

# LEGALFOXES LAW TIMES

## Title - Citizenship Amendment Act 2019 And its Implications

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### Abstract:-

The Citizenship Amendment Act 2019 was passed on 11<sup>th</sup> December, 2019 by the Parliament of India. It focuses on providing Indian citizenship to the persons which belong to Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities. It benefits the Non-Muslim people, who faced any persecution on the grounds of religion in countries like Pakistan, Afghanistan and Bangladesh. The relationship of this Citizenship Amendment Act 2019 with democracy and Human Rights is very intimate, particularly with the violation of Human Rights. The most violated Human Right is the Right to Equality and this Citizenship Amendment Act 2019 violates this right. However, this act does not violate the secular rights of any Indian but it violates the intrinsic dignity and the equal rights of man. It is believed that this Act will result in the weakening of India's democracy. India is a multi-cultural country and focussing only on the Non-Muslims changes its whole meaning. This monograph focusses on the above aspects only and will try to generate a healthy and thoughtful debate among the readers on the structure of the Citizenship Amendment Act 2019. The main motive is to develop the idea of Human Rights and the options for establishing peace in this diverse multicultural and pluralistic society of India.

**Key words:** - Citizenship Amendment Act 2019, Minorities, Democracy, Persecution, Human Rights., National Register of Citizens.

### Introduction:-

“Citizenship consists in the service of the country”

- Jawaharlal Nehru

The Citizenship Amendment Act 2019 has amended the Citizenship Act 1955 to give Indian citizenship to the illegal migrants who are Hindus, Sikhs, Buddhists, Jains, Parsis and Christians, who entered India before or on 31<sup>st</sup> December, 2014. These migrants will be getting fast track Indian citizenship in nearly six years. However, it is such a pity to find out this Citizenship Amendment Act 2019 excludes Muslims as there is no mentioning of the Muslim community in this Act. The second largest community after Hindus in India is the Muslim Community and Islam

is the second largest religion in India after Hinduism forming around 14.6%<sup>1</sup> of the country's population. India is a secular country comprising of different religions, cultures, ethnicities, tribes and much more. It is believed that all the cultures and religions hold equal positions in the country. People belonging to different religions are equal and nobody is superior over the other. But this Citizenship Amendment Act 2019 discriminates against Muslims and violates the Right to Equality. Despite forming a big section of the country's population, Muslims are excluded in this act. India is the world's largest democracy and this act is believed to weaken the spirit of democracy and oneness in the country.

In the political theory of Hindutva, there is no discussion about the citizenship of human beings in relation to the state and society. The very first concept of citizenship was formulated by Aristotle in Greece. According to him,

“A citizen is a person who has the right to participate in deliberative or judicial offices of the State”

- Aristotle

He also mentioned that aliens and slaves do not have any citizenship rights. This idea of citizenship was then developed by the European thinkers and they defined a citizen as a person who has the right to vote and also, can receive the various benefits for continuing life and making life much better in the procedure of living in the given state. That is why, immigrants were granted the right to ask for citizenship that was based on the contribution, and they had made to that society and state by their labour and not on the basis of their culture, religion, caste, creed or race.

As observed, the Bhartiya Janata Party and the Rashtriya Swayamsewak Sang wanted to depend on the ancient literary sources of India for understanding the notion of the word citizen. Nonetheless, there isn't any proper definition of citizenship in our Indian texts. All Ancient Indian texts mostly support caste-based Karma theory rather than a rational theory of citizenship. Even the famous Kautilya's Arthashastra, a treatise about state politics, also fails to give a proper definition of a citizen. However, the only book known as Vastiyana's Kama Sutra talks about the word citizen, known as **Nagarika**, but this book rather gives a perverted definition of the role of citizen. Nagarika or citizen is defined as a householder and also an enlightened person and his role according to Kama Sutra,

“Having put his clothes and ornaments (he) should during the afternoon converse with his friends. In the evening there should be a singing and after that the householder along with his friends should await in his room, previously decorated and perfumed, the arrival of a woman who may be attached to him”

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<sup>1</sup> Available at : [https://en.m.wikipedia.org/wiki/Religion\\_in\\_India](https://en.m.wikipedia.org/wiki/Religion_in_India)  
( Visited on July 14<sup>th</sup>, 2020)

The woman is a ganika with whom the nagarika is supposed to engage and the meaning of ganika is a courtesan. But there is no mentioning about the state or society and its membership in this text of Vastyayana's Kama Sutra at all.

### **Citizenship Amendment Act 2019:-**

The Citizenship Amendment Act was passed by both the houses of the Parliament on 11<sup>th</sup> December, 2019. This act amended the Citizenship Act 1955 as it provides a path to Indian Citizenship for the migrants who were termed as illegal and had fled persecution from three countries- Pakistan, Bangladesh and Afghanistan before or on 31<sup>st</sup> December, 2014. The main element of this act is it will provide the Indian citizenship to the migrants of Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities. However, Muslims from those countries were not given any such eligibility as it was believed that the majority population of these three countries is formed by the Muslims. This was the first time that religion was used as a criterion for granting citizenship to all the residents of the country under Indian law. The Constitution of India that was implemented in 1950 guaranteed citizenship to all the residents of the country at the commencement of the Constitution and made no distinction on the grounds of religion. Then, the Citizenship Act was passed by the Indian Government in the year 1955<sup>2</sup>. This Act provided means for the migrants or foreigners to acquire the citizenship of India. People from 'undivided India' were given means by which they could register the residency in India after seven years. Those belonging to other countries were given means by which they could register the residency in India after 12 years. Political developments in the 1980s triggered the revisions to the Citizenship Act of 1955, particularly the one related to the violent Assam movement against all migrants. The Act was first amended in 1985<sup>3</sup> after the Assam Accord was signed and then the Indian Government under the Prime Minister Rajiv Gandhi agreed to identify the foreign citizens and decided to expel them from the country.

The Citizenship Act, 1955 was further amended in the years 1992, 2003, 2005 and 2015. The National Democratic Alliance Government that was led by the Hindu Nationalist Bhartiya Janata Party in December 2003, passed the Citizenship Amendment Act, 2003 with the revisions of the Citizenship Act 1955. This amendment added the idea of 'illegal migrants' to the Act and made them ineligible to apply for the Indian citizenship either by registration or by naturalisation and their children were also declared as illegal immigrants. They were defined as the citizens belonging to other countries who entered in India and that too without travel documents, or the people who remained in India beyond the permitted period mentioned by their travel documents. This Amendment also mandated the Indian Government to create and to maintain a National Register of Citizens. However, various leaders presented their views on the Citizenship Amendment Act,

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<sup>2</sup> Available at : <https://www.prsindia.org/billtrack/the-citizenship-amendment-bill-2016-4348>  
( Visited on July 14<sup>th</sup>,2020)

<sup>3</sup> Available at : <https://www.gktoday-in.cdn.ampproject.org/v/s/www.gktoday.in/gk/section-6a-of-citizenship-act-1955-and-assam->  
[1955-and-assam-](https://www.gktoday-in.cdn.ampproject.org/v/s/www.gktoday.in/gk/section-6a-of-citizenship-act-1955-and-assam-)  
( Visited on July 14<sup>th</sup>, 2020)

2003. Manmohan Singh was of the view that the refugees who belonged to the minority communities in Bangladesh and other countries and who had faced persecution, it was requested that the approach of the Indian Government to grant citizenship to these people should be made in a more liberal way.

### **Citizenship Amendment Act 2019 As a Pall over India's Democracy:-**

“Democracy is a government in which everyone has a share”

- Seeley

Democracy can be defined as a political system in which the Government is formed by the citizens of the country either directly or through elected representatives. But now, it has become evident that the democracy of India is under stress. India's democracy is weakening and the Citizenship Amendment Act 2019 can be defined as a step towards the downfall of the secular democracy of India

India is a secular country and every religion holds equal positions in the society. But Citizenship Amendment Act 2019 is believed to weaken the base of our democracy as it is granting the citizenship based on the grounds of religion. No democratic country should grant citizenship to the migrants or refugees on the basis of their religious background. But the Citizenship Amendment Act is providing a fast track to citizenship for the undocumented migrants belonging to Afghanistan, Pakistan or Bangladesh and that too, if they are not Muslims. So, this can be considered as a theocratic law. Hindutva theoreticians like Subramanyam Swami, said that no Muslim is believed to be persecuted in these Islamic Nations, so they don't have to seek residence in India as there is no need to. The mentioning of religion in this act provides serious grounds for the citizens of India who belong to the Muslim Community to be anxious that all of these people could be rendered stateless. By the Amendment, the Muslim community will be realising that they are unwanted. This is the main problem that the Muslims in India will face with the country's new citizenship law. Despite the fact that India has functioned as a democracy, particularly as a constitutional democracy, for about seven decades, our notion of citizenship and human rights still remains underdeveloped. There is a great need to evolve our understanding of a number of matters and particularly as to how to negotiate between the civil rights and the religious faith of the citizens. There is a fine line between the civil rights and other religion and if this line is erased, our democratic system will collapse.

As mentioned earlier, ancient and medieval texts of India failed to provide a proper definition of a citizen or a sophisticated theory of citizenship or the functioning of the democratic institutions. However, modern Indian thinkers have provided some guidance on these matters and B.R Ambedkar is one of them. He is the pioneer of social democracy. But still, as nothing has been mentioned in India's ancient texts, we need to gather information by reading the Western theories of human rights and civil rights as well.

“If religion is allowed to colour the civil rights of its citizens, India’s democracy will be jeopardized”

India is the world’s biggest democracy and it comprises of different cultures, religions and ethnicities. India is known for its secularism as how people belonging to different religions live together. The citizens of the country are recognised as Indians rather than being recognised as a Hindu, Muslim or a Christian. Our preamble also reflects the spirit of oneness and secularism as the word ‘fraternity’ is mentioned in there, which assure two things- the dignity of an individual and the integrity of our nation. The foundational principle of any democracy is that even though the majority government is elected by the majority, the minority, on the other hand, that voted the opposition should always feel secure in the nation. A government, particularly a democratic government is believed that it should never equate itself with nation as the present Indian Government under Bhartiya Janata Party is doing. This can be considered as self- destruction.

### **Securing the rights of minorities in India’s neighbourhood by this Act :-**

“Freedom is never voluntarily granted by the oppressors, it must be demanded by the oppressed”

- Martin Luther King

As this Act grants Indian Citizenship to the Non-Muslim migrants, the citizens of India are out protesting against the streets while the drop into theocracy continues. The Non-Muslims migrants will be given Indian citizenship who belonged to the countries which have proclaimed themselves as Islamic nations, that is, Afghanistan, Bangladesh and Pakistan. In 1971, Bangladesh was a secular country but in the year 1980<sup>4</sup>, it adopted Islam as its state religion. In the year 2010, the Highest Court of Bangladesh ruled that the secular principles in the 1972 Constitution were accurate. Then, in the year 2011, an act known as the Vested Property Return Act was passed which provided the return of the seized properties owned by Hindus. Then, instead of the Islamic clergy, the Hindu Marriage Registration Act was passed in the year 2012<sup>5</sup> which enabled the registration of Hindu marriages with the Government. Because of all this, Hindus were living under constant fear and also, the intimidation of other radical groups. In the year 2016, more than

<sup>4</sup> Available at : [https://amp-dw-com.cdn.ampproject.org/v/s/amp.dw.com/en/bangladeshi-court-keeps-islam-as-state-religion/a-19148093?amp\\_js\\_v=a3&amp\\_gsa=1&usqp=mq331AQIKAGwASDIAQE%3D#aoh=15947132535309&csi=1&referrer=https%3A%2F%2Fwww.google.com&amp\\_tf=From%20%251%24s&ampshare=https%3A%2F%2Fwww.dw.com%2Fen%2Fbangladeshi-court-keeps-islam-as-state-religion%2Fa-19148093](https://amp-dw-com.cdn.ampproject.org/v/s/amp.dw.com/en/bangladeshi-court-keeps-islam-as-state-religion/a-19148093?amp_js_v=a3&amp_gsa=1&usqp=mq331AQIKAGwASDIAQE%3D#aoh=15947132535309&csi=1&referrer=https%3A%2F%2Fwww.google.com&amp_tf=From%20%251%24s&ampshare=https%3A%2F%2Fwww.dw.com%2Fen%2Fbangladeshi-court-keeps-islam-as-state-religion%2Fa-19148093)

( Visited on July 14<sup>th</sup>, 2020)

<sup>5</sup> Available at : [https://www-thehindu-com.cdn.ampproject.org/v/s/www.thehindu.com/news/international/hindu-marriage-act-in-bangladesh/article3915752.ece/amp/?amp\\_js\\_v=a3&amp\\_gsa=1&usqp=mq331AQIKAGwASDIAQE%3D#aoh=15947133856189&amp\\_ct=1594713425572&csi=1&referrer=https%3A%2F%2Fwww.google.com&amp\\_tf=From%20%251%24s&ampshare=https%3A%2F%2Fwww.thehindu.com%2Fnews%2Finternational%2Fhindu-marriage-act-in-bangladesh%2Farticle3915752.ece](https://www-thehindu-com.cdn.ampproject.org/v/s/www.thehindu.com/news/international/hindu-marriage-act-in-bangladesh/article3915752.ece/amp/?amp_js_v=a3&amp_gsa=1&usqp=mq331AQIKAGwASDIAQE%3D#aoh=15947133856189&amp_ct=1594713425572&csi=1&referrer=https%3A%2F%2Fwww.google.com&amp_tf=From%20%251%24s&ampshare=https%3A%2F%2Fwww.thehindu.com%2Fnews%2Finternational%2Fhindu-marriage-act-in-bangladesh%2Farticle3915752.ece)

( Visited on July 14<sup>th</sup>, 2020)



100 Hindu homes were burned and about 15 Hindu temples<sup>6</sup> were destroyed. According to a report, the number of atrocities on the Hindu Community in the year 2017 was nearly about 6474. Besides this, Ahmadiya Muslim Communities and Christians also reported persecution. The woes of Chakma Buddhists belonging to the Chitlagong hill tracts also faced persecution which can be considered as the worst one at the hands of the radical Islamic groups. In addition to this, Afghanistan also comprises of a very negligible number of minorities, their status is of the second class citizens, meaning those who get caught in the cross wire most of the time either during tribal war or a Taliban enforced radical Islamic regime. As observed, the provisions of the Citizenship Amendment Act 2019 are meant only for a hostile and unfriendly Islamabad, where in the authority of the political establishment is fast losing in the form of the increasing radicalisation of Islam. However, the Citizenship Amendment Act 2019 is meant to address mainly the oppressed people who are or have been minorities and are facing the burden of those repressive systems based on the grounds of religion. This can be considered as an attempt by India to leverage its diplomacy by granting citizenship to these people and bringing them under ambit.

The Home Minister in Parliament and the Bhartiya Janata Party has effectively answered the domestic opposition to the Citizenship Amendment Act 2019, but people in Assam are worried, the reason being the unabated infiltration for decades. So, the real test for the Indian Government will be in Assam as signs of discontent have been emerging in States located in the North-east India. The other reason being the provisions of the Citizenship Amendment Act 2019 won't be applied to the tribal areas covered under the IPL (Inner Line Permit). The North-eastern states which come under the Inner Line Permit are – Arunachal Pradesh, Mizoram, Nagaland and the tribal areas located in Assam, Meghalaya, Tripura and Mizoram. This is specified in the 6<sup>th</sup> schedule of the Indian Constitution. Also, one more state of North-east, Manipur will be insulated by the Citizenship Amendment Act 2019 by December 9, 2019, announced by the Union Government. These seven sisters of the North-east India will stand as a hurdle in the accomplishment of this Act. Restricting the citizens of India from settling down in specified areas or buy land or property or taking up jobs in there, comes under Inner Line Permit. Thus, the provisions of Citizenship Amendment Act, 2019 will be applied to the non-tribal areas and mainly it includes the cities, tea gardens and the agricultural belt which is already overwhelmed by refugees from Bangladesh.

Talking about the positive side, the Citizenship Amendment Act, 2019 is pro-minorities and the religious minority most to benefit it from is the Dalit caste belonging to Pakistan and Bangladesh. The Act applies only in the cases related to religious persecution of the six communities- Hindu,

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<sup>6</sup> Available at : [https://www-nytimes-com.cdn.ampproject.org/v/s/www.nytimes.com/2016/11/03/world/asia/hindu-muslim-bangladesh.amp.html?amp\\_js\\_v=a3&amp\\_gsa=1&usqp=mq331AQIKAGwASDIAQE%3D#aoh=15947134703394&amp\\_ct=1594713501853&csi=1&referrer=https%3A%2F%2Fwww.google.com&amp\\_tf=From%20%251%24s&ampshare=https%3A%2F%2Fwww.nytimes.com%2F2016%2F11%2F03%2Fworld%2Fasia%2Fhindu-muslim-bangladesh.html](https://www-nytimes-com.cdn.ampproject.org/v/s/www.nytimes.com/2016/11/03/world/asia/hindu-muslim-bangladesh.amp.html?amp_js_v=a3&amp_gsa=1&usqp=mq331AQIKAGwASDIAQE%3D#aoh=15947134703394&amp_ct=1594713501853&csi=1&referrer=https%3A%2F%2Fwww.google.com&amp_tf=From%20%251%24s&ampshare=https%3A%2F%2Fwww.nytimes.com%2F2016%2F11%2F03%2Fworld%2Fasia%2Fhindu-muslim-bangladesh.html)

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Sikh, Buddhist, Jain, Parsi and the Christians, from Pakistan, Bangladesh and Afghanistan. The Constitution of all these three Islamic countries is based on the religion of their state- 'Islam'. As mentioned earlier, these countries also have a record of extensive, organised and structured persecution of these minorities and that too especially in the perennial persecution in Pakistan. Through this Act, the Government under Prime Minister Narendra Modi seeks to protect the minorities from any pending legal actions against them, either for overstaying or for staying illegally in the country. Protecting the persecuted religious minorities belonging to Pakistan, Afghanistan and Bangladesh is the main purpose of this Act. Illegal migrants are a threat to the national security so, it is important to take certain steps for their identification. These three countries have a specific state religion and the mentioned six communities have faced much persecution there. The reports about the conversion, abduction, forceful marriage of girls belonging to the minority communities in Pakistan are often seen as Headlines in the Indian media. Once, a girl named Rinkle Kumari<sup>7</sup>, who belonged to the Hindu Community was abducted allegedly and was married to a Muslim. This kind of harsh treatment is given to the people belonging to the minority communities in these Islamic countries. Also, there are many reports about the ill treatment in Pakistan, Bangladesh and Sri Lanka, where the minority communities were forced to flee to India. These incidents continue to appear in the International Media till date. People belonging to the minority communities like Hindus, Sikhs and Christians are not treated well in these countries. To support this statement, here is an incident:-

In July 2018, a suicide bomber targeted the people belonging to the Sikh and Hindu Community in the Jalabad province of Afghanistan. Around 18 people<sup>8</sup> were killed in that blast and the majority of the victims belonged to these two communities. Later on, people who were seriously wounded were brought to India for their treatment.

Similarly, in the neighbouring country, Bangladesh, these religious minorities also faced persecution and attacks. This issue was referred by the Home Minister, Amit Shah, when he mentioned that the minorities living in these countries feared religious persecution on a daily basis. In addition, some of the minorities have fears about the persecution where their right to practice, profess and spread their own religion has been restricted in their day to day life. The religious minorities have suffered so much in these three countries – Pakistan, Afghanistan and Bangladesh. So, talking about their plight, Amit Shah mentioned that the people who wanted to escape from these countries and wanted to settle in India, were earlier considered as illegal migrants under those existing provisions as they were not eligible to apply for the citizenship of India under the Section-5 of the Indian Citizenship Act. By passing the Citizenship Amendment Act 2019, the Modi Government seeks to provide protection to these minorities from any legal action pending against them. Now, the people belonging to all these six religious communities from Pakistan, Afghanistan

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<sup>7</sup> Available at : <https://www.bbc.com/news/world-south-asia-17272943>

( Visited on July 14<sup>th</sup>, 2020)

<sup>8</sup> Available at : <https://www.refworld.org/docid/5b8660efa.html>

( Visited on July 14<sup>th</sup>, 2020)

and Bangladesh can apply for Indian citizenship. This will safeguard the interests of a large number of people from these communities who came to India in search of safety and also, their better living conditions.

### **Citizenship Amendment Act and Human Rights-**

“Today’s Human Rights violations are the causes of tomorrow’s conflicts”

- Mary Robinson

Human Rights are the basic rights of all the individuals in the world. They are believed to provide equality, respect, dignity and independence to all. According to the United Nations Human Rights Office, the Citizenship Amendment Act 2019 is fundamentally discriminatory. The positive side of this Act is highly welcomed as it is providing protection to the persecuted groups whereas, the negative side is highly condemned as this protection is not extended to the Muslim Community. India is a secular country and discrimination is prohibited on the grounds of race, religion and ethnicities, here, there is no mentioning of Muslims, which forces us to doubt the ‘non-discriminative’ nature of this Act. However, the Supreme Court of India is believed to consider the compatibility of the new law carefully. This Act has also been declared as a ‘Poisonous Law’ by some people as it legitimises discrimination based on religion and therefore, it stands in violation of the Indian Constitution clearly and the International Human Rights Law. As this Act is welcoming the asylum seekers which is an appreciative step but at the same time, the doors are shut for the persecuted Muslims and other communities and that too in a secular country like India. The Amendments in this Act are believed to be completely oblivious to the level of persecution faced by the minorities other than the six mentioned in the Act. They also run repulsive of India’s International obligations under the Universal Declaration of Human Rights. The Amendments of this Act also run counter to the Article 14 of the Indian Constitution<sup>9</sup> which guarantees the Right To Equality to every person and provides protection from discrimination on the inherent grounds of race, caste, sex, religion, place of birth, etc. Also, these run counter to Article 21<sup>10</sup> as subjecting one set of asylum seekers to detention and on the other side, exempting others because Article 21 protects each and every person from arbitrary deprivation of liberty.

Except these three countries, India also shares its borders with other countries like Nepal, Myanmar, Bhutan and Sri Lanka but the amendments do not include these countries. Sri Lankan Tamils form the ‘largest refugee group in India’ and are living in the country for more than three decades but there is no mentioning of them. Moreover, the Rohingya Muslims of Myanmar are

<sup>9</sup> Available at : <https://www.equalityhumanrights.com/en/human-rights-act/article-14-protection-discrimination>

<sup>10</sup> [https://www.oneindia-com.cdn.ampproject.org/v/s/www.oneindia.com/amhtml/india/what-is-article-21-of-the-indian-constitution-2528713.html?amp\\_js\\_v=a3&amp\\_gsa=1&usqp=mq331AQIKAGwASDIAQE%3D#aoh=15947142914108&csi=1&referrer=https%3A%2F%2Fwww.google.com&amp\\_tf=From%20%251%24s&ampshare=https%3A%2F%2Fwww.oneindia.com%2Findia%2Fwhat-is-article-21-of-the-indian-constitution-2528713.html](https://www.oneindia-com.cdn.ampproject.org/v/s/www.oneindia.com/amhtml/india/what-is-article-21-of-the-indian-constitution-2528713.html?amp_js_v=a3&amp_gsa=1&usqp=mq331AQIKAGwASDIAQE%3D#aoh=15947142914108&csi=1&referrer=https%3A%2F%2Fwww.google.com&amp_tf=From%20%251%24s&ampshare=https%3A%2F%2Fwww.oneindia.com%2Findia%2Fwhat-is-article-21-of-the-indian-constitution-2528713.html)

( Visited on July 14<sup>th</sup> ,2020)



also not included in this Act, despite the fact that they are titled as the “World’s Most Persecuted Minority” by the United Nations. Furthermore, the amendments ignore the plight of Bihari Muslims of Bangladesh, Ahmadiyyas of Pakistan and Hazaras of Pakistan who have been suffering systematic persecution over the years. The biasness of the Government is clearly shown here by the exclusion of all these communities.

The Amendments of this Act also impinge on the Human Rights of the citizens of India, especially Muslims and it has adverse impacts on the asylum seekers and refugees. The Indian Government has introduced a National Register of Citizens (NRC) which will be documenting the citizenship of about 1.3 billion<sup>11</sup> people in the country. The exercise of this propaganda was recently concluded in Assam as it resulted in the exclusion of more than 1.9 million people. The indigenous communities who were excluded from the National Register of Citizens opposed this and the Government rejected the findings of NRC. However, touting the Citizenship (Amendment) Bill in the form of a tool against exclusion from the NRC, on 2<sup>nd</sup> October, 2019,<sup>12</sup> our Home Minister, Amit Shah made it clear that all the Hindu, Sikh, Jain, Buddhist, and Christian refugees will not be forced to leave India so, they shouldn’t believe in rumours. He also ensured that the Government of India will start this bill as soon as possible which will further ensure these refugees to get citizenship of India. They will be able to enjoy all the rights of an Indian citizen. He also added that the task of National Register of Citizens will be undertaken by the Government before 2024.

On one side, the Indian Government denies any form of discrimination but on the other hand, the amendments of the Citizenship Amendment Act clearly weaponised this process of National Register of Citizens against Muslims. Thus, it becomes difficult to view the small picture of the Citizenship (Amendment) Bill in isolation while ignoring the larger picture where both of these amendments and National Register of Citizens follow the path which may deprive the minorities of their Indian Citizenship. These Amendments also set a dangerous shift in the procedure of determining citizenship in India. They will stand to create the ‘biggest statelessness crisis of the world’ and which will result in immense human suffering.

### **The triad of Democracy, Human Rights and the Citizenship Amendment Act 2019:-**

“No Democracy without Human Rights, no Human Rights without Democracy”

- George Meany

Both democracy and Human Rights can be termed as relative concepts rather than being called as absolute. Democracy is defined as the most powerful system of Government emerging in this

<sup>11</sup> Available at : <https://www.amnesty.org/en/countries/asia-and-the-pacific/india/report-india/>

<sup>12</sup> [https://m-freepressjournal-in.cdn.ampproject.org/v/s/m.freepressjournal.in/article/india/nrc-not-linked-to-cao-5-times-amit-shah-said-it-was/75cbbbf0-f75e-4e96-8f2b-aed4a8806622?amp\\_js\\_v=a3&amp\\_gsa=1&usqp=mq331AQIKAGwASDIAQE%3D#aoh=15947144643819&amp\\_ct=1594714489728&csi=1&referrer=https%3A%2F%2Fwww.google.com&amp\\_tf=From%20%251%24s&ampshare=https%3A%2F%2Fwww.freepressjournal.in%2FIndia%2Fnrc-not-linked-to-cao-5-times-amit-shah-said-it-was](https://m-freepressjournal-in.cdn.ampproject.org/v/s/m.freepressjournal.in/article/india/nrc-not-linked-to-cao-5-times-amit-shah-said-it-was/75cbbbf0-f75e-4e96-8f2b-aed4a8806622?amp_js_v=a3&amp_gsa=1&usqp=mq331AQIKAGwASDIAQE%3D#aoh=15947144643819&amp_ct=1594714489728&csi=1&referrer=https%3A%2F%2Fwww.google.com&amp_tf=From%20%251%24s&ampshare=https%3A%2F%2Fwww.freepressjournal.in%2FIndia%2Fnrc-not-linked-to-cao-5-times-amit-shah-said-it-was)  
( Visited on July 14<sup>th</sup>, 2020)

Contemporary world. The four pillars of democracy are – Liberty, Equality, Fraternity and Justice and the most important foundation of all these four is ‘Equality’. Democracy was introduced for the first time in India among all the South Asian Nations. The democratic form of government was applied in India after its independence. From the very beginning, the Constitution of India has made provisions for the Human Rights of men and women together proving the fact that everyone is equal before law in the country. Human Rights are meant to provide all the dignities and rights to all the human beings in the world. For instance, the right to live with dignity, the right to social security, the right to equality, the right to liberty, etc. Basically, the four pillars of democracy can be considered as the foundation of Human Rights. Human Rights aim to provide the basic rights to all the individuals in this world and a Democratic Government focusses to provide these rights to each and every citizen of the country. That is why, the foundation of democracy is believed to be made by these four pillars. The rights are guaranteed to the majority and to the minority as well. Moreover, democracy is believed to be a government that safeguards the interests of the minorities along with the majority. Articles 14, 15, 28, 29, 30<sup>13</sup> of the Indian Constitution protects the interests of the minority communities in India. Article 14 provides equal protection and equality before law irrespective of religion or caste. Article 28 provides protection to the minorities from the enforceable religious teachings in the educational institutions funded by the Indian Government. Article 29 provides protection to the language, script and culture. India is a secular country and every religion is equal before law but the Citizenship Amendment Act 2019 is viewed as a ‘Discriminatory Act’ as it excludes the Muslim Community. The Government, in its defence, stated that the three countries mentioned in the Act – Pakistan, Afghanistan and Bangladesh have adopted Islam as their state religion, so the people belonging to Muslim community won’t be facing any persecution there on the grounds of religion. A democratic government is believed to create a secure and stable atmosphere for the citizens of that country. The people are sovereign in a democratic country, so they need to feel safe and secure irrespective of the fact that they belong to a majority community or a minority.

“Democracy is not the law of the majority but the protection of the minority”

- Albert Camus

### **Conclusion:-**

The Citizenship Amendment Act 2019 provides the right to seek Indian citizenship to the refugees belonging to Hindu, Sikh, Buddhist, Parsi, Jain and Christian communities. These people were forced to seek shelter in India and were thrown out of their home countries due to persecution based on the grounds of religion. It gives legitimacy to these persecuted minorities. The exercises

<sup>13</sup> Available at : [https://edugeneral-org.cdn.ampproject.org/v/s/edugeneral.org/blog/polity/fundamental-rights-articles-14-18-19-22-23-24-25-28-29-30-32/?amp\\_js\\_v=a3&amp\\_gsa=1&usqp=mq331AQIKAGwASDIAQE%3D#aoh=15947145540320&csi=1&referrer=https%3A%2F%2Fwww.google.com&amp\\_tf=From%20%251%24s&ampshare=https%3A%2F%2Fedugeneral.org%2Fblog%2Fpolity%2Ffundamental-rights-articles-14-18-19-22-23-24-25-28-29-30-32%2F](https://edugeneral-org.cdn.ampproject.org/v/s/edugeneral.org/blog/polity/fundamental-rights-articles-14-18-19-22-23-24-25-28-29-30-32/?amp_js_v=a3&amp_gsa=1&usqp=mq331AQIKAGwASDIAQE%3D#aoh=15947145540320&csi=1&referrer=https%3A%2F%2Fwww.google.com&amp_tf=From%20%251%24s&ampshare=https%3A%2F%2Fedugeneral.org%2Fblog%2Fpolity%2Ffundamental-rights-articles-14-18-19-22-23-24-25-28-29-30-32%2F)

( Visited at July 14, 2020)

of CAA and NRC are legal and constitutional because Article 246<sup>14</sup> of the Indian Constitution states that the Parliament has exclusive power to make laws related to the matters of citizenship and naturalisation of aliens. Also, the change in the Refugee policy of India by CAA signifies a revolutionary change. This Act can be considered as a ray of hope for the refugees belonging to the mentioned six communities who came to India for a secure place to live.



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<sup>14</sup> Available at : <https://www.jatinverma.org/constitution-of-india-article-246>  
(Visited on July 14<sup>th</sup>,2020)