



Updated April 18, 2024

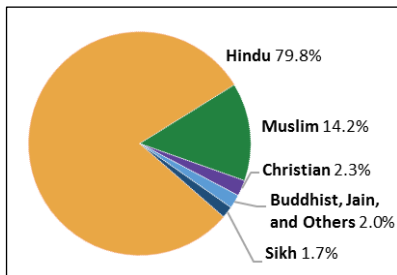
Changes to India's Citizenship Laws

Many in Congress have taken interest in human rights and religious freedom in India. In late 2019, India's parliament passed, and its president signed into law, the Citizenship Amendment Act (CAA), 2019, amending 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. After a more than four-year hiatus, in March 2024 the government announced rules for CAA's implementation, as India's Supreme Court considers multiple pleas to stay the controversial law. The Indian government and other proponents of the CAA claim its aims are purely humanitarian. Opponents of the act 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 CAA may threaten the rights of India's large Muslim minority of roughly 200 million.

Context: India's Hindu Nationalist Government

India's population of 1.4 billion includes a Hindu majority of about 80%, as well as a 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 2019 elections, providing an apparent mandate for pursuing long-held 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 2019 and validated by India's Supreme Court in late 2023), and construction of a Hindu temple at the Ayodhya site of a historic mosque destroyed in 1992 (enabled by a 2019 Supreme Court ruling and "consecrated" in early 2024).

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. Many observers note that the CAA's implementation came amidst the BJP's second national reelection campaign (voting begins in April 2024); some view the timing as motivated largely by politics.

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 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—following resistance from opposition parties, as well as street protests in India's northeastern states—was passed and made law 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 (upper house). The CAA's 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).

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 Home Ministry, which calls the CAA "compassionate and ameliorative legislation," contends that the three specified countries have a state religion (Islam), resulting in the persecution of religious minorities. CAA advocates say that Muslims do not face persecution in Pakistan, Bangladesh, or Afghanistan, and they insist the act is constitutional because it addresses migrants rather than citizens. Critics point out that migrants from other neighboring countries with state (or favored) religions, such as Sri Lanka (where Buddhism is "foremost" and Tamil Hindus face persecution) and Burma (where Buddhism enjoys primacy and Rohingya Muslims are persecuted), are excluded from a path to citizenship. Persecuted Muslim minority communities such as Pakistan's Shias and Ahmadis also 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 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 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. Upon the CAA’s March 2024 implementation, a State Department spokesperson reiterated U.S. concern and said the act’s implementation would be “closely monitored.” (India’s External Affairs Ministry (EAM) called the U.S. statement “misplaced, misinformed and unwarranted.”)

Some Members of Congress have expressed related concerns, including in the 118th Congress, where H.Res. 542 would condemn human rights violations and violations of international religious freedom in India, and S.Res. 424, which seeks “a swift end to the persecution of, and violence against, religious minorities and human rights defenders in India,” and which urges New Delhi to amend “discriminatory” laws such as the CAA.

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.” (The EAM rejected USCIRF’s criticism as “neither accurate nor warranted.”) Neighboring Pakistan’s government condemned the CAA, and the Organization of Islamic Cooperation expressed concerns about the law. The U.N. Human Rights Commission views the CAA as “fundamentally discriminatory in nature and in breach of India’s international human rights obligations.” London-based Amnesty International similarly argues that the CAA is “a bigoted law that legitimizes discrimination on the basis of religion.” For many critics, the absence of allowances for Muslim Shia, Ahmadis, and Rohingya, as well as for Tamil Hindus, from neighboring countries belies the government’s claims that the CAA’s sole purpose is to protect persecuted religious minorities in the region.

Domestic Indian Opposition and Street Protests

Public opposition to the CAA appeared quickly across India in late 2019 and early 2020. Numerous political figures and parties denounced the act; the main opposition Congress Party has accused the Modi government of using the CAA for “the sinister purpose of differentiating Indian citizenship on religious grounds.” The chief ministers of Kerala, West Bengal, and Tamil Nadu have stated that they will not allow CAA’s implementation in their respective states, although many constitutional experts appear to reject the legal arguments undergirding such refusals.

Violent protests broke out in the northeastern states of Assam and Tripura a day after the bill’s 2019 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 perceptions 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 2019 rally, Prime Minister Modi said that the opposition protests confirmed for him that passage of the CAA was “1,000 percent correct.” 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 1951 NRC has not been updated despite a 2013 Supreme Court order compelling the federal and Assam governments to do so. In 2018, the BJP-led Assam government published an NRC draft that was criticized for seeking to oust the ethnic Bengali immigrant population from the state. 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 about 1.9 million residents, nearly 6% of the state’s population. Almost all of those omitted reportedly are ethnic Bengalis, and about half are Muslims. These persons have been required to appeal to quasi-judicial “Foreigner Tribunals” and risk being stripped of their citizenship.

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 and does not impose a religious test or render any persons “stateless.” Home Minister Shah stated in 2019 that the NRC would follow the CAA in order to “detect and deport every infiltrator from our motherland,” but he has more recently declined to comment on the planned chronology. 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, with the CAA designed to protect only members of “approved” religions, 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 [Hindu] majoritarian community with the nation” and relegates others to second-class status.

K. Alan Kronstadt, Specialist in South Asian Affairs

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.