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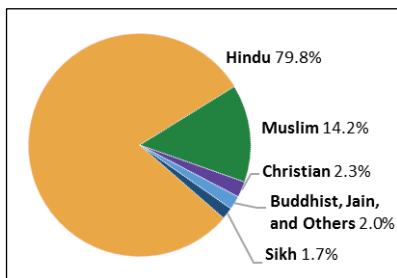
Changes to India's Citizenship Laws

In December 2019, India's Parliament passed, and its President signed into law, the Citizenship Amendment Act (CAA), 2019, altering the country's 1955 Citizenship Act. For the first time in independent India's history, a religious criterion has been added to the country's naturalization process. The changes sparked significant controversy, including large-scale and sometimes violent protests. Opponents of the CAA warn that Prime Minister Narendra Modi and his Hindu nationalist Bharatiya Janata Party (BJP) are pursuing a Hindu majoritarian, anti-Muslim agenda that threatens India's status as an officially secular republic and violates international human rights norms. In tandem with a National Register of Citizens (NRC) planned by the federal government, the CAA may affect the status of India's large Muslim minority of roughly 200 million.

Context: India's Hindu Nationalist Government

India's population of more than 1.3 billion includes a Hindu majority of about 80%, as well as a large Muslim minority of above 14% (see **Figure 1**). Prime Minister Modi, a self-avowed Hindu nationalist, took office in 2014 after his BJP won the first outright majority in 30 years in the Lok Sabha (the lower chamber of India's bicameral legislature). That majority was expanded in May 2019 elections, providing an apparent mandate for pursuing Hindu nationalist policy goals. Among these were abrogation of Article 370 of the Constitution, which provided special status to Jammu and Kashmir, previously India's only Muslim-majority state (announced in August 2019 and accomplished in October), and construction of a Hindu temple at the Ayodhya site of a historic mosque destroyed in 1992 (enabled by a long-awaited September 2019 Supreme Court ruling).

Figure 1. Religious Demographics in India, 2011



Source: Census of India, 2011.

Hindu nationalists tend to view India's history as a series of humiliations at the hands of foreign invaders (Mughal Muslims and later British colonialists). As a consequence, they have rejected the secularism propounded by founders of the modern Indian state such as Jawaharlal Nehru and Mohandas Gandhi. In 2019, many analysts contend that the Modi-BJP government is responding to significantly slowed economic growth by becoming even more reliant on

emotive, religious-based issues to consolidate political support.

The Citizenship Amendment Act, 2019

India's Citizenship Act of 1955 prohibited illegal immigrants from becoming citizens. Among numerous amendments to the act since 1955, none contained a religious aspect. In 2015 and 2016, the Modi-BJP government issued notifications that Hindus, Sikhs, Jains, Buddhists, Parsis (Zoroastrians), and Christians (but not Muslims) who came to India from Pakistan, Bangladesh, or Afghanistan before 2015 would be exempted from laws prohibiting citizenship for illegal immigrants. A Citizenship Amendment Bill, meant to formalize these exemptions, was introduced in July 2016, but was not voted upon until January 2019, when it was passed by the Lok Sabha. The bill was not taken up by the Rajya Sabha (Parliament's upper chamber) following resistance from opposition parties and street protests in India's northeastern states.

In December 2019, seven months after a sweeping reelection that expanded the BJP's Lok Sabha majority and improved its standing in the Rajya Sabha, the bill passed 311-80 in the former and 125-105 in the latter. Its key provisions—allowing immigrants of six religions from three countries a path to citizenship while excluding Muslims—may violate certain Articles of the Indian Constitution (see text box). The CAA was immediately challenged in the Supreme Court by scores of petitioners, but the Court has refused to issue a stay on implementation and is deferring hearing petitions until January 22.

Selected Articles of the Indian Constitution

14. The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
15. The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth, or any of them.

The government argues that the three specified countries have a state religion (Islam), resulting in the persecution of religious minorities. Proponents say that Muslims do not face persecution in Pakistan, Bangladesh, or Afghanistan, and that the CAA is constitutional because it addresses migrants rather than Indian citizens. Yet it is not clear why migrants from other neighboring countries with state (or favored) religions, such as Sri Lanka (where Buddhism is the official religion and Tamil Hindus face persecution) and Burma (where Buddhism enjoys primacy and Rohingya Muslims are persecuted), are excluded from a path to citizenship. In addition, oppressed Muslim minority communities such as Pakistan's Ahmadis and Shias enjoy no protections under the CAA.

International Responses

Pakistan's government condemned the CAA as "discriminatory legislation." The lead U.S. diplomat for the region, Acting Assistant Secretary of State for South and Central Asia Alice Wells, expressed "genuine concern" that social issues such as the CAA "not detract from India's ability to stand for the values and to stand with us in trying to promote, again, this free and open Indo-Pacific." Yet Trump Administration criticism of India on human rights grounds has been relatively muted. The U.S. Commission on International Religious Freedom (USCIRF) expressed being "deeply troubled" by the CAA's establishment of "a legal criterion for citizenship based on religion," and it urged the U.S. government to consider sanctions against Home Minister Amit Shah "and other principal leadership" (India's External Affairs Ministry rejected USCIRF's criticism as "neither accurate nor warranted").

Human Rights Watch (HRW) claims that the CAA violates India's international legal obligations, as well as Articles 14 and 15 of the Indian Constitution. It said New Delhi's claim that the law seeks to protect religious minorities fleeing persecution in neighboring countries "rings hollow" given the exclusion of Pakistani Ahmadis and Burmese Rohingya. The U.N. Office of the High Commissioner for Human Rights called the CAA "fundamentally discriminatory in nature," saying it appears to undermine India's constitutional commitment to equality before the law.

Domestic Indian Opposition and Street Protests

Opposition to the act appeared quickly across India, including through public letters signed by more than 1,400 writers, scholars, and scientists. Numerous political figures and parties have denounced the act; Sonia Gandhi, president of the opposition Congress Party, accused the Modi government of creating an atmosphere of religious tension to forward its political interests. The chief ministers of Chhattisgarh, Kerala, Madhya Pradesh, Punjab, West Bengal, and the National Capital Territory of Delhi have said they will not implement the CAA, calling it "unconstitutional." A Home Affairs Ministry spokesman said that state governments have no powers to refuse implementation.

Violent protests broke out in the northeastern states of Assam and Tripura a day after the bill's enactment, spurring the federal government to deploy thousands of troops, impose a curfew, and cut off internet and mobile phone service in much of Assam. (Opposition in Assam is driven in large part by a perception that the CAA will nullify provisions of the Assam Accord of 1985, which set March 1971 as the cut-off date for "legal" migration. Indigenous groups in several northeastern states abutting Bangladesh fear that naturalizing large numbers of Bengali immigrants will alter the region's culture and demographics, and threaten access to education, jobs, and government subsidies. The government sought to address these concerns by exempting certain tribal areas of six northeastern states from the CAA's provisions.)

Large-scale and sometimes violent protests have also raged in West Bengal and Uttar Pradesh, as well as in Delhi, where police stormed the largely Muslim Jamia Millia

Islamia University and skirmished with hundreds of demonstrators there. To date, the unrest has spread to at least 20 other university campuses and 17 cities across India, with at least 6 people killed in related violence, 4 of them shot by police in Assam. A planned summit meeting in Assam between Prime Minister Modi and Japanese Prime Minister Shinzo Abe was postponed due to the unrest, an embarrassment for the BJP government.

HRW called on Indian authorities to show restraint after reports that police were using excessive force against demonstrators, and said internet shutdowns are a "disproportionate, unnecessary" violation of India's international legal obligations (an unprecedented internet shutdown in Kashmir of over four months continues). The Geneva-based International Commission of Jurists called on police and paramilitary troops to "desist from the use of unlawful force and ill-treatment against demonstrators."

Indian leaders have been unmoved by the demonstrations. At a December 15 rally, Prime Minister Modi said that the opposition's protests confirmed for him that passage of the CAA was "1,000 percent correct." Two days later, Home Minister Shah said there was no chance that the CAA would be withdrawn, despite opposition protests.

The National Register of Citizens

India's National Register of Citizens (NRC), established in 1951, has not been updated despite a 2013 Supreme Court order compelling the federal and Assam governments to begin an update process. In mid-2018, the BJP-led Assam government published an NRC draft that was criticized for seeking to oust the Bengali immigrant population from Assam. Facing an August 2019 deadline, all of Assam's roughly 33 million residents had to prove through documentation that they or their ancestors were Indian citizens before March 25, 1971, when Bangladesh gained independence from Pakistan and large numbers of Bengalis illegally crossed into India. The final citizenship list, published on the last day of August, omitted about 1.9 million residents, more than 5% of the state's population. Nearly all of those omitted reportedly are ethnic Bengalis, and nearly half are Muslims. They have until December 31, 2019, to appeal to quasi-judicial "Foreigner Tribunals" and may be relegated to newly-built detention camps.

The U.N., USCIRF, and independent human rights groups have expressed concerns about the NRC. The New Delhi government maintains that the NRC update is a fair and non-discriminatory process driven by the Supreme Court that does not impose a religious test or render any persons "stateless." Home Minister Shah repeatedly has stated that a nationwide NRC law will follow implementation of the CAA and require all of India's current residents to prove eligibility for citizenship. The CAA and NRC are seen as closely linked, as the former is said to help protect non-Muslims who are excluded from the latter. Critics contend that only members of "approved" religions will be protected by CAA provisions, while others will have little recourse, thus forwarding the alleged Modi-BJP project to undermine India's secular ethos.

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