

# Citizenship (Amendment) Act, 2019: A Critical Analysis from an Indian Perspective with Special Focus on Assam

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## Abstract

The Citizenship (Amendment) Act (CAA) of 2019 has sparked significant debate and controversy in India, particularly in the context of Assam. This paper provides a comprehensive analysis of the CAA, tracing its historical background from the Citizenship Act, 1955 to its enactment in 2019. With a special focus on Assam, the paper examines the relevance of the CAA in the region and explores into the diverse arguments surrounding its implementation. Two central arguments emerge from the Indian perspective: humanitarianism and secularism. Additionally, the paper highlights the unique human rights challenges faced by two distinct groups in Assam: the native population and illegal Bangladeshi immigrants. Through a critical analysis of these issues, the paper aims to shed light on the complexities surrounding the CAA and its implications for Indian citizenship and socio-political dynamics, inviting further discourse and reflection on intersection of law, politics, and human rights in contemporary India.

**Keywords:** Citizenship (Amendment) Act, Indian Perspective, Assam, Humanitarianism, Secularism

## 1.0 Introduction

The enactment of the Citizenship (Amendment) Act (CAA) in December, 2019(CAA 2019) marked a significant event in Indian legislative history, sparking widespread debates and dissent across the nation. Amidst heated deliberations in the Lok Sabha and Rajya Sabha, the bill quickly obtained approval, ultimately receiving the assent of President Ram Nath Kovind. PTI 2019a).Advocates of the CAA, led by Union Home Minister Amit Shah, champions its necessity as a measure to safeguard persecuted religious minorities from neighbouring

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countries of Afghanistan, Pakistan, and Bangladesh. However, critics strongly condemn the legislation, contending that it undermines India's secular fabric and marginalised its Muslim populace. The contentious nature of CAA was further heightened by its omission of certain persecuted Muslim minority communities like Shias, Ahmadis and Balochis (Dhavan 2019) who faced severe persecution in Afghanistan and Pakistan, while it does not mandate members of the specified non-Muslim religious groups to provide any proof of persecution. In response to the enactment of the law, widespread protests occurred in different corners of the country, met with a strong response from law enforcement authorities. A multitude of legal challenges were mounted, questioning the constitutionality of the CAA, particularly in light of its potential violation of Article 14 (equality before law) of the Indian Constitution. Opposition ruled states such as Kerala, Punjab, Tamil Nadu and West Bengal (PTI 2019b and Express News Service 2024) declare their refusal to implement the legislation.

In Assam, the impact of the CAA diverges significantly from the rest of India due to the state's intricate historical, cultural, and socio-political context. Unlike the broader national discourse, where opposition to the CAA predominantly centres on constitutional principles and concerns regarding religious discrimination, Assam's response is deeply rooted in its struggle with migration and identity preservation. With a history of illegal immigration<sup>1</sup> from Bangladesh (Hatiboruah 2020) exacerbating demographic shifts and creating fears of cultural dilution among indigenous communities, Assam's worry about CAA is evident and multifaceted. The Assam Agitation of 1979, culminating in the signing of Assam Accord in 1985, serves as an emotional reminder of the state's enduring commitment to safeguarding its cultural and linguistic integrity amidst the influx of migrants. The provisions of CAA for citizenship, based on religious identity, directly challenge the Assam Accord's residency-based criteria<sup>2</sup>, (Assam Accord 1985) generating legal and political complexities that resonate deeply within the state. Consequently, Assam's opposition to the CAA manifests in unified protests, legal challenges, and internal disagreement among natives within the state, reflecting a collective endeavour to uphold its distinct cultural fabric and protect the rights of indigenous communities. However, the people of Assam remain deeply divided on the issue of CAA. While some segments of people support the legislation, viewing it as a solution to the longstanding issue of illegal immigration and a means to protect persecuted religious minorities, other vehemently opposed it, fearing further marginalisation of indigenous communities and potential threats to Assam's socio-cultural identity. This division emphasises the complexity and depth of the debate surrounding the CAA within the state, highlighting the need for a subtle understanding of its implications within Assam's socio-political milieu.

## **1.1 Research Questions and Methodology**

### ***1.1.1 Research Questions***

The present study attempts to reply the following two important n questions:

1. How does the Citizenship (Amendment) Act, 2019 affect citizenship in India?
2. What are the key arguments for and against the Citizenship (Amendment) Act, 2019 in India, with a specific focus on its impact in Assam?

### ***1.1.2 Methodology***

The methodology for this research paper is primarily qualitative and involves a comprehensive literature review of various sources. Academic publications, government

reports, legal documents, and news articles are being examined to gather relevant information and insights on the Citizenship (Amendment) Act, 2019 and its implications, with a special focus on the Indian perspective and the situation in Assam. The qualitative approach allows for a detailed exploration and interpretation of the complex issues surrounding the CAA, including its historical background, legal framework, socio-political context, and impact on different segments of society. By analysing a diverse range of textual sources, this methodology aims to provide a comprehensive understanding of the CAA and contribute to the discourse on citizenship and human rights in contemporary India.

## **1.2 Understanding Indian Citizenship: From the Citizenship Act, 1955 to Citizenship (Amendment) Act, 2019**

The Constitution of India, detailed in Articles 5 to 11 under Part II, outlines citizenship without providing extensive provisions. It recognises individuals as citizens from its commencement on 26 January 1950 including certain categories of people, but does not elaborate on acquiring or losing citizenship thereafter. Article 11 of Indian Constitution (Basu 2015) empowers Parliament to legislate on citizenship matters, leading to the enactment of the Citizenship Act (1955), which has seen subsequent six amendments.

Following the partition of India in 1947, significant population movements occurred across the new borders of India and Pakistan, prompting the Constituent Assembly to address citizenship issues. Consequently, the *Citizenship Act of 1955* was enacted, introducing specific provisions for citizenship requirements and eligibility. This Act provided five methods for acquiring Indian citizenship: birth, descent, registration, naturalization, and incorporation of territory. Individuals domiciled in India as of 26 January 1950, were automatically granted citizenship (CA 1955).

Initially, India followed the concept of *jus soli*<sup>3</sup> or “right of the soil,” which granted citizenship to individuals born within the territorial limits of the country. This principle was reflected in the Citizenship Act of 1955. However, amendments to the Citizenship Act altered the citizenship landscape. The *Citizenship (Amendment) Act of 1986* introduced conditions for citizenship acquisition, supplementing the provisions outlined in Articles 5 to 11 of the Indian Constitution and the original Citizenship Act. It granted citizenship to those born in India between 26 January 1950, and 1 July 1987, but required at least one parent to be an Indian citizen for those born after 1 July 1987, and before 4 December 2003 (CAA 1986). This amendment reflected a shift towards *jus sanguinis*<sup>4</sup> or “right of blood,” denying citizenship to persons, whose either of their parents are not a citizen of India.

The *Citizenship (Amendment) Act, 1992* specifies that an individual born outside India on or after 10 December 1992 is recognised as a citizen of India if either of their parents holds Indian citizenship at the time of their birth (CAA 1992).

Further *Citizenship (Amendment) Act, 2003* aimed to address infiltration from Bangladesh, imposing stricter conditions for citizenship acquisition. For those born on or after 4 December 2004, either both parents must be Indian citizens, or one parent must be Indian citizen, while the other must not be an illegal migrant (CAA 2003).

Furthermore, the *Citizenship (Amendment) Act of 2005* laid the foundation for the concept of dual citizenship, commonly referred to as Overseas Citizen of India (OCI). This OCI scheme was initiated in response to calls for dual citizenship from the Indian Diaspora residing in North America and other developed nations (CAA 2005). Launched in 2006

during the Pravasi Bharatiya Divas convention held in Hyderabad, the OCI scheme aimed to address the needs and aspirations of Indians living abroad.

Additionally, the *Citizenship (Amendment) Act of 2015* brought about changes to the regulations governing Overseas Citizens of India (OCI) as outlined in the Principal Act. One notable alteration was the introduction of the “Overseas Citizen of India Cardholder” scheme, which merged the previously distinct Persons of Indian Origin (PIO) card scheme with the OCI card scheme (CAA 2015).

The *Citizenship (Amendment) Act of 2019* amended previous legislation, aiming to enable members of six communities: Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians from Pakistan, Afghanistan, and Bangladesh to reside in India if they entered before 31 December 2014. This amendment exempts these individuals from facing criminal charges under the Passport Act, 1920, and the Foreigner’s Act, 1946, which pertain to illegal entry and overstaying expired visas or permits. The 2019 amendment also reduces the citizenship eligibility period from 11 years to 5 years. However, it excludes regions mentioned in the Sixth Schedule of the Indian Constitution, covering tribal areas in Assam, Meghalaya, Tripura, and Mizoram. Additionally, areas under the Inner Line Permit System (ILP) are also exempt from the CAA (CAA 2019).

Recently, on 11 March 2024, the Indian government notified the rules for implementing the CAA, 2019, marking over four years since its enactment by Parliament in December 2019 (Singh 2024a). The application process for citizenship under the CAA falls under Section 6B of the Citizenship Act, 1955. Applicants must provide evidence of their country of origin, religion, date of entry into India, and demonstrate proficiency in an Indian language to qualify for Indian citizenship (Ministry of Home Affairs Order 2024).

The evolution of Indian citizenship laws, spanning from the Citizenship Act of 1955 to the Citizenship Amendment Act of 2019, reflects a progression towards stricter criteria and a shift in principles governing citizenship acquisition. These amendments are typically made in response to the prevailing socio-political context and the evolving needs of the nation. Initially, the provisions were relatively inclusive, recognising individuals born in India or with Indian parentage as citizens. However, subsequent amendments tightened requirements, particularly regarding citizenship by birth and overseas citizenship. The most recent amendment in 2019, however, has sparked controversy due to its provisions regarding religious minorities from neighbouring countries, raising debates about secularism and equality before the law. These amendments reflect a complex balance of historical, socio-political, and security factors, shaping India’s approach to citizenship over time (Rajan & Mittal 2023).

### **1.3 Relevance of Citizenship (Amendment) Act, 2019 in Assam**

From a broader Indian perspective, the CAA presents a complex challenge that encompasses constitutional, ethical, and societal dimensions. The enactment of the Act has ignited debates concerning secularism, equality before law, and communal harmony. In contrast to the predominant focus on constitutional principles and religious discrimination in the national discourse surrounding the CAA, Assam’s reaction is rooted in its long-standing battle with migration, particularly from Bangladesh and the preservation of its identity.

The issue of illegal immigration in Assam has deep historical roots, tracing back to the turmoil period surrounding the partition of India in 1947. As the India underwent a partition into two separate nations, India and Pakistan, Assam found itself at the forefront of significant demographic upheavals. The partition led to the creation of East Pakistan, which later became the independent nation of Bangladesh in 1971. During this time, a substantial influx of migrants from East Pakistan, primarily Bengali Hindus and Bengali Muslims, crossed the border into Assam, seeking refuge and better economic opportunities. (Datta 2022). The migration continued in the subsequent years, fuelled by socio-economic disparities, political unrest, and environmental factors in Bangladesh. The rapid increase in the migrant population in Assam led to competition for resources, land, and job opportunities, exacerbating socio-economic tensions in the region (Hatiboruah 2020).

The issue of illegal immigration became a central point of contention in Assam's political landscape, as indigenous communities of Assam expressed growing concerns about the dilution of their cultural and linguistic identity. The influx of migrants in Assam threatened to alter the demographic composition, leading to fears of demographic imbalance and cultural assimilation among the indigenous population, who increasingly felt marginalised in their own land.

In response to the escalating tensions, the Assam Agitation, also known as Assam Movement or *Axom Andolan* emerged as a significant mass movement between 1979-1985 (Baruah 1986). Led by students' leaders, activists, and intellectuals, the movement demanded the detection and deportation of illegal immigrants from Assam and the implementation of safeguards to protect the interests of indigenous communities of Assam. The culmination of the Assam Agitation was the signing of the Assam Accord a 'Memorandum of Settlement' in 1985 between the Government of India and the leaders of the movement (Hatiboruah 2020). The Accord outlined various provisions addressing the issue of illegal immigration and safeguarding the rights of indigenous people of Assam. It established criteria for determining citizenship in Assam, including specific cut-off dates for residency, and outlined measures for the detection and deportation of illegal immigrants. Clause 5 from 5.1 to 5.9 of the Assam Accord deals with the "foreigners' issue". In accordance with this Accord, all persons who came to Assam prior to 1 January 1966 shall be regarded as the legal citizens of India. The Accord further states that all persons who came to Assam in between 01 January 1966 to 24 March 1971 shall be detected in accordance with the provisions of the Foreigners Act, 1946 and the Foreigners (Tribunal) Order, 1964. Moreover, the Accord mentions that foreigners who came to Assam on or after 25 March 1971 shall continue to be detected, deleted and expelled in accordance with law (Assam Accord 1985). However, the implementation of the Assam Accord has been fraught with challenges and controversies, with many of its provisions remaining unfulfilled. The issue of illegal immigration continues to be a significant concern in Assam, shaping the state's political discourse and socio-economic landscape to this day.

The Citizenship (Amendment) Act (CAA), 2019 initially introduced as the Citizenship Amendment Bill (CAB), ignited widespread protests across Assam and other parts of India. People of all walks of life came together to voice their dissent against the legislation. The protests intensified, leading to clashes between demonstrators and law enforcement agencies. In response, the government imposed curfews (PTI 2019c) and shut down internet (Nath 2019) services in different parts of Assam to quell the unrest.

Amidst the protest, the outbreak of the COVID-19 pandemic (Kalita 2020) and subsequent lockdown measures gradually led to a decline in demonstrations as people focused on dealing with the health crisis and adhering to safety protocols. However, with the recent notification of rules for the CAA by the Indian Government on 11 March 2024, protests have reignited in Assam. Organisations like the All Assam Students' Union (AASU), Rajjor Dal, Assam Jatiyatabadi Yuba Chatra Parishad (AJYCP), (Karmarkar, 2014) Assam Jatiya Parishad (AJP), (Baruah 2024) and other social and political organisations have once again taken to the streets to oppose the implementation of the CAA. Besides, activist-turned-MLA Akhil Gogoi, (Karmarkar 2024) Congress leaders Gaurav Gogoi and Debabrata Saikia, (Karmaker 2024) and Lurinjyoti Gogoi, President of the Assam Jatiya Parishad, a party born out of the 2019 anti-CAA protests criticise the Act and condemned the implementation date of the legislation as a 'Black-day' for Assam (Baruah 2024).

The implementation hurdles and socio-political discourse surrounding the CAA have continue to unfold, with significant concerns raised regarding its alignment with the provisions of the Assam Accord and its potential ramifications on the state's socio-political landscape. The compatibility of the CAA and the Assam Accord remains a subject of intense debate in Assam. The Assam Accord, born out of extensive negotiations, was originally designed to address the multifaceted challenges posed by illegal immigration, including concerns over demographic shift, cultural dilution, and resource allocation. However, the implementation of the CAA has reignited scrutiny of the Accord's efficacy, particularly in light of the potential extension of the cut-off year. This extension could potentially legalize a significant portion of migrants, thereby heightening anxieties surrounding demographic imbalances and cultural assimilation among the native population. Furthermore, the influx of legalised migrants could strain already limited resources in Assam, amplifying concerns about sustainable resource utilization.

The implementation of the CAA in Assam thus emphasis discussions surrounding citizenship, illegal immigration, and indigenous rights, thereby highlighting the complex and deeply entrenched issues that continue to shape the region's socio-political fabric.

#### **1.4 Diverse Arguments: Supporting and Opposing**

The CAA, 2019 has triggered a diverse array of arguments, with individuals, political parties, and organisations both supporting and opposing its implementation. This contentious legislation, aimed at providing citizenship to persecuted religious minorities from neighbouring countries, has faced passionate debates on constitutional validity, humanitarian concerns, and its impact on the India's social fabric. While supporters of the CAA argue that it is a necessary measure to protect vulnerable communities, critics raise concerns about possible discrimination and the exclusion of certain groups. Against the backdrop of the Assam Accord's cut off date, which sets a deadline for identifying illegal immigrants in Assam, the discourse surrounding the CAA is further complicated by historical contexts and regional dynamics. In this dynamic landscape of conflicting perspectives, it is imperative to explore into the multifaceted arguments: supporting and opposing that shape discussions on the CAA.

##### ***1.4.1 Supporting Arguments***

The Citizenship (Amendment) Act (CAA) aims to provide fast-track citizenship to persecuted religious minorities, including Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians from

Afghanistan, Pakistan, and Bangladesh. This legislation has garnered support from various quarters of society, including political parties, religious leaders, human rights activists, and civil society organizations. Proponents of the CAA advocate for its enactment based on several arguments, with the *humanitarian aspect* (Ahmed 2020) being one of the primary pillars of support.

At the forefront of supporting the CAA is the Bhartiya Janata Party (BJP), (ANI 2024a) the ruling party in India. Additionally, other political parties such as the All India Anna Dravida Munnetra Kazhagam (AIADMK) (The Hindu Bureau 2024a) and other components of the National Democratic Alliance (NDA) (Hebbar 2020) have also expressed support for the Act. These political parties argue that the CAA addresses the humanitarian plight of persecuted religious minorities from neighbouring countries, providing them with refuge and citizenship in India.

Prominent political figures, including Prime Minister Narendra Modi, (Mathew 2024) Minister of Home Affairs Amit Shah (DC Online team 2024), Vice President Jagdeep Dhankar (PTI 2024a), former Union Cabinet Minister Dr. Subramanian Swamy (Swamy 2020), and others have vocally supported the CAA, emphasising its humanitarian aspects. They contend that the Act upholds India's tradition of providing shelter to those fleeing religious persecution and ensures that persecuted minorities receive the protection and support they deserve.

Religious leaders have also lent their support to the CAA, citing humanitarian grounds. Figures such as Dasturji Khushed Dastoor, Udvada Temple's high priest; Pragya Sagar Maharaj, Jain Muni, (ET Online 2024) and others have endorsed the Act, arguing that it aligns with the principles of compassion and inclusivity espoused by their respective faiths. Human rights activists and civil society members have similarly voiced their support for the CAA, viewing it as a necessary measure to uphold the rights and dignity of persecuted minorities.

Supporters of the CAA emphasize its humanitarian aspect as a key rationale for its enactment. They contend that the Act reflects India's commitment to upholding humanitarian values and providing sanctuary to those in need, particularly persecuted religious minorities facing persecution in neighbouring countries mentioned under CAA.

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The *emphasis on historical context* is another significant supporting argument for the CAA and is championed by advocates such as Shah, Swami, Dhankar, and others. This supporting argument emphasizes the deep-rooted ties of persecuted minorities to India and highlights the injustices they faced during the partition and beyond (Agencies 2022). By acknowledging the historical presence of these communities, including Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians, in undivided India, proponents of the CAA argued that these groups had been integral parts of the India's cultural and social fabric for centuries (TNN 2024a).

Before independence, various religious communities coexisted in India. However, the partitions of 1919 and 1947 led to significant changes in the religious landscape. In 1919, Afghanistan separated from India (Adamec 2003) and proclaimed itself an 'Islamic state,' with laws mandated not to contradict Islamic principles: "no law can be contrary to belief and provisions of the sacred religion of Islam" (USDS n.d.: 1). In practice, this policy led to discrimination and persecution of non-Islamic religious minorities, notably Hindus, Sikhs,

and Christians. Similarly, the partition of Pakistan in 1947 resulted in the establishment of an Islamic state, where religious minorities faced systematic discrimination and persecution akin to practises in Afghanistan. While instances of persecution against certain Muslim communities exist (Wolf 2019 and Fazal2020), the context differs from the discrimination experienced by non-Muslim religious minority groups in these Islamic countries. As Hindus and other non-Muslims found themselves in Afghanistan, Pakistan and Bangladesh post-partition, they were subjected to discrimination and violence due to their religious identity. This persecution led to their marginalisation and disenfranchisement, exacerbating their plight as religious minorities in the region. Protecting these minority groups from persecution in such nations is paramount, emphasising the importance of measures like CAA to provide refuge and safeguard their rights.

This historical context of persecution and discrimination faced by these communities highlight the injustices they endured. By providing a pathway to citizenship for persecuted religious minorities from Afghanistan, Pakistan, and Bangladesh, the CAA aims to rectify historical injustices and provide sense of belonging and security to these marginalised groups (Swamy 2020). Accordingly, the historical context argument emphasis the moral imperative of the CAA in recognising them with citizenship as a means of redressal for the injustices they faced after the partition.

It is worth noting that secularism typically in Indian perspective implies equal treatment of all religions without favouring any specific faith. However, supporters of the CAA argued that ***granting citizenship to persecuted minorities does not contradict secular principles***, primarily due to the historical context surrounding the legislation. They maintain that the inclusion of persecuted minorities from Afghanistan, Pakistan, and Bangladesh in the CAA is justified based on the historical ties of these communities to India. This historical context emphasises the need to address the injustices faced by these minorities, thereby aligning with India's secular ethos of equality and non-discrimination.

Subramanian Swamy's perspective on the CAA contributes to the argument supporting its compatibility with secular principles. Swamy argued that Muslims in Afghanistan, Pakistan, and Bangladesh does not face persecution because these countries were predominantly Muslim. Swamy backs his assertion by noting the absence of persecuted Muslims seeking refuge in India from these nations. According to him, this emphasises the targeted nature of the CAA, which aimed to assist specific religious communities facing genuine persecution, suggesting that the CAA addressed persecution without discriminating based on religion. In this context, he highlights the principle of "*equality among equals, rather than equality among unequals*" (Swamy 2020).

Furthermore, the proponents of the CAA argue that the legislation's focus on granting citizenship to persecuted minorities does not hinder persecuted Muslims from seeking refuge in India. They argued that the Act targets specific religious communities facing genuine persecution without discriminatory based on religion. This perspective highlights the importance of addressing the unique need of persecuted communities while upholding principles of equality and non-discrimination (Sharma 2024). Thus, advocates for the CAA assert that the Act adheres to secular principles by addressing persecution on genuine grounds rather than religious identity.

### **1.4.2 Opposing Arguments**

Opponents of the CAA raise significant concerns about its potential **impact on secularism and its exclusion of certain religious communities** (Nagarwal 2021). They argue that the CAA, by specifically targeting individuals from selective religious groups for preferential treatment, undermines the secular fabric of India. Critics point out that the Act favours persecuted minorities from Hindu, Sikh, Buddhists, Jain, Parsi, and Christian communities from neighbouring countries of Afghanistan, Pakistan, and Bangladesh, while excluding other persecuted groups, such as Sri Lankan Tamils, Tibetan Buddhists, Shias, Ahmadis, Balochis, Rohingyas and others from its purview. This selective inclusion based on religious identity not only contradicts the secular principles embodied in Indian Constitution but also fosters division and discrimination along religious lines. Critics contend that such exclusionary policies threaten to erode the country's secular ethos, and promote sectarianism, undermining the foundational principles of equality and non-discrimination. Additionally, opponents argue that the CAA's discriminatory provisions exacerbate religious tensions and pose a threat to social cohesion, further emphasising the detrimental impact of the Act on India's secular character (Chandrachud 2020).

Political leaders such as Pinarayi Vijayan, Chief Minister of Kerala, (The Hindu Bureau 2024b) and prominent figures from the Congress party Shashi Tharoor (PTI 2024b) and Jairam Ramesh (ANI 2024b) have voiced their opposition to the CAA, alleging that it is part of a political agenda to divide the country along religious lines. Additionally, Asaduddin Owaisi, the Chief of the All India Majilis-e-Ittehad-ul-Muslimeen (AIMIM), has criticised the Act, arguing that it discriminates against Muslims and violates the secular principles enshrined in the Indian Constitution (HT News Desk 2024).

The critics also argued that the CAA has raised concerns about potential **violation of human rights**. The exclusion of specific persecuted minority groups from the Act's provisions not only undermines the humanitarian mandate but also poses a threat to the fundamental rights of those individuals. By selectively providing protection based on religious identity, the CAA runs the risk of perpetuating discrimination and marginalisation against excluded groups (Patel 2024). This exclusion not only violates the principles of equality safeguarded in human rights frameworks but also perpetuates religious persecution by denying citizenship to those in need solely on the basis of their religious affiliation. The critics further argued that the CAA's failure to address the rights and concerns of excluded minority groups, who may also face persecution and discrimination, highlights the inadequacies of the Act in safeguarding the rights and dignity of all individuals.

Furthermore, opponents argue that the **CAA violates Article 14 of the Indian Constitution**, which guarantees equality before the law. (Jain et al 2022) Critics contend that the differential treatment based on religion under CAA contradicts the fundamental principle of equality enshrined in Article 14, which prohibits discrimination on grounds of religion, race, caste, sex, or place of birth. Opponents argue that by distinguishing specific religious groups for favourable treatment under the CAA, the government undermines the foundational principles of equality and non-discrimination, thereby violating the constitutional rights of all individuals (Chadha 2020). Leaders from various political parties, including the Congress party, (TNN2024b) Indian Union Muslim League (IUML), (Rajagopal 2024) and Chief Ministers like Pinarayi Vijayan (The Hindu Bureau 2024b) and Mamata Banerjee, (Singh 2024b) have raised objections to the CAA on constitutional grounds, asserting that it undermines the secular fabric of the nation and sets a dangerous precedent for religious

discrimination in citizenship laws. Additionally, critics raise concerns that the CAA's discriminatory provisions could lead to marginalisation and exclusion of certain communities, exacerbating social divisions and undermining the secular and pluralistic ethos of the Indian Constitution.

In Assam, a significant point of argument regarding the CAA revolves around its alignment with the Assam Accord of 1985. The disparity between the cut-off dates specified in the Assam Accord and the CAA creates confusion and inconsistency in addressing the issue of illegal immigration in Assam. The Assam Accord, which aims to resolve the problem of illegal immigration, established a cut-off date of 24 March 1971 for identifying illegal immigrants. (Assam Accord 1985) However, the CAA introduces a different cut-off date of 31 December 2014 for granting citizenship to persecuted minorities from specific neighbouring countries. (CAA 2019). This disparity leads to ambiguity regarding the status of individuals who arrived in Assam between the two cut-off dates. Critics argue that this discrepancy undermines the objectives of the Assam Accord by complicating efforts to identify and address illegal immigration effectively. Additionally, it exacerbates tensions surrounding immigration and citizenship rights in Assam, as it creates uncertainty and disagreement over the criteria for granting citizenship and determining the status of immigrants in the region. The misalignment between the Assam Accord and the CAA hampers efforts to address the complex issue of illegal immigration in Assam and contributes to heightened tensions and unrest in the region.

Another opposing argument regarding CAA highlights the clash between the Citizenship (Amendment) Act (CAA) and National Register of Citizens (NRC), especially in the context of Assam where NRC was implemented to address concerns about illegal immigration. The NRC aimed to identify and document Indian citizens residing in Assam while excluding undocumented immigrants. However, the introduction of the CAA complicates this process by offering citizenship to specific religious communities excluded from the NRC. Critics argue that this creates a disparity between the two initiatives: while the NRC aims to identify and verify the genuine Indian citizens residing in India, the CAA selectively grants citizenship based on religious identity. This disparity raises questions about the coherence of the government's efforts to addressing illegal immigration, especially in Assam, where the NRC process has already identified a significant number of excluded individuals. The release of the final draft of the Assam NRC on August 2019, which excluded over 19.06 lakh individuals, (Malik & Khan 2020) emphasises the complexity and challenges inherent in reconciling the objectives of the NRC and the provisions of the CAA.

At the heart of this discussion lie two central arguments emerging from the analysis of the above supporting and opposing arguments on the CAA. In the border Indian perspective, the central argument revolves around the clash between secularism and humanitarianism. Concurrently, in the specific context of Assam, a different narrative unfolds, focusing on the human rights of two different groups: the native population of Assam and illegal Bangladeshi immigrants.

Within the *Indian context*, the debates around CAA centre on the tension between humanitarianism and secularism. On one side of the debate are proponents of the CAA who argue in favour of its implementation on humanitarian grounds, advocating for the protection and welfare of persecuted religious minorities from neighbouring countries, particularly Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians from Afghanistan, Pakistan, and Bangladesh. They assert that these minority groups who were historically part of undivided

India have faced persecution and discrimination in their home countries due to their religious beliefs and thus deserve refuge and citizenship in India as a humanitarian gesture.

On the other side are critics of the CAA who raise concerns about its potential violation of the secular principles enshrined in the Indian Constitution. They argue that by selectively granting citizenship based on religious identity, the CAA undermines India's secular ethos and discriminates against Muslims, thereby threatening the country's secular fabric. They contend that citizenship should be based on principles of equality and non-discrimination, rather than religious identity, to uphold the foundational values of India as a secular and pluralistic democracy.

In the Indian society, the notion of secular governance stands as a cornerstone. India prides itself on being a secular nation in its governance, although Indian society is not entirely secular. The fabric of Indian society is inclusive, accommodating various religious beliefs and sects (Seo 2017). This inclusivity sets India apart from its Islamic neighbours like Pakistan, Bangladesh, and Afghanistan, as well as its Buddhist neighbours like Sri Lanka, Myanmar, and Bhutan, where religion often plays an exclusive role in governance and societal structures.

In countries with an exclusive character, religion often becomes a tool for exploitation and persecution of minority communities. This discrimination and deprivation of rights faced by minority religious groups are fundamentally against the principles of human rights (Freeman 2004). In such cases, where is the refuge for these marginalised groups? The welcoming haven for them often lies in inclusive nations like India. However, India faces apparent limitations due to its commitment to secularism as enshrined in its constitution. Secularism, in the Indian context, implies neutrality in governance, but does it mean that India should refrain from engaging with non-secular countries? Should India abstain from intervening on humanitarian grounds, especially when religion appears to be the root cause of conflict between two exclusive nations, such as in the case of Israel vs. Palestine or historical conflicts like Turkey and Armenia?

In the case of Israel vs. Palestine, and historical conflicts like Turkey and Armenia, religion has often played a central role in fuelling tensions and conflicts between nations. In these situations, the root cause of conflict is often deeply intertwined with religious identity and territorial disputes. The Israel-Palestinian conflict, for example, has been characterised by longstanding territorial disputes and competing claims to land considered holy by both Jews and Muslims (Fiedler 2017) Similarly, historical conflicts between Turkey and Armenia have been influenced by religious and ethnic tensions, particularly concerning the Armenian genocide and the ongoing dispute over the recognition of these events (De Waal 2010) Religion has been used as a tool to justify violence and persecution, further exacerbating tensions between the two nations. These examples highlight the complexities involved when religion intersects with geopolitics and international relations. Despite religious dimensions of the conflict, the people of these countries have received relief on humanitarian ground (De Waal 2010 and Joffe 2019).

In the context of CAA 2019, the consideration of humanitarianism takes precedence over religious considerations, allowing India to extend relief and support to those in need. This consideration aligns with the spirit of human rights, particularly the right to life, as the question of other rights arises from the fundamental need for survival. For religious minorities in exclusive nations, survival becomes a critical issue. However, extending help to

these groups may imply interference with religion, challenging the secular nature of India's governance.

Religion serves as both a catalyst for suffering and a source of insecurity (Gunn 2020). Any effort to assist these marginalised groups must acknowledge the significant influence of religion in their persecution. This prompts the fundamental question: should these individuals be condemned to endure indefinite suffering or be forced to live as refugee communities indefinitely? Furthermore, does the constitution inadvertently withhold humanitarian support from religious communities whose faith is systematically used as a tool for their torture and insecurity? Contrasting this with India's provision of humanitarian aid to victims of communal violence emphasises the necessity for a comprehensive approach to alleviating the plight of persecuted religious minorities.

The crux of the debate lies in balancing secularism with the rights to survival and equality as human beings. In countries where rights are defined along religious lines, it becomes the responsibility of inclusive nations like India to protect individuals who are victims of religious fundamentalism. This dilemma highlights the complexity of the CAA debate and prompts reflection on the broader implications for human rights and India's role in the global community.

In *Assam*, the debate takes on a different dimension, with the central argument revolving around the human rights of two distinct groups: the native population of Assam and illegal Bangladeshi immigrants. On one hand, proponents of the CAA argue from a humanitarian standpoint, advocating for the rights of illegal immigrants to gain citizenship and access to legal protections, healthcare, education, and economic opportunities. They contend that denying citizenship to these individuals would violate their fundamental human rights and perpetuate their marginalisation and vulnerability.

Conversely, opponents of the CAA, particularly among the native population of Assam, emphasises the humanitarian rights of indigenous communities to preserve their cultural identity, socio-economic well-being, and political representation. They argue that granting citizenship to illegal Bangladeshi immigrants would disrupt the delicate socio-cultural fabric of Assam, leading to demographic imbalances, cultural dilution, and socio-political tensions. Additionally, they assert that indigenous communities have historical precedence and have historically faced displacement and challenges due to the influx of immigrants, further emphasising the importance of safeguarding their rights and interests (Hatiboruah 2020).

Furthermore, the influx of Bangladeshi illegal immigrants into Assam has strained the region's resources and infrastructure, exacerbating existing socio-economic challenges. (Hatiboruah 2020). Many argue that these immigrants are not persecuted minorities but rather individuals seeking better economic opportunities and lifestyle. As they are mostly illegal, their presence has contributed to various social tensions and resource constraints in Assam.

For Bangladeshi illegal immigrants, potential solutions exist beyond the scope of the CAA. Their issues could potentially be addressed through international law and cooperation with Bangladesh. However, the native population of Assam faces a distinct challenge. Unlike illegal immigrants, they lack alternative solutions or external recourse to protect their rights within their own homeland. This discrepancy raises a critical question: should the rights and

well-being of the native population be sacrificed to address the concerns of Bangladeshi immigrants who have alternative avenues for resolution?

The clash between these two competing ideologies: *humanitarianism* and *secularism* emphasise the complexities of both India and Assam's socio-political landscape and the ongoing struggle to reconcile diverse perspectives within the framework of its democratic principles.

### 1.5 Conclusion

The discourse surrounding the Citizenship (Amendment) Act (CAA) has brought to light the intricate interplay between humanitarianism and secularism in the context of India's governance. Supporters of the CAA argue that it is grounded in humanitarian principles, aiming to provide citizenship to persecuted minorities from neighbouring countries. Conversely, critics raise concerns about the Act's potential violation of secularism by favouring specific religious groups.

The examination of the CAA from an Indian perspective, with a special focus on Assam, emphasises the profound complexities inherent in balancing humanitarianism and secularism within the India's legislative framework. India's commitment to secularism, as outlined in its constitution, accentuates its dedication to treating all religions equally and maintaining a neutral stance in governance. However, this commitment does not preclude India from extending support to persecuted religious minorities. This dual role highlights the complex interrelation between governance, human rights, and religious identity.

The CAA debate provides a lens through which to examine this intricate relationship. While secularism advocates for impartiality in governance, humanitarian concerns often necessitate intervention to protect persecuted minority groups. This tension between secular principles and humanitarian imperatives is evident in discussions surrounding the CAA, where debates about religious discrimination intersect with broader issues of human rights and citizenship.

The historical context of religious persecution in neighbouring countries further complicates the debate, emphasising the need for a complex understanding of religious identity and its implications for citizenship. The challenges faced by persecuted religious minorities accentuate the imperative of upholding humanitarian principles while navigating the complexities of religious diversity and socio-political dynamics. However, the exclusion of specific persecuted minority groups from the CAA highlights a contradiction within the humanitarian argument. While the CAA aims to provide citizenship to six persecuted religious minorities: Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians from Afghanistan, Pakistan, and Bangladesh, who were historically part of India, the omission of other persecuted groups such as Sri Lankan Tamils, Tibetan Buddhists, Shias, Ahmadis, Balochis, and Rohingyas reveals a significant gap in its humanitarian mandate. Notably, many of these excluded groups, including Sri Lankan Tamils, Tibetan Buddhists, Shias, and others have historical ties to India, having migrated to different countries at various points in history. This discrepancy challenges the Act's legitimacy and raises questions about its true commitment to humanitarian principles, thereby creating doubt on its effectiveness in addressing the plight of vulnerable communities.

As we reflect on the competing values of humanitarianism and secularism in shaping the CAA debates, a fundamental question arises: which value holds greater weightage in policy decisions? Does the necessity to safeguard persecuted minority groups align with the

fundamental principles of humanitarianism, or should priority be given to upholding secular principles of equality and non-discrimination? Further, does the imperative to maintain secular principles of equality and non-discrimination override the obligation to protect persecuted minority groups based on humanitarian grounds?

As we grapple with these questions, it becomes evident that the tension between humanitarianism and secularism lies at the heart of the CAA debate. Exploring these questions further can provide valuable insights into the complexities of the India's socio-political landscape and inform further discourse on citizenship and human rights.

## Notes

1. Illegal Immigration refers to the migration of people across national borders in a way that violates the immigration laws of the destination country. This can involve entering a country without proper authorization or overstaying a visa.
2. The Assam Accord mentions that foreigners who came to Assam on or after March 25, 1971 shall continue to be detected, deleted and expelled in accordance with law.
3. Jus soli refers to the principles of citizenship by birth or “right of the soil” where individuals born within the territorial boundaries of India are automatically granted Indian citizenship, regardless of the nationality or citizenship status of their parents. This means that individuals born on Indian soil are considered Indian citizens, irrespective of the citizenship of their parents.
4. Jus sanguinis, or “right of blood” refers to the principle of citizenship by descent, where individuals acquire Indian citizenship if they are born to at least one parent who is an Indian citizen, regardless of the place of birth. This means that individuals born outside of India can claim Indian citizenship if they have at least one Indian citizen parent.

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