



## Indian Citizenship Act: Reality and Usage

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### ARTICLE INFO

Research Article

Received : 19/02/2020  
Accepted : 08/07/2020

#### Keywords:

Indian Citizenship Act  
Muslims  
BJP  
Pakistan  
Hindu fundamentalism

### ABSTRACT

The paper examines purpose, usage and implications of recently promulgated Indian Citizenship Amendment Act (CAA), passed by Indian parliament on 11 December, 2019. The Paper critically examines its impact on Muslim migrators who worked there as low skilled labourer. They kept to the generational old tradition of migrating to areas where more job opportunities were available. The areas where Muslim and other workers shifted for job became part of India after the partition. The coexistence could be possible due to labour demand, better political tolerability and absence of sense of alienation; being from the same ethnic and racial stock. Paper focuses on the negative implications of Indian Citizenship Act (CAA) which selectively targets the biggest minority in India. Study finds CAA politically purposeful and doctrinal in nature. Rashtriya Swayamsevak Sangh (RSS), a Hindu far right movement, influenced Prime Minister Modi who leads Bharatiya Janata Party (BJP), the proponent of Hindu fundamentalism, Hindutva. Hindutva doctrine considers all those who came from outside India; must leave or accept Hindu norms and even conversion to Hinduism; to make India a pure Hindu state. The Act entails the shades of RSS Hindu fundamentalist doctrine. The study concludes that CAA will result in increased insecurity and discontent among minorities in India especially Muslims and will result in an identity crisis. Study recommend positive resolution to alleviate the Muslim population's discontent.

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### Introduction

This study investigates impact of an Indian citizenship law amendment; passed by Indian Parliament. Paper also examines the RSS philosophy, rooted in RSS Hindutva<sup>1</sup> doctrine permeating present BJP government policies, led by Prime Minister Narendra Modi. To answer, 'Whether the CAA is well intentioned or purposed?' forms the research question. Study aims to draw the attention of Intergovernmental and Non-governmental Organizations, Human Right organizations, and media for an extended debate on the violations of Human Right Declaration of 1948 to deter religious and racially biased anti minorities policies of the states. The paper inquires and finds the answer to the question; whether the CAA is meant to mala-fide or for inclusive and positive usage. Mixed research method has been used to probe this study. Authentic opinions and research of renowned scholars on

the subject like Kulkarni, Shamsul Islam<sup>2</sup> Poddor and Chandawani are useful sources to support the major argument of this study. Since this issue has been widely reported in international media therefore, such reports have also been used as reference to substantiate the finding. '2019 Country Reports on Human Rights Practices' (State, 2019), gives comprehensive accounts and data of abusive Human Rights practices, of BJP government in India. Indian government view has also been included. Indian Prime Minister Narendra Modi view about the CAA and RSS general view about the minorities in India is part of the study to conflate and correlate with the ground realities. References have been inserted using automated MS word inbuilt reference tab set on (APA) as this will help retrieve the source conveniently.

<sup>1</sup> Dominance of Hindu religion and traditions

<sup>2</sup> a renowned Indian professor and expert on RSS history and doctrine and author of many books

## The Citizenship Amendment Bill

India Citizenship Amendment Bill (CAB) was presented on 9 December, 2019 in Indian Parliament. On 12 December, 2019 President of India Ram Nath Kovind signed this bill as an Act of law. The bill became effective within four days without much debate in the parliament. This provoked country wide protest and agitation (NYT, India, 2019). Prior to this 1200 Indian scholars from various fields had signed a petition terming this Bill as discriminatory (Guardian, India, 2019). This Bill amends the India Citizenship Act of 1955 making six religious minorities, living in Pakistan, Bangladesh and Afghanistan, eligible to apply for the citizenship of India. The law does not include Muslims to become India Citizen through this provision, discriminating them on religious grounds.

The bill was initially introduced in 2016 in Indian Parliament. The Bill purposely excluded Muslim to avail this provision to recreate a pure Hindu society in India. Muslims have a strong faith posture and ruled India for centuries which makes a sense of historical inspiration and the cause of strong Hindu prejudice. This BJP political Hindutva philosophy is widely noticed and reflected in the world media. Listing down the BJP religious political approach targeting Muslim. The most impacted 'Foreign Policy' journal featured a detailed piece titled, 'Is Modi's India safe for Muslims?' (Traub, 2014).

In the original citizenship Act of 1955; made after the partition of India in 1947, all desiring immigrants were given a cushion period to migrate to either India or Pakistan to become their citizens. This Act was later amended and further migration was stopped and made illegal without valid travelling documents. The same Act is now amended to give legal status to mostly undocumented Hindus migrants plus five minor communities excluding Muslims. 1.9 million Muslims in Assam have been excluded from entering in the newly revived India's National Register of Citizens (NCR). Professor Walter Anderson<sup>3</sup> is of the opinion that, "there are potential problems such as the fact that the hard Right will get energised" (Hebbar, 2019). This exclusive amendment is in contravention with Human Right Declaration of 1948 that grants the right above race or religious distinction as observed by Mihika Poddar:

"The apprehensions of critics and political opposition have found stronger basis in the proposed amendments to the Citizenship Act 1955, introduced in Parliament in July 2016.<sup>4</sup> Purportedly for the protection of certain minority communities, the Act makes relaxations for naturalisation of undocumented migrants belonging to the identified groups. Seemingly laudable, a closer look at the provisions may reflect a partisan selection of beneficiaries on religious grounds. (Poddar, 2018)

NRC is a basic document for the execution of Citizenship Amendment Act 2019 to establish whether a person is documented and eligible for Indian citizenship. The six undocumented non-Muslim communities, mostly Hindus, have been facilitated to register in NCR to avail

Indian citizenship; excluding Muslim. The process of citizens' registration in NRC was started first from Assam, a region adjoining Bangladesh from where majority of people migrated historically in different time periods after partition initially due to violence and personal security and later to work there. These migrants assimilated with the local population permanently as the borders became unfrequented due to strict checks with the passage of time.

The main features of the Citizenship Amended Act 2019 are:

- Undocumented or illegal Hindu, Sikh, Christian, Bodh, Jain, Parsi immigrants who can prove citizens of Pakistan, Bangladesh and Afghanistan will be eligible to get citizenship of India.
- It excludes undocumented or illegal Muslim immigrants for the grant of same status as offered to six non-Muslim minorities.
- The Bill also amends a mandatory 12 years stay in India to 6 years before applying for the citizenship for the six communities excluding Muslims.

Overseas Indian citizen card holder will be liable to be striped of Indian citizenship if he or she commit minor or major offenses or violate local law as observed by Khaitan, a renowned scholar: "... 33,027,661 people applied through 6,837,660 applications, a government statement said August 31. After reviewing appeals and claims, 31,121,004 [99% Hindus] were found eligible for inclusion, leaving out 1,906,657 [Muslims], including those who did not submit claims..." (Khaitan, 2019).

We can observe that CAA targets Muslims only. The usage of Bill is to segregate them from other communities and declare them illegal, whereas the Act provides legal cover to non-Muslim communities to become Indian citizens. This is contradictory to the Human Rights Declaration of 1948, which forbids persecution of communities on the religious distinction. Indian Prime Minister is well known for Gujrat massacre in 2002 incidents during his tenure as Chief Minister Gujrat a province of India where Muslims were lynched their houses burnt under state patronage (Guardian, Narendra Modi, a man with a massacre on his hands, is not the reasonable choice for India, 2014). To support this fact one can have a comparative study of the United States' Department of State released country report on Human Right Practices, 2019. (State, 2019). This is typical of RSS ideology based BJP government under Prime Minister Modi who have crafted CAA for Hindus specially to become Indian citizens. Indian Prime Minister Narendra Modi tweeted (Figure 1):



Figure 1. Tweet of Indian Prime Minister Narendra Modi

<sup>3</sup> Senior Adjunct Professor of South Asia Studies at Johns Hopkins School of Advanced International Studies and author of books on the RSS including The Brotherhood in Saffron and RSS

<sup>4</sup> Introduced and passed later in December, 2019.

Tweeted by Prime Minister Narendra Modi as per date and time, posted on the Tweet

The tweet did not truly mean to address persecuted minorities as laid in the Bill per se but to hedge it against yet another round of persecution of the Muslim in India particularly, as by implication the Act bars only Muslims to apply for citizenship of India due to their religious identity. It does not bar six non-Muslim immigrants under same circumstances, to become Indian citizens; rather CAA facilitates them to avail legal status as Indian citizen. Prime Minister Modi belongs to a Hindu fundamentalist organization RSS whose agenda against Muslim and other minorities is widely reflected in scholarly literature and media. This has been historically documented by authors like (Islam, 2006), including a number of Hindu and Western scholars some of which has been quoted here.

Had Prime Minister Modi tweet included Rohingya Muslim in Myanmar, whose plight as most brutally persecuted communities is world known and existed around much closer region than Afghanistan and Pakistan, it would have given CAA some credibility for humanitarian concern. The CAA is not really meant what it looks on the prime face, "The law fits within the BJP-led government's larger agenda to construct a Hindu nation." (Suparna, 2019). Washington Post points to religious and ethnic discrimination in the Citizen Amendment Act (CAA) observing: "Besides Afghanistan, asylum seekers in India typically are Tibetans from China, Tamils from Sri Lanka and Rohingya from Myanmar, so if the government intended to aid victims of religious persecution, these countries also would be included in the law." (Chaudhry, 2019). A UN Human Right representative observed, "We are concerned that India's new Citizenship (Amendment) Act 2019 is fundamentally discriminatory in nature...it does not extend the same protection to Muslims, including minority sects (UNHR, 2019). Human Right violations are also reflected in United States (U.S.) Department of State 2019 Country Report on India:

"The act [CAA] provides an expedited path to citizenship for Hindu, Sikh, Buddhist, Jain, Parsi, and Christian religious minorities from Afghanistan, Bangladesh, and Pakistan. The act makes no provision for Muslims. The act does not apply to the tribal areas of Assam, Meghalaya, Mizoram, or Tripura. Following passage of the act, wide-scale protests against its passage and exclusion of Muslims occurred throughout the country, leading to arrests, targeted communications shutdowns, bans on assembly, and deaths in a few reported instances." (State, 2019).

## Background

The Citizenship Act has historical legacy behind it. The social and religious divide and differences were not much consciously felt till the time subcontinent remained undivided. Muslim and Hindu lived with all other small communities in India with comparative harmony; under Muslim and later the British colonial rule. Migration took place after partition of India on both sides due to economic and security reasons. The political movement of freedom from colonial rule followed by democratic concepts of right

of franchise for self-determination. The democratic concept of government by the people' became a misguided tool of majority rule. Muslims of subcontinent felt the effects of transition from ruler of India to becoming a minority among Hindu majority in modern time democratic change over. The post-world war Nationalism also projected sub-Nationalist aspirations throughout the world horizon. India the world's second most populated region could not escape the influence of these political environment. This changed the whole political scenario in the favour of Hindu majority and a dilemma for all the rest of sub-Nationalities and minorities in India. The most affected provinces were the Punjab and Bengal where geographical boundaries were reconstituted on religious grounds. Punjab and Bengal was where mass migrations took place. In East Punjab<sup>5</sup> Muslims, Sikh and Hindus swapped migrations due to mostly economic reason. During 'Raj' the British colonial rule; different religious and ethnic communities from East Punjab<sup>6</sup> migrated first with the development of canal system (1885-1940) to more arable area on the Western side. The second major migration that amounted to reverse the first migration was due to the partition of India in 1947 (Talbot, 2011).

Bengal has been a poor regions with ordinary skills and poor population. The people there are dependent for work on cottage industries like jute, fishery, and textile. From minor skills to ordinary labour they kept migrating to where they could get some work for sustenance which was available in adjoining Assam and East Bengal.

These Bengali Muslim and Hindu migraters who once lived in one regions settled in Assam and other parts that went to India. They kept to the old tradition of working across the newly created borders after partition without much check and restriction that seemed like mutually and mutedly agreed norm. The bigger factor of such a compromise was that even after independence they only differed in religious beliefs and maintained the ethnic and cultural affinity with almost all the groups in the adjoining regions. (Chakrabarti, 1990), a Hindu Bengali scholar writes about this kind of ethnic and cultural yearning.

A considerable majority of migraters got settled permanently and become naturalized citizens of India, lacking documentation due to administrative laxity or muted official acceptance of their illegal status for a long time. The matter was an issue not taken seriously. Mian Zia ud Din, a former Pakistan High Commissioner to India in 1956 narrates that Sheikh Mujibur Rahman<sup>7</sup>:

"...warned India about likely repercussions in East Pakistan [India as well as what has become obvious) if it persisted in its attitude of "refusing" 'F' category visa<sup>8</sup> to [then] Pakistani nationals... there were about 140,000 [then] Pakistani nationals working in the two Indian States [West Bengal and Assam], mostly as domestic servants, oil company employees, jute-mill workers etc....under its Foreigners Registration. Act, the Government of India immediately cancelled the "F" visas of such unemployed personnel,...he added, the West Bengal Labour Ministers' attention had been drawn by him to the difficulties of Pakistanis [Migrants to India states] working in India. The

<sup>5</sup> After partition the Eastern part of divided Punjab now part of India.

<sup>6</sup> The part of divided Punjab on Eastern or Indian side.

<sup>7</sup> A politician from former East Pakistan and then Industrial minister. He later became founder of Bangladesh.

<sup>8</sup> Working visa for temporary residence

later had assured Mr. Rahman that he would examine the matter sympathetically but nothing had apparently been done.” (Din, 1976, p. 268).

Quoting, *‘The Statesman’* it goes on further to highlight a material fact:

“Mr. Zia Uddin was confident that if the two Governments approached the problem with all sincerity and particularly keeping the humanitarian point of view in mind, a speedy solution would be forthcoming [as these migration were generational and above geopolitical changes.] (Din, 1976, p. 269).

Their ambiguous and not formerly accepted citizen status of these migrants however remained a pending issue till almost three generations. The issue came under discussion on certain occasions between Pakistan and India but remained unsettled. It has now become a matter to be resolved between Bangladesh and India as East Pakistan became Bangladesh in 1971. Presently the issue is compounded with the inclusion of all the Indian Muslims and others who are required under CAA to produce documents to prove their status as India citizens.

Initially the matter of population shift was purely of administrative nature and related to worker who migrated to West Bengal for jobs. After BJP government in India came and unfolded their ‘Hindutva’<sup>9</sup> based policies which all the Muslims in India antagonized. Muslim and all other communities now according to CAA were required to show documented proof of their citizenship. India is not literate enough thus most of people don’t fulfil their formal citizenship procedures or don’t bother to maintain documents that can help them prove an Indian citizen. With the enactment of CAA it became an identity crisis for all of those who factually were Indian citizens but lacked legal and documentary proof. The CAA helped non-Muslim communities to register as Indian National but not Muslims to avail the same legal provision to become Indian citizens. The aim to document was not purely to regularize citizen Register but to single out the largest Indian minority as non-Indians and to reverse the status of generational old worker migrants and now native Indian Muslims too, living in other parts of India. The new law targeted Muslim population of India, filtering them through a legal procedure to declare them non-Indian population and at the same time owns six selected non-Muslims groups with majority of them Hindu to get themselves registered as Indian citizens.

This is suspicious for two reasons first as there is nothing alarming about the persecution of minorities living in Afghanistan, Bangladesh and Pakistan. India’s Human Rights practices record is not much better. This BJB Indian citizenship law strategy is grounded in RSS’s doctrine to flush out Muslim population from Indian regions and bring back Hindu population to Mother India. A report published in *‘The Hindu’* a widely published Indian daily shows it on the increase (Hindu, 2019).

Thus CAA has become a tool of persecution of the biggest Muslim minority in India. Those Muslims and other minorities who are permanent citizens for generations will be asked to prove their credentials as citizens, failing which will make them people without any land. This has created an alarm in minorities with Muslim on the top, who are facing an identity crisis and insecurity.

## RSS and Its Agenda

Rashtriya Swayamsevak Sangh<sup>10</sup> (RSS) was founded in 1925 by a Hindu Physician Keshav Baliram Hedgewar (1889–1940). RSS claims its founding for the end of colonialism. RSS founding as a freedom movement organization is contested by a scholar Pavan Kulkarni who asserts that RSS founder Hedgewar mostly remained engaged in rioting that continues till today [against non-Hindus and Muslims specially]. He quotes Shamsul Islam a renowned Indian scholar:

“On March 18, 1999, the then prime minister, Atal Bihari Vajpayee, issued a postage stamp commemorating K.B. Hedgewar, the founder of the RSS, as a great freedom fighter before an audience that consisted mostly of Sangh cadres. This move, Shamsul Islam wrote, was an attempt “to pass off a pre-independence political trend represented by the RSS as a legacy of the anti-colonial struggle whereas in reality the RSS was never part of the anti-imperialist struggle. On the contrary, since its inception in 1925, the RSS only tried to disrupt the great anti-imperialist struggle of the Indian people against the British colonial rulers. (Kulkarni, 2018)

Another view quoting his biography by RSS in Shamsul Islam book who is an authority on RSS reveal further about RSS founder Hedgewar:

“...when Gandhi launched the Salt Satyagraha in 1930, he [RSS founder Hedgewar] sent information everywhere that the Sangh will not participate in the Satyagraha (Islam, 2006).

RSS religiously and culturally views that anyone born outside India or belonging to a race that came out of India is not entitled to stay in India. An untouchable is to be punished for violating Hindu religious ritual in a way that he should neither die nor live in comfort and a Brahman (the highest class Hindu) if commits any wrong should not be physically harmed (youTube, 2016).

The CAA promulgation is widely considered BJP’S agenda tool to implement their RSS doctrine. This approach has a striking similarity to Jews claims of a divinely exclusive Nation. Nikhil Chandawani, a renowned Hindu scholar has listed the Hindu-Jew religious similarities (Chanwani, 2019):

- Both have a father figure entity Brahma and Abraham for Hindus and Jews respectively [and a super top social class commanding all other communities considering them low].
- The Jews have a theory of 12 tribes divided in caste hierarchy among them Amorites and Moabs and others. Hindu match them in their Verna or classes divided in four major with Brahman on top and Shudras at the lowest ebb.
- Mormonism, Christianity and Islam are rooted in Judaism, whereas Hinduism drifted to Jainism, Buddhism and Sikhism<sup>11</sup>.
- Both face haltered on social media platform.

Nikhil is correct up to some extent as beside these differences both seems have similarities in coercive state

<sup>10</sup> National Volunteer Organization

<sup>11</sup> Jainism, Buddhism and Sikhism are a reaction to the inhuman beliefs of Hinduism whereas Christianity and Islam are one faith continuum with only sectarian difference.

<sup>9</sup> Hindu Renaissance or pure Hindu statehood

behaviour and Human Right violations. The brutal lock down in Kashmir for more than one year [at the time of writing] after ending the special status of the State of Jammu and Kashmir, stripping article 370 of the Indian constitution and making it part of Indian Federal territory likens; inclusion of Palestinian and other Arab territories as part of Israeli state. Concentration camp for young and even children has another striking similarity. India's newly upgraded Chief of the Defence Force General Bippen remarks in a press conference's statement makes clear beyond any doubt in which he has confessed existence of concentration camps for the younger lot (NYT, World, 2020).

"A camp being built in Goal Para, in the remote northeast of India, is designed for at least 3,000 people to be herded inside... Goal Para is said to be one of 11 camps being erected to cope with the thousands of people in the tea-growing state of Assam... The most common charge against them is throwing stones... It is no coincidence that the camps are springing up as Indian Prime Minister Narendra Modi continues to persecute Muslims with impunity." (Ramdani, 2019).

### **Analysis**

India is a diversified society distinct in caste, creed and ethnicity. Agrarian at the core and skilled in numerous crafts compatible to usage of the people in plains. Conservative by civility and primitive in beliefs. As is akin to the people in plains having abundance of water resources and open stretches of lands besides mineral and resources? To extricate these resources and invent tools for easy mechanical functions to excel in limitless crafts. This made Indian society throughout history occupied in services sector mostly as a resort of subsistence economy initially at the family and in the later history and in modern time in macro-economic activity that expands from agro-based economy to one of the world's biggest software developers and exporters. That make Indian society a sedentary society that has confronted throughout the history foreign invaders who belonged to mostly mobile communities from the North West mostly. These invaders have been coming and going leaving their permanent marks resulting in social and anthropological changes. This made India a multi ethnic, cultural and religious society.

RSS, a fundamentalist Hindu movement; being a anti non- Hindu organization with most hate reserved for minority Muslims in India became the worst insecurity scenario and biggest ever threat to minorities in India. RSS election campaign during 2018 were most emotional exploiting the news found Hindu extremism and Nationalism to get India rid of majorly Muslim and other minorities to establish a pure Hindu state. It also entailed bring back Hindus to their mother land 'Hindustan' or 'Bharat Mata'. The CAA reflect exactly this kind of ideology in its implied sense.

Thematically it uses tags of Human Rights and persecution which is not much convincing as India's own rape and atrocious record against her minorities is reported widely in Non-Governmental, (NGOs), Intergovernmental Organizations (IGOs) and state agencies' reports. The world known issue of persecution

of Rohingya<sup>12</sup> in the Indian neighbourhood of Myanmar have been utterly ignored in the Bill as they belong to Muslim community. The CAA falsely claiming to facilitate citizenship to those 'hypothetically persecuted in Bangladesh, Afghanistan and Pakistan. The bill is contradictory as it targets Muslims only ignores the gravity of persecuted communities at their door step, closer than Afghanistan, and Pakistan. Mentioning and hedging the name of six non-Muslim communities and luring them with Indian citizenship is part of RSS ideology; adopted by present BJP government in India to bring back the Hindu diaspora. It is politically motivated and purposely hedged to persecute Muslims in reality which makes the bane of BJP state policy of Hindutva.

Prior to this, India altered a constitutional provision for the state of Jammu and Kashmir (J & K) scraping article 370. A political faction of the State of Jammu and Kashmir supported on the condition to maintain special separate status of state of Jammu and Kashmir to remain on India's side<sup>13</sup>. Demand of J & K Muslim majority was ignored to give them the right of plebiscite to make electoral choice to be part of India or Pakistan. In this case as well the RSS double game is obvious as for land it ignore the wishes of majority Muslims of valley of Jammu and Kashmir. CAA enactment is a different tool of the same BJP Hindutva policy to persecute Muslims in India. It aims at coercing Muslims to assimilate into Hindutva; to make a pure Hindu society in India.

### **Conclusion**

According to Aristotle if one has to conclude from theoretical and observational evidence, one should believe in observation and not theory. CAA, theoretically projects to address certain persecuted communities. This doesn't match to the reality on ground as is obvious from foregone ground realities and how CAA negates it and targets in fact Muslims in India. Therefore study finds the usage and implications of CAA against Muslims particularly. The targeting, lynching and now segregating Muslim by filtering through the new law are evidences which conforms to the finding of this study. Study suggest a moderate and inclusive political approach for the stability and peaceful India and the region. CAA should give equal opportunities to all communities keeping in view the plight of settlers who have become landless citizens all of a sudden due to the enactment of the CAA.

Partition of subcontinent has displaced many communities on either side. The homogenous communities had been migrating for job purpose irrespective of the political concern. The geopolitics change was a parallel development that divided regions where there was no concept of documented citizenship or presence of any bar on the natives' movement. With Nationalist government elected to power, made an identity and security dilemma for these communities. For

<sup>12</sup> Rohingya are natives of the same regions adjoining Bangladesh, Assam and Myanmar. Majority of them Muslims and have same pattern of migrations. They have settled in Myanmar for generations like those who migrated to Assam and elsewhere in India for job hunt and ultimately settled there. .

<sup>13</sup> Although it remain disputed so far Pakistan and India is concerned.

the Muslims people settled in areas that form part of India after the partition has created a legitimacy problem for their citizenship. The low skilled Muslim labourers who used to go to the areas where job opportunities were available and who settled their permanently without any formal citizenship registration; became part of India. . The misconstrued historical prejudices prevail on RSS based BJP government ideology, presently in power, who considers Muslim minority anathema to their Hindu state. BJP government under Prime Minister Narendra Modi is trying to single out Muslims community to make India a pure Hindu state.

This kind of Hindu extremism will make majority of the minorities living in India isolated and with the feelings of not being owned as equal citizen; especially Muslims. It affects even those who remain undocumented citizens of India India; due to illiteracy and lack of documentation. CAA overall most hit the Muslim communities of workers and those native without the proof of document. This kind of CAA usage which hits sharply only Muslim population of India makes it discriminatory and targeted against Muslim only since mostly Hindu and no-Hindu minorities have been given a legal cushion to become Indian citizens excluding Muslims. CAA obviously cater for Indian native less Muslims to fall back to India, a part of Hindu philosophy, to convert them back to Hinduism to form a purely Hindu state. India is a multi-ethnic, multi-religious and multi-racial regions. Such a discrimination embed in CAA will not only destabilize India but the whole region.

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