

## 1.1 Citizenship (Amendment) Act, 2019

**Citizenship Amendment Act (CAA)** grants fast-track citizenship to persons belonging to six religions from **Pakistan, Bangladesh and Afghanistan**, who entered India fleeing religious persecution<sup>1</sup>. While this Act might seem inclusionary on its surface it is discriminatory in its intent – it excludes Muslims, Atheists, Jews, etc. and thus incorporates religious discrimination. **The Act, while inclusive in its stated objective, is exclusionary in its structure and intent. It violates article 14 of the India Constitution** - which provides for equality of all “persons” before the law. In addition, **CAA violates international agreements that India had signed in 1967 and 1979<sup>2</sup> and according to Amnesty International it is also in violation of international laws<sup>3</sup>.**

In 1947, when India gained independence from the British, it also witnessed the partition of the country into Pakistan and India. While Pakistan went on to adopt Islam as state religion, **India chose to stay secular. Citizenship based on religion is therefore unacceptable and all refugees, regardless of their religion or region, should be included in the Act.**

### 1.1.1. Exclusion of persecuted Muslims from Pakistan, Bangladesh and Afghanistan

**CAA excludes Ahmadis of Pakistan, Bihari Muslims of Bangladesh, and Hazaras of Afghanistan.** Under Pakistani law, it is illegal for Ahmadis to refer to themselves as Muslims and they face hurdles in procuring legal government documents<sup>4</sup> - making them highly susceptible to exploitation. The four million Ahmadis in Pakistan form the largest minority in the country. They have not been able to vote in the last thirty-two years<sup>5</sup> and their mosques have been attacked on several occasions<sup>6</sup>. The 'Bihari' (non-Bengali Muslim) community in

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<sup>1</sup> The citizenship (amendment) act, 2019, The Gazette of India, <https://bit.ly/2v64ILH>

<sup>2</sup> CAA Violates International Agreements India Signed in 1967 and 1979: Human Rights Watch, Caravan Daily, <https://bit.ly/2V9PzOF>

<sup>3</sup> CAA in 'clear violation' of Indian Constitution and international human rights law: Amnesty, The times of India <https://bit.ly/39TJOJ2>

<sup>4</sup> Ahmadis in Pakistan face persecution, flee to Nepal, by *Dipanjana Roy Chaudhury*, the Economic Times; <https://bit.ly/2uXsYdB>

<sup>5</sup> Who are Pakistan's Ahmadis and why haven't they voted in 30 years, by *Peter Gottschalk*, Professor of Religion, Wesleyan University, The Conversation <https://bit.ly/3bXR88n>

<sup>6</sup> The persecution of Ahmadis in Pakistan and beyond, Deutsche Welle (DW), Asia; <https://bit.ly/32i7cx4>

Bangladesh is distrusted due to their support of Pakistan during the 1971 war. Around 400,000 members of this community live in subhuman conditions in camps and settlements. They are not integrated into the main society and face rampant discrimination<sup>7</sup>. The Hazaras in Afghanistan have been oppressed for several years and are discriminatorily targeted - causing thousands to be killed in the 1990s. They have been declared 'non-Muslims' by the Taliban and receive no protection from the governments<sup>8</sup>.

**Hence, the Indian government's argument that Muslims are not persecuted in these Muslim majority countries depicts either their ignorance in this matter or their prejudice against Muslims.**

### 1.1.2. Exclusion of other neighbouring countries

CAA also does not include **Rohingya Muslims of Myanmar**. This community has been described as the **world's most persecuted minority by the United Nations**<sup>9</sup>. This Act **also excludes almost 100,000 Sri Lankan Tamil refugees** in India, who are living in refugee camps mostly in the state of Tamil Nadu. Around 25,000 children have been born in these camps have only lived in India all their lives<sup>10</sup>. CAA also fails to take cognizance of the plight of **Buddhists in Tibet and Uighurs in China**.

The Indian government's rationale of selecting religions or countries in this Act does not make sense unless, as explained later, one were to see it as an act aimed to disenfranchise Indian Muslims and make them feel like a second class citizen.

## 1.2 National Register of Citizens (NRC)

CAA needs to be analysed keeping the possibility of a nationwide **Nation Register of Citizens (NRC)** in mind. NRC is an exercise aimed at making a register of all Citizens of India that requires every person in India to prove through documentary evidence, that they are true citizens. Most of the government issued Identity documents like passports, voter card, and

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<sup>7</sup> The neglected 'Bihari' community in Bangladesh, by *Rahat Rafe*, Deutsche Welle, Asia; <https://bit.ly/2HMeEqV>

<sup>8</sup> Afghanistan's persecuted Hazaras have little hope in peace talks, by *Shareena Qazi*, Al-Jazeera; <https://bit.ly/37MGAWo>

<sup>9</sup> Myanmar Rohingya: What you need to know about the crisis, BBC, Asia; <https://bbc.in/2PfKL6K>

<sup>10</sup> Missing from India's citizenship law: 100,000 Sri Lankan refugees, Al-Jazeera, India; <https://bit.ly/2PhvDFL>

Aadhar card have been declared insufficient proof of citizenship<sup>11</sup>. The evidence requires proving ancestry through historical documents.

NRC has already been implemented in Assam, a state in the Northeast of India. Residents had to provide the government with evidence that their families had been living in India before 1971, using documents such as school certificates or property-ownership documents of their ancestors. To make matters worse, even spelling mistakes in documents are enough for them to be rejected. In this small state, **1.9 million people could not prove their citizenship, and have been left out of the register of citizens**<sup>12</sup>.

The extent of the complications associated with this exercise can be gleaned from reports about how the **family of a former President of India, two officers of the Indian defence forces and many government employees could not prove themselves as Indian citizens**<sup>13, 14, 15</sup>. Those excluded from NRC lose their citizenship rights and face an uncertain future in Detention Camps<sup>16</sup>.

NRC, only in Assam has cost the exchequer close to 12 billion INR<sup>17</sup> (**150 million Euros**). There are at **least six detention centres** functional in Assam, with around **1000 detainees**, and

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<sup>11</sup> Aadhaar, voter ID card, passport not proof of citizenship: Government officials, By *Sana Shakil*, New Indian Express;  
<https://bit.ly/2Vdt63l>

<sup>12</sup> Assam final NRC list released: 19,06,657 people excluded, India Today;  
<https://bit.ly/3bZarht>

<sup>13</sup> Former President Fakhruddin Ali Ahmed's family again left out of NRC list, India Today;  
<https://bit.ly/37SyGL0>

<sup>14</sup> Despite Serving Nation for 38 Years, IAF Veteran Failed Citizenship Test, News Click;  
<https://bit.ly/2PesW80>

<sup>15</sup> Retired army officer from Assam declared 'foreigner', sent to detention camp, Economic Times;  
<https://bit.ly/32hvbws>

<sup>16</sup> India builds detention camps for up to 1.9m people 'stripped of citizenship' in Assam, by *Zamira Rahim*, Independent, UK;  
<https://bit.ly/2ultS3b>

<sup>17</sup> Does Amit Shah even understand what NRC will cost?, National Herald;  
<https://bit.ly/2SNPuyz>

more being built. There have been nearly **100 deaths in these centres since 2008**, including suicides by the inmates, with **29 deaths in the last 3 years alone**<sup>18, 19, 20</sup>.

Harrowing tales of conditions in these detention centres has been recorded by an Amnesty documentary<sup>21</sup>. **A new-born baby died in one of these centres and it was later discovered that his mother was not foreigner**<sup>22</sup>. Forty- seven year old Momiran Nessa, spent 10 years in a detention centre and alleges that officials killed her baby in her womb. Reports show that she had her father's and grandfather's documents, **but the family was too poor to be able to afford a lawyer and this led to her being sent to detention centre**<sup>23</sup>.

In November of 2019, Home Minister Mr. Amit Shah said in the Parliament that **"NRC will be carried out across the country"**<sup>24</sup>. This will be a bureaucratic monster for a majority of Indians who are poor and illiterate and in a country that has seen innumerable calamities like annual floods, earthquakes, fires and riots. 1.9 million People have been excluded from the NRC list in Assam alone<sup>25</sup>. The extent of statelessness that an India-wide NRC will cause is unimaginable and its ramifications will not remain contained within the Indian borders.

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Sahida Bibi and her son, Nobizur Islam. | Arunabh Saikia

Because of the unprecedented protests going on for more than two months now, the Indian government retracted the immediate implementation of nation-wide NRC but are trying to

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18 'How is it human?': India's largest detention centre almost ready, by *Tawqeer Hussain*, Al-Jazeera India; <https://bit.ly/39WKHkc>

19 Man Lodged In Assam Detention Centre Dies, 29th Death In 3 Years, by *Ratandip Choudhary*, NDTV India; <https://bit.ly/37PZlbo>

20 Truth of Detention Center / 970 people in 6 camps of Assam, Central Government has given instructions to the remaining states 4 times in the last 10 years, The State; <https://bit.ly/37SBqli>

21 Assam's Detention Centres: Harrowing tales recorded by Amnesty documentary, National Herald; <https://bit.ly/37PHllw>

22 A newborn died in a detention centre in Assam. His mother was later found not to be a foreigner, Scroll; <https://bit.ly/2vWNHhs>

23 They Gave Me Injection to Kill My Unborn Child: Assam Ex-Detainee, The Quint; <https://bit.ly/2vVgLWV>

24 If MHA Now Says 'No Plan for All-India NRC', Did Amit Shah Mislead Parliament Earlier?, The Wire; <https://bit.ly/2SPQDpu>

25 Assam final NRC list released: 19,06,657 people excluded, 3.11 crore make it to citizenship list, India Today; <https://bit.ly/2v87quz>

sneak it in via a similar exercise named NPR (National Population Register), which is being seen as the first step towards NRC<sup>26</sup>.

### Combination of NRC and CAA: an attack on religious freedom and diversity

- i. **CAA and NRC is a lethal combination, designed to disenfranchise, alienate, and marginalize a section of the population.** Through the application of NRC, millions of legitimate Indians stand to lose their citizenship, and CAA has to be seen as a protection umbrella for these Indians, except for Muslims. The concerns regarding misuse of CAA in combination with NRC to target Muslims, being raised by various human rights' activists and social workers were proven correct when it was found that the **Central government had directed Assam to release the non-Muslims from detention centres**<sup>27</sup>.
- ii. Those non-Muslim residents who find their name excluded from NRC, would have a second way of getting Indian citizenship via CAA. The process of acquiring citizenship when you cannot prove it via birth or descent is called naturalization. In case of India, **since the CAA grants citizenship on the basis of applicant's religion and region, the person applying for citizenship loses his/her right to change his/her religion.** It is not clear what would happen if he/she wants to change the religion later, or what happens to the children of such people. Such a law is unprecedented and unparalleled in world today.
- iii. Those residents in southern region of India who would lose their citizenship due to NRC would not even be allowed to apply for it via CAA, as due to ethnicity and language, they would not be able to claim to have been persecuted minorities from Afghanistan, Pakistan or Bangladesh.

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<sup>26</sup> National Population Register: First step to NRC, Deccan Herald  
<https://bit.ly/2VjLjfH>

<sup>27</sup> Centre Asks Assam To Release Non-Muslim Migrants From Detention Centres, The Caravan Daily;  
<https://bit.ly/2Pfmv4i>