Home Affairs 2019).

<sup>22</sup> Pinarayi Vijayan, "Time to defend India's secularism" *The Hindu*, December 20, 2019.

<sup>23</sup> Niraja Gopal Jayal "Reinventing the Republic: Faith and Citizenship in India" 10 *SAGE* 2022.

<sup>24</sup> *Ibid.*

Critics of the CAA argue that it violates the basic structure of the Constitution in two ways. Firstly, by discriminating on the basis of religion, the CAA violates the fundamental right to equality enshrined in Article 14 of the Constitution.

Secondly, the CAA is seen as a threat to India's secular character. India is a secular country, and its Constitution provides for the separation of religion and state. Critics argue that the CAA violates this principle by granting citizenship on the basis of religion and by creating a religious test for citizenship. They also argue that the exclusion of Muslims from the CAA violates the Constitution's guarantee of secularism.

The constitutionality of the CAA has been challenged in several courts, including the Supreme Court of India, and the matter is still pending before the courts. The issue is a contentious one, and it remains to be seen how the courts will ultimately decide on this matter.

## VII. CONCEPT OF SECULARISM IN OUR CONSTITUTION

The word 'secular' was inserted in the Indian Constitution in 1976 through the 42nd Amendment to the preamble. The addition of the word made explicit what was already implicit, i.e., the state's commitment to secularism. Secularism is sceptical of dutiful truth and is contrasting to devout education. Secularism, therefore, must mean brashness or methodology which is fretful with the affairs of this world and which does not regard anything as sacred or as not open to question.<sup>25</sup>

“A secular State is a State which pledges distinct and communal freedom of religion, deals with the individual as a citizen irrespective of his religion, is not constitutionally connected to a particular religion nor does it seek either to promote or interfere with religion.”<sup>26</sup>

However, the current debate surrounding the word 'secular' in the Indian Constitution is related to the Citizenship Amendment Act (CAA) and the National Register of Citizens (NRC). Critics argue that the CAA and NRC discriminate against the Muslim community, violating the secular principle of equal treatment of all religions. There have been calls to remove the words 'secular' and 'socialist' from the Constitution's preamble, arguing that secularism means irreligion and that the state should not force anyone to be secular when the Constitution guarantees freedom of religion. However, the Supreme Court has held that secularism is an unamendable basic feature of the Constitution, and any attempt to remove it would be unconstitutional.

<sup>25</sup> Justice R.A. Jahagirdar (Retd), “Secularism: The Road Behind and the Road Ahead” Rationalist Foundation (1927-2011).

<sup>26</sup> Robert Neil Minor, *The Religious, the Spiritual, and the Secular: Auroville and Secular India* 3 (State University of New York Albany, 1998).



**S. R. Bommai v. Union of India**<sup>27</sup>, The court's decision in the Bommai case emphasized that any action taken under Article 356 must be based on objective and relevant material, and the satisfaction of the President to impose President's Rule should be subject to judicial review. This decision strengthened the federal structure of India by limiting the arbitrary use of central power over state governments and, indirectly, helped protect the secular character of the Indian state by upholding constitutional values and principles.

Again, in **M. Ismail Faruqui v. Union of India**<sup>28</sup>, The constitution guarantees equality in matters of faith to all entities and groups, regardless of their faith, emphasizing that the state itself has no religion. The Preamble to the Constitution, read especially in articles 25 to 28, emphasizes this aspect and indicates that it is the concept of secularism personified in the constitutional project, understood in a platform approved by the Indian people in probing the constitutional value of all legal documents according to the Constitution. The concept of secularism is just a right-wing façade.

**1. CAA is Unconstitutional or not:** Is this Act being against Constitutional fundamental rights i.e., Article 14 and 25?

We have read what is written in Article 14 and Article 25. The right under Article 14 is not absolute one, so, CAA does not violate Article 14, it passes the test of reasonable classification. There is no arbitrariness in passing this act.

**I want to explain this by mentioning case:**

- **Case: Ram Krishna Dalmia v. Justice S R Tendolkar**<sup>29</sup>: In this case reasonable classification is defined as classification must be founded on the basis of intelligible differentia and it makes a distinction between those persons who are grouped together from those who left out from this group and another is that there must be a rational relation to the object sought to be achieved by the statute in question.

So, this act passes this principle because reasonable ground to pass the act was to rectify the wrongs of partition and the object behind passing this act is to achieve the Nehru-Liaquat pact which says that both the countries protect minorities. The fact is that the minorities included in the act are persecuted minorities. As Pakistan and Bangladesh failed to protect the minorities in their country, so this act came into existence.

- **Case: Clarence Pais v. Union of India**<sup>30</sup>: Supreme Court in this case held that 'Historical motives may uphold differential treatment of dispersed geographical provinces provided it abides object and just relation to the matter in respect of which differential treatment is accorded.'<sup>31</sup>

<sup>27</sup> 1994 AIR 1918, 1994 SCC (3) 1.

<sup>28</sup> AIR 1995 SC 605 A.

<sup>29</sup> (1957) 59 BOMLR 769.

<sup>30</sup> Writ Petition (C) No. 137 of 1997 etc. with W.P. (Civil) No. 694 of 1998.

<sup>31</sup> Shriya Gune, "Fact Check: Does Citizenship Amendment Act violates Article 14 of the Indian Constitution" *OpIndia* December 26, 2019.

Regarding Article 25, it is clear from the wording of this article that everyone is having freedom of conscience and right to profess, propagate and practice their religion. There is no such provision in this act that is preventing people from practising their right. Nor is this act forbidding Muslims from worshipping their religion. Then how are people saying that this act is violating Article 25.

- 2. Reason behind Non-Inclusion of Sri Lanka and Myanmar:** Asked to state the reason for excluding other neighboring countries such as Sri Lanka, Myanmar, etc., the parliamentarian justified it as follows: “The Government of India has issued a void Standard Operating Procedures (SOP) letter dated December 29, 2011 for dealing with foreign nationals in India claiming to be refugees. These guidelines apply to refugees from various countries including Sri Lanka, Myanmar, etc.” Myanmar and Sri Lanka are not included in the bill because they are not Islamic countries.
- 3. Inclusion of Afghanistan in CAA:** Experts/stakeholders expressed surprise at the inclusion of Afghanistan in the proposed amendment. The committee asked why Afghanistan was aligned with countries like Bangladesh and Pakistan, which were part of India before independence.

In response, the Ministry of Home Affairs presented as follows:

“There have been many incidents against Indian forces in Afghanistan from Pakistani forces sponsored by LET, Haqqani Network and Taliban. Furthermore, the minority communities in Afghanistan migrated to Afghanistan from the Pakistani region before India's independence. They constantly face brutality due to their Indian origin.”<sup>32</sup>

- 4. The Ministry of Home Affairs (MHA) Elaborated as Follows:** “Some people from the minority community from Afghanistan have also come to India due to religious persecution or fear of religious persecution. Therefore, it was decided to bring Afghanistan under the scope of the notification issued on 7 September 2015 by issuing two more notifications on 18 July 2016.”<sup>33</sup>
- 5. Regarding Protests in Assam:** The people of Assam are going on to protest, against this act because there is a fear of losing their cultural rights. We read in history how the lands in Assam were empty due to which the forest itself was forest. For the development of their country, they started taking people to their country, many Bangladeshi also migrated to Assam due to which this state started being developed, now the people of Assam are talking about removing those people from their country.

For example, this is exactly what happened when Shahjahan had cut off the hands of those who built the Taj Mahal after the construction of the Taj Mahal.

- 6. Discretionary Power of Legislature:** Under Article 11, Parliament has been given discretionary power to pass any law related to citizenship which they feel is right. So, CAA was passed because those six communities were badly persecuted in those countries and they have been fighting for their rights for many years. Arguments in favour of CAA

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<sup>32</sup> Available at: <https://crsreports.congress.gov/product/pdf/R/R46955> (Visited on June 25, 2023).

<sup>33</sup> *ibid.*

- This bill is not against Muslims. The leaders of opposition parties misguided the people regarding this Act. Muslims have right to register themselves as citizens of India by registration and by naturalisation. This act has been passed to give citizenship rights to the people and not to take away the rights of the people. Harish Salve, one of India's biggest names in national and international law, has stated that the Citizenship Amendment Act is not anti-Muslim.
- It does not violate Article 14 because the classification in this act is based on the reasonable grounds. So, this act also passes this principle because reasonable ground to pass the act was to rectify the wrongs of partition and the object behind passing this act is to achieve the Nehru-Liaquat pact which says that both the countries protect minorities. The fact is that the minorities included in the act are persecuted minorities.
- This act is beneficial for all those people who face persecution in their country of origin and they are living in India as refugees for many years, after this act, they can apply for Indian citizenship. They face persecution in their country of origin. The challenges faced by migrants who do not possess sufficient documentation in India, specifically in relation to obtaining an Aadhaar card and the potential impact on their access to essential services such as the right to food.
- Prime Minister Modi said in his speech that India's first Prime Minister Pandit Jawaharlala Nehru supported the protection of minorities in Pakistan. "Pandit Nehru himself was in favor of protecting minorities in Pakistan. I want to ask the Congress: Is Pandit Nehru a communalist? Does he want a Hindu Rashtra? he say."<sup>34</sup>
- This bill is passed to fulfil the Nehru Liaquat, the agreement which was made between the Governments of India and Pakistan regarding Security and Rights of Minorities that was signed in Delhi in 1950 and this is an agreement which exist between the Prime Minister of India and Pakistan, Jawaharlal Nehru and Liaquat Ali Khan.<sup>35</sup>

Dr. B.R. Ambedkar, further emphasized:

*"He said that at the time of partition it is difficult to cover every kind of case to save people for a limited purpose and the purpose of conferring citizenship on the date of commencement of the constitution. So, he said that the people who were left out of the provisions for the grant of citizenship then we have given discretionary power to Parliament to make provisions for them subsequent when it is necessary in the eyes of Parliament."*<sup>36</sup>

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<sup>34</sup> Express Web Desk, "PM Modi on CAA: Nehru was in favour of protecting Pak minorities, did he want a Hindu Rashtra?" *Indian Express*, February 6, 2020.

<sup>35</sup> Prakash K Dutta, "What is Nehru Liaquat Pact that Amit Shah Referred to Defend CAA" *India Today*, Dec 10, 2019.

<sup>36</sup> Joint Committee, Report: *Citizenship (Amendment) Bill, 2016*.

Prime Minister Jawaharlal Nehru's speech on "Tryst with Destiny" on 14 August, 1947 at Parliament House:

"We also think of our brothers and sisters who have been cut off from us because of political borders and who unfortunately cannot now share in the freedom they have gained. They are ours and will remain ours no matter what happens, and we will share their good and bad things equally."<sup>37</sup>

When the partition of the country took place, this partition took place only on the basis of religion. Pakistan and Bangladesh chose Islam as the religion of their country and on the other hand, India became a secular state after partition. Those who are doing the protest have forgotten that the partition between India and Pakistan took place on a religion basis. After separation, Pakistan started harassing those who were minorities in their country. That is why it is wrong for people to say that this act is against secularism.

PM Modi said, much has been said about Citizenship Amendment Act (CAA) by those who "love getting snapped with the assemblage of people who want 'Tukde Tukde' of India."<sup>38</sup> Union Home Minister Amit Shah on Saturday unveiled over 5.5 lakh missives written by Ahmedabad populaces to Prime Minister Narendra Modi, thanking him for the Citizenship (Amendment) Act.

"Opposition leaders like Rahul Gandhi, Mamata Banerjee, Samajwadi Party (SP) chief Akhilesh Yadav and Bahujan Samaj Party (BSP) chief Mayawati are misleading those who are against the CAA. They are spreading fake news that CAA will strip Muslims of their citizenship."<sup>39</sup>

## VIII. DISADVANTAGES OF THIS ACT

1. If it is applied, then India's population and economy will be affected.
2. Existing linkages between Pakistani ISI and Bangladesh fundamentalist and terrorist groups are being strengthened. Their nexus with Indian terrorist groups is also well-known and it poses a grave danger to India's Internal and external security,
3. It may increase the cases of smuggling, trafficking if it is implemented
4. If the immigrants in India are given citizenship, the unemployment in India will increase.
5. Many people in India are dying of hunger, after it is implemented, poverty seems to increase in India.

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<sup>37</sup> *ibid.*

<sup>38</sup> Express Web Desk, "Seen with tukde-tukde crowd, now talking about CAA: PM Modi attacks opposition", *India Today*, February 6, 2020.

<sup>39</sup> Nelanshu Shukla, "Will not withdraw CAA, protest as much as you want: Amit Shah", *India Today*, January 21, 2020.

## **IX. SUGGESTIONS**

1. Cancellation of overseas citizenship of India on the basis of violation of any law looks vague concept. It means that even if person commits petty offence then also his OCI is cancelled. Therefore, there is a need to define the specification of which citizenship will be cancelled by committing which act.
2. There is a need define clearly in the act that which persecuted minorities have been talked about means on what basis classification is done for example: ethnically, linguistic, religion or culture.
3. People have to understand this act so that they can understand that they are being misguided. Many people of India are illiterate, due to which it is very difficult to understand this act properly.
4. The government should not shutdown the internet. If it does, then it reduces India's economy and it affects the right to freedom of speech of people.
5. The Protesters have the right to be assembled, but they do not have the right create harm to anyone through this protest. Like we heard in the news that some protesters felting stone on the police then police have a right to take action against this unlawful assemble.