

A MORAL LAW

Relevant for: Indian Polity | Topic: Indian Constitution - Features & Significant Provisions related to The Preamble, Union & its Territories and The Citizenship

The passage of Citizenship Amendment Act, 2019 (CAA) is not only historic but also upholds the democratic and moral values of Indian republic. It is not just the expression of the majority but an article of faith to protect the minorities. It is not a law which grants citizenship based on religion but one that grants citizenship based on religious persecution. Religious persecution per se is against the minority by a majority in a non-secular state.

It is a fact that religion was a prominent factor in the partition of India and the Constituent Assembly even debated the demand for naturalised citizenship for communities that were forced into becoming minorities in countries in our neighbourhood. However, amidst the influx of refugees, it became impossible for rules and procedures to be drafted in this regard. But the Constitution left the window open to make laws for these minorities, who feared religious persecution, in Articles 6,7,10 and 11.

India has always stood for what is moral and just. It would have been unjust, immoral and unethical for the liberal and secular Indian democracy to look the other way when lakhs of people living in India, having fled from Pakistan after Independence, continue to remain without an identity or voice despite their residence and ancestral linkages here. Not only has the Indian state given such people citizenship in the past on a case-by-case basis, but leaders across the political spectrum from [Jawaharlal Nehru](#) to Jayaprakash Narayan and even [Manmohan Singh](#) have also expressed the need to grant them citizenship.

India has given the right to a dignified life to its minorities and believes in the principle of Vasudhaiva Kutumbakam. When secularism is under threat in the neighborhood, must a secular state not perform its Gandhian duty? Selective secularism goes against constitutional morality. Many have asked why the Bill did not include Muslims. The purpose of the Act is to address religious persecution, not economic migration. Human rights reports by the UN and countless media reports have the persecution of Jain, Sikhs, Christians and Hindus in these countries. How can a follower of Islam face persecution in a country where the state religion is Islam? Even if such exceptional cases arise, the doors for naturalised citizenship remain open.

Given that the CAA does not impinge on a single constitutional right of an Indian citizen, the protests against it on the pretext that it is anti-Muslim are dishonest and against the secular fabric of this great nation. The truth is that the Constitution provides enough protection to minorities in case of discrimination. Morality teaches us to favour positive discrimination for minorities to bring them on a level-playing field. The CAA is based on the principle of positive discrimination for the minorities suffering from human rights' abuses in our neighbourhood. How can steps to protect minorities in India be termed secular, but steps to protect similar minorities in the neighbourhood be called communal? A global power cannot be silent when minorities are facing existential threats across its border.

Conscious fear-mongering over the CAA is not only against India's national interest but it also hurts the cause of informed dissent on the law. Informed dissent is legitimate, but violence has no place in a society governed by the rule of law. Those who think the law is unconstitutional should approach the Supreme Court and those who think that the anti-CAA protests reflect the mood of the people should make it a part of their political narrative. Anti-CAA protests must eschew radical, violent and communal thoughts and protesters must not vandalise public property. Police excesses should be investigated by the judiciary and, if found guilty, the

perpetrators should be punished. However, the principle of “innocent until proven guilty” must be applied equally, across the board. Neither law enforcement agencies nor protesters have the license to break the law. Students have right to dissent but they should be cautious of becoming tools for groups with vested interests.

Parliament is the most legitimate institution reflecting the will of the people. The CAA was passed with an absolute majority. What will a majority government do if not bring policies which were part of its manifesto? The parties supporting the anti-CAA protests need to test their belief against the popular will. The AAP government in Delhi should campaign on its anti-CAA stand, as should the RJD in Bihar and Congress in UP.

A misinformation campaign is being undertaken to make Indian Muslims fearful of the new Act. Why should the second-largest Muslim population in the world be threatened by an attempt to grant citizenship to a few lakh persecuted minorities in a fraternal democracy? No one is deporting Indian citizens; no one can deport an Indian citizen. Every right-minded citizen should spread facts, not fiction, about the CAA.

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