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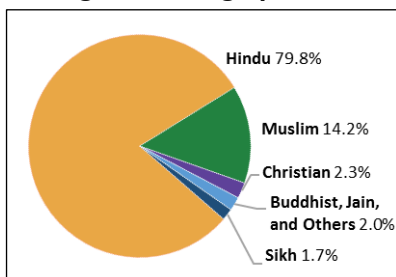
## Changes to India's Citizenship Laws

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 was 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 and obligations. In tandem with a National Register of Citizens (NRC) planned by the federal government, the as-yet unimplemented CAA may threaten the citizenship rights of India's large Muslim minority of roughly 200 million. India's Supreme Court is set to resume its review more than 250 petitions on the law's constitutionality in December 2022.

### Context: India's Hindu Nationalist Government

India's population of nearly 1.4 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. Some analysts have contended that in

2019 and throughout the economic slowdown associated with the Coronavirus Disease 2019 (COVID-19) pandemic, the Modi-BJP government has responded to slowed growth by becoming 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 2016, and was first voted upon in early 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 was passed by both chambers. 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.

#### 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.

India's federal government, which calls the CAA "a benign piece of legislation," 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 Shias and Ahmadis enjoy no protections under the CAA.

### International Responses

The lead U.S. diplomat for the region in 2019 expressed “genuine concern” about “India’s trajectory” and that social issues such as the CAA “not detract from India’s ability ... to stand with us in trying to promote, again, this free and open Indo-Pacific.” In June 2022, the Biden Administration’s Ambassador-at-Large for International Religious Freedom raised concerns about the CAA among signs of increasing and often official repression of India’s religious minorities. In the 117<sup>th</sup> Congress, some Members also have taken note, including in H.Res. 1196 (introduced June 2022), “condemning human rights violations and violations of international religious freedom in India.”

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.”) Neighboring Pakistan’s government condemned the CAA as “discriminatory legislation,” and the Organization of Islamic Cooperation expressed concerns about the law. 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. U.S.-based Human Rights Watch has argued that the “inherently discriminatory” 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 Muslim Shia, Ahmadis, and Rohingya from neighboring countries.

### 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 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, Delhi, Kerala, Madhya Pradesh, Punjab, and West Bengal said they would not implement the CAA, calling it “unconstitutional.” A Home Affairs Ministry spokesman countered 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 communications 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 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 also raged in West Bengal and Uttar Pradesh, as well as in Delhi. Mass demonstrations took place at numerous, mostly Muslim-majority universities. Indian leaders were unmoved by the dissent. At a December 2019 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. By February 2020, unrest had spread to 14 states across India, with at least 80 people reportedly killed in related violence and 1,500 arrested before protests subsided by March of that year. Human rights groups decried reports that police used excessive force against demonstrators, and said internet shutdowns were disproportionate and unnecessary.

### 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 2018, the BJP-led Assam government published an NRC draft that was criticized for seeking to oust the ethnic 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 omitted nearly two million residents, more than 5% of the state’s population. Nearly all of those omitted reportedly are ethnic Bengalis, and almost half are Muslims. These persons have been required to appeal to quasi-judicial “Foreigner Tribunals” and risk being stripped of their citizenship. To date, none have been deported.

Many independent human rights organizations have expressed concerns about the NRC. A group of U.N. experts warned that the NRC process “may exacerbate the xenophobic climate [in India] while fueling religious intolerance and discrimination in the country.” The New Delhi government, which has yet to implement the law nationally, 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. Observers see the CAA and NRC as closely linked, with the former said to help protect non-Muslims excluded from the latter. Critics contend that the CAA is designed to protect only members of “approved” religions while others will have little recourse, thus forwarding alleged Modi-BJP efforts to undermine India’s secular ethos and establish what one senior observer calls “an ethnic democracy that equates the majoritarian community with the nation and relegates Muslims and Christians to second-class citizens who are harassed by vigilante groups.”

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