

# THE CITIZENSHIP AMENDMENT ACT: THE DEATH OF INDIA

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In India, there are massive public protests against the recently enacted Citizenship Law. Students from different colleges in India took to the streets protesting this rule. The progressive civil society joined the marches. The regime, on the other side, tries to counter it with brute force. Nevertheless, demonstrations do not seem to stop. The Indian Parliament's Citizenship Law passed last week is very controversial. The Citizenship Act, 2019, seeks to amend 1955's original Citizenship Act. The object of this amendment is to state unequivocally that individuals belonging to Hindu, Sikh, Budh, Jain, Parsi and Christian communities coming from Pakistan, Afghanistan, and Bangladesh to India and fleeing religious persecution or fearing persecution will not be considered as illegal migrants even though they have no passport or legal travel documents. As is evident from the above, Muslims who reached India in the same way without a passport or other travel documents are exempt from this special dispensation and will stay classified these illegal migrants. This legislation aims to give Indian citizenship to all individuals belonging to those as mentioned above, six religious communities, except Muslims.

Through Section 2, India's Constitution describes citizenship. This classifies citizenship into three categories: (I) birth residents, (ii) identification people, and (iii) naturalization citizens. The Constitution does not cover all the aspects of citizenship. This leaves it to Congress (not the political party in India) to render more arrangements on the transfer and revocation of citizenship. Accordingly, Parliament passed the 1955 Citizenship Act, which includes more comprehensive rules on this

subject. The Indian constitution is a secular document, and the Indian states are secular states that support no religion. Citizenship is a secular government function. Religion-based, it can not be granted to people. The Constitution's citizenship clause or the constitutional law makes no connection whatsoever to either religion. The recently enacted Citizenship (Amendment) Act, 2019, claims that citizenship can be given based on religion. Introducing faith into the civil citizenship system and the 1955 Citizenship Act raises serious constitutional issues. The first question that arises is whether moral interests are constitutionally permissible in the awarding of citizenship. Secularism being the state policy, a non-secular act of including certain sects and excluding others for the intent of granting citizenship does not have the Constitution's approval. The legislation has since been questioned in India's Supreme Court because it contradicts Section 14 of the Constitution. Article 14 demands that no one is denied equality before the law or civil protection of the law. This article of the Indian Constitution is following Article 7 of the 1948 UN General Assembly Universal Declaration of Human Rights, which states:

*"All are equal before the law and are entitled without any discrimination to equal protection of the law." (Claiming Human Rights)*

Supporters of the Citizenship (Amendment) Act, 2019, took the view that it breached Article 14 because it omitted from its purview a particular religious minority, namely Muslims. They argue it is unfair, biased. On the other side, government spokespeople defended banning Muslims by citing the concept of fair distinction. We claim that the six religious groups to be given citizenship are the ones facing religious persecution in those three Muslim countries and that there the Muslims have not faced this issue. Hence the designation of religious persecution sufferers in Hindu, Sikh, Budh, Jain, Parsi, and Christian groups is applicable under Article 14. Thus reading Article 14, the Indian judiciary adopted the concept of appropriate classification to address conditions resulting from the robust implementation of Article 14. The courts developed the idea that equity law can not be extended to inequality. Although inequality between individuals is unconstitutional under Article 14, disparities can

not be treated equally. This idea underlies the labeling theory. However, this designation will satisfy two standards. One, clear distinction. Another one is the logical relation between the disparity and the law-making entity. Intelligible distinction implies the gap between the familiar and unique groups should be clearly understood. The rational nexus implies a conscious connection between such difference and the object of the law. Religious persecution sufferers can be viewed in a unique way to grant citizenship. They will form a group separately classifiable.

Nevertheless, the problem arises where registration is based on the sufferer's religious identity. Under the 1955 Citizenship Act, those who enter India without a valid passport or travel documents are all illegal migrants. There is no religious distinction between them. Nevertheless, the 2019 Citizenship (Amendment) Act specifies that only Hindus, Buddhists, Sikhs, Jains, Parsis, and Christians who are illegal migrants will be recognized and granted citizenship. Muslims' implicit omission renders registration technically and morally unconstitutional because it is against secularism's fundamental constitutional strategy. If all the sufferers of religious persecution were put under the law without having any theological difference, it would have been a valid and reasonable designation. However, that is not the truth. However, Muslim groups suffer religious persecution in some of these nations. Legislators overlooked this reality. Since the classification effort is against the statutory secularism scheme, it is unconstitutional, and therefore there is no appropriate classification in the law head.

For the real nexus, since there is no clear distinction, the concept of rational nexus is meaningless. Even then, it can be said that the purpose of the bill is against the liberal policy enshrined in the constitution to allow the illegal migration of specific religious communities to the exclusion of one religious community and to give them citizenship. That being so, one does not have to examine the nexus' rationality between the difference and the law object. Thus the Citizenship (Amendment) Act, 2019, is smitten by Article 14 of the Constitution. The NRC is another contentious issue that has caused considerable violence in the country. The 1955 Citizenship Act clarifies that illegal migrants will not be granted citizenship in India. According to the

Citizenship (Amendment) Act, 2019, Muslims who migrated from Pakistan, Afghanistan, and Bangladesh to India without a valid passport and other travel documents after 2014 and are living here will be considered as illegal migrants and disentitled to become citizens even if there are people among them who have endured religious persecution in their own countries. The 1955 Act allows for NRC and citizenship identity cards. Under this section and the guidelines prescribed by the Act, a house-to-house enumeration will be rendered to ascertain the position of residents in each household. A large number of people who can not provide the necessary documents would indeed be disqualified from the NRC. Although there are systematic controls, local officials' distrust of abuse of these legal provisions is in the psyche of the people. To them, the future is full of terrifying uncertainty.

