

# Revisiting India's Amended Citizenship Act 2019 in Light of Constitutional Ethos

**Shilpa Jain**

*Maharashtra National Law University Nagpur, India*

**Ankit Srivastava \***

*Rajiv Gandhi National University of Law, India*

**Aditi Richa Tiwary**

*Dharmashastra National Law University, India*

**ABSTRACT:** The Citizenship Amendment Act 2019 and the National Register of Citizens in India are perceived as reflective of a religious classification in grant and continuance of Indian citizenship. The study aimed to discuss the future effects of the amended Citizenship Act 2019 and suggest alternatives to accommodate India's constitutional ethos. A considerable fraction of the Indian citizenry was discorded with this Act because Article 14 of the Indian Constitution prohibits discrimination based on religion, among other grounds. On the other hand, the state's stance asserted that the law aims to protect the persecuted religious minorities from other states. This study dealt with the nuances and intricacies of the problem to explicate viable solutions by an in-depth analysis of the issue in an unprejudiced manner where it used a combined doctrinal and empirical research to assess the perspectives on the policy in the Global South from the Indian experience. The findings reflected that while a majority of the provisions in the Act can be justified based on constitutional parameters, its few provisions are unconstitutional. In summary, even after juxtaposing all the justifications of the Act against the allegations, a considerable portion of the Act remains unconstitutional, and it needs to be revisited based on constitutional parameters.

**KEYWORDS:** Citizenship Act, Indian Constitution, Right to Religion.



Copyright © 2022 by Author(s)

This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License. All writings published in this journal are personal views of the authors and do not represent the views of this journal and the author's affiliated institutions.

## HOW TO CITE:

Jain, Shilpa, et al., "Revisiting India's Amended Citizenship Act 2019 in Light of Constitutional Ethos" (2022) 9:2 Lentera Hukum 303-322. DOI: <<https://doi.org/10.19184/ejrh.v9i2.28430>>

Submitted: 18/12/2021 Reviewed: 07/02/2022 Revised: 14/08/2022 Accepted: 30/08/2022

---

\* Corresponding author's e-mail: [ankitsrivastava824@gmail.com](mailto:ankitsrivastava824@gmail.com)

## I. INTRODUCTION

India is one of the most inclusive democracies globally, where factors such as religious, ethnic, and linguistic diversities are revered, accommodated, and cherished as a part of the state's constitutional spirit. Amidst such evident acknowledgement of diversity, the recent instances of the grant and recognition of Indian citizenship are worthy of legal deliberation. The need for such deliberation stems from the Indian Citizenship Amendment Act (CAA) 2019 and the proposal to introduce the National Register of Citizens (NRC). The combined reading of legislation provides sufficient ground for their analysis through legal and constitutional parameters on citizenship and the non-discrimination principle based on religion in international instruments.

The CAA was notified by the Indian Parliament on December 12<sup>th</sup>, 2019, according to which the Citizenship Act 1955 was amended. The amended Act brought about changes in the grant of Indian citizenship and excluded a few religions from being labeled as "illegal migrants." The religions excluded by the Act from identification as "illegal migrants" are Hindu, Buddhist, Sikh, Jain, Christian, and Parsi, who entered India on or before December 31<sup>st</sup>, 2014.<sup>1</sup> Further, the proposed NRC, which, in every context, is an instrument to categorize the population as citizens and illegal migrants, requires documents to be presented by the population as proof of their citizenship.<sup>2</sup> The documents commonly available to the Indian citizenry, such as Aadhar Cards, voter IDs, and ration cards, are not considered proof of citizenship under Indian law, which is a potent demerit of NRC as per the citizenry. In India, Aadhar Cards are the most commonly available documents for Indian citizens at their disposal for their regular affairs.<sup>3</sup> The card exists as the identity of every citizen and is found

---

<sup>1</sup> Keshab C Ratha, "Interpreting Citizenship Amendment Act: Its Content and Context" (2021) 67:4 *Indian Journal of Public Administration* 559–572.

<sup>2</sup> Vatsal Raj, "The National Register of Citizens and India's commitment deficit to international law," *LSE Human Rights* (August 10th, 2020), online: <<https://blogs.lse.ac.uk/humanrights/2020/08/10/the-national-register-of-citizens-and-indias-commitment-deficit-to-international-law/>>.

<sup>3</sup> Vrinda Bhandari, *Use of Digital ID for Delivery of Welfare* (Centre for Internet & Society, 2020).

among citizens of almost every stratum of the Indian population.<sup>4</sup> Official verification of any Indian citizen is not considered valid until there is authentication of the same by the citizen's Aadhaar Card.<sup>5</sup> Citizen's Aadhaar, in every way, validates his existence in India and serves as a chord of communication between the government and the citizenry.<sup>6</sup>

While the opinions of a majority of social activists and citizenry are reflective of an aversion against the Act and the proposal of NRC, the stances of the Indian government favoring the Act are equally convincing and have gained considerable support. T. Khan asserted that the Act distorts the Indian secular values through "religion-based discriminatory actions."<sup>7</sup> As a clear contrast, R. Nair argues that the CAA has a "constitutional defense" against all the allegations, and it fulfills the "lower threshold of constitutionality," in addition to the "higher threshold of international law."<sup>8</sup>

The studies on the analysis of the concerned legislation and proposal undertaken to date have articulated an analysis inclusive of the nation's political landscape.<sup>9</sup> Most of the works include the contemporary background of Indian party-politics and its link to the introduction of CAA and NRC. At the same time, the present research focuses on purely legal and constitutional analysis, while political inclusions act as evident constraints in any academic research. Political considerations are not always

---

<sup>4</sup> Jean Dreze et al., "Aadhaar and Food Security in Jharkhand Pain without Gain?" (2017) 52:50 *Economic & Political Weekly* 50–60.

<sup>5</sup> *Ibid.*

<sup>6</sup> K.S. Puttaswamy v. Union of India, 10 SCC 1 (2017).

<sup>7</sup> T Khan, *The Citizenship Amendment Act, 2019: A Religion Based Pathway to Indian Citizenship* (SSRN, 2020).

<sup>8</sup> Rahul Nair, "The Citizenship (Amendment) Act – A Constitutional Defence" (2020) 9:2 *National Law Institute University*, online: <<https://nliulawreview.nliu.ac.in/journal-archives/volume-ix-issue-ii/the-citizenship-amendment-act-a-constitutional-defence/>>.

<sup>9</sup> Ali Khan Mahmudabad, "Indian Muslims and the Anti-CAA Protests: From Marginalization Towards Exclusion" (2020) 24:25 *South Asia Multidisciplinary Academic Journal*; Shylashri Shankar, "How Democratic Processes Damage Citizenship Rights: The Implications of CAA-NRC," *Centre for Policy Research* (December 16th, 2019), online: <<https://cprindia.org/how-democratic-processes-damage-citizenship-rights/>>.

congruent with academic, legal, and constitutional parameters. An analysis devoid of political inclusions is essential for an uninfluenced outcome of any legal research. Therefore, the authors have undertaken an apolitical approach to upkeep the work's legal nature.

The exclusion of selective religions from the grant of citizenship in the CAA and its anticipated repercussions need an in-depth and uninfluenced analysis in light of the constitutional ethos of the nation, which the authors aim to undertake through the present work. The authors aimed to undertake a purely legal study into the nuances and intricacies of the problem to explicate viable solutions by an in-depth analysis of the issue in an unprejudiced manner. The study analyzes the Act's prospective effects and suggests solutions to accommodate the Constitutional ethos of India in the Act. The conclusion reflects that while a majority of provisions of the Act can be justified based on constitutional parameters, few provisions of the Act are unconstitutional. Therefore, even after juxtaposing all the justifications of the Act against the allegations, a considerable portion of the Act remains unconstitutional and needs to be revisited based on constitutional parameters.

## II. METHODS

The present research is a hybrid of doctrinal and empirical methods, where questionnaires and interviews are data collection methods for the empirical part. In this empirical research, transnational surveys were conducted to assess the perspectives on the policy in the Global South. Further, interviews of legal luminaries and experts would substantiate the study. Such empirical work is in addition to the doctrinal study undertaken to elucidate the academic insight into the issue. In contrast, the doctrinal part of the research is based on primary and secondary sources. By considering the primary source of research, the sample size of 800 respondents was selected by the authors from citizens of India and other transnational jurisdictions, while the secondary sources included books, articles, and judgments.

### III. PRINCIPLE OF NON-DISCRIMINATION IN INTERNATIONAL LAW

Constitutional law cannot be construed in isolation from the core tenets of international law and practice. International human rights law and practice must comprehend the gravity associated with the principle of non-discrimination based on religion. Article 2 of the Universal Declaration of Human Rights relishes religious freedom and the right to non-discrimination based on religion.<sup>10</sup> Article 26 of the International Covenant on Civil and Political Rights and Article 2 of the International Covenant on Economic, Social, and Cultural Rights also enshrine the principle of non-discrimination based on religion.<sup>11</sup>

In order to comprehend the core essence of the principle of non-discrimination, it is essential to consider the interpretation of the term in light of international law. It is evident that discrimination in international law has been identified as any kind of exclusion that deprives the entitlement of civil, economic, social, or political rights.<sup>12</sup> The United Nations Sub-Commission on Prevention of Discrimination and Protection of Human Rights was formed solely to interpret the term "discrimination," where the majority of delegates identified unjustified differentiation as the closest possible meaning of the term "discrimination" in the context of human rights.<sup>13</sup>

In order to comprehend the principle of non-discrimination, it is pertinent to revisit the Belgian linguistics case, where the legitimate defenses against the allegations of non-discrimination were most appropriately explicated<sup>14</sup>. It was held in the case that the principle of non-discrimination holds true only in the case of the differentiation is without any "objective and

---

<sup>10</sup> Alice Donald & Erica Howard, *The right to freedom of religion or belief and its intersection with other rights* (ILGA-Europe, 2015).

<sup>11</sup> Thomas Buergenthal, "The Normative and Institutional Evolution of International Human Rights" (1997) 19:4 *Human Rights Quarterly* 703–723.

<sup>12</sup> Yoram Dinstein, "Discrimination and International Human Rights" in *Israel Yearbook on Human Rights* (Brill Publisher, 1985).

<sup>13</sup> Anne F Bayefsky, *The Principle of Equality Or Non-discrimination in International Law*, *Human Rights Quarterly* (1990).

<sup>14</sup> *Ibid.*

reasonable justification." As long as the discrimination can be justified on objective parameters, it is perfectly valid.<sup>15</sup> The principle of non-discrimination, in all its forms, has become *jus-cogens* and is deeply entrenched in the spirit of human rights law.<sup>16</sup> According to the principle of non-discrimination found accepted in the majority of international instruments and its practice being declared as *jus-cogens*, States are mandated to legislate to the effect of incorporating the principle of non-discrimination in their statutes, thereby strengthening their accountability in the materialization of the principle. Such mandate stems from the obligation of states to endure, respect, and fulfill these rights.<sup>17</sup> As many authors describe, the principle of non-discrimination is dynamic and fluid and cannot be objectively restricted. It depends on the factual circumstances of the nations and the degree of allegiance such nations choose to pay to international law. Therefore, the concrete implementation of the principle rests with the state's constitution.

#### IV. INDIAN CONSTITUTION VIS-À-VIS NON-DISCRIMINATION BASED ON RELIGION

Given religious assimilation and non-discrimination based on religion, the Indian Constitution broadly incorporates two aspects. The first is the idea of secularism subliminally existing in the entire constitution and reflected in the preamble. The second is the fundamental right to equality before the law and equal protection of the law, explicitly barring non-discrimination based on religion. To comprehend Indian secularism, drawing stark characteristics of a secular state becomes significant. Smith and Luthara agree to the yardsticks of a secular state as concretized by Bauberot: separation of politics and religion, non-discrimination among different

---

<sup>15</sup> Denise G Réaume, "Harm and Fault in Discrimination Law: The Transition from Intentional to Adverse Effect Discrimination" (2001) 2:1 Theoretical Inquiries in Law, online: <<http://www7.tau.ac.il/ojs/index.php/til/article/view/208>>.

<sup>16</sup> J P Humphrey, "The Implementation of International Human Rights Law" (1978) 24:1 New York School Law Review 31–61.

<sup>17</sup> Brian Burdekin & Anne Galagher, "The United Nations and National Human Rights Institutions" in *International Human Rights Monitoring Mechanisms* (Brill Publisher, 1998).

religions by State authorities, and mandatory freedom of conscience available to citizens, subject to restrictions imposed favoring public order or other reasonable considerations.<sup>18</sup> Although France is considered the trailblazer of secularism,<sup>19</sup> Indian secularism, unlike French secularism, has emerged as a relatively new version of secularism.<sup>20</sup>

Secularism has globally evolved to be comprehended as "no State religion," which means that the state would not propagate or preach any particular religion. The French notion comprehends secularism as a denial to manifestly and publicly practice any religion. In contrast, Indian secularism is an allowance of practice and propagation by all religions to the effect that no particular religion can be distinctly identified as the State religion, thereby adding to the peculiarity of Indian secularism.

Unlike other States that accommodate a handful of religious sects, the issue of religious assimilation in India was sizeable. India's diversity of religions made it imperative for legislators to acknowledge religion not being considered as a secondary attribute in the constitutional drafting. In particular, it is highlighted when people were identified with religion to such an extent that the land had borne the brunt of the British policy of divide and rule during the colonial era, solely on religious lines. However, such considerations should not be considered to infer that any religious sect was undermined due to the overwhelming heterodoxy and religious diversity. Minorities were always represented adequately and had enough legislative significance.<sup>21</sup> Therefore, the framers of the Indian constitution had deliberated considerably before manifesting such a significant concern in the law of the land. To the fortune of the land, during the constituent assembly debates, the advocates of secularist India won over the

---

<sup>18</sup> SMAW Chishti, "Secularism in India: An Overview" (2004) 65:2 *The Indian Journal of Political Science* 83–198.

<sup>19</sup> Gary J Jacobsohn, *The Wheel of Law: India's Secularism in Comparative Constitutional Context* (New Jersey: Princeton University Press, 2005).

<sup>20</sup> *Ibid.*

<sup>21</sup> Richard T Ashcroft & Mark Bevir, eds, *Multiculturalism in the British Commonwealth: Comparative Perspectives on Theory and Practice* (California: University of California Press, 2019).

fundamentalist Hindutva protagonists.<sup>22</sup> The constituent assembly lacked the representation of staunch Hindutva fundamentalists. However, there was enough scope for debate and deliberation, and the supporters of a conventional line of thought were always a part of the assembly. The starkest Articles in the Indian constitution relating to secularism are Articles 25 and 26. However, the entire constitution reflects the spirit of secularism and religious inclusiveness. Given that most of the Indian population is Hindu, it becomes necessary to distinguish between the Hinduism of inclusiveness from that bigotry.<sup>23</sup> The speech delivered by Swami Vivekananda in the Chicago Parliament became extremely significant.

In the text, he describes eloquently and prolifically how Hinduism imbibes the truth of every religion and how acceptance and inclusiveness are the essential traits of Hinduism.<sup>24</sup> He also describes that every religion is a stream, a different path, leading to the sea of salvation.<sup>25</sup> It becomes significant to quote him to decipher the real meaning of Hinduism-

The Christian does not become a Hindu or a Buddhist, and vice versa. However, each must assimilate the spirit of the others and preserve individuality and grow according to his law of growth.<sup>26</sup>

Given the Constituent Assembly Debates, Tajamul Hussain's contribution articulates a significant concern for ideating secularism in India. He opined for the religious practices to be conducted privately.<sup>27</sup> He believed that religion is one's personal affair and is limited to one's connection with the divine. Therefore, the question of propagating religion also did not arise.

---

<sup>22</sup> Christophe Jeffrelot, "The Fate of Secularism in India," *Carnegie Endowment for International Peace* (April 4th, 2019), online: <<https://carnegieendowment.org/2019/04/04/fate-of-secularism-in-india-pub-78689>>.

<sup>23</sup> *Ibid.*

<sup>24</sup> Business Standard, "Full text of Swami Vivekananda's Chicago speech of 1893", *Business Standard* (September 11th, 2017), online: <[https://www.business-standard.com/article/current-affairs/full-text-of-swami-vivekananda-s-chicago-speech-of-1893-117091101404\\_1.html](https://www.business-standard.com/article/current-affairs/full-text-of-swami-vivekananda-s-chicago-speech-of-1893-117091101404_1.html)>.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

<sup>27</sup> *Constituent Assembly of India Debates (Proceedings)* (Constitution of India, 1948).



Simultaneously, he proposed to disallow any visible marks of one's religion to be put on public display to maintain the privacy of religion.<sup>28</sup> However, the contention was disregarded by a majority. K.T. Shah opined that the freedom of religion could prejudice the public at large because the freedom to profess one's religion could very well be propaganda adopted by religious sects to convert naive masses to be a part of their sect.<sup>29</sup> He, therefore, proposed for no religious preaching to take effect to such an extent that it results in conversion while simultaneously mentioning for religious preaching to be allowed, but with restraints as stated.<sup>30</sup> However, the same was also not considered by the assembly.

Further, Loknath Mishra's contention becomes significant in a way to comprehend Indian secularism. He proposed that in the case of the assembly was opting for a secular State, then all the religious rights should be deleted from the constitution so that the definition of secularism could be well justified in the Indian Constitution.<sup>31</sup> He next gives examples of the Constitutions of Ireland and the USSR to substantiate his premise that there is no constitution in the world where religious rights are fundamental and justiciable.<sup>32</sup> However, as the idea of Indian secularism was to explicitly allow the practice and propagation of religion, such contention was not acknowledged by the majority.

The following significant proposal was the one by H.V. Kamath.<sup>33</sup> He proposed introducing the element of religious equality by mandating that the state shall not patronize, establish or endow any particular religion. However, it shall allow spiritual teaching. The reasoning employed by him was his perception that secularism and spirituality could well go hand in hand. In the case of the state patronizes any particular religion, it would result in the defiance of secularism which the state gloriously aims at. He says that spiritual teaching is significant because it is a global virtue that

---

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

India is an essential part of. The spirit of this amendment was already reflected in the article. Hence it was not considered. Nevertheless, this contention further strengthens the essence of Indian secularism. There were other adoptions or negations of proposals. However, the most significant parts in defining what Indian secularism stands for and what it does not represent all can be well gauged from the above recommendations.

The following Article in the line of discussion is Article 26 of the Indian Constitution. There is not much difference between previous Articles, and before the debate, except that religious denominations' rights were subject to public order, health, and morality. BR Ambedkar proposed the same that briefly and concisely mentioned that the rights granted to religious denominations cannot be made absolute and have to essentially be in accord with those presented by Article 19 of the draft,<sup>34</sup> and the same was readily accepted by the constituent assembly. Articles and provisions of significance in the Indian constitution reflect its secular nature. The first is articles promoting the welfare of religious minorities. The second is the recognition of religious customs. As the constitution explains, "Law includes custom or usage having in the territory of India the force of law." The third is the recognition of personal laws of multiple religions, as the constitution mentions in the concurrent list, *"Marriage and divorce; infants and minors, adoption, wills, intestacy, and succession; joint family and partition; all matters in respect of which parties in judicial proceedings were immediately before the commencement of this constitution subject to their personal law."*

All these provisions in the constitution and the roots of their articulation are well enough to illustrate that the Indian Constitution wholesomely reflects all the characteristics of a positive secular State, which ideally is the way out for any religious multiplicity. The spirit of Indian secularism lies in a nation free from bigotry, fanaticism, communalism, religious dominance, and caste superiority. The attributes of inclusiveness, religious acceptance, acknowledgment of pluralism, and reverence for religious diversity are the core characteristics of the secular identity of the Indian nation. The real, unfiltered identity of the nation is secular, and the comprehension of

---

<sup>34</sup> *Ibid.*

secular identity is essential to resolve the suffering of those communities that are highly disregarded by such a narrow version of the religious identity of a nation as diverse as India.

Given the non-discrimination principle, Articles 14 and 15 of the Indian Constitution enunciate equality before the law and equal protection of the law as fundamental rights, which any legislation cannot derogate. Article 15(1) mentions, "*The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.*" Religion has formed the cornerstone of India in many ways, where despite the overwhelming Hindu majority, the fractions of minorities have rarely been discounted.<sup>35</sup> Article 15 of the Indian Constitution specifies the general principle of "equality before the law" and "equal protection of laws" enshrined in Article 14. Therefore, whenever legislation like CAA or any governmental action is challenged on the touchstone of equality, the relevant provision is Article 14. The Indian judiciary has propounded tests of intelligible differentia and reasonable nexus, analogous to the international principle of "reasonable justification,"<sup>36</sup> to define the scope of equality before the law and equal protection of the law, which are the forms of enunciation of the non-discrimination principle in the Indian Constitution.<sup>37</sup>

The principle of intelligible differentia ideates the presence of a rational and unarbitrary basis for classification,<sup>38</sup> whereas the principle of reasonable nexus requires the existence of a connection between the legislation and the

---

<sup>35</sup> Rajeev Bhargava, "India's Secular Constitution" in Zoya Hasan, E Sridharan, & R Sudarshan, eds, *India's Living Constitution: Ideas, Practices, Controversies* (Anthem Press, 2005) at 105.

<sup>36</sup> Mohd Imran, *The Citizenship (Amendment) Act, 2019: Beginning of Selective Humanitarianism & Citizenization of Persecuted Victims in India* (BGU: Sarala Birla Memorial National Article Writing Competition, 2020).

<sup>37</sup> Jeffrey A Redding, "Secularism, the Rule of Law, and 'Shari'a Courts': An Ethnographic Examination of a Constitutional Controversy" (2013) 57:2 Saint Louis University Law Journal at 339, 340–41.

<sup>38</sup> Gautam Bhatia, "Equal moral membership: Naz Foundation and the refashioning of equality under a transformative constitution" (2017) 1:2 Indian Law Review 115–144.

object it seeks to attain.<sup>39</sup> In the case of legislation or governmental action satisfies these parameters, the Act of classification cannot be termed discrimination.<sup>40</sup> Therefore, the principle of non-discrimination has a higher threshold<sup>41</sup> than the international standards, where the defense to any legislation is two folds, i.e., intelligible differentia and reasonable nexus.<sup>42</sup> As is evident, the Indian constitutional thread runs along the principles of secularism and non-discrimination based on religion,<sup>43</sup> and is structured by the yardsticks of intelligible differentia and reasonable nexus as defenses against discrimination, providing a more significant threshold than the principles of international law.

## V. CITIZENSHIP UNDER THE INDIAN CONSTITUTION

Indian constitution does not prescribe any parameters on which the citizenship of any person can be regulated, controlled, curbed, or granted. Part II of the Indian Constitution, which deals with citizenship, provides that the Parliament may regulate the grant of citizenship through legislation. At the inception of the constitution, there were four categories of citizenship by domicile (Article 5), citizenship of migrants to India from Pakistan (Article 6), citizenship of migrants of Pakistan (Article 7), and citizenship of persons of Indian origin residing outside India (Article 8).<sup>44</sup> Furthermore, Article 11 of the Indian Constitution empowers the Indian Parliament to frame laws for the acquisition and termination of citizenship. However, it does not provide a concrete execution mechanism governing

---

<sup>39</sup> Tarunabh Khaitan, "Equality: Legislative Review under Article 14" in Sujit Choudhry, Madhav Khosla, & Pratap Bhanu Mehta, eds, *The Oxford Handbook of the Indian Constitution* (Oxford University Press, 2016) at 701.

<sup>40</sup> Abhinav Chandrachud, "Secularism and the Citizenship Amendment Act" (2020) 4:2 *Indian Law Review* 138–162.

<sup>41</sup> *Ibid.*

<sup>42</sup> Tarunabh Khaitan, *supra* note 39.

<sup>43</sup> Upendra Baxi, "The Myth and Reality of Indian Administrative Law" in Massey, ed, *Administrative Law*, 8th ed (2012) at 28.

<sup>44</sup> Vazira Fazila-Yacoobali Zamindar, *The Long Partition and the Making of Modern South Asia: Refugees, Boundaries, Histories* (New York: Columbia University Press, 2007).

the grant or termination of citizenship, thereby rendering Articles 5 to 8.<sup>45</sup> The regulation of citizenship by law, as against its regulation by the constitutional framework, remains a relevant question concerning Indian citizenship.<sup>46</sup> The Constituent Assembly Debates provide a convincing answer,<sup>47</sup> wherein it was deliberated that the complexities governing the grant of citizenship<sup>48</sup> in the middle of the 20<sup>th</sup> century were enough to require the framing of specific legislation to govern Indian citizenship.<sup>49</sup>

The Constituent Assembly Debates concerning citizenship can be easily divided into three phases.<sup>50</sup> The first phase concerns the kind of citizenship that Indians would have. In the debates, Alladi Krishnaswamy Ayyar,<sup>51</sup> one of the most vocal members of the Constituent Assembly, suggested that the constitutional framework draws merely on the overarching principle governing citizenship, where the implementational elements can be framed through specialized legislation to that effect. Most members supported the proposal, requiring specialized legislation regulating Indian citizenship.

The second phase concerns the assimilation of citizenship vis-à-vis residents of Pakistan. The question was whether the persons belonging to Pakistan should be addressed by the names of their community and religion, or should the term 'Pakistan' be used to address the concerned population in the provisions governing citizenship. The overwhelming majority supported the view that the idea of India was that of a secular nation, where religion should not be the determining factor in granting any right. The concerned population was not addressed by way of religion. Accordingly, persons of all religions were welcomed from the territory of Pakistan, regardless of any religion.<sup>52</sup> The approach adopted by the

---

<sup>45</sup> Gautam Bhatia, *Citizenship and the Constitution* (SSRN, 2020).

<sup>46</sup> Niraja Gopal Jayal, *Citizenship and Its Discontents: An Indian History* (Cambridge: Harvard University Press, 2013) at 63.

<sup>47</sup> *Ibid.*

<sup>48</sup> *Ibid.*

<sup>49</sup> Abhinav Chandrachud, *supra* note 40.

<sup>50</sup> *Ibid.*

<sup>51</sup> Parliament of India, Constituent Assembly Debates, Vol. III (April 29th, 1947) (speech of Alladi Krishnaswamy Ayyar).

<sup>52</sup> B Shiva Rao, ed, *Framing of India's Constitution* (New Delhi: Universal Law Publishing, 2015).

Constitutional framers speaks volumes about the secular nature of the Indian Constitution, which runs like a golden thread binding the constitution. On the other hand, the third phase was the final winding up of the arguments concerning the grant of citizenship. According to Kamleshwari Prasad Yadav, the provisions governing the grant of citizenship in the territory of India have to be governed by secular and all-inclusive provisions, as secularism forms the basis of the idea of India as against a religious state.<sup>53</sup>

The arguments were wound up, and the idea of citizenship in India would be inclusive, leaving no scope of discrimination based on religion on the grant of citizenship. It requires special legislation to be drafted to effect the overarching idea of Indian citizenship. The legislation was accordingly framed, named the Citizenship Act 1955. This Act which regulates the grant, termination, and acquisition of citizenship, provides for different modes of acquiring citizenship, in addition to citizenship by birth.<sup>54</sup> The modes can be categorized under the broad categories of citizenship by descent, registration, naturalization, and incorporation of territory.<sup>55</sup> In the case that any person has a parent(s) residing in India at the time of birth, such a person falls under citizenship by descent. It is deemed to have acquired Indian citizenship, provided that such birth is registered within one year of its occurrence.<sup>56</sup> A person acquires Indian citizenship by registration in the case of he or she has been residing in India for five years before the registration application is made.<sup>57</sup> A person is provided with a certificate of naturalization when he or she, not an illegal migrant, resides in India for one year. However, in another condition, the person must have stayed in India for 11 years out of the 14 years preceding the date of seeking the certificate.<sup>58</sup> In the case of any territory becomes a part of India,

---

<sup>53</sup> Parliament of India, Constituent Assembly Debates, Vol. XI (November 25th, 1949) (speech of Kamaleshwari Prasad Yadav).

<sup>54</sup> Granville Austin, *India's Constitution: Cornerstone of a Nation* (Oxford: Oxford University Press, 1966).

<sup>55</sup> Uday Singh Mehta, "Constitutionalism" in Nirja Gopal Jayal & Pratap Bhanu Mehta, eds, *The Oxford Companion in India*.

<sup>56</sup> Gautam Bhatia, *supra* note 45.

<sup>57</sup> *Ibid.*

<sup>58</sup> *Ibid.*

the citizens of such territory automatically become citizens of India.<sup>59</sup> In light of its core provisions, the Citizenship Act is inconsistent with the constitution's requirements, where it does not discriminate on the grant or termination of citizenship.

## VI. CITIZENSHIP AMENDMENT ACT 2019 AND THE NATIONAL REGISTER OF CITIZENS

The CAA was notified by the Indian Parliament on December 12<sup>th</sup>, 2019, according to which the Citizenship Act 1955 was amended. The amended Act brought about changes in the acquisition and termination of Indian citizenship and excluded a few religions from being labeled as "illegal migrants." The religions excluded by the Act from identification as "illegal migrants" are Hindu, Buddhist, Sikh, Jain, Christian, and Parsi, who entered India on or before December 31<sup>st</sup>, 2014, from three countries, namely Pakistan, Afghanistan, and Bangladesh. The Act was passed in the Lok Sabha (Lower House of the Indian Parliament) with a majority of 311 to 80 and in the Rajya Sabha (Upper House of Indian Parliament) with a majority of 125 to 105.<sup>60</sup>

As is clear, the Act aims at identifying the groups of people capable of being provided with Indian citizenship based on "religious persecution."<sup>61</sup> How such citizenship is aimed to be provided is naturalization. The number of years for obtaining a certificate of naturalization has decreased from eleven to five years for the persecuted minorities.<sup>62</sup>

Coupled with the Act's introduction was a proposal by the Union Home Minister to apply the NRC nationwide, requiring all citizens to prove their

---

<sup>59</sup> *Ibid.*

<sup>60</sup> Deeptiman Tiwary, "Citizenship (Amendment) Act notified, effective from January 10th", *The Indian Express* (January 11th, 2020), online: <<https://indianexpress.com/article/india/caa-notified-effective-from-jan-10-6210644/>>.

<sup>61</sup> *Ibid.*

<sup>62</sup> Md Tasnimul Hassan, *The Origin, History, and Legality of the Citizenship (Amendment) Act, 2019* (SSRN, 2020).

citizenship by exhibiting documents evidencing their citizenship.<sup>63</sup> An incidental issue arising out of NRC is that there is no clarity on the evidentiary value of generic documents available to the masses. The documents required by the state to prove citizenship remain unnotified.

As reflected by the works of social activists and garnered by the interview taken by the authors, there are certain inconsistencies in the implementation of CAA 2019 and NRC.<sup>64</sup> One of the issues concerns the violation of Article 14 of the Indian Constitution. As the principles of equality before the law and equal protection of laws enshrined in Article 14 of the Indian Constitution require non-discrimination based on religious grounds, the CAA 2019, by way of selectively extending provisions of citizenship to selected religions, is leading to unconstitutional religious discrimination,<sup>65</sup> thereby leading to the disadvantage of the excluded religious groups. This assertion is significantly strengthened because the protection of Article 14 is not only reserved for Indian citizens but is also extended to non-citizens.<sup>66</sup> According to the interviews with one of the legal luminaries, the defenses of intelligible differentia and reasonable nexus cannot be applied in the present case as the object the Act seeks to achieve discriminatorily.

A possible defense to such discrimination is Article 11, which gives unfettered power to the Parliament to frame laws on the grant of citizenship beyond the bounds of fundamental rights. However, the Indian constitution is construed holistically in light of the intention of the constitution's framers. It is clear from the Constituent Assembly Debates that the essence of the Indian Constitution lies in the concept of secularism. All the provisions, including the provisions governing the grant of citizenship, are to be construed in a manner consistent with the secular

---

<sup>63</sup> Shahnawaz Ahmad Malik & Shaharyar Asaf Khan, "Future of Citizenship Laws in India With Special Reference to Implementation of NRC in Assam" (2020) 6:4 *Journal of Legal Studies and Research* 2455–2437.

<sup>64</sup> Sital Kalantry & Agnidipto Tarafder, *Death by Paperwork: Determination of Citizenship and Detention of Alleged Foreigners in Assam* (SSRN, 2021).

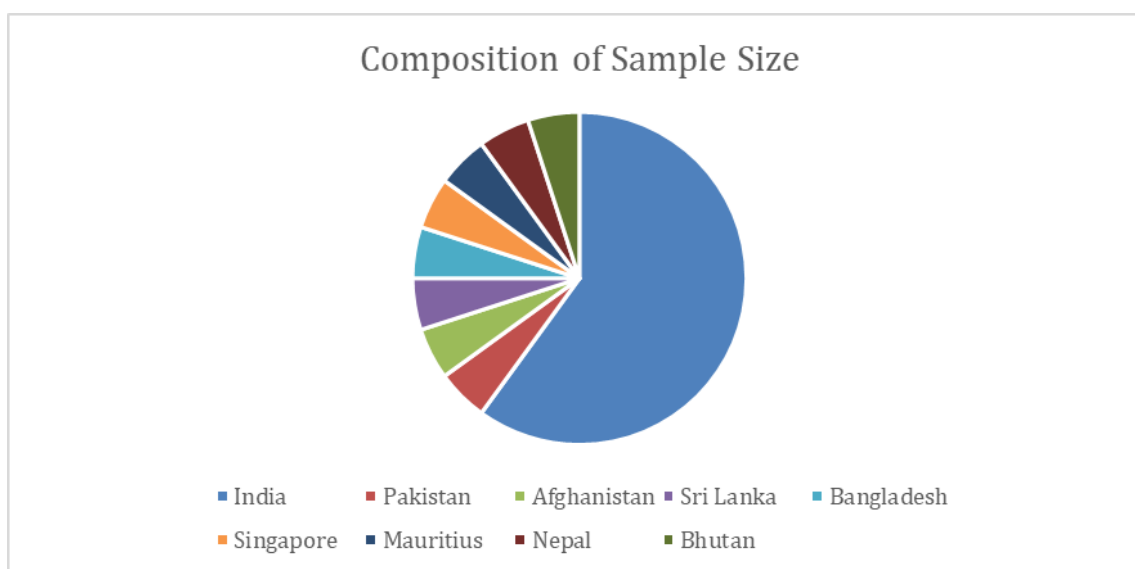
<sup>65</sup> *Ibid.*

<sup>66</sup> Farrah Ahmed, "Arbitrariness, subordination and unequal citizenship" (2020) 4:2 *Indian Law Review* 121–137.



theme of the Indian Constitution, as was explained by Mr. Abhinav Gaur, Advocate, High Court, Allahabad, India.

Under the Constituent Assembly Debates and the interviewees' legal insight, the defenses of intelligible differentia, reasonable classification, and Article 11 cannot be applied to defend the CAA 2019. By considering the quantitative aspect of the research, the sample size of 800 respondents was selected by the authors wherein 40 percent of the respondents consisted of citizens belonging to the trans-national population, including citizens of Pakistan, Afghanistan, Sri Lanka, Bangladesh, Nepal, Bhutan, Mauritius, and Singapore, whereas 60 percent of the sample size consisted of the Indian population.



**Figure 1.1.** *Representation of the Sample Size*

As per the data collected from the empirical research undertaken by the authors, out of the sample size of 800, 560 respondents answered affirmative (Figure 1.2) when they were questioned about the discriminatory nature of the CAA 2019 in light of Article 14 of the Indian Constitution.

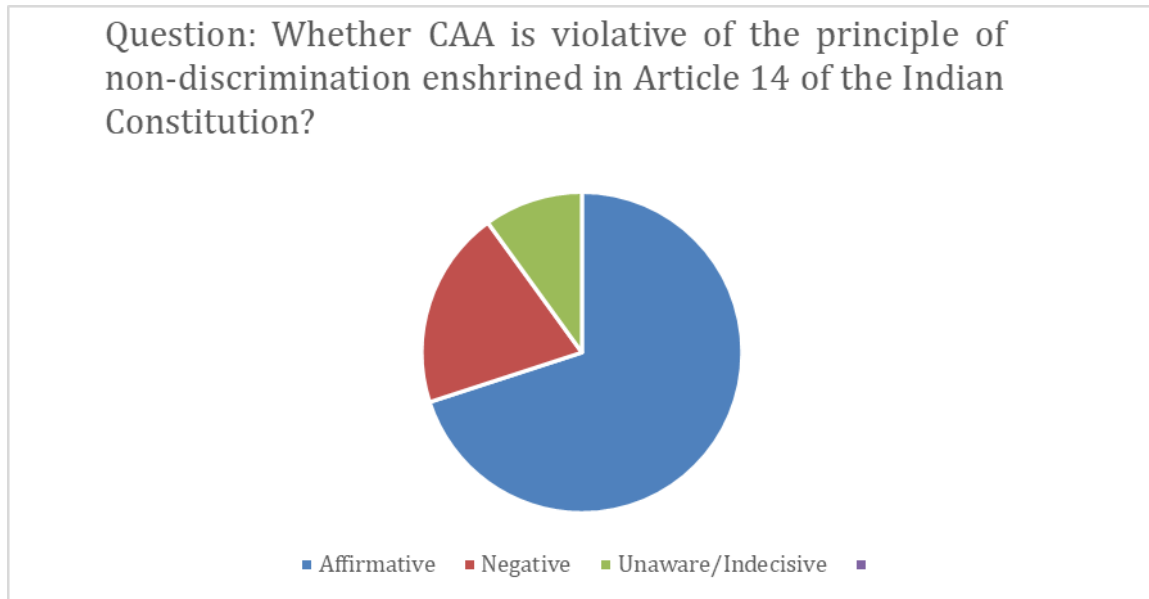


Figure 1.2. Response regarding CAA being Discriminatory

As is clear from the results of both qualitative and quantitative analysis, the provisions of the CAA are violative of the non-discrimination principle enshrined in the Indian Constitution. Another issue concerning the CAA is violating the principle of legitimate expectation enshrined in the Indian Constitution.<sup>67</sup> As per the principle, the government cannot act in a manner that deprives citizens of the rights and opportunities they were legitimately expecting as a consequence of continued acknowledgment by the government.<sup>68</sup>

The doctrine of legitimate expectation precludes the state from abruptly denying the citizens those protections they might be expecting from the government.<sup>69</sup> The only defense against the legitimate expectation is the preceding conduct of the government, which could indicate a change in the manner of protection extended.<sup>70</sup> As per the majority of respondents

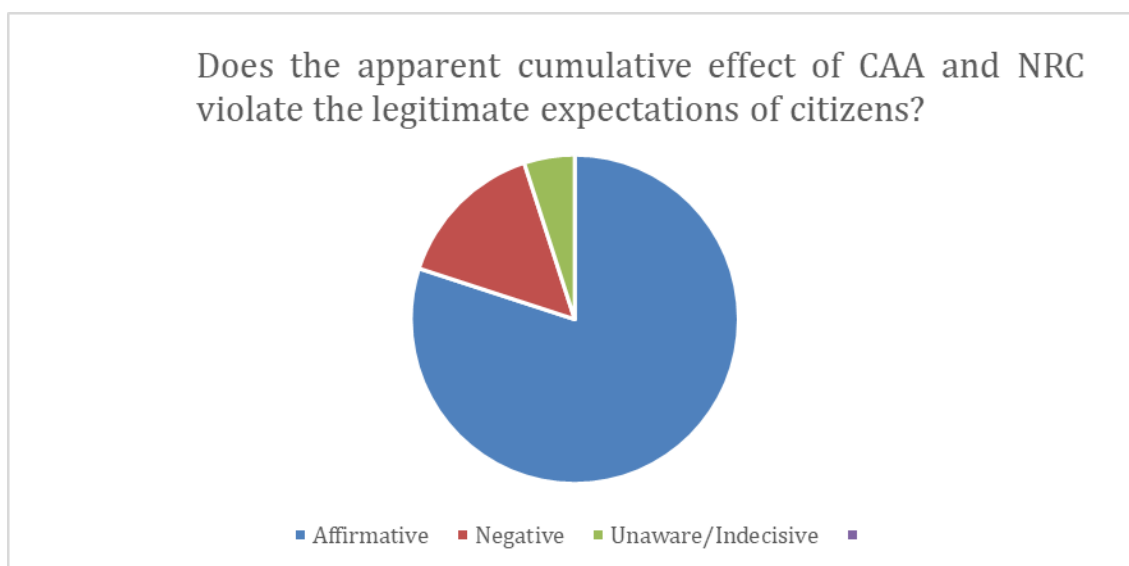
<sup>67</sup> Farrah Ahmed, *supra* note 66.

<sup>68</sup> Akash Kapoor, *Legitimate Expectation Doctrine and Protection against Absurdity under the Constitution of India* (SSRN, 2019).

<sup>69</sup> *Ibid.*

<sup>70</sup> AK Srivastava, *Doctrine of Legitimate Expectation* (Institute's Journal, 1995).

(640/800), the principle of legitimate expectation was violated by the cumulative effect of the CAA and the NRC.



**Figure 1.3.** *Response regarding the Legitimate Expectation of CAA and NRC*

Such perception of violation of legitimate expectation stems from the abrupt change in the policy concerning the continuance of citizenship. The legitimate expectations of the citizens can be observed as violated. The citizens, who, because of prolonged governmental protection, consider themselves legitimate citizens, would suddenly be questioned by the government regarding their status as citizens when the proposed the NRC became operative nationwide.

A similar exercise was conducted in Assam in 2013,<sup>71</sup> which caused statelessness in the concerned territory, where residents for long years considered them as citizens and were abruptly categorized as non-citizens, depriving them of all the rights and protections extended to them under their citizenship.<sup>72</sup> Such deprivation was done as they could not present the required documents to prove their citizenship.<sup>73</sup>

<sup>71</sup> *India Exclusion Report 2019–2020: Three Essays Collective with Centre for Equity Studies*, by Centre for Equity Studies (New Delhi: Centre for Equity Studies, 2020).

<sup>72</sup> Sital Kalantry & Agnidipto Tarafder, *supra* note 64.

<sup>73</sup> M Mohsin Alam Bhat & Aashish Yadav, “On the Verge: Revocation and Denial of Citizenship in India” in Emilien Fargues & Iseult Honohan, eds, *Revocation of*

The presence of defenses in favor of NRC cannot be discounted. There are arguments by a substantial number of social activists that the situation in Assam is entirely different from the entire Indian nation and that the repercussions in Assam were a result of the highly diverse ethnicity and constant exchanges of immigrants with the citizens,<sup>74</sup> which is not the case in the entire India.<sup>75</sup> However, such arguments cannot take away the fact that there has been a violation of legitimate expectations of citizens, nullifying Article 14 of the Indian constitution and thereby rendering the practice unconstitutional.

Another argument against CAA is the arbitrary cut-off date of December 31st, 2014. Article 14 of the Indian Constitution speaks about non-arbitrariness in framing any legislation. The term “non-arbitrariness” effectively means the presence of a reasonable, convincing, and legitimate rationale behind legislation or any provision thereof.<sup>76</sup>

When such a rationale is absent, and decisions are taken in the absence of any convincing argument to back the same, the decision is arbitrary, as was laid down by the Hon'ble Supreme Court of India in the case of *State of West Bengal v. Anwar Ali Sarkar AIR 1952 SC 75*.<sup>77</sup> The cut-off date of December 31st, 2014, has been chosen without justifiable rationale. It reflects an intention to include selected religious groups as citizens, depriving others of citizenship. The period of providing citizenship by naturalization to selected religious groups has been decreased to five years by the CAA. The period of 5 years coincides with the difference between the cut-off date and the date of notification of the CAA 2019. As a result of such a premise, even if the NRC identifies the people belonging to Hindu, Sikh, Buddhist, Jain, Christian, and Parsi communities as non-citizens, they would have an easy way to obtain citizenship through

---

*Citizenship: The New Policies of Conditional Membership* EUI Working Paper RSC 2021/23 (San Domenico di Fiesole: European University Institute, 2021).

<sup>74</sup> Sujit Choudhry, Pratap Bhanu Mehta, & Madhav Khosla, eds, *The Oxford Handbook of Indian Constitutional Law* (Oxford: Oxford University Press, 2016) at 699-719.

<sup>75</sup> *Ibid.*

<sup>76</sup> Tarunabh Khaitan, *supra* note 39.

<sup>77</sup> Tarunabh Khaitan, “Koushal v Naz: Judges Vote to Recriminalise Homosexuality” (2015) 78:4 *The Modern Law Review* 672–694.

naturalization swiftly. Such a method would not be available to the people belonging to those religions that have not been granted protection by the CAA 2019.<sup>78</sup>

However, as was gauged by the authors considering the opinions of the interviewees of academicians, including Ms. Srishti Chaturvedi (Scholar from National Law Institute, Bhopal, India), policy decisions are absolved from the scrutiny of the constitution. Examples of such policy decisions are decisions about the majority of citizens, apt age to cast votes, age of retirement of public employees, and conventions of traffic rules. The majority of interviewees mentioned that the decision on the cut-off date for the grant of citizenship is merely another example of a policy decision that the government is well within its powers to take, as was held in the case of *S.R. Bommai v. Union of India* (1994 AIR 1918).

One of the most debated issues concerning the cumulative effect of CAA and NRC is the ambiguity with the documents concerning the evidence of citizenship that the exercise of NRC would require. The proposal of NRC nowhere lists the relevant documents necessary for evidencing citizenship. It would lead to chaos, as most of the population relies on the documents such as Voter IDs, Adhaar Cards, Ration Cards, and Passports that have been declared invalid proofs of citizenship by appropriate authorities.

Considering the quantitative aspect of the research, most respondents answered in the affirmative. However, most respondents were unclear whether the cut-off date was arbitrary. The results of the quantitative study are reflected below:

---

<sup>78</sup> Mohd Imran, *supra* note 36.

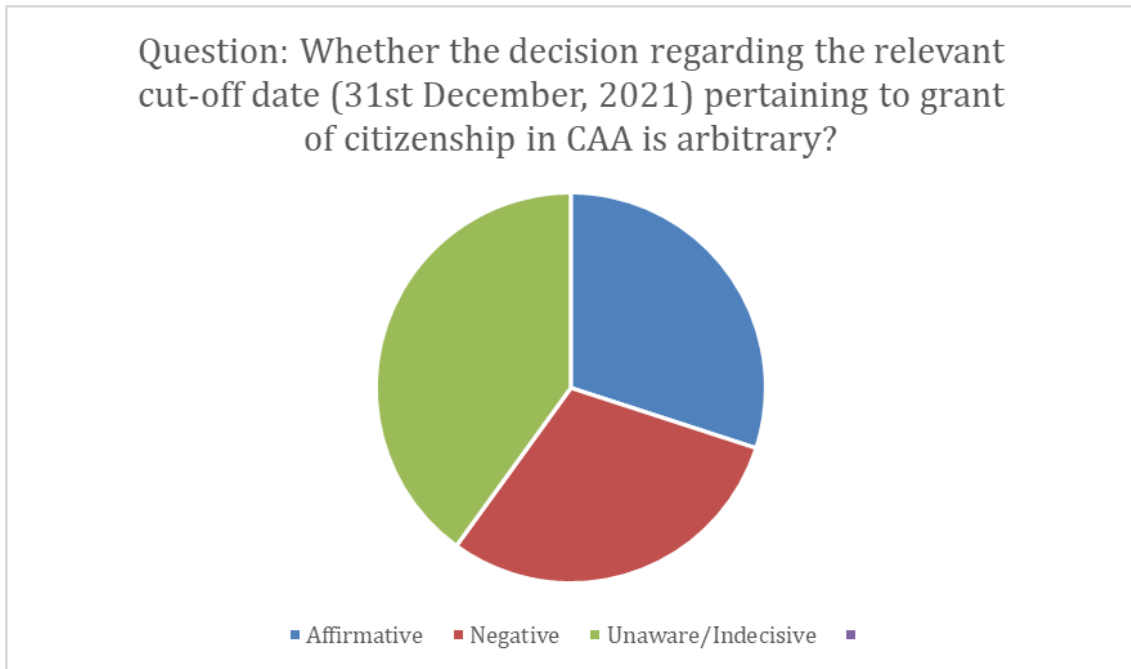


Figure 1.4. Response regarding Relevant Cut-off Date Pertaining to Grant of Citizenship

Aadhar Cards are the most commonly available documents for Indian citizens, which is available at their disposal for their regular affairs.<sup>79</sup> Aadhar Card exists as the identity of every citizen and is found among citizens of almost every stratum of the Indian population.<sup>80</sup> Official verification of any Indian citizen is not considered valid until there is authentication of the same by the citizen's Aadhaar Card.<sup>81</sup> Citizen's Aadhaar, in every way, validates his existence in India and serves as a chord of communication between the government and the citizenry.<sup>82</sup>

<sup>79</sup> Vrinda Bhandari, *supra* note 3.

<sup>80</sup> Jean Dreze et al, *supra* note 4.

<sup>81</sup> *Ibid.*

<sup>82</sup> K.S. Puttaswamy v. Union of India, 10 SCC 1 (2017).

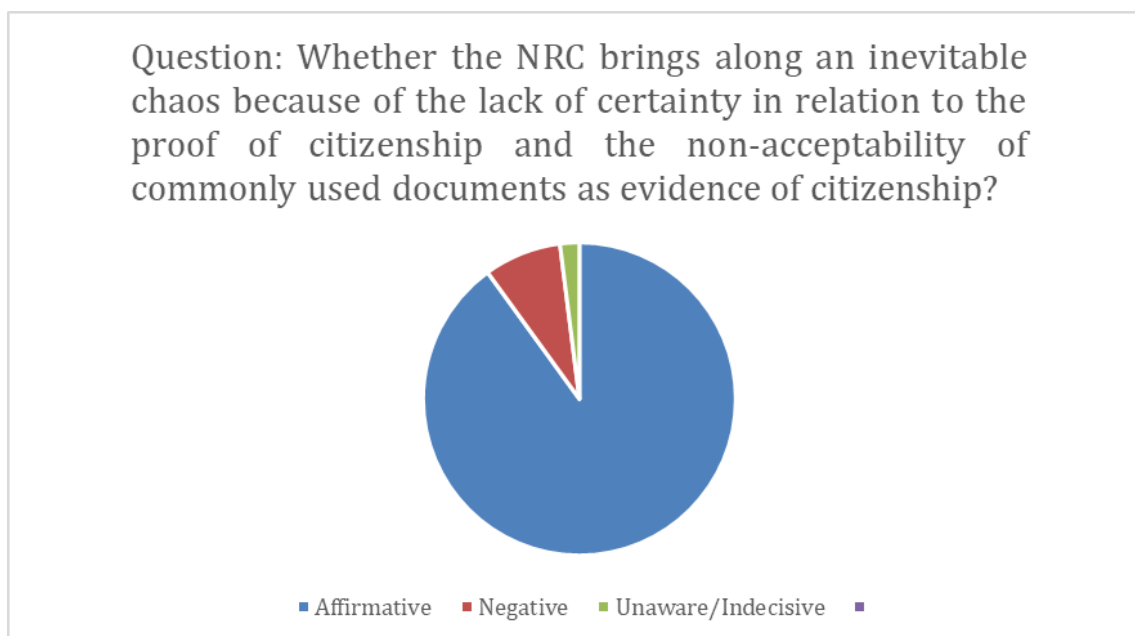


Figure 1.5. Response Regarding Lack of Certainty in Relation to Proof of Citizenship

The Unique Identification Authority of India, in a press note released on February 18th, 2020<sup>83</sup> mentioned that Aadhaar has no relation to citizenship and cannot be used as evidence of Indian citizenship.<sup>84</sup> This declaration speaks volumes about the chaos the NRC might bring when implemented. Similarly, the judgments of High Courts of States within India have ruled that Voter IDs and Ration Cards are no proof of citizenship and are merely documented to effectuate the transactions between the government and the governed.<sup>85</sup> On being questioned about the chaos, the ambiguity with the evidentiary value of documents, and the uncertainty associated with the nature of documents required, the answer of a majority of respondents was affirmative. An overwhelming 90 percent majority of the respondents agreed with the inevitability of chaos associated with the issue of documents in the NRC. The results can be reflected in Figure 1.5. As is evident from empirical and doctrinal research results, the

<sup>83</sup> UIDAI, "Aadhaar is not a citizenship document," *Unique Identification Authority of India* (2020), online: <<https://uidai.gov.in/media-resources/media/press-releases/12264-aadhaar-is-not-a-citizenship-document-uidai.html>>.

<sup>84</sup> Sangeeta Ojha, "Aadhar Card has nothing to do with citizenship: UIDAI clarifies," *Mint* (2020), online: <<https://www.livemint.com/news/india/aadhaar-card-has-nothing-to-do-with-citizenship-uidai-clarifies-11582091498824.html>>.

<sup>85</sup> *Ibid.*

cumulative effect of CAA and NRC would create more detriment to the citizens than benefits them. Further, the affirmative responses on the lack of constitutionality of CAA and NRC are enough reasons to reconsider the Act and the proposal of NRC so that these can be systematically improved for the benefit of the citizenry.

## VII. CONCLUSION

The CAA 2019 and the NRC have been controversial points in India since their notification. This Act has palpable inconsistencies with the principles of non-discrimination, secularism, intelligible differentia, reasonable classification, and legitimate expectation. On the other hand, the NRC is an evident exacerbating factor due to the uncertainties in its implementation. However, not everything about the amended Citizenship Act 2019 and the NRC is detrimental. There are exaggerated allegations of the state's intent to a rigorous process of registering citizenship and extending its benefits to the persecuted minorities of Pakistan, Afghanistan, and Bangladesh.

To eradicate the inconsistencies with the secular spirit of the Indian Constitution, the authors suggest replacing the terms "Hindu, Sikh, Buddhist, Jains, Christians, and Parsis" with the term "persecuted minorities." The implementation of this suggestion would serve a two-fold purpose. It would align the Act with the core of the Indian Constitution (secularism) and would absolve the Act from the allegations of religion-based discrimination. The authors also suggest the acceptance of Aadhaar Cards, Voter IDs, and Ration Cards as proofs of citizenship under the NRC to address the unnecessary ambiguity and chaos regarding documents. Lastly, the authors suggest that a refugee policy be adopted by India, as the absence of such a policy adds to the uncertainty associated with the state's stance on refugees. Once it has been incorporated, the authors' suggestions would assist in resolving the controversy associated with the cumulative effect of the CAA and NRC without entirely repealing the Act and proposal, thereby materializing the legislative intent of the dual welfare of citizens and persecuted minorities.



## ACKNOWLEDGMENTS

None.

## COMPETING INTEREST

The authors declared that they have no competing interests.

## REFERENCES

- Abhinav Chandrachud, “Secularism and the Citizenship Amendment Act” (2020) 4:2 *Indian Law Review* 138–162.
- AK Srivastava, *Doctrine of Legitimate Expectation* (Institute’s Journal, 1995).
- Akash Kapoor, *Legitimate Expectation Doctrine and Protection against Absurdity under the Constitution of India* (SSRN, 2019).
- Ali Khan Mahmudabad, “Indian Muslims and the Anti-CAA Protests: From Marginalization Towards Exclusion” (2020) 24:25 *South Asia Multidisciplinary Academic Journal*.
- Alice Donald & Erica Howard, *The right to freedom of religion or belief and its intersection with other rights* (ILGA-Europe, 2015).
- Anne F Bayefsky, *The Principle of Equality Or Non-discrimination in International Law*, *Human Rights Quarterly* (1990).
- Brian Burdekin & Anne Galagher, “The United Nations and National Human Rights Institutions” in *International Human Rights Monitoring Mechanisms* (Brill Publisher, 1998).
- Business Standard, “Full text of Swami Vivekananda’s Chicago speech of 1893”, *Business Standard* (11 September 2017), online: <[https://www.business-standard.com/article/current-affairs/full-text-of-swami-vivekananda-s-chicago-speech-of-1893-117091101404\\_1.html](https://www.business-standard.com/article/current-affairs/full-text-of-swami-vivekananda-s-chicago-speech-of-1893-117091101404_1.html)>.
- B Shiva Rao, ed, *Framing of India’s Constitution* (New Delhi: Universal Law Publishing, 2015).

Centre for Equity Studies, *India Exclusion Report 2019–2020: Three Essays Collective with Centre for Equity Studies*, by Centre for Equity Studies (New Delhi: Centre for Equity Studies, 2020).

Christophe Jeffrelot, “The Fate of Secularism in India”, *Carnegie Endowment for International Peace* (4 April 2019), online: <<https://carnegieendowment.org/2019/04/04/fate-of-secularism-in-india-pub-78689>>.

Deeptiman Tiwary, “Citizenship (Amendment) Act notified, effective from January 10th”, *The Indian Express* (11 January 2020), online: <<https://indianexpress.com/article/india/caa-notified-effective-from-jan-10-6210644/>>.

Denise G Réaume, “Harm and Fault in Discrimination Law: The Transition from Intentional to Adverse Effect Discrimination” (2001) 2:1 *Theoretical Inquiries in Law*, online: <<http://www7.tau.ac.il/ojs/index.php/til/article/view/208>>.

Farrah Ahmed, “Arbitrariness, subordination and unequal citizenship” (2020) 4:2 *Indian Law Review* 121–137.

Gary J Jacobsohn, *The Wheel of Law: India's Secularism in Comparative Constitutional Context* (New Jersey: Princeton University Press, 2005).

Gautam Bhatia, “Equal moral membership: Naz Foundation and the refashioning of equality under a transformative constitution” (2017) 1:2 *Indian Law Review* 115–144.

Granville Austin, *India's Constitution: Cornerstone of a Nation* (Oxford: Oxford University Press, 1966).

*India, Constituent Assembly of India Debates (Proceedings)* (Constitution of India, 1948).

J P Humphrey, “The Implementation of International Human Rights Law” (1978) 24:1 *New York School Law Review* 31–61.

Jean Dreze et al, “Aadhaar and Food Security in Jharkhand Pain without Gain?” (2017) 52:50 *Economic & Political Weekly* 50–60.

- Jeffrey A Redding, “Secularism, the Rule of Law, and ‘Shari‘a Courts’: An Ethnographic Examination of a Constitutional Controversy” (2013) 57:2 Saint Louis University Law Journal.
- Keshab C Ratha, “Interpreting Citizenship Amendment Act: Its Content and Context” (2021) 67:4 Indian Journal of Public Administration 559–572.
- Md Tasnimul Hassan, *The Origin, History and Legality of the Citizenship (Amendment) Act, 2019* (SSRN, 2020).
- Mohd Imran, *The Citizenship (Amendment) Act, 2019: Beginning of Selective Humanitarianism & Citizenization of Persecuted Victims in India* (BGU: Sarala Birla Memorial National Article Writing Competition, 2020).
- M Mohsin Alam Bhat & Aashish Yadav, “On the Verge: Revocation and Denial of Citizenship in India” in Emilien Fargues & Iseult Honohan, eds, *Revocation of Citizenship: The New Policies of Conditional Membership* EUI Working Paper RSC 2021/23 (San Domenico di Fiesole: European University Institute, 2021).
- Niraja Gopal Jayal, *Citizenship and Its Discontents: An Indian History* (Cambridge: Harvard University Press, 2013).
- Rahul Nair, “The Citizenship (Amendment) Act – A Constitutional Defence” (2020) 9:2 National Law Institute University, online: <<https://nliulawreview.nliu.ac.in/journal-archives/volume-ix-issue-ii/the-citizenship-amendment-act-a-constitutional-defence/>>.
- Rajeev Bhargava, “India’s Secular Constitution” in Zoya Hasan, E Sridharan, & R Sudarshan, eds, *India’s Living Constitution: Ideas, Practices, Controversies* (Anthem Press, 2005).
- Richard T Ashcroft & Mark Bevir, eds, *Multiculturalism in the British Commonwealth: Comparative Perspectives on Theory and Practice* (California: University of California Press, 2019).
- Sangeeta Ojha, “Aadhar Card has nothing to do with citizenship: UIDAI clarifies”, *Mint* (2020), online: <<https://www.livemint.com/news/india/aadhaar-card-has-nothing-to-do-with-citizenship-uidai-clarifies-11582091498824.html>>.

Shahnawaz Ahmad Malik & Shaharyar Asaf Khan, "Future of Citizenship Laws in India With Special Reference to Implementation of NRC in Assam" (2020) 6:4 *Journal of Legal Studies and Research* 2455–2437.

Shylashri Shankar, "How Democratic Processes Damage Citizenship Rights: The Implications of CAA-NRC", *Centre for Policy Research* (16 December 2019), online: <<https://cprindia.org/how-democratic-processes-damage-citizenship-rights/>>.

Sital Kalantry & Agnidipto Tarafder, *Death by Paperwork: Determination of Citizenship and Detention of Alleged Foreigners in Assam* (SSRN, 2021).

Smaw Chishti, "Secularism in India: An Overview" (2004) 65:2 *The Indian Journal of Political Science* 83–198.

Sujit Choudhry, Pratap Bhanu Mehta, & Madhav Khosla, eds, *The Oxford Handbook of Indian Constitutional Law* (Oxford: Oxford University Press, 2016).

Tarunabh Khaitan, "Equality: Legislative Review under Article 14" in Sujit Choudhry, Madhav Khosla, & Pratap Bhanu Mehta, eds, *The Oxford Handbook of the Indian Constitution* (Oxford University Press, 2016).

———, "Koushal v Naz: Judges Vote to Recriminalise Homosexuality" (2015) 78:4 *The Modern Law Review* 672–694.

Thomas Buergenthal, "The Normative and Institutional Evolution of International Human Rights" (1997) 19:4 *Human Rights Quarterly* 703–723.

T Khan, *The Citizenship Amendment Act, 2019: A Religion Based Pathway to Indian Citizenship* (SSRN, 2020).

Uday Singh Mehta, "Constitutionalism" in Nirja Gopal Jayal & Pratap Bhanu Mehta, eds, *The Oxford Companion in India*.

UIDAI, "Aadhaar is not a citizenship document", *Unique Identification Authority of India* (2020), online: <<https://uidai.gov.in/media-resources/media/press-releases/12264-aadhaar-is-not-a-citizenship-document-uidai.html>>.

Upendra Baxi, "The Myth and Reality of Indian Administrative Law" in Massey, ed, *Administrative Law*, 8th ed (2012).

Vatsal Raj, “The National Register of Citizens and India’s commitment deficit to international law”, *LSE Human Rights* (10 August 2020), online: <<https://blogs.lse.ac.uk/humanrights/2020/08/10/the-national-register-of-citizens-and-indias-commitment-deficit-to-international-law/>>.

Vazira Fazila-Yacoobali Zamindar, *The Long Partition and the Making of Modern South Asia: Refugees, Boundaries, Histories* (New York: Columbia University Press, 2007).

Vrinda Bhandari, *Use of Digital ID for Delivery of Welfare* (Centre for Internet & Society, 2020).

Yoram Dinstein, “Discrimination and International Human Rights” in *Israel Yearbook on Human Rights* (Brill Publisher, 1985).

*This page intentionally left blank*