

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary  
Peer Reviewed

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

## **EDITORIALTEAM**

### **EDITORS**

#### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



#### **Dr. Namita Jain**

*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*



*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpana

Assistant professor of Law

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **ISSUES RELATED TO CITIZENSHIP AMMENDMENT ACT 2019: ANALYSIS**

AUTHORED BY - ESHA DUBEY

Student

Vivekananda School Of Law And Legal Studies

Vivekananda Institute Of Professional Studies, Delhi

## **ACKNOWLEDGEMENT**

I would like to offer my sincere gratitude to Dean Ma'am, Professor Dr. Rashmi Salpekar of Vivekananda School of Law and Legal Studies, Vivekananda Institute of Professional Studies for providing us with an opportunity to work for our better tomorrow through this institution.

I would also like to thank the management , all the supervisors ,and the library staff.

I sincerely thank our Legal Method faculty, Mrs Nipun Gupta Jain for her guidance, encouragement and consistent supervision to carry out this project smoothly and for being cooperative with us at every step.

I extend my heartfelt thanks to all the faculty members for guiding us.

I am also thankful to my parents for their cooperation and encouragement

IJLRA

**CONTENT**

ACKNOWLEDGMENT	ii
LIST OF CASES	iv
ABBREVIATIONS	v
CONTENT	vi
DETAILED CONTENT	vii



**LIST OF CASES**

Air India Vs Nargesh Meerza [1978] 2 SCR 621	xiii
Bachan Singh Vs State of Punjab [1980] SC 898	xiv
D.S.Nakara Vs Union of India [1983] SC 130	xiv



**ABBREVIATIONS**

Citizenship Amendment Act  
National Registrar of Citizens  
National Population Register

CAA  
NRC  
NPR



## **CONTENT**

### **1. INTRODUCTION AND RESEARCH METHODOLOGY**

#### **1.1 INTRODUCTION**

#### **1.2 RESEARCH METHODOLOGY**

##### **1.2.1 Research problem**

##### **1.2.2 Hypothesis**

##### **1.2.3 Objectives**

##### **1.2.4 Review of literature**

### **2. CONCEPTUAL UNDERSTANDING**

#### **2.1 HISTORY OF CITIZENSHIP LAWS IN INDIA**

#### **2.2 WAYS TO ACQUIRE CITIZENSHIP IN INDIA**

#### **2.3 WAYS IN WHICH CITIZENSHIP CAN BE LOST**

#### **2.4 CAA, NRC AND NPR**

### **3. LEGAL ISSUES**

#### **3.1 VIOLATION OF ARTICLE 14 AND SECULARISM**

#### **3.2 ISSUE RELATED TO NRC**

#### **3.3 ANTI-CAA PROTESTS**

#### **3.4 PROTESTS IN NORTH EAST INDIA**

#### **3.5 IMPACT OF IMPLEMENTATION OF CAA ON FOREIGN RELATIONS OF INDIA**

#### **3.6 ROLE OF SUPREME COURT**

### **4. ANALYSIS**

### **5. CONCLUSION**

### **6. BIBLIOGRAPHY**

## **ISSUES RELATED TO CITIZENSHIP AMMENDMENT ACT 2019**

### **1. INTRODUCTION AND RESEARCH METHODOLOGY**

#### **1.1 INTRODUCTION**

Part-II of the constitution, article 5-11 deals with citizenship laws in India. The Indian Parliament has the power to regulate the right of citizenship by the law. “Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship”.<sup>1</sup>

The Citizenship Amendment act, 2019 or CAA was passed by the parliament of India on 11 December, 2019 and came into force from 10<sup>th</sup> January, 2020. This act amended the citizenship act of 1955 and the provision of granting citizenship to the refugees or illegal migrants from Afghanistan, Bangladesh and Pakistan of Hindu, Sikh, Buddhist, Jain, Parsi, or Christian community who entered into India on or before 31<sup>st</sup> 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 was added to the Citizenship Amendment Act, 2019. This act grants citizenship to these immigrants after six years of stay instead of the previous eleven years. Nothing in which is mentioned in this section shall apply to tribal populated area of Assam, Meghalaya, Mizoram or Tripura as included in the Sixth Schedule of the Indian Constitution and the area covered under "The Inner Line" notified under the Bengal Eastern Frontier Regulation, 1873- Arunachal Pradesh, Nagaland, Mizoram and Manipur.

This act has been in controversy for a long period of time as many believe that it is unconstitutional as it violates the principle of secularism and equality as it excludes Muslims, Jews, etc. from its ambit and violates the principle of secularism by distinguishing people on the basis of religion. Many people contend that it violates article 14 of the constitution .In the north east it has become a concern for Assamese people as they think it violates Assam Accord of 1985. There is also a lot of confusion among people about CAA, NRC and NPR due to which a lot of protests and riots happened during the introduction of the bill. A lot of unrest was created in India due to the common believe that the current government by excluding Muslims from the clause may cause trouble for the 19 lakh Muslims that were left out of the NRC. The constant delay by the Supreme court in hearing the pleas related to CAA also caused

---

<sup>1</sup> Part II: Citizenship' (2019) 24

apprehension among the citizens about the justice delivery system.

## **1.2 RESEARCH METHODOLOGY**

The researcher has primarily used primary and secondary sources to collect data and used oxford style of citation. This study is a doctrinal study.

### **1.2.1 Research Problem**

- (i) Whether CAA is controversial and whether it is unconstitutional or not?
- (ii) Whether the implementation of CAA will have any effect inside Indian territories as well as on foreign relations
- (iii) How does CAA violates some provisions of the constitution like article 14 and secularism and discriminates on the basis of religion
- (iv) What is the role and view of supreme court in this matter

### **1.2.2 Hypothesis**

The CAA violates some provisions of the constitution like article 14 and secularism and discriminates on the basis of religion. It also excludes other religiously persecuted communities from Afghanistan, Bangladesh and Pakistan and from other countries too from its purview.

### **1.2.3 Objectives**

- (i) To study about citizenship laws in India.
- (ii) To study the major differences between CAA, NRC and NPR which are very frequently confused with.
- (iii) To study the various controversies and issues surrounding the CAA.
- (iv) To study the impact of CAA on foreign relations and in the domestic sphere

### **1.2.4 Review Of Literature**

The researcher has mostly used online resources and articles

- (i) "Citizenship Amendment Bill: India's new anti-Muslim law explained"- This article explains the features of the bill, its history and controversy. The researcher has used this article to understand the concept and features of CAA better. My project is different from this article as I have analysed the features of the bill and how it violates constitution.
- (ii) "By listing religions, Modi's CAA broke Atal-Manmohan-left concord on persecuted minorities" by M.K. Venu- This article explains how the mention of religion in the bill broke peace between Atal, Manmohan and left. The researcher

has used this article to gain more knowledge about CAA and it's history and how it affects minorities.

(iii)“All you need to know about citizenship trio: NRC, NPR and CAA” by Ayush Verma- This article explains the different features of NRC, NPR and CAA. The researcher has used this article to gain more knowledge about these three which are interconnected. The researcher after analysing the article has done a comparative study between these three to show how are these different.

(iv)“Even without the NRC, here's why CAA is unconstitutional” by Surhith Parthasarthy- This article explains the constitutional status of CAA. The researcher has used this article to know more about CAA and how it violates constitution. The researcher has analysed this article to see how it violates certain provisions of constitution.

(v)“Assessing the anti-CAA protests” by Mohammed Ayoob- This article explains how CAA led to country wide protests and what happened in them. The researcher has used this article to gain knowledge about the events after the bill was introduced. The researcher then analysed this article and wrote about these protests and how religion was associated with it.

(vi)“India's protest could be a tipping point against authoritarianism” by Rana Ayyub- This article explains about the police brutality and authoritarianism that was followed during the anti-CAA protests and how it may be a tipping point against authoritarianism. The researcher used this article to know more about the ground reality of these protests and how the authority cracked down on these protesters.

## **2. CONCEPTUAL UNDERSTANDING**

### **2.1 CITIZENSHIP LAWS IN INDIA**

The Indian Constitution that was passed in 1950 guaranteed citizenship to all the inhabitants of the country at the beginning of the constitution, and made no distinction on the grounds of religion. The Citizenship Act was passed by the Indian government in 1955. The two different ways for foreigners to obtain citizenship were provided by the act. Revisions to the Citizenship Act of 1955 were prompted by political developments in the 1980s, especially those related to the violent Assam movement against all Bangladeshi migrants. After the Assam Accord was signed in 1985, the Citizenship Act was first amended, in which Prime Minister Rajiv Gandhi's Indian government agreed to identify foreign nationals, exclude them from the electoral rolls,

and evict them from the country.

In 1992, 2003, 2005, and 2015, the Citizenship Act was further revised. In December 2003, with far-reaching revisions of the Citizenship Act, the National Democratic Alliance government, headed by the Hindu nationalist Bharatiya Janata Party (BJP), passed the Citizenship (Amendment) Act, 2003. The definition of "illegal immigrants" was introduced to the Act, rendering them ineligible to qualify for citizenship (by registration or naturalisation) and declaring their children also as illegal immigrants. Illegal immigrants have been identified as citizens of other countries who have entered India without valid travel documents or who have remained in India for a period not exceeding that allowed by their travel documents. "They could be deported or detained".<sup>2</sup>

The 2003 amendment also required the Government of India to create and maintain a National Citizens Registry. "According to M.K. Venu, Advani and Singh addressed the 2003 amendment on the basis of the belief that Muslim communities in Pakistan and Afghanistan who have suffered persecution must also be viewed with compassion".<sup>3</sup>

## 2.2 WAYS TO ACQUIRE CITIZENSHIP IN INDIA

There are four ways in which Indian citizenship can be acquired: birth, descent, registration and naturalisation. These provisions are listed under The Citizenship Act of 1955.

### **By Birth:**

Any person born in India on or after 26.01.1950, but before 01.07.1987, regardless of the nationality of his or her parents, is an Indian citizen. Every person who is born in India between 01.07.1987 and 02.12.2004 is a citizen of India, because at the time of his/her birth either of his/her parents is a citizen of the country. Any person born in India on or after 3.12.2004 is a national of the country if both his or her parents are Indians or at least one parent is an Indian citizen and the other parent is not an illegal migrant at the time of birth of the child.

### **By Registration:**

Citizenship by registration may also be obtained. A person of Indian origin who, before applying for registration, was a resident of India for 7 years. A individual who is a resident of

---

<sup>2</sup> 'Citizenship Amendment Bill: India's new anti-Muslim law explained', BBC news, 11 December 2019, <https://www.bbc.com/news/world-asia-india-50670393>, (accessed 10 March 2021)

<sup>3</sup> M.K. Venu, 'By listing religions, Modi's CAA broke Atal-Manmohan-left concord on persecuted minorities', The Wire, 29 December 2019, <https://thewire.in/politics/by-listing-religions-modis-caa-broke-atal-manmohan-left-concord-on-persecuted-minorities>, (accessed 8<sup>th</sup> March 2021)

any country outside undivided India of Indian origin. A person who is married to an Indian citizen and who, before applying for registration, normally resides for 7 years. Minor children of people who have been citizens of India.

**By Descent:**

A person born outside India on or after January 26, 1950, if his or her father was a citizen of India by birth, is a citizen of India by descent. A person born outside India on or after 10 December 1992, but before 3 December 2004 if, by birth, one of his/her parents was a citizen of India. If a person born outside India or after December 3, 2004 is required to acquire citizenship, his/her parents must declare that he/she does not hold a passport from another country and that his/her birth has been registered at the Indian Consulate within one year of birth.

**By Naturalisation:**

An individual can acquire citizenship by naturalisation if he or she is a resident of India for a period of 12 years (12 months prior to the date of application and 11 years in total) and fulfils all the requirements laid down in the third schedule of the Citizenship Act.

Dual citizenship or dual nationality is not provided for in the Act. It allows citizenship only for the person referred to in the above-mentioned clauses, i.e. by birth, descent, registration or naturalisation.

**By incorporation of territory**

If territory is incorporated in India.

### **2.3 WAYS IN WHICH CITIZENSHIP CAN BE LOST**

There are also some ways by which a citizen can lose his/her citizenship in India:

Through Renunciation- Voluntary act

Through Termination- On acquiring of citizenship of another nation

Through Deprivation- In case of fraud or disloyal cases

The constitution of India only recognises single citizenship.

### **2.4 CAA, NRC AND NPR DISTINGUISHED**

**NRC**- "To put it simply, NRC can be described as the National Register of People, a register that will have the list of all the country's genuine citizens, even though it is currently only done in Assam, and as our leaders put it, there will soon be a national NRC".<sup>4</sup>

---

<sup>4</sup>Ayush Verma, 'All you need to know about citizenship trio: NRC, NPR, CAA', ipleaders, 2020, <https://blog.ipleaders.in/need-know-citizenship-trio-nrc-npr-caa/>, (accessed 2 March 2021)

**NPR-** The NPR is a database which contains a list of all regular residents of the nation. The objective is to provide a detailed identity database of people who reside in the country. During the census stage of "house-listing," which takes place once every 10 years, it is created by house-to-house enumeration.

**CAA-** CAA stands for the Citizenship Amendment Act,2019. On December11,2019, the act was passed in parliament. Under this act, the Indian government plans to grant citizenship to religious minorities belonging to the Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities in Pakistan, Bangladesh and Afghanistan.

These three NRC, CAA and NPR are very frequently confused with but they are different from each other. Both NRC and NPR do not take religion into account whereas CAA does. NRC is currently conducted for only Assam whereas NPR is just a database which contains list of all regular residents of the nation whereas CAA is an act, by implementation of which illegal immigrants facing religious persecution except Muslim religion from Afghanistan, Pakistan, and Bangladesh will get citizenship if they came to India on or before 31<sup>st</sup> December, 2014.

### **3. LEGAL ISSUES**

#### **3.1 VIOLATION OF ARTICLE 14 AND SECULARISM**

Article 14 of the Indian constitution states that the state shall not deny to any person equality before the law or the equal protection before the laws within the territory of India. Due to article 14 there is an obligation on the government to treat everyone equally irrespective of religion, caste, place of birth etc. "This therefore means that any citizenship law that is predicated along religious lines would be ex-facie arbitrary and unreasonable."<sup>5</sup>

The CAA also fails to include other religiously persecuted religions in Afghanistan, Bangladesh, Pakistan like Jews, Muslim minorities like Shias and Ahmediyas, even athiests or agonistics. The CAA only covering some religions and ignoring others violates the principle of secularism which is a fundamental part of our constitution.

There are also other countries where certain communities face religious persecution like Rohingyas from Myanmar, Sri Lankan Tamils from Sri Lanka and other religious communities

---

<sup>5</sup> Suhrith Parthasarthy, 'Even without the NRC, here's why CAA is unconstitutional', The Quint, 24 January 2020 <https://www.thequint.com/videos/news-videos/why-kaa-is-unconstitutional-article-14-counters-to-government-arguments-supporting#read-more> , ( accessed 2 March 2021)

from Nepal, Bhutan. The main contention here is that if the government wants to provide citizenship to illegal migrants on the basis of religious persecution then why the CAA failed to include these communities facing the same religious persecution in their home country. This raises serious questions on the secularism aspect of CAA.

Only those who entered India prior to 31 December 2014 are entitled under the CAA to seek citizenship in India. Those who have subsequently entered India have no such right, even though they may have faced religious persecution before or after that date in the countries concerned. The main contention here is that the main purpose of CAA was to provide humanitarian assistance to these religiously persecuted communities, if they come to India after 31<sup>st</sup> December, 2014 they will not get citizenship and the main purpose of CAA fails.

In *Air India v Nargesh Meerza*, [1978] 2 SCR 621, a state-owned company that is Air India required female attendants to retire under three circumstances: (1) upon reaching 35 years age, (2) if they get married, or (3) on their first pregnancy. These same rules were not applicable to the male attendants. The Court struck the rules down, holding that these requirements constituted official arbitrariness and hostile discrimination in violation of Article 14. In the case of *Bachan Singh v. State of Punjab* 1980 SC 898 by explaining the new dimensions of Article 14, Justice PN Bhagwati had observed that Rule of law pervaded the entire fabric of the Indian Constitution and it excludes arbitrariness. According to PN Bhagwati whenever there is arbitrariness(personal whim) there is a denial of Rule of Law.

Similarly in the case of *D.S. Nakara v. Union of India*, Rule 34 of the Central Services rules was held to be violating Article 14 and thus unconstitutional. Under this rule, a classification was made between the pensioners who retired before a specific date and those who retired after that date. Such classification was held irrational by the Court and thus it was an infringement of Article 14 and as a result, was set aside.

“India is not a signatory to the 1951 UN Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees”.<sup>6</sup> “However these instruments require contracting states to provide refugee status to those who have a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion” and not solely on the basis of religious persecution”.<sup>7</sup> “Contracting states

---

<sup>6</sup> Bhairav Acharya, ‘The future of asylum in India:four principles to appraise recent legislative proposals’ no. 9 NUJS L Rev., 2016, <http://nujlawreview.org>, (accessed 2 March )

<sup>7</sup> Article 1, 1951 Convention.

have to apply these instruments without discrimination as to race, religion or country of origin.”<sup>8</sup> If India was a signatory to these instruments then the CAA would have failed to these instruments.

### 3.2 ISSUE RELATED TO NRC

There is a contention that due to the NRC that was conducted in Assam, 19 lakh people were excluded from that list. The 19 lakh people consist of both Muslims as well as non Muslims, so there is a fear that if CAA is brought into effect the non muslims will be able to get citizenship whereas the Muslims will be stateless. “Under the usual rules of evidence, the burden of proving a fact is on the person who asserts that fact”.<sup>9</sup> The burden of proof in this case lies on the foreigner who has been persecuted and not the government so the main argument here is that many Muslims might not be able to arrange all the relevant documents and might not be able to prove that they are the citizens of India rendering them helpless and stateless whereas the non muslims might get citizenship due to CAA which clearly violates the principle of equality and secularism.

### 3.3 ANTI CAA PROTEST

The introduction of Citizenship Amendment Bill caused huge unrest in India. It led to huge anti CAA protest. “The continuous sit-in in Shaheen Bagh in New Delhi, Which has been replicated across the country, has become the model for these protests and stirred the imagination of the people”.<sup>10</sup> Different communities supported each other and fought for something they felt was unconstitutional. There were many instances of violence too in these protests like the violence by the police in Jamia milia islamia and Aligarh muslim university. It is probably the first time in the history of independent India that protests were happening at such a large scale even Muslim women were actively seen in protests. Protesters gathered on the streets in large number, they made it a struggle for the security of the democratic spirit of the constitution and not just their rights as a religious minority.

These protests turned very violent at later stage with arson, stone pelting and firing by several

---

<sup>8</sup> Article 3, 1951 Convention.

<sup>9</sup> Section 101, Indian Evidence Act, 1872.

<sup>10</sup> Mohammed Ayoob, ‘Assessing the anti-CAA protests’, The Hindu, 28 January 2020, <https://www.thehindu.com/opinion/op-ed/assessing-the-anti-cao-protests/article30668015.ece> ( accessed 4 March 2021)

protestors causing a lot of unrest and emergency like situation in India. The image of India as a liberal democracy that tolerated dissent and secured citizens' rights to protest has been sullied by the excessive violence allegedly used against protestors, especially in the U.P., and reported by journalists. This has resulted in negative reports, especially in reputable international publications such as The New York Times and The Economist.

The Hindu-Muslim divide, particularly in Delhi and U.P., may increase due to these continued sit-ins. This is expressed in anecdotal and impressionist media accounts that, with their mainly Muslim involvement, these protests may alienate large sections of the Hindus. While the anti-CAA protests have shown several promising signs that are likely to reinforce the democratic political culture of India, if the protesters form too tight a bond with a religious identity, there is a danger of communal polarisation.

### **3.4 PROTESTS IN NORTH EAST INDIA**

The north east people have special concern regarding CAA, especially Assamese people who think it contradicts the Assam Accord of 1985, Which clearly states that illegal immigrants heading in from Bangladesh after 24 March, 1971 will be deported. The CAA excludes tribal areas of Assam, Meghalaya, Mizoram or Tripura as included in the Sixth Schedule to the Constitution and the area covered under "The Inner Line" notified under the Bengal Eastern Frontier Regulation, 1873- **Arunachal Pradesh, Nagaland, Mizoram and Manipur. The main apprehension in the minds of the north east people especially Assamese people is that if CAA is implemented then due to the influx of migrants from Afghanistan, Pakistan and Bangladesh, their demography may get affected and the indigenous tribes may become minority in their home state. Due to all these apprehension large scale protests were organised in Assam by Students' body AASU and peasants' organisation KMSS.**

### **3.5 IMPACT OF IMPLEMENTATION OF CAA ON FOREIGN RELATIONS OF INDIA**

The important problem is that India is steadily moving towards global isolation and its trusted allies have often challenged India's constitutional commitment to the rights of minorities. "Many countries have openly expressed their concern about the recent developments in India and questioned whether the country would preserve its secular and heterogeneous character or whether it would adamant to link itself with some notorious "majoritarian states" of the

world.”<sup>11</sup> “The UN criticised the explicit discriminatory provisions of Citizenship Amendment Act 2019 in an unusual rough language but present dispensation appears that it is not inconvenient about unreceptive international climate against India.”<sup>12</sup>

Along with UN, EU and middle east countries have also criticized the way CAA discriminates against Muslims. After the Lok Sabha passed the Bill, this discriminatory, divisive and anti-Muslim act has been strongly opposed by the United States. “The controversial citizenship law has been described by the American federal panel on international religious freedom as basically anti-Muslims and its dangerous turn in the wrong direction as it is directly against the rich history of multi-culturalism and secularism in India.”

Even the UNHCR has condemned India on CAA. Jeremy Laurence, UNHCR spokesperson said that “We are concerned that India’s new Citizenship (Amendment) Act, 2019 is fundamentally discriminatory in nature”. India is also losing it’s global allies which may impact it’s foreign policy. In SAARC region also the relation with Nepal, Sri-Lanka and Bangladesh has been affected. The hostility with Pakistan also has been on an all time high.

### 3.6 ROLE OF SUPREME COURT

Around 143 pleas were filed in Supreme Court against the implementation of CAA claiming that it violates the right to equality, secularism and right to dignity enshrined in the constitution of India. The supreme court bench headed by CJI S.A. Bobde refused to put an interim stay on CAA. The CJI also gave a hint that importance will be given to the petitions concerning northeast region. Lawyers have argues about the unconstitutionality of this bill. Senior advocate K.V. Vishwanathan addressed the court, "The expansive powers granted to executive authorities to tag individuals as 'doubtful people' are the most urgent concern now. There are no instructions to assist these individuals until this is completed. It would lead to electoral rolls being gerrymandered"<sup>13</sup>. The supreme court was heavily criticized for delaying the hearing of pleas at a time when there was a dire need to hear these pleas for the speedy delivery of justice.

---

<sup>11</sup> Rana Ayyub ‘India’s protests could be tipping point of authoritarianism’, The Washington Post, 18 December 2019, <https://www.washingtonpost.com/opinions/2019/12/18/indias-protests-could-be-tipping-point-against-authoritarianism/>, (accessed 4 March 2021)

<sup>12</sup> ‘UN Press Release’, United Nations media coverages and press releases, 2019, <https://www.un.org/press/en/content/press-release>, (accessed 6 March 2021)

<sup>13</sup> Krishnadas Rajgopal, ‘Supreme court refuses to stay citizenship amendment act without hearing government’, 23 January 2020, <https://www.thehindu.com/news/national/caa-petitions-sc-says-no-stay-without-hearing-centre-may-refer-pleas-to-larger-constitution-bench/article30622277.ece>, (accessed 10 March 2021)

Seeing the situation at shaheen bagh the supreme court appointed two mediators senior advocate Sanjay Hegde and advocate Sadhana Ramachandran to talk to the protesters at Shaheen Bagh and convince all the portestors to change the venue of their agitation so that no public place is blocked and people can move freely.

#### **4. ANALYSIS**

The Citizenship Amendment Act, 2019 or CAA is a very contentious bill introduced by the government of India coming into effect from 10th January, 2020. It amended the Citizenship Act, 1955. In this bill illegal immigrants who are Hindu, Jain, Christian, Parsis and Sikhs can get Indian Citizenship if they came to India on or before 31<sup>st</sup> December, 2014, instead of the usual eleven years that are required to get citizenship by naturalisation, these refugees can get it in six years.

There are lot of controversies and issues related to CAA and its implementation. This project will cover these issues by first introducing the topic of CAA and giving a brief about the flaws in it. It will then also explain CAA, NRC and NPR and the difference between these and how these are different from each other and should not be confused with. This project will then further proceed to explain what are the controversies associated with CAA. It will explain how CAA violates some provisions of the constitution like article 14 and secularism and discriminates on the basis of religion. It also excludes other religiously persecuted communities from Afghanistan, Bangladesh and Pakistan and from other countries too from its purview. This project will also discuss how there is a fear that the Muslims left out of the NRC in Assam may become stateless if CAA is applied at pan India level. It will further discuss about the Inner line permit and why there is huge protests in north east India against CAA. It will then further discuss about how due to the implementation of CAA, foreign relations can be impacted and what is the role and view of supreme court in this matter.

#### **5. CONCLUSION**

The preference of the CAA for non-Muslim immigrants is vaguely reminiscent of the partition-era Indian resistance to the return of Muslim refugees from Pakistan, although the circumstances in India then were definitely very different from what they are now. That does not mean, however, that it is correct constitutionally as it violates article 14 and the provision of secularism in the Indian constitution. As we have seen, it discriminates against other religious minority groups in Pakistan, Bangladesh and Afghanistan like Jews, Shias, Ahmadis. In its acceptance of religious persecution as the only basis for refuge, it is too myopic. The 31

December 2014 cut-off date is arbitrary. It is also an open question why Afghanistan was selected, even though it was not part of colonial India, whereas other neighbouring countries, such as Sri Lanka, Bhutan, Nepal and Myanmar, were omitted. There is a contention that the Muslims not included in the NRC may become stateless if CAA is implemented and the non muslims will get Indian citizenship through CAA. This argument is flawed as the CAA confers citizenship to Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from the subject countries, who were “compelled to seek shelter in India due to religious persecution or fear of religious persecution” and who entered India before 31 December 2014. The burden of proof to prove that one is a citizen of India who faced religious persecution from the subject countries and came to India on or before 31<sup>st</sup> December, 2014 will be on the persons excluded from the list and not the government. The introduction of CAA sparked huge outrage across communal lines and led to huge protests, arson, riots and police brutality which caused huge unrest and emergency like situation in India. The giving of religious angle to the protests caused communal polarisation which affected the peace and harmony of the country. It severed the relations with neighbouring as well as other countries and the image of India as a secular and democratic country was tainted.

## **BIBLIOGRAPHY**

Primary resources:

The Citizenship (Amendment) Act, 2019, The Gazette of India

Notification of the The Citizenship (Amendment) Act, 2019, The Gazette of India

The Citizenship (Amendment) Bill, 2019 as introduced in Lok Sabha.

The Citizenship (Amendment) Bill, 2019 as passed in Lok Sabha.

Secondary sources:

1. Hein Online

2. The Hindu

3. The Print

4. The quint

5. “By listing religions, Modi’s CAA broke Atal-Mnmohan-left concord on persecuted minorities” by M.K. Venu

6. “Supreme court refuses to stay citizenship amendment act without hearing government” by Krishnadas Rajagopal