



THE CITIZENSHIP AMENDMENT ACT, 2019 - A CONCERN FOR INDIA

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ABSTRACT

The amendments proposed by the Indian government for the Citizenship Act, 1955 in the Citizenship Amendment Act, 2019, which states that the Hindus, Jains, Sikhs, Parsis, Buddhists and Christians from Afghanistan, Bangladesh and Pakistan are not to be considered as illegal immigrants and they shall be entitled to citizenship after residing in India for six years, whereas it is not the same for the rest of the minorities, they have to wait for eleven years to be a citizen of India. This has created a disorder in the nation as such changes are biased, arbitrary against certain religions, and the minorities present in the world. Such arbitrariness is against the interest of the north-eastern states as well as the provisions of the Constitution of India that identifies India as a secular state. This article briefly attempts to analyze the legal arguments which are stated in favor of CAA, which are although not completely deceived but are flawed in certain aspects, which have led us to walk on the path of criticism on the discussed topic.

Furthermore, focusing on the main theme of the article, the author would discuss how these amendments go against the basic structure of the Constitution of India. The present article will debate about the criticism of the religious biases which have been promoted in the Citizenship Amendment Act, 2019, and it will also throw light on Hon'ble Supreme Court's take on the violation of Article 14 and 21 of the Constitution of India. Furthermore, the author shall reason the arguments on the discussed topic in light of India's obligation under International Humanitarian Laws and Human Rights. Further, the author shall briefly discuss the concerns of the Northeast States of India on the same. This article will conclude with an insight into the need for refugee policies and laws for India.

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INTRODUCTION

The Indian government in the year 2016 proposed a Bill, attracting major criticism by amending the Citizenship Act of India, 1955. The Bill was passed by both the Houses of Parliament and the Act of 1955, presently referred to as the Citizenship Amendment Act, 2019. The Act of 2019 briefly conceptualizes the amendment made regarding the stay and citizenship of the "illegal immigrants." The Citizenship Amendment Act 2019 briefly states that the Hindus, Jains, Sikhs, Parsis, Buddhists and Christians from Afghanistan, Bangladesh and Pakistan shall not be considered as "illegal immigrants "provided they reside in India for six years, but the case is not the same when it is the question about other minorities who are illegally residing in India. The illegal immigrants belonging to these minorities are required to reside in India for eleven years to obtain Indian citizenship under the Amended Act of 2019.

Ever since the proposal for the above mentioned amendments was put up by the government, the topic has been a matter of Great Debate not only amongst the Legal Fraternity but also a wide range of Indian citizens.

The legal arguments provided in favor of the CAA to explain its legislation states for the two main points, such as:

- (i) Article 14 of the Indian Constitution covers the concept of citizenship as it mentions the right to equality and permits for such 'reasonable classification.' The above mentioned provision allows the government to provide certain relaxations to the Hindus, Jains, Sikhs, Parsis, Buddhists, and Christians from Afghanistan, Bangladesh, and Pakistan, as these countries have declared themselves as the Islamic State and thus the religious minorities which are reasonably classified have more chances of facing discrimination or religious persecution in India.
- (ii) The CAA does not affect the citizenship rights of Indian Muslims. Non-Muslims who had migrated from Afghanistan, Pakistan, and Bangladesh to India before the 31st of December, 2014, will have to prove that they did so to safeguard themselves from the religious persecution. The main interest of this Act is to provide a legal-solution, build a safeguard for the non-Muslim

illegal immigrants and to provide them with the Citizenship of India. The immigrants shall be eligible for acquiring the citizenship provided they provide the government with a valid and reasonable proof on their fear of religious persecution concerning their migration in the Indian Territories.

- (iii) This Act does not state through any of its provision, draft, or rule that the main intention behind this Act is to establish a 'Hindu Rashtra' by affecting the Indian Muslims. This Act can only be pointed out to be an unconstitutional one if the government explicitly states that the Indian Muslims would have to go through a different and a more crucial way to prove their citizenship for the NRC purpose as compared to any other community.

The statements mentioned above are partially supporting the theme of citizenship as there ample flaws and negative insights in the facility provided by the Central Government. The facility concerning citizenship is flawed and does not walk on the path of rationality as the Amendments made under the Act fails to justify its constitutional validity.

Questioning the constitutional validity of the amendment, the author would like to present with certain arguments focusing on the criticism of the facility provided by the government.

Firstly, the Amendment Act fails to address the rationale question about the arbitrariness of only considering the three countries, namely- Afghanistan, Bangladesh, and Pakistan, but not the striving minorities who seek the same facility from the Indian government as of the above mentioned countries. Also, India is a secular state, which is why it is rationally expected from the authorities of such States to accept the people from all religions without classifying any group of majorities and minorities in any situation. Further, over the years, the idea of reasonable classification has also evolved along with the meaning of equality. The Hon'ble Supreme Court in the 2018 judgment of *Navtej Johar*¹ and *Joseph Shine*² provided a broader view by shifting to the idea of disadvantage from that of reasonable classification. Further, with more observations made on this shift of ideas, the courts concluded that any law that is made by classifying people by using their personal characteristics' that cannot be changed or over which the people have no power is the violation of equality. And thus, the CAA violates.

¹ Navtej Singh Johar vs Union of India, AIR 2018 SC 4321

² Joseph Shine vs. Union of India, 2018 SC 1676

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Article 14 by classifying the people using the three conditions, namely- religion, place of birth, and date of entry, which are beyond the control of individuals.³

Secondly, the government under the clause mentioned in the amendment has mentioned that there will be no effects on the Indian Muslims with regard to this Amended Act. But the CAA states that the government shall only accept the illegal non-Muslim immigrants for Citizenship of India, which would create distress amongst the citizens of India as the outcome of this Act shall be the one where the Indian Muslims are alienated from their own country. Further, the fear remains intact in the minds of the people with regards to the National Register of Citizens (NRC) listings, as the burden of proof for the same shall lie with the people themselves who may not have the required evidentiary documents to prove their citizenship like their birth certificate or proof regarding their parent's birthplace. And at the same time through this Act, the non-Muslims from these countries who migrated before the 31st of December 2014 (which is also an arbitrary date) will be considered as citizens without any such documents if they prove that they had migrated before the mentioned date with the fear of religious persecution, and thus affecting the Indian Muslims as well as Non-Muslims, whose citizenship will be in jeopardy to provide the citizenship to such illegal immigrants. Thus even if the arguments in support of the Act are not completely false; they still are flawed in certain aspects, which leads them to face criticism.

And thus the main reasons for this Act to face the criticism are -

- (a) This Act violates the secular policy of India, which states for the equal treatment for all the communities irrespective of their caste, as according to this amendment the other minorities as mainly referring to the 'Muslim' community people shall have to face the discrimination and be treated as the illegal immigrants, unlike the other communities.
- (b) This Act also violates Article 14 and 21 of the Indian Constitution that gives Fundamental Rights to every individual within the territory of India to live life equally.

³ Gautam Bhatia, *The Citizenship (Amendment) Act Challenge: Three Ideas, Indian Constitutional Law and Philosophy* (July 4, 2020, 12:40 PM), <https://indconlawphil.wordpress.com/2020/01/21/the-citizenship-amendment-act-challenge-three-ideas/>

(c) The Act also neglects the obligations of India under the International Laws towards illegal immigrants.

(d) The major opposition from the side of the North-Eastern states of India, etc.

Thus this article shall provide an insight upon all these above mentioned criticism concerning the proposed amendments for the Citizenship Amendment Act of India, 2019 in the following manner-

The Part I will deal with the criticism of the religious bias in the Act, the Part II will give a brief about the Supreme Court's take on the violation of Article 14 and 21, the Part III will focus on the International Humanitarian Laws and Human Rights, the Part IV will deal with the concerns of the Northeast States of India on the same and the Part V will conclude the article with a personal in-sight of refugee policies and laws.

THE 'RELIGIOUS BIASNESS' IN THE PROPOSED AMENDMENTS OF CITIZENSHIP ACT

'Secularism' – a word inserted in the Preamble of the Indian Constitution, which means that a state shall always remain separate from the religions and never show discrimination towards any person due to his/her religion. But the question here arises as to whether India has been able to comply with this feature of the constitution? And does the proposed Citizenship Act amendment fulfill this purpose?

The history of this Act being passed by the Government of India can be traced back to the 2014 and 2019 Lok Sabha election manifesto, where the announcement had been made promising the Hindus suffering worldwide that they shall be provided with a refugee in India whenever needed.⁴

This announcement and the proposed Act brought the ray of hope for the Hindus suffering in the other nations as a minority but, at the same time, got the refugees from the Muslim community in a problematic situation.

⁴ *Citizenship Amendment Bill has public endorsement, was part of manifesto: Amit Shah*, India Today (July 11, 2020, 7:26 PM), <https://www.indiatoday.in/india/story/citizenship-amendment-bill-has-public-endorsement-was-part-of-manifesto-amit-shah-1626765-2019-12-09>

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This could be seen from the story of Nar Singh, a Hindu immigrant from Pakistan who migrated to the outskirts of Jodhpur after the announcement was made along with the other Hindu families with the hope of getting citizenship in a much easier manner with the help of this Act. Along with these Hindu families, a group of 80 Rohingya Muslim families had also migrated to the nearby area in Jodhpur who after this Act only had one plea stating that they would not ask for the Citizenship of India but all they wanted to be a place for them to live peacefully and not to be sent back to Myanmar.⁵

The main aim as per the Indian government through this Act is to expel the illegal immigrants from the country for which the main argument from the critics was that in such a case why does the Act allow for the naturalization of the group X refugees (i.e., the refugees belonging to the selected communities for Citizenship like Hindu, Jain, Sikh, etc. from the three countries namely- Afghanistan, Pakistan, and Bangladesh) but not for the group Y refugees (i.e., the refugees from the minorities like Muslim community or refugees who have migrated from the countries other than the ones mentioned above)?

The government took the defense by stating that the main four religions of the Indian civilization are Hinduism, Jainism, Buddhism, and Sikhism, and our nation must protect the people belonging to these religions and so such amendments have been proposed. But even for these contentions, the government has missed out on stating that if the goal is to protect the people from the origin of the Indian civilization, then why the Act includes only three nations that are- Afghanistan, Pakistan, and Bangladesh. What about the Hindus suffering in other nations like Fiji, Malaysia, etc.?⁶

This Act also faced criticism when it wasn't able to answer the 'Muslim Question' (here related to the Muslims of Rohingya, Shia, Ahmadiyya, and etc. sect.) that the Indian government has been facing for years now. Since the partition of India and Pakistan the question that whether can a Muslim be given the Citizenship of India has emerged that compels the Muslim origin people to prove their nationalism in various ways to be considered as the citizen whereas the people from other communities do not have to face any such troubles. For this, we need to understand that no person can change his/her identity/

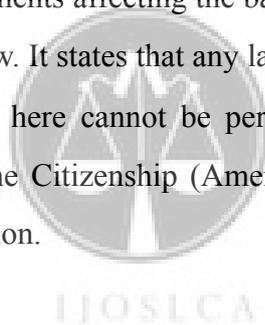
⁵ Zeba Siddiqui, *As India eases citizenship path for Hindus, Rohingya Muslims fear expulsion*, Reuters (Nov. 14, 2019, 10:36 PM), <https://www.reuters.com/article/us-myanmar-rohingya-india-insight-idUSKCN1NK0VH>

⁶ M Nageswara Rao, *Who should India give citizenship to?*, The New Indian Express (Nov. 15, 2019, 10:27 AM), <https://www.newindianexpress.com/opinions/2019/oct/15/who-should-india-give-citizenship-to-2047579.html>

religion to prove themselves or to be able to live life equally without discrimination and so this Act cannot be accepted as it an arbitrary one that distinguishes amongst the people based on their religion.⁷

As per the critics, this amended Act has been made with strong political influences by the parties that aim to make India a complete Hindu state for their political benefits in the elections. These are the people who still refer to Hindus as 'our' people but the Muslims as 'they/them'⁸ which is not acceptable in a secular state as India that promises to protect each individual of our country irrespective of his/her religion.

Thus this Act can be questioned based on the violation of 'secularism,' i.e., the part of the basic structure, 'Preamble' of the Indian Constitution, which states for the secular polity of our country and rules for no religious biases to be followed in any case. And thus further if this Act is implemented, it will be the one contradicting the landmark case of *Kesavananda Bharati vs. State of Kerala*⁹ which held that Preamble is a part of the basic structure of the constitution and that any such amendments affecting the basic structure of the Constitution of India shall be subject to judicial review. It states that any law that frustrates the main polity of the constitution – the Secular polity here cannot be permitted, and thus, this curtails the power of the Parliament regarding the Citizenship (Amendment) Act, which is against the basic structure of the Indian Constitution.



THE CONSTITUTIONAL VIOLATION IN THE PROPOSED ACT

The Indian Constitution was framed based on the concept of *jus soli* (citizenship by birth) but later on evolved to be a combination of *jus soli* and *jus sanguinis* (citizenship by descent).¹⁰ This can be seen through the provisions as mentioned in Part II of the Indian Constitution relating to the Citizenship from Article 5 to Article 11, which deals with the citizenship of people moving across the border. The Parliament, as per its right to regulate the citizenship

⁷ Pandey, G., *Can a Muslim be an Indian?*, *Comparative Studies in Society and History* 41(4), 608-629 (1999), <https://www.jstor.org/stable/179423>

⁸ Shani, O., *Conceptions of Citizenship in India and the 'Muslim Question'*, *Modern Asian Studies* 44(1), 145-173 (2010), <https://www.jstor.org/stable/27764650>

⁹ *Kesavananda Bharati vs. State of Kerala*, 4 SCC 225, (1973)

¹⁰ Gautam Bhatia, *An Act that undercuts key constitutional values*, *The Hindu* (Nov. 15, 2019, 1:33 PM), <https://www.thehindu.com/opinion/lead/a-Act-that-undercuts-key-constitutional-values/article29611770.ece>

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law under Article 11 enacted the Citizenship Act and set the criteria like birth, descent, registration, naturalization, and incorporation of the territory¹¹ for providing citizenship to people in India. But this right of Parliament has certain limitations as not only under the basic structure of the constitution but also as mentioned under Article 13 of the Constitution that states any amendment made shall not take away or be inconsistent with the fundamental rights (inconsistent with Article 14 and 21 here). Article 6 and 7 states the rule for people migrating from India and Pakistan to specify the requirements that had to be fulfilled by people to become Indian citizens after the partition. These provisions are indirectly pointed towards the Muslims coming from Pakistan, but the language of these provisions does not specifically mention the same as religion was never the basis for granting citizenship to the people.

But the Citizenship Amendment Act hindered these concepts of the Indian Constitution by introducing the new concepts of religion and ethnicity of a person as the basis for granting them the Citizenship of India by specifically mentioning the religions in its provision.

The Indian Constitution also guarantees certain fundamental rights to the people residing within the territory of India under Part III of the constitution namely, the Article 14 states for the equality before the law and the Article 21 that states for the right to life of a person that has been violated by this Act in the question.

But the question that arose with this was that whether these Articles would include the rights of the refugees in the same? Which was proved through the Hon'ble Supreme Court's decisions on certain cases stating that the foreigners shall also be governed under the ambit of these articles, for instance, the Hon'ble Supreme Court's decision in the case of – *Chairman, Railway Board v. Chandrima Das*,¹² where the court held that the non-citizens also have to be conferred upon with the same fundamental rights as that given to the citizens as per the international laws regarding the same.

Article 14¹³ guarantees everyone the right to equality before the law and for the equal protection of the law, and the discrimination of any person based on arbitrary reasons violates

¹¹Prateek Virk, *Citizenship Amendment Bill 2019: From Jus Soli to Jus Sanguinis*, RGNUL Student Research Review (July 2, 2020, 1:02 PM), <http://rsr.in/2019/01/17/citizenship-amndment-bill-2019-from-jus-soli-to-jus-sanguinis/>

¹² *Chairman, Railway Board vs. Chandrima Das*, 2 SCC 465, (2000)

¹³ *Right to Equality- A Fundamental Right*, *Legal Services India* (Nov. 15, 2019, 1:27 PM), <http://www.legalservicesindia.com/article/1688/Right-To-Equality--A-Fundamental-Right.html>

the essence of this provision. As discussed above in the introduction, the Act violates the Article 14 with regards to the 'reasonable classification' questions the Citizenship Amendment Act shows the discriminatory treatment towards the people belonging to certain minority religions, by not granting them the Citizenship of India solely due to their religion and placing the conditions to be of 'personal characteristics' that are beyond the power of the people.

Further, a survey was made that stated that most people who had been declared as the illegal immigrants and the order had been passed for their deportation were the poor and uneducated citizens of India itself, amongst which most of them were Muslims.¹⁴ Such acts have not been explained by the government, and even the amended Act focuses on accepting every migrant unless he belongs to the Muslim community that clearly shows the biases prevailing in the society towards this minority which violates the provision of equal treatment to all under the Article 14.

Article 21 was framed in our constitution for granting the people the equal protection of life and personal liberty. This article states for the right to life of a person not only through the physical existence but also for the quality of life and respecting the dignity of all. This Act violates this provision of our constitution as, according to this Act, only certain community people from only specified countries shall be eligible for the dignified life in India by providing them with the proper status and granting them citizenship. But, what about the other refugees and their conditions? The Act fails to answer the question about the sufferings of the people who belong to other minorities and have already suffered a lot before coming to India with the hope of peaceful existence and dignified life?

The researches had shown that about 40,000 Rohingya refugees had migrated to India,¹⁵ which is not a small number, in search of a place for them to live and thus it comes under an obligation of India to provide these refugees with the proper protection of their lives and liberty within its territory, where they can live an equal and dignified life, which this Act fails to provide them with and thus violates the Article 21 of our constitution based on its religious discrimination.

¹⁴ *India's hunt for "illegal immigrants" is aimed at Muslims*, The Economist (Nov. 15, 2019, 2:40 PM), <https://www.economist.com/leaders/2019/07/11/indias-hunt-for-illegal-immigrants-is-aimed-at-muslims>

¹⁵ Afreen Hashmi, *Do Rohingya Refugees in India have Constitutional Rights?*, Oxford Human Rights Hub (Nov. 15, 2019, 1:20 PM), <https://ohrh.law.ox.ac.uk/do-rohingya-refugees-in-india-have-constitutional-rights/>

Thus from this, it can be stated that the questions raised on the Citizenship Amendment Act based on it being in violation of the Constitutional structure of citizenship and the fundamental rights (as promised under Article 14 and Article 21) concerning the refugees can be stated as true.

THE CITIZENSHIP AMENDMENT ACT, 2019 AND INTERNATIONAL ON HUMAN RIGHTS

The constitution of India under Article 51(c) for the promotion of international peace security states that the state shall always foster respect for the international law and treaty obligations in dealings of organized peoples with one another.

This provision of the Indian Constitution has been violated by the present Amended Act on the citizenship as even though India is not a signatory of the United Nation Refugee Convention, 1951 it is bound by the other international conventions like the Universal Declaration of Human Rights (UDHR), The International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), European Convention on Human Rights (ECHR), and Convention on the Elimination of All Forms of Discrimination Against Women, etc. for the protection of every individual within the boundaries of India.

Article 26 of the ICCPR¹⁶ that states for the equal protection of the law guaranteed to all equally against the discrimination faced on the grounds race, color, language, sex, religion, etc.

Article 7 of UDHR¹⁷ states that all are to be treated equally without any discrimination under the laws of the country. The UDHR stated for the very first time for the universal protection of the fundamental rights of every individual.

Article 2 of the ICESCR¹⁸ made for the inherent dignity of the humans and a foundation of people being able to leave peacefully states every under-signed country to this to guaranty

¹⁶ *International Covenant on Civil and Political Rights*, United Nations Human Rights Office of High Commissioner (Nov. 15, 2019, 4:58 PM), <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

¹⁷ *The Universal Declaration of Human Rights*, United Nations (Nov. 15, 2019, 5:19 PM), <https://www.un.org/en/universal-declaration-human-rights/>

¹⁸ *International Covenant on Economic, Social and Cultural Rights*, United Nations Human Rights Office of High Commissioner (Nov. 15, 2019, 5:38 PM), <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

everyone the rights of this covenant without any discrimination based on caste, race, color, sex, religion, national origin, etc.

Article 5 and 14 of ECHR¹⁹ that state for the right to liberty and security of every individual and the prohibition of discrimination on any grounds such as sex, race, religion, national or social origin, etc. respectively.

All these International Conventions aim at one similar thing that is abiding the undersigned countries to follow the non-discrimination obligation, i.e., through declaring the elimination of all forms of intolerance and discriminations based on the religion or belief of any individual.

India being part of these conventions needs to abide by all these above mentioned laws while making the laws or even while implementing such amendments in any of its Acts. But this has been a concern regarding the provisions stated about the non-discrimination policy towards people of any religion and their national origin, as these amendments show a complete biasedness towards the Muslim minorities as it only allows to grant the citizenship to the people from the specified religions like the Hindus, Jains, Sikhs, Parsis, Buddhists, and Christians belonging to only three countries – Afghanistan, Pakistan, and Bangladesh. This Act fails to give a proper justification for the differentiation being made with the other refugees, their protection in India, and the problems being faced by them.

Thus it can be stated with the help of the above mentioned reasons that the Indian government with this amended Citizenship Act of India violates the provisions as under Article 51(c) of the Indian Constitution and also the right to equal protection, security and dignified life promised to every human as per the international conventions by India.

THE STATE CONFLICT IN INDIA CONCERNING THE CITIZENSHIP AMENDMENT ACT, 2019

Since the day that the Indian government proposed the amendment for the Citizenship Act of India, 1955 in the year 2016, the Act has been facing great opposition from the side of the

¹⁹ European Convention on Human Rights, European Court of Human Rights (Nov. 15, 2019, 5:50 PM), https://www.echr.coe.int/Documents/Convention_ENG.pdf

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North-Eastern states due to reasons stating that this Act shall open up the floodgates in the future imposing a threat on the northern states.²⁰

The major opposition has been faced from the states like Assam, Mizoram, Meghalaya, Nagaland, Manipur, and Arunachal Pradesh concerning this Act due to reasons as stated by the states as the following:

- (a) Assam: As per the Assam Accord of 1985, the process of NRC is under its way to detect illegal immigrants. The government argued against this opposition, stating that they want to remove these illegal immigrants not only from Assam but from the entire nation. This Act has had a divided opinion in Assam, i.e., the Brahmaputra valley is seen in the opposition, whereas the Bengali community dominated Barak valley is seen welcoming the same. The reason for such opposition in Assam is that the people there fear that with this Act that shall allow the illegal Hindus into their territory who would hinder the identity and culture of the Assamese people²¹.
- (b) Mizoram: The fear regarding the Buddhist Chakmas from Bangladesh to take advantage of this Act prevails amongst the people of Mizoram.
- (c) Meghalaya and Nagaland: These states are in opposition to this Act as the people there have the apprehensions regarding the Bengali migrants in their states.
- (d) Arunachal Pradesh: The people here fear that this Act shall benefit the Chakmas and the Tibetans imposing a threat on the local people of the state and their identities.
- (e) Manipur: this state also votes against the Act and has asked to stop the permits to the outsiders regarding their entry in the state.²²

²⁰ T. K. Rajalakshmi, *Citizenship Amendment Act: Divisive Act*, *Frontline* The Hindu (Nov. 15, 2019, 7:34 PM), <https://frontline.thehindu.com/cover-story/article29498656.ece>

²¹ *Understanding Citizenship Amendment Act and issues concerned*, The Times of India (Nov. 15, 2019, 7:46 PM), <https://timesofindia.indiatimes.com/readersblog/insights/understanding-citizenship-amendment-Act-and-issues-concerned-1222/>

²² *Why Assam and other NE states are opposing Citizenship Act*, The Times of India (Nov. 15, 2019, 7:58 PM), <https://timesofindia.indiatimes.com/india/learning-with-the-times-why-assam-and-other-ne-states-are-opposing-citizenship-Act/articleshow/67445963.cms>

These oppositions in the NE states have now reached a peak where Assam has also made the statement to leave India if this Act comes into force. The protests made by these states are intense ones like –

- The Asom Gana Parishad (AGP) opposed this Act against BJP when it was passed in the Lok Sabha.
- The Prime Minister was also shown the black flags during his visit to Assam.
- The ruling parties in Meghalaya UDP and NDP have opposed this Act.
- The chief minister of Manipur met with the Union home minister to express the state's concern regarding the Act.
- The Mizoram protest was led by the young students of the Young Mizo Association who boycotted the Republic Day in the state.
- The Nagaland government also opposed the Act by following the strikes and complete shutdowns in the state.²³

The basic reason for these protests from the side of these States is that the Northern part of our country has always faced the discrimination and the least concern from the side of the government of India since past all these years and so creating a fear in their minds that such policy changes are likely to hinder their culture and identity and also the limited resources that these States have.

The roots of this protest and fear against the immigrants in these States should also be searched for the social media influence on them as such a situation is similar to the one that was faced by the town of Ebbw Vale that feared the immigrant's entry in their locality due to the posts targeted towards them through the social media platform – Facebook.²⁴

Thus it can be stated with the above mentioned reference and protests from the North Eastern States regarding this Act that it has resulted as the one that has created a huge gap between the NE States and the rest of India,²⁵ also suggesting the violation of the Article 355 of the

²³ Furquan Ameen, *Why the Northeast is Protesting against the Citizenship Act amendment*, The Telegraph (Nov. 15, 2019, 8:15 PM), <https://www.telegraphindia.com/india/why-the-northeast-is-protesting-against-the-citizenship-act-amendment/cid/1684432>

²⁴ Carole Cadwalladr, *Facebook's role in Brexit- and threat to democracy*, Ted Talks (Nov. 16, 2019, 10:35 PM), <https://youtu.be/OQSMr-3GGvQ>

²⁵ Sanjay, B., *the Crisis of Citizenship in Assam*, *The India Forum* (May 21, 2019, 12:25 PM), www.theindiaforum.in

Indian Constitution that states for the duty of the Union to protect every state against external aggression or internal disturbance and to act in accordance of the provisions of the constitution.

CONCLUSION

From this, we can conclude that with this Act, the question that arises in our minds is regarding the egalitarian society's concept of India and the motives of the Indian government regarding the same.

This Act as per the above mentioned evidence violates the provisions under the Indian Constitution of the 'secularism' concept- our long-standing constitutional ethos along with the religion- bias (as the Act indicates the government's moves towards the formation of a 'Hindu nation') and the fundamental rights as promised under Article 14 and 21 respectively and also the international laws regarding the human rights.

Further, the government needs to take the proper measures regarding this Act in the north-eastern states of the country and try to bridge the gap and unrest created amongst the people of these states and the rest of the nation due to this Act.

The government officials should also focus on the need for the formation of the proper refugee laws in India to avoid any such kind of situation regarding the protection and security of the refugees in our country.²⁶ In India, the refugees throughout the past have been dealt with by applying the general and specials laws of India and the International law guidelines on the same as there are no specific laws for refugees in India. This shows that the 'refugees' in India are treated similarly as the 'foreigners' which is not the proper way to define them as there is a major difference between these both. The refugees are the people who have been forcefully moved out of their own home country and need to find a safe place to stay in our country without any prior permission on the same whereas a foreigner is a person who enters our country with the required permission from the assigned authorities for some specific purpose. Also, what laws are to be applied and who is to be conferred with the status of refugees is decided from the case-to-case basis with or without the documents on proper identity proof of the person which cannot be considered as a proper way to ensure the safety

²⁶Bhattacharjee, S., *India Needs a Refugee Law*, Economic and Political Weekly43(9), 71-75 (2008), <https://www.jstor.org/stable/402277209>

of the country, as well as the refugees in the long run. And thus, these suggest the need for the refugee laws for India.

Thus hopefully, with all these arguments, the legislators become conscious about the inconsistencies of this Act with the Constitution of India as well as the International laws and take the necessary actions regarding the same.²⁷ And all the people who arrive in India with a dream for a better life without any discrimination shall get a safe harbor.



²⁷Poddar, M., *The Citizenship (Amendment) Act, 2016: international law on religion-based discrimination and naturalisation law*, Indian Law Review (2018), <https://doi.org/10.1080/24730580.2018.1512290>