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# CAA Turmoil in the Nation

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## ABSTRACT

*This essay contends insightfully the scenario of a major protest of 21st Century known as Anti-CAA Protest. The first couple of words talk about the Citizenship Amendment Bill, 2019 (CAB) and will provide an overview to the reader regarding its introduction in the lower house of the Parliament with an intent to amend the Citizenship Amendment Act of 1955.*

*Also this will provide a deep insight into some important issues that caused this turmoil and resulted in fueling violence in India. Moreover, it elucidates stingingly the situations from both sides i.e. from the protester's point of view and the government stance over the issue of CAA.*

*Most importantly, the aim is to put forward the Reality of this massive Anti-CAA Protest.*

*Thus, most of the protesters are still unaware about the facts and purpose of this Citizenship Amendment Act for which it has been passed and also must look out the legal position that applies to the grant of citizenship under the Indian Constitution.*

*Consequently, a deep understanding of the Constitution before pointing out anything is a crucial element. One must be awakened of the fact that these Acts cannot be resisted merely based on the emotional fronts of the public.*

*Thus, this piece of writing looks into an emerging issue and is trying to convey to the protesters the reality and sensibility behind this act and the objective for which it has come into picture must not Passover.*

## I. INTRODUCTION

CAA: So what's indeed contained in this Act that the unrest caused due to this has now become the major protests in India? If anyone check-out the "Major protests" of the 21<sup>st</sup> century then "**Anti- CAA Protest**" can be easily found there or should I say that its existence is on the top of the list.

Primarily, it's a Bill (Citizenship Amendment Bill) which now became an Act and refers to as Citizenship Amendment Act which has caused a huge disturbance both physically and mentally for individuals concerned about it.

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This essay will acknowledge the reader that what issues are so important in this Act that it insists the public at large gather on streets of different states in India.

‘India’ a country where about 72 years ago, people divided the land on a “religious basis”. A land where we choose to be a Secular nation but the others choose to be “religious republics”.

I would like to ask you all, where would you like to reside?; in a secular nation or a nation divided on a religious basis. And not surprisingly, most of the people will choose to be in the Secular one; even I also.

The **Citizenship Amendment Bill, 2019** (CAB) was passed on 9th December 2019 in Lok Sabha<sup>2</sup> with an intent to amend the Citizenship Act of 1955. The Act seeks to provide Indian nationality to Hindus, Jains, Christians, Sikhs, Buddhists, and Parsis, who are being persecuted in these three countries- Pakistan, Afghanistan, and Bangladesh. It states that “Any person from Afghanistan, Bangladesh or Pakistan who entered on or before 31<sup>st</sup> December 2014, into the territory of India will be given citizenship, and will not remain an illegal immigrant”.

**The government's stance** on this crucial Act is that; the legislature seeks to make it easier for non-Muslim refugees and illegal immigrants from the three Islamic majority nations, to obtain Indian Citizenship.

A law meant to protect against persecution is fueling violence in India.

So what’s the **issue** that this act has been resisted by the society?

**The savings of the protesters are as follows:**

**Considering their point-** The first thing is that the wordings of the Citizenship Amendment Act, 2019 are somewhat discriminatory as it only mentions the particular communities excluding the community of Muslims. The vital question arises out of this point is that there are some of the Muslims minorities (like Shia, Ahmadiyya community in Pakistan), Tamils from Sri Lanka, Madhesis in Nepal, Buddhists from Tibet, Rohingyas in Myanmar, Atheists in Bangladesh, as well where these people will go as they are also being persecuted in neighboring countries.

Furthermore, In this Bill (CAB) they are **targeting a community** without naming it. It is divisive and exclusive; it will destabilize the polity in one way or another.

Secondly, the north-eastern states believe that this will lead to a **greater influx of illegal immigrants** and this has triggered deep anxieties, fears of demographic change, loss of livelihood opportunities, and erosion of the indigenous culture that’s why they are opposing

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<sup>2</sup> Citizenship (Amendment) Act, 2019, prsindia.org.

this.

Thirdly, the Bill is a threat to National Security and **against the founding principles** as it will dilute the political sway of the region.

And most importantly, It is violating the basic structure of the constitution. Critics argue that it is **violating Article- 14** of the Constitution, which guarantees the right to equality.

Thus, thousands have defied this new measure and defined the whole thing as a rupture of faith. The opposition sees the passage of the Citizenship Amendment Bill as a clear message from the Hindu Nationalist government that they are ‘second class citizens’.

**The Horrific violence in the Capital:** The Volatile situation which resulted in the *Protesters-Cops clashes* in most of the regions of Jamia, Osmania and Madras universities, in Delhi-Shaheen Bagh, Seelampur, Jafrabad, and many more states (like Uttar Pradesh, Assam, West Bengal) has emerged as the epicenter.

While sloganeering against this protest many school buses were targeted, police booths vandalized, vehicles torched and even many deaths were caused. More incidences of violence have accelerated and erupted from the streets of the national capital and now reached to other states as well.

The situation was so brutal that the government was bound to take strict measures against the protesters of this Anti-CAA fury in the Capital.

**Most importantly, this CAA has also been opposed by the United Nations Human Rights Council:**

The Human Rights Council replaced the former United Nations Commission on Human Rights (UNCHR) and describes itself as “an intergovernmental body that has “the ability to discuss all thematic human rights issues and situations that require its attention throughout the year”.

UN High Commissioner- **Michelle Bachelet**, files intervention plea in Supreme Court on CAA. The **application stated** that, “the narrow scope of the CAA, which extends protection from return only on religious grounds and limited to the specific ethnoreligious groups, may not be sufficiently objective and reasonable in light of the broad prohibition of refoulement under international human rights law”<sup>3</sup>.

Being an International body, the office of High Commissioner of Human Rights (OHCHR) seeks to intervene as amicus curia (third- party) in the original writ petition filed by retired IFS

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<sup>3</sup> Chandrashekar Srinivasan, CAA "Internal Matter": India As UN Rights Chief Goes To Supreme Court, NDTV (Mar.24, 2020, 6:45PM), <https://www.ndtv.com/india-news/citizenship-amendment-act-internal-matter-says-government-after-un-human-rights-body-approaches-supr-2189012>.

officer Deb Mukherji challenging the CAA, in the **case of- Deb Mukherji, IFS (Retd.) and Ors. V. Union of India and Ors.** All this is done to support the Anti- CAA more strongly.

### **The Reality of this massive Anti-CAA Protest:**

The Big question that arises is that, Do protesters know what they are fighting against? This massive protest and sloganeering on the Citizenship act have taken a toll on the country's peace.

No doubt that every citizen has a right to protest and defend but the youth also needs to understand that it must be done democratically.

Anti- CAA stir spreads mostly because of the rumors by people. And the exclusion of Muslims or any other community is a flawed issue.

The Citizenship Amendment Act, 2019 (CAA) is a **simple, specific and limited amendment** that has been undertaken to the legislation for the specific reason of vesting citizenship to persecuted minorities in three specific countries. These three countries have been selected as who amounts to be the persecuted minority community. And **no reference** has been made to exclude Muslims from these three countries.

Before the partition of India, they were all part of undivided India therefore, Country has a specific duty (constitutional as well as civilization) to these persecuted minorities. Thus, we cannot lose sight of history.

So, answering to the popular perception, it **does not include any type of religious criteria** into the fundamentals of the Citizenship Act.

Now, coming to Article-14 of the constitution; it uses and applies the concept of equality by identifying **which group are you applying the test of equality**. Test of equality means if there are similarly placed people, are you treating them on par with each other. But not treating unequals equally.

And as per the **Section-6(b)** of the Citizenship Amendment Act, it mentions that “even in granting citizenship to these persecuted minorities from these three countries in India, **enhanced obligations can be imposed** on them in the grant of the Citizenship which will continue to apply even after they become the citizens”<sup>4</sup>, which means that some citizens who are refugees turned citizens cannot be treated at par with the other citizens as they have undergone the process of the naturalization.

Therefore, the communities that are triggered, their samples are completely different and the

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<sup>4</sup> Citizenship (Amendment) Act No. 47 of 2019, Ministry of Law and Justice (Legislative Department), New Delhi, the 12th December, 2019/Agrahayana 21, 1941 (Saka).

**test of equality cannot be applied** there this is what **known as reasonable classification**.

Hence, the saying that the Act violates Article-14; is **completely an emotional and irrational argument** of the protesters and even the Supreme Court cannot entertain at all as it does not have any basis. It could have any other constitutional challenges but **A-14 cannot be the ground for a particular challenge**.

**One must look at the Legal Position that applies to the grant of citizenship under the Indian Constitution**- The legislations that must be checked are as under:

**Article-14** is not the provision that deals with the question of Citizenship. It falls under Part III of the Constitution.

**Article-5 to 11** comes in the Part II of the Constitution; these are the specific provisions that deal with the citizenship. These articles must be read with the Citizenship Act of 1955 along with the Foreigners Act of 1946 to know that who is a foreigner as far as India is concerned.

Thus in short, the States have no other option but to follow the rules or laws made by the Parliament and having power in this regard.

Moreover, the **Ministry of External Affairs** (*spokesperson Raveesh Kumar*) clearly stated that, CAA is an “internal matter” of India and no foreign party has any “locus standi” on issues pertaining to India’s sovereignty. Thus, the sovereign right to make laws in India is entrusted with the parliament.

Therefore, People protesting against this need to understand that **CAA is Inclusion not Exclusion**.