

### CITIZENSHIP AMENDMENT ACT: INDIA'S LOSING GRIP ON SECULARISM

By  
**Muhammad Ahmad Khan**  
Research Associate  
India Study Centre (ISC), ISSI

Edited by  
**Dr Khurram Abbas**

March 25, 2024

*(Views expressed in the brief are those of the author, and do not represent those of ISSI)*



With the *Lok Sabha* elections in India drawing closer, the Bharatiya Janata Party (BJP)'s political communication - which is largely focused on anti-Muslim rhetoric and practices – is getting sharper. The BJP government issued rules for the discriminatory Citizenship Amendment Act (CAA) on 11 March 2024. The Act aims to grant Indian citizenship to immigrants who fled to India from Pakistan, Afghanistan, and Bangladesh before 31 December 2014. This citizenship offer is only limited to Hindus, Sikhs, Buddhists, Jains, Parsis and Christians.<sup>1</sup>

The CAA is an amendment to the Citizenship Act of 1955 which was amended earlier as well in 1986, 1992, 2013, and 2015. The latest amendment was first presented by the BJP in 2016, but due to lack of majority, the measure could not get parliament's approval. In January 2019, a Parliamentary committee report said that around 31,313 illegal immigrants entered India before 31 December 2014. In December 2019, the Act was passed by the Parliament (lower and upper house), which led to severe protests across the country.<sup>2</sup> The Act was opposed by not just Muslims but other groups as well, especially in the North Eastern States of India where it is believed that the immigrant population will dominate the native population causing socio-cultural impacts. Student committees of Jamia Millia Islamia organized several protests which met severe responses from the government.

- 1 Apporvanand, "India's Citizenship Amendment Act is a Devious Anti-Muslim Dog Whistle," *Aljazeera*, March 15, 2024, <https://www.aljazeera.com/opinions/2024/3/15/the-devious-anti-muslim-dog-whistle-in-indias-citizenship-amendment-act>.
- 2 "Why is India's Citizenship Amendment Act so Controversial?" *Aljazeera*, 12 March 2024, <https://www.aljazeera.com/news/2024/3/12/why-is-indias-citizenship-amendment-act-so-controversial>.

More than 200 pleas were also filed against the Act. Because of the social unrest against the CAA that resulted in more than 100 deaths, the BJP could not proceed further on the Act in 2019.

As the CAA is implemented, it requires the immigrants to present any of the nine different documents to show their origin, and any of the 20 documents to prove their entry in India. The second section of the Act says, "Provided that any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan, who entered into India on or before the 31st day of December, 2014 and who has been exempted by the Central Government by or under clause (c) of sub-section (2) of section 3 of the Passport (Entry into India) Act, 1920 or from the application of the provisions of the Foreigners Act, 1946 or any rule or order made thereunder, shall not be treated as illegal migrant for the purposes of this Act."<sup>3</sup>

The Act is criticized not just in India but across the world as it hurts India's so-called secularism and is against Article 14 of the Indian constitution which says that "the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."<sup>4</sup> Kapil Sibal, former Law Minister said in an interview that the Act is absolutely against the constitution as it grants citizenship on the basis of religion. If the BJP government is truly sincere about the plight of minorities in neighboring countries, then it is unclear on what basis only the three countries - Pakistan, Bangladesh and Afghanistan - are selected? Responding to 237 petitions filed against the CAA, the Indian Supreme Court has refused to stay implementation, but asked the government to respond within three weeks. The thrust of Modi government's action is not helping 'immigrants' but allegedly persecuted minorities in their respective countries.<sup>5</sup> This is a politically motivated move.

Officials in India including Home Minister Amit Shah said that Muslims are not included in the Act, because they are well off in their countries: Pakistan, Bangladesh, and Afghanistan. Experts have highlighted the contradictions by pointing out that if India is so concerned about the persecuted minorities in the neighboring countries, why the government has been calling immigrants from Rohingya 'illegal' and asking to detain them?<sup>6</sup> Even when these Rohingya Muslims took the sea route

---

<sup>3</sup> "The Citizenship (Amendment) Bill, 2019," [http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/370\\_2019\\_LS\\_Eng.pdf](http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/370_2019_LS_Eng.pdf).

<sup>4</sup> "The Constitution of India," Government of India, <https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5d8f/uploads/2023/05/2023050195.pdf>.

<sup>5</sup> Sunil Prabhu, "No Stay on CAA, Top Court Asks Centre to Respond to Petitions in 3 Weeks," *NDTV*, March 19, 2024, <https://www.ndtv.com/india-news/no-stay-on-caa-top-court-asks-centre-to-respond-to-petitions-in-3-weeks-5268178>.

<sup>6</sup> Daniel P. Sullivan and Priyali Sur, "Shadows of refugee: Rohingya Refugees in India," *Refugees International*, May 18, 2023, <https://www.refugeesinternational.org/reports-briefs/shadow-of-refugee-rohingya-refugees-in-india/#:~:text=Efforts%20in%20India's%20courts%20had,of%20at%20least%2012%20Rohingya..>

to escape from their country, more than 300 died in their way while the Indian Navy could have saved them. So this official narrative of looking after the immigrants is patently a cover story that the Modi government has come up with.

In Assam, local organizations are protesting against the Act because of increased migration from Bangladesh.<sup>7</sup> Protesters burned the copies of the Act. Political parties including the Indian National Congress (INC) and the Communist Party of India (Marxist) called the move politically motivated in the context of the upcoming Lok Sabha elections. The West Bengal Chief Minister, Mamata Banerjee, called the implementation of CAA a “game of taking away people’s rights. She added that it's another game to divide Bengal.”<sup>8</sup> INC’s President Malikarjun Kharge said that it is a “desperate attempt at divisive politics”. Moreover, All India Majlis-e-Ittehadul Muslimeen (AIMIM) chief, Asaduddin Owaisi, and National Congress Party’s Sharad Pawar expressed strong disapproval of the Act. Shashi Tharoor, a Congress MP, and a renowned scholar even said that if Indian National Development Inclusive Alliance (INDIA) - a political alliance of 26 opposition parties - comes into power, it will repeal the Act.<sup>9</sup>

The implementation of the CAA has also been met with international condemnation. The U.S. Department of State spokesperson said that Washington is “closely monitoring how this Act will be implemented. Respect for religious freedom and equal treatment under the law for all communities are fundamental democratic principles.” A spokesperson for the Office of the United Nations High Commissioner for Human Rights (UNHCHR) said, “As we said in 2019, we are concerned that India’s Citizenship (Amendment) Act 2019 (CAA) is fundamentally discriminatory in nature and breach of India's international human rights obligations.”<sup>10</sup>

Indian officials have responded harshly to the U.S. concerns. India’s External Affairs Minister, S. Jaishankar said, “I am not questioning the imperfections or otherwise of their democracy or their principles or lack of it. I am questioning their understanding of our history. If you hear comments from many parts of the world, it is as if the Partition of India never happened, there were no

---

<sup>7</sup> “Anti-CAA Protests in Assam, effigies of PM, HM burnt,” *The Economic Times*, March 12, 2024, <https://economictimes.indiatimes.com/news/india/anti-cao-protests-in-assam-effigies-of-pm-hm-burnt/articleshow/108440972.cms?from=mdr>.

<sup>8</sup> Saikat Kumar Bose, ‘Think Before you Apply’: Mamata Banerjee’s Citizenship Law Warning,” *NDTV*, March 12, 2024, <https://www.ndtv.com/india-news/mamata-banerjees-ludo-barb-at-bjp-over-citizenship-law-and-nrc-warning-5223787>.

<sup>9</sup> Jocelyn Fernandes, “CAA Protests: Why are People Opposing the Citizenship Amendment Act?” *Mint*, March 12, 2024, <https://www.livemint.com/news/india/cao-protests-why-are-people-opposing-the-citizenship-amendment-act-11710227537653.html>.

<sup>10</sup> Kanishka Singh, “US, UN Express Concern about India’s Religion Based Citizenship Law,” *Reuters*, March 13, 2024, <https://www.reuters.com/world/us-un-express-concern-about-indias-religion-based-citizenship-law-2024-03-12/>.

consequential problems which the CAA is supposed to address."<sup>11</sup> Hitherto, the U.S. Commission on International Religious Freedom (USCIRF) had been recommending to the State Department to designate India as a 'country of particular concern' for its ill treatment of minorities. Moreover, Human Rights Watch and Amnesty International have called the Act discriminating against Muslims and have asked to repeal it.<sup>12</sup>

In her book, "Shades of Saffron: From Vajpayee to Modi," Indian author Saba Naqvi stresses that when in the 2004 elections Vajpayee adopted a moderate approach towards Muslims, Narendra Modi, Chief Minister of Gujarat at the time was not comfortable with that policy. He (CM Modi) said that "wooing Muslims was a fruitless exercise as they would never support the BJP."<sup>13</sup> Even before Modi's statement, the majority of BJP's political elite believed in the same narrative against Muslims. The CAA would further marginalise Muslims to mere second-class citizens in India. Politically, the implications of implementing the CAA are still to be seen in post-Lok Sabha elections. However, still if the Indian Supreme Court wants, it can halt either the implementation of the rules, or any actions taken under the rules until the case is heard and decided.

---

<sup>11</sup> "S. Jaishankar Reacts to US Envoy's CAA Remark: I have principles too," Hindustan Times, March 17, 2024, <https://www.hindustantimes.com/india-news/s-jaishankar-reacts-to-us-envoys-cao-remark-i-have-principles-too-101710657662867.html>.

<sup>12</sup> "Citizenship Amendment Act is a Blow to Indian Constitutional Values and International Standards," Amnesty International, March 14, 2024, <https://www.amnesty.org/en/latest/news/2024/03/india-citizenship-amendment-act-is-a-blow-to-indian-constitutional-values-and-international-standards/>.

<sup>13</sup> Saba Naqvi, *Shades of Saffron: From Vajpayee to Modi* (Westland Publications, 2018).