



CALL FOR PAPERS

for Special Issue on

**INDIAN SECULARISM AND IMPLICATIONS OF INDIA'S NEW CITIZENSHIP
LAW FOR MUSLIMS**



Background:

India is recognised for its diverse cultural heritage and vibrant democracy. Its officials have actively assured the world about safeguarding the constitutional rights of all citizens with no distinction between caste, class and religion because India is perceived as a 'secular state with no state religion'.¹ However, these claims have been put to the test lately, especially since the advent of majoritarian politics in India.² The trend of populism and exclusive nationalism has reshaped the Indian political landscape making it difficult for secularism to precede religion as the primary paradigm of life.³ This is also reflected in the reinvention of citizenship on religious lines, one of the key political projects of the ruling Bharatiya Janata Party (BJP), whose ascent to power is based on representing the cause of the Hindu majority and demonising Muslims, which are India's largest minority.⁴

On 12 December 2019, the Indian Parliament passed the Citizenship (Amendment) Act (hereafter CAA) pitching it as a 'benign piece of legislation' and a necessary step towards liberalising the norms of citizenship for 'migrants' who came to India from Pakistan,

¹ Apoorva Mandhani, 'India Is A Secular State With No State Religion, Citizens' Freedoms Are Well-Protected: AG Mukul Rohatgi Tells UNHRC' *Live Law* (India: 5 May 2017) <<https://www.livelaw.in/india-secular-state-no-state-religion-citizens-freedoms-well-protected-ag-mukul-rohatgi-tells-unhrc/>> accessed 1 May 2024.

² Trinanjan Radhakrishnan and Yashasvi Nain, 'Fact Check: Mukul Rohatgi's Speech on India's Human-Rights Record Before the UN Human Rights Council' *The Caravan* (India: 24 May 2017) <<https://caravanmagazine.in/vantage/mukul-rohatgis-upr-unhrc-fact-check>> accessed 1 May 2024; 'India 'One of the Worst Autocratisers': V-Dem Report on Democracy' *The Hindu* (India: 11 March 2024) <<https://www.thehindu.com/news/national/india-one-of-the-worst-autocratisers-v-dem-report-on-democracy/article67939573.ece>> accessed 1 May 2024.

³ Khalid Rahman, 'Indian Secularism and Religious Minorities: The Case of Muslims' (2017) 14 (2) *Policy Perspectives* 35.

⁴ Niraja Gopal Jayal, 'Reinventing the Republic: Faith and Citizenship in India' (2022) 10 (1) *Studies in Indian Politics* 3; Soutik Biswas, 'Invisible In Our Own country': Being Muslim In Modi's India' *BBC* (United Kingdom: 29 April 2024) <<https://www.bbc.com/news/world-asia-india-68498675>> accessed 2 May 2024; Audrey Truschke, 'How India's Hindu Nationalists Are Weaponizing History Against Muslims' *Time Magazine* (United States: 6 October 2023) <<https://time.com/6320003/india-weaponizing-history-against-muslims/>> accessed 2 May 2024.



Afghanistan and Bangladesh before 2015.⁵ Just before the 2024 parliamentary elections, the Union Ministry of Home Affairs notified the Citizenship (Amendment) Rules (hereafter CAA Rules, 2024) to enforce the legislation.⁶ According to the scheme, the listed beneficiaries would include people belonging to the Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities ‘who were compelled to seek shelter in India due to religious persecution or fear of religious persecution’.⁷ The official justification for specifying only non-Muslim beneficiaries in the CAA is their perceived religious persecution in the stated countries which have specified Islam as the official state religion.⁸ The law seeks to grant immunity to these migrants even if they are unable to produce proof of their Indian origin.⁹ It means that any proceedings against listed beneficiaries, which would otherwise lead to declaring them illegal migrants, would lapse and they will not be barred from applying for Indian citizenship.¹⁰ They would rather have the privilege of acquiring citizenship on a fast-track basis.¹¹ On the contrary, persecuted Muslims who might have come to India from these countries would continue to be treated as illegal migrants if they do not have valid travel documents or the validity of their documents has expired. Even if they have valid documents, they will have to seek citizenship through a regular protracted naturalisation procedure that requires a waiting period of twelve years.

The exclusion of Muslims from this so-called ‘liberalised’ regime is in stark contrast with the Indian social contract reflected in constitutional values such as secularism, justice, equality, and fraternity.¹² Modeled on the ‘law of return’ as prevalent in Israel,¹³ the CAA has for the first time in independent secular India introduced religious differential for the grant of citizenship.¹⁴ According to critics, it was passed not to help ‘persecuted minorities’ but to

⁵ CAA was preceded by issuing two notifications that, to the same tune, amended the Passport (Entry into India) Rules, 1950 and the Foreigners Order, 1948 in 2015 and 2016 respectively. See ‘Preliminary Counter Affidavit’ on behalf of the Union of India in *IUML v Union of India*, Writ Petition (C) No. 1470 of 2019 (India). See also ‘Statement of Objects and Reasons’ as published with The Citizenship (Amendment) Bill, 2019.

⁶ Citizenship (Amendment) Rules, 2024.

⁷ Preliminary Counter Affidavit (n 5).

⁸ Statement of Objects and Reasons (n 5). Though the stated purpose of CAA is to help the persecuted minorities from the neighbouring Islamic countries, the CAA Rules, 2024 makes the scheme effectively open to all migrants from the listed communities bypassing the requirement of recording the reason for seeking shelter in India and not stipulating any test to prove persecution while seeking citizenship under CAA.

⁹ *ibid.*

¹⁰ *ibid.*

¹¹ *ibid.* The period of naturalisation for the listed beneficiaries is now reduced from 11 years of residency to 5 years.

¹² The Constitution of India 1950, Preamble.

¹³ The Law of Return 1950.

¹⁴ Neha Dabhade, ‘Citizenship Amendment Act, 2019: A Step Towards Undoing the Indian Secular Democracy’ *Heinrich Böll Stiftung* (New Delhi: 23 December 2019) <<https://bit.ly/undoingsecular democracy>> accessed 20 April 2024.



reassure BJP's base 'that Muslims would never have the same rights as Hindus under its rule'.¹⁵ With CAA in the background, the BJP's policy of ensuring Hindu superiority over Muslims became manifest in the run-up to the 2024 parliamentary elections when, in a bid to directly provoke Hindus against Muslims, Prime Minister Narendra Modi amplified anti-Muslim rhetoric in several speeches during his election campaign.¹⁶ Citizenships were granted under CAA as general elections happened in seven phases;¹⁷ concluding with BJP and allies gaining a majority for the third term. Although the BJP could not garner the absolute majority alone,¹⁸ it is highly improbable that the implementation of the law will be taken back in its present form.

Even though CAA gives an impression of being inclusive by extending its benefits beyond Hindus, the mischief lies in the "exclusion of Muslims [...] reinforced by the identification of only Muslim-majority countries in South Asia, despite the presence of other persecuted communities within them, and many such refugees from other nations, such as Sri Lanka and Myanmar".¹⁹ Such selective inclusion has brought India closer to the *jus sanguinis* model of citizenship devised solely on religious and regional considerations;²⁰ marking a departure from the erstwhile non-discriminatory policy of conferring citizenship on secular grounds like registration, naturalisation, descent and birth.

Following the enactment of the CAA, the United Nations High Commissioner for Human Rights called it 'fundamentally discriminatory in nature' and contrary to India's national and

¹⁵ Apoorvanand, 'India's Citizenship Amendment Act Is A Devious Anti-Muslim Dog Whistle' *Al Jazeera* (Qatar: 15 March 2024) <<https://www.aljazeera.com/opinions/2024/3/15/the-devious-anti-muslim-dog-whistle-in-indias-citizenship-amendment-act>> accessed 28 April 2024.

¹⁶ Mujib Mashal, 'Why Did Modi Call India's Muslims 'Infiltrators'? Because He Could' *The New York Times* (United States: 23 April 2024) <<https://www.nytimes.com/2024/04/23/world/asia/india-modi-muslims.html>> accessed 2 May 2024; The Hindu Bureau, 'No Quota for Muslims As Long As I Am Alive, Says PM Modi' *The Hindu* (India: 30 April 2024) <<https://www.thehindu.com/elections/lok-sabha/no-quota-for-muslims-as-long-as-i-am-alive-says-pm-modi/article68125463.ece>> accessed 7 May 2024; Yashraj Sharma, "'Vote Jihad': As Modi Raises Anti-Muslim India Election Pitch, What's Next?" *Al Jazeera* (Qatar: 3 May 2024) <<https://www.aljazeera.com/news/2024/5/3/vote-jihad-as-modi-raises-anti-muslim-india-election-pitch-whats-next>> accessed 7 May 2024.

¹⁷ Neeraj Chauhan, '1st Batch of 300 Granted Citizenship Under CAA' *Hindustan Times* (India: 16 May 2024) <<https://www.hindustantimes.com/india-news/1st-batch-of-300-granted-citizenship-under-caa-101715797238290.html>> accessed 20 May 2024.

¹⁸ Hannah Ellis-Petersen, 'Modi Loses Parliamentary Majority In Indian Election' *The Guardian* (India: 5 June 2024) <<https://www.theguardian.com/world/article/2024/jun/04/india-election-results-narendra-modi-bjp#:~:text=The%20party%20lost%2062%20seats,clear%20majority%20on%20its%20own>> accessed 6 June 2024.

¹⁹ 'Statement from the Massachusetts Institute of Technology (MIT) Students, Faculty, Staff, Alumni, and Affiliates' *The India Forum* (India: 18 December 2019) <<https://bit.ly/caastatements>> accessed 20 April 2024.

²⁰ The subtle indirect *otherisation* of Muslims, however, has been a part of the Indian governmentality since citizenship was first imagined in the country. Abhinav Chandrachud, 'Secularism and the Citizenship Amendment Act' (2020) 4 (2) *Indian Law Review* 3-11; Aarti Dhar, 'CPI(M) writes to PM on Citizenship Act' *The Hindu* (India: 25 May 2012) <<https://www.thehindu.com/news/national/cpi-m-writes-to-pm-on-citizenship-act/article3453237.ece>> accessed 28 April 2024.



international legal commitments.²¹ Scholars have highlighted that the law falls short of guaranteeing the right to nationality on a non-discriminatory basis and tends to arbitrarily deny the right to change nationality to all persecuted communities.²² Even before it was passed, the government's appointed constitutional experts in the Joint Parliamentary Committee cautioned that any such law would violate principles of equality enshrined in the Indian Constitution.²³

The adoption of CAA has further resulted in Indian Muslims feeling alarmed given the conspicuous absence of their identity. The anxiety of Muslims has found its genesis in the clubbing of CAA with another citizenship-related project, namely, the National Register of Citizens (NRC) containing names of Indian citizens. The law was adopted just after the completion of a regional NRC exercise in Assam resulting in the exclusion of over 1.9 million persons out of more than 30 million applicants because of the lack of documents due to poor record-keeping, petty clerical mismatches, illiteracy or the lack of money to file a legal claim.²⁴ Although the majority affected by Assam NRC were non-Muslims CAA was introduced, as it were, to undo this and eliminate the possibility of a similar outcome in future nationwide NRC.

Allegedly, the timing and thought behind the adoption of CAA is meant to provide a 'safety net' that ensures the citizenship of listed beneficiaries and saves them from disenfranchisement even if they fail to feature in the NRC for any valid or invalid reason whatsoever.²⁵ But the same CAA-NRC combination comes heavily on the Muslim migrants and Indian Muslims as similar surety is not available to them. If excluded from the NRC list, citizenship applications of Muslim migrants will be processed by the Foreigners Tribunals, who are likely to face deportation or will be put in detention camps as stateless people.²⁶

²¹ Jeremy Laurence, 'Press Briefing on India' *Office of the United Nations High Commissioner for Human Rights* (Geneva: 13 December 2019) <<https://www.ohchr.org/en/press-briefing-notes/2019/12/press-briefing-india>> accessed 28 April 2024.

²² B. S. Chimni, 'Foreword' in M. Mohsin Alam Bhat (eds), *Securing Citizenship* (India: Jindal Global Law School 2020) 6-7.

²³ Rajendra Agrawal (Chairperson), 'Report of the Joint Committee on The Citizenship (Amendment) Bill, 2016' *Lok Sabha* (India: 4 January 2019), <[https://prsindia.org/files/bills_acts/bills_parliament/2016/Joint%20committee%20report%20on%20citizenship%20\(A\)%20bill.pdf](https://prsindia.org/files/bills_acts/bills_parliament/2016/Joint%20committee%20report%20on%20citizenship%20(A)%20bill.pdf)> accessed 28 April 2024.

²⁴ Express Web Desk, 'NRC Final List: Family Members of Former President Fakhruddin Ali Ahmed Again Left Out' *The Indian Express* (India: 1 September 2019) <<https://indianexpress.com/article/india/nrc-final-list-released-family-members-of-former-president-fakhruddin-ali-ahmed-again-left-out-5956636/>> accessed 1 May 2024; 'Assam NRC: What Next for 1.9 million 'Stateless' Indians?' *BBC* (UK: 31 August 2019) <<https://www.bbc.com/news/world-asia-india-49520593>> accessed 1 May 2024.

²⁵ G. Sampath, 'Are Fears Over the Citizenship (Amendment) Act Misplaced?' *The Hindu* (India: 19 December 2019) <<https://www.thehindu.com/opinion/op-ed/are-fears-over-the-citizenship-amendment-act-misplaced/article30341818.ece>> accessed 1 May 2024.

²⁶ Nazimuddin Siddique, 'Inside Assam's Detention Camps: How the Current Citizenship Crisis Disenfranchises Indians' *Economic and Political Weekly (Engage)* (India: 15 February 2020) <https://www.epw.in/sites/default/files/engage_pdf/2020/02/13/2987-1581584137.pdf> accessed 30 April 2024; Special Correspondent, '89% of People Excluded from Assam NRC Suffering from Mental Torture, Finds Survey'



When CAA was first passed in 2019, Indian Muslims strongly resisted it along with significant support from other religious communities. However, many protests faced brutal crackdowns from the state leading to several incarcerations under draconian legal provisions,²⁷ and unprecedented attacks by state agencies on minority institutions of higher learning.²⁸ Top public representatives openly made insulting remarks against Muslims.²⁹ The Supreme Court of India also altered its earlier position on public demonstrations as legitimate acts of expression and laid down a fresh law declaring that occupation of public pathways for protests is ‘not acceptable’.³⁰ At the time of the publication of this Call, the Supreme Court is seized of the matter with more than two hundred writ petitions against CAA. It has refused to stay the enforcement of CAA after the notification of CAA Rules, 2024 notwithstanding the fate of Muslim migrants who may face coercive actions by the government.³¹

The government’s justification of CAA has consistently been that it is a special act of legislative benevolence and in no way a threat to the citizenship of Indian Muslims.³² However, critics have reservations about the government’s version given the contradictory statements made by public representatives,³³ the biopolitics of the day, and the ideological predisposition

The Hindu (India: 24 August 2019) <<https://www.thehindu.com/news/national/89-of-people-excluded-from-assam-nrc-suffering-from-mental-torture-finds-survey/article29238522.ece>> accessed 30 April 2024.

²⁷ Press Trust of India, ‘Delhi Riots: HC Asks Police to Present Chart Distinguishing Sharjeel Imam’s Case from Asif Tanha, Others’ *The Economic Times* (India: 15 January 2014) <<https://bit.ly/activistarrest>> accessed 1 May 2024.

²⁸ Naresh Singaravelu, ‘Data | How Many People Died During Anti-CAA Protests?’ *The Hindu* (India: 6 January 2020) <<https://www.thehindu.com/data/data-how-many-people-died-during-anti-caa-protests/article30494183.ece>> accessed 1 May 2024; Vijaita Singh, ‘69 killed in 79 days since Parliament passed Citizenship Amendment Act’ *The Hindu* (India: 28 February 2020) <<https://bit.ly/3PPMiQe>> accessed 1 May 2024; ‘Solidarity Statement Against Police Brutality at Jamia Millia Islamia University and Aligarh Muslim University’ *The India Forum* (India: 18 December 2019) <<https://bit.ly/caastatements>> accessed 20 April 2024.

²⁹ The Wire Staff, ‘Delhi Riots Began With Kapil Mishra’s Speech, Yet No Case Against Him’: Minority Commission Report’ *The Wire* (India: 16 July 2020) <<https://bit.ly/kapilmishrahatespeech>> accessed 1 May 2024; ‘Delhi: Hate speech Complaint Against BJP MP Parvesh Verma, Cops Say Probe On’ *The Times of India* (India: 11 October 2022) <<https://timesofindia.indiatimes.com/city/delhi/delhi-hate-speech-complaint-against-bjp-mp-parvesh-verma-cops-say-probe-on/articleshow/94770922.cms>> accessed 1 May 2024; ‘Union Minister Anurag Thakur Raises Controversial Slogan at Delhi Rally’ *The Times of India* (India: 27 January 2020) <<https://timesofindia.indiatimes.com/india/union-minister-anurag-thakur-raises-controversial-slogan-at-delhi-rally/articleshow/73670945.cms>> accessed 1 May 2024; ‘Those Indulging in Arson ‘can be identified by their clothes’: Narendra Modi on Anti-CAA Protest’ *The Economic Times* (India: 15 December 2019) <<https://bit.ly/identityrecog>> accessed 1 May 2024.

³⁰ *Amit Sahni v Commissioner of Police & Ors.*, AIR 2020 SC 4704 (India).

³¹ Utkarsh Anand, ‘Supreme Court Does Not Stay CAA, Takes Up 237 Petitions’ *Hindustan Times* (India: 20 March 2024) <<https://www.hindustantimes.com/india-news/sc-does-not-stay-caa-takes-up-237-petitions-101710872677750.html>> accessed 16 May 2024.

³² Vijaita Singh, ‘CAA Won’t Impact Citizenship of Indian Muslims, Says Centre’ *The Hindu* (India: 12 March 2024) <<https://bit.ly/3UmqX2g>> accessed 1 May 2024.

³³ Rohan Venkataramakrishnan, ‘Who is linking Citizenship Act to NRC? Here are Five Times Amit Shah Did So’ *Scroll* (India: 20 December 2019) <<https://scroll.in/article/947436/who-is-linking-citizenship-act-to-nrc-here-are>>



of the incumbent government. For critics, at the heart of CAA is “the question whether Hindu communal majoritarianism, the concept of Hindutva put into practice, can be allowed to trump the ‘secular character of the Constitution’ that forms part of its basic structure”.³⁴

Some Pertinent Questions:

Considering the above background, scholars, and experts of all relevant strands especially in the areas of constitutional law, minority rights, refugee law, and international human rights law are invited to contribute to this special issue of the Manchester Journal of Transnational Islamic Law and Practice. Although the call is specifically focused on India, we welcome global, comparative, and historical perspectives that relate the broader issues highlighted above with other jurisdictions. Contributors are free to explore all relevant areas and topics in accordance with the framework of this call meeting the objectives of the Manchester Journal of Transnational Islamic Law and Practice. For general reference, the following is an inexhaustive list of questions that contributors may wish to focus on:

1. Can CAA pass the scrutiny of basic values and structure of the Indian Constitution? Is it a secular, benevolent law offering reasonable classification or arbitrary legislation that lacks the necessary determining principle?
2. What are the implications of CAA on Indian secularism and civic universalism?
3. What are the limitations on the government’s exercise of sovereign power within the national or international legal frameworks?
4. Does CAA meet standards set by the established norms of international human rights and refugee law?
5. How will CAA and NRC impact vulnerable groups like women, children, physically handicapped and the elderly, especially those belonging to unlisted communities?
6. How can CAA influence the international relations of India with neighbouring countries?
7. What is the future of Muslims as citizens or refugees in the post-CAA ideological India?
8. What are the administrative and jurisprudential questions related to CAA?
9. What has been and can be the role of judiciary in dealing with cases related to CAA?
10. What are the sociological fallouts of CAA in terms of depriving Muslim minorities of their political agency and sense of dignity?

[five-times-amit-shah-did-so](https://www.five-times-amit-shah-did-so)> accessed 1 May 2024; Rasheed Kappan, ‘Citizenship Act Will Benefit Only 31,313, Not Lakhs’ *Deccan Herald* (India: 30 March 2020) <<https://www.deccanherald.com/india/citizenship-act-will-benefit-only-31313-not-lakhs-785797.html>> accessed 1 May 2024.

³⁴ N. Ram, ‘The Evolving Politics of Citizenship in Republican India’ in Romila Thapar (ed), *On Citizenship* (India: Aleph Publications 2021).



Manchester Journal of Transnational Islamic Law & Practice

Guidelines:

Contributors are requested to comply with the following guidelines:

1. The length of the submitted paper should be **around 8000 words (excluding abstract and footnotes), but not exceeding 10000 in any event**. Manuscripts should be in Microsoft Word format, and they should be double-spaced.
2. An abstract of no more than 250 words should be included with all submissions.
3. Contributions must be original and not previously published elsewhere.
4. Submissions must comply with the standards and rules of MJTILP, including research ethics, style, and citation.
5. The MJTILP follows the OSCOLA referencing style mainly, as adopted with slight modifications. Please see the **Author Guidelines** for further information on formatting and referencing style.
6. Contributions must be written in a scholarly style and academic English.
7. Proofreading may be required by the Journal's editors if a paper is otherwise acceptable.

Submission of Manuscripts and Peer Review:

All contributions corresponding to this **Special Call** should be submitted to the **Guest Editor**, Dr Mohammad Umar, Founder Advisor, Centre for Peace Justice and International Law via email: mdumar1724@gmail.com

The final review of all contributions will be conducted by the **Editor-in-Chief Dr Ahmad Ghouri**, who can be contacted for general enquiries via email: a.a.ghouri@outlook.com

Deadline for Submissions:

This Special Issue will be published in December 2024. Prospective contributors should submit their **article title, abstract and a brief outline** of their article to Dr Mohammad Umar by **15 July 2024**. The deadline for submission of **final papers** for the special issue is the **end of October 2024**. The issue will be published in December 2024.

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About the Journal

The MJTILP is independent of any state, school of fiqh, or institutional affiliation and has a diverse and global editorial board. It is indexed on Scopus and published four times a year.



Aims of the Journal

The principal objectives of the Manchester Journal of Transnational Islamic Law & Practice (MJTILP) are to provide a vehicle for the consideration of transnational forms of Islamic law and practice. Transnationalism in Islamic law is taken broadly as communications and interactions linking Islamic thoughts, ideas, people, practices and institutions across nation-States and around the globe. In recent times, research in Islamic law has shaped narratives based on nation-States, demographics, diasporic communities, and ethnic origins instead of developing around a central core. Contemporary issues of Islamic law are increasingly linked to geographical locations and ethnic or parochial forms of religious beliefs and practices. Expressions like American, European, British, Asian and Arab Islam have widely gained acceptance.

Despite the growing importance of dialogue to develop shared understandings of issues facing Islamic law and proposing coordinated solutions, contemporary research and scholarship have not developed harmoniously and remain piecemeal and sporadic. Researchers and practitioners of Islamic law are drawn from a wide variety of subjects and come from various regions of the world but have insufficient institutional support for sharing information and comparing experiences. Innovation in various strands and paradigms of Islamic law and practice is stifled because there are limited spaces where evolutionary, collaborative and interdisciplinary discourses can take place. This, in turn, hampers the ability to build on past research and record best practices, negatively impacting a consistent and orderly development of the field. There is a need to constitute a world community of Islamic law scholars based on interactions and aspirations moving across linguistic, ethnic, geographical and political borders.

The MJTILP is inspired by the need to fill these gaps. It provides a platform for legal and interdisciplinary scholars and researchers for critical and constructive commentaries, engagements and interactions on Islamic law and practice that are built upon configurations in contemporary contexts. It welcomes contributions that look comparatively at Islamic law and practice that apprise and inspire knowledge across national boundaries, whether enforced by a State or voluntarily practised by worldwide Muslim communities. We are equally interested in scholarships on encapsulated cultural worlds, diaspora, identity and citizenship that are embedded and circumscribed by religious ties. As it has been the practice of the Journal since its establishment in 2005, it also has a specific interest in issues relating to the practice of Muslim States in international law, international law issues that may concern Muslim countries, and all aspects of law and practice affecting Muslims globally.

