

To be a refugee in India: Analysing the impact of the Indian Citizenship Amendment Act on Ahmadi and Hazaras refugees

Ryan Mitra explores how the Indian Citizenship Amendment Act promulgates ethnic violence and damaging narratives against Ahmadi and Hazaras refugees.

The Indian subcontinent has historically been a melting pot of different cultures and religions interacting, and often conflicting, with one another. The presence of many disparate communal backgrounds and traditions requires political structures in the region to be either widely inclusive or severely restrictive towards this diversity. Taking the examples of India and Myanmar, the former's constitution was established on the principles of secularism and plurality and embraced heterogeneity amongst its citizens. In contrast, Myanmar's constitutions have been repeatedly altered by totalitarian and oppressive regimes which have severely compromised personal liberties and rights (Ibrahim 2015). In such a complex tapestry of social and political backgrounds, religious and cultural identities play a critical role in the lives of all who reside in the region.

In order to thoroughly analyse the impact of the Citizenship Amendment Act (CAA) on refugee communities trying to flee to India, we examine the social and political history of two such communities which have now been impacted most severely by CAA. India, since

its independence, has been a refugee-accepting state. Being surrounded by the Muslim-majority states (and in the former two cases, Islamic republics) of Pakistan, Afghanistan and Bangladesh, the subcontinental country has long been distinguished by its religious tolerance and secularity, making it an ideal destination for communities fleeing persecution and discrimination (Manuvie 2019). This situation was drastically altered following the passing of the CAA, which allowed citizenship for Hindu, Sikh, Christian, Buddhist and Parsi refugees from Pakistan, Afghanistan and Bangladesh (Ghoshal 2019). The exemption of Muslims from this act legally amounts to religious discrimination and the basis for the exemption runs in direct contradiction to the fundamental rights espoused in the constitution of India (Mitra 2019). The zero-sum attitude towards Muslim and non-Muslim refugees reflects the inconsiderate position of lawmakers in New Delhi towards the often divisive sectarianism in the aforementioned Islamic countries.



The history of the Hazaras and the Ahmadis:

The Hazaras are a Shia-Muslim community, originating in central Afghanistan. They have been subject to continuous waves of persecution, attacks, and systematic oppression since the genocidal campaigns of Abdur Rahman in the 1800s (Chiovenda 2014, 452). Endless attacks from other kings, the Mujahedin and the Taliban have plagued the Hazaras up to the present day (Chiovenda, 452). In Pakistan, they also continue to endure persecution along sectarian lines (Chiovenda, 453). The incumbent Sunni government in Afghanistan restricts their access to state-controlled resources, such as water and electricity, to further manifest this long history of persecution (Chiovenda, 455). For instance, asymmetrical modernisation efforts between the Hazara-majority Bamyan region and the rest of urban Afghanistan provide only the latter with electricity, while the former's existing network of electricity poles remains unutilised by the government. This renders the Hazara community unable to operate heavy machinery or electronic devices (Chiovenda, 456). Although the social position of the community has incrementally improved over the last decade (Alizada, 2019), they are still subject to discrimination based on their appearance, culture, and religion. These ceaseless attacks on the lives and liberty of these people have forced them to flee their ancestral land and take refuge in the neighbouring countries of Pakistan and India.

The Ahmadis are a Shia-Muslim group that originated in British-India in the Nineteenth Century, today residing largely in Pakistan. They have been subject to severe persecution and systematic oppression since the Partition of India. The Ahmadis are persecuted on grounds of violating fundamental Sunni dogma and are constitutionally forbidden from calling themselves Muslim in Pakistan. A 1974 constitutional amendment (Sayeed 2019) and a 1984 ruling by General Zia ul Haq (Ochab 2018) legally classify Ahmadis as non-Muslims. Moreover, they are legally liable to prosecution for blasphemy if they identify otherwise. They have also been subject to state-sponsored discrimination whereby they have been denied voting rights, and further targeted by extremist groups such as the Taliban and the LeJ (US Commission on International Religious Freedom 2018, 66).

The treatment of Hazaras and Ahmadis:

The 2019 Annual Report of the United States Commission of International Religious Freedom has again classified Pakistan as a 'Tier 1 Country of Particular Concern' (US Commission on International Religious Freedom 2019, 76). The arbitrary implementation of blasphemy laws poses a genuine threat to the freedoms of religion and speech of Shia-Muslim minorities, such as Hazaras and Ahmadis, as it has to non-Muslim minorities, like Christians. Furthermore, the continued non-recognition of Ahmadis as Muslims has repressed their religious identity and legitimised sectarian discrimination against Shias. In May 2018, a group of 600 people destroyed a 100-year old Ahmadiyya mosque in the Sialkot (Sadiq 2018) and in August, a similar mob attacked another mosque in Faisalabad (Hussain 2018). In both cases, the government failed to hold to account and prosecute the perpetrators (US Commission on International Religious Freedom 2019, 76).

The Hazaras continue to face the same decades-long barrage of violence and persecution, now from the Islamic State, LeJ, and the Taliban. Pakistan's growing population of internally displaced Hazaras has even been colloquially termed 'the walking dead', referring to widespread assaults on them throughout Baluchistan (Iltaj 2019). In May 2018, the Chief Justice of Pakistan condemned the attacks on the Hazaras in Quetta by stating that, 'In my opinion, this [Hazara killing] is equivalent to wiping out an entire generation. We have to protect the lives and property of the Hazaras community.' (Shah 2018). In 2013, three separate bombings targeting the Hazara killed over 200 people and as recently as 2019, a suicide bombing killed nineteen individuals, a majority of which were Hazaras (Yousfzai, 2019). While Prime Minister Imran Khan had vowed to implement the National Action Plan in April 2019 (Shah, 2019), there have yet to be any constructive measures implemented.

The remaking of Hazara and Ahmadi lives in India:

The Taliban's campaign in 1997 to exterminate the Hazaras from Afghanistan forced almost 8,000 refugees to flee their home country, 500 to 700 of whom have since settled in New Delhi (Sharanya 2017). These refugees are now well-established, having built lives in the country's capital and contributing to the societies and economies of their home countries. The Khirkee extension in New Delhi, providing housing for most of the city's refugees, epitomises this reality. These refugees arrived in the country in the 1990s and have since established themselves, many now operating small businesses. (Sharanya 2017). This extension symbolises the complex tapestry of the Indian subcontinent and the principle of plurality, where refugees from different backgrounds, sects and countries share the same food and co-exist, despite their cultural and religious differences.

The Ahmadis in Indian society suffer a similar fate as they did in Pakistan, where other Muslim groups often fail to recognise them as Muslims. This has led to sporadic incidents of violence and even cases of discrimination from Muslim state boards in different parts of the country (Immigration and Refugee Board of Canada 2015). For example, in February 2012, the Andhra Pradesh Wakf Board issued a decision to take over all Ahmadi mosques and graveyards, as those sites could not be administered by non-Muslims (Shah, 2012). In August 2015, a local Muslim mob attacked an Ahmadi family in West Bengal, injuring ten Ahmadis (Immigration and Refugee Board of Canada, 2015). However, India's characteristically secular governance allowed for these refugees to move court and fight for their religious freedom. Indian courts have repeatedly recognised the Ahmadis as Muslims (Kerala High Court AIR 1971, KER 206, 1970) and the government has previously viewed the group's rejection of jihad and adoption of non-violence 'positively' (Ramchandran, 2012). Ahmadi refugees came to India to exercise their right to follow their religion, like any common citizen in a secular country without State discrimination, and they have done so for decades.

The Citizenship Amendment Act (CAA):

The CAA was enacted with the intent and purpose of granting citizenship to incoming refugees from Pakistan, Afghanistan and Bangladesh, provided they had entered India before 31st December, 2014 and belong to religious minority groups, excepting Muslims (IANS, 2019).

According to Indian citizenship law, the four paths to citizenship are by birth, by descent, through Indian national registration, and by naturalisation (Jain, 2019), the fourth of which is the only path open to legal immigrants. India's principal piece of immigration legislation is the 1955 Citizenship Act, which defines an illegal immigrant as 'a person who has entered Indian borders without proper documentation or has stayed beyond the permitted time period'. Moreover, in 2015, the Modi government amended the Passport and Foreigners Act to permit non-Muslim immigrants to stay in India even if they did not possess proper documentation, thereby not classifying them as 'illegal immigrants' and making them eligible for citizenship by naturalisation. Additionally, the CAA allows non-Muslim immigrants to become citizens by naturalisation within five years, instead of the previously established eleven years (Tripathi, 2019). Yet, there is no provision for Muslims.

Regarding the exclusion of Muslim refugees from this act, the government's reasoning was that they could not be considered religious minorities as they hailed from Islamic countries. Thus, the Ahmadi situation presents a dilemma whereby they are persecuted in an Islamic country by being denied legal recognition as Muslims but are then denied refuge and legal protection in India, where their legal recognition as Muslims disqualifies them from refugee status. Minority Affairs Minister, Mukhtar Abbas Naqvi, has gone on record to state that Ahmadis may still apply for citizenship in the regular manner, devoid of the impact of the CAA (Katiyar, 2020). Amit Shah, the Union Home Minister, has on multiple occasions defended the bill on the grounds of protecting persecuted minorities in the neighbouring Islamic countries. However, the bill's text fails to define the word 'persecution' and neglects to specify the grounds for any individual's classification as a 'refugee' (Mitra, 2019). Shah has failed to give any constructive backing to this claim, and consequently the CAA classifies all Muslim immigrants from Bangladesh, Pakistan and Afghanistan not as foreigners, but as illegal immigrants.

It is important to note that these refugees will most likely be placed in detention camps and refouled if they are not considered eligible for citizenship under the CAA (Press Trust of India, 2020). Moreover, India will be in violation of its international obligations if it forcibly refouls refugees to their origin country, where they will once again be at severe risk of targeting and persecuted. Originally, the 'principle of non-refoulment' was embodied in the 1951 Refugee Convention, to which India is not a signatory. However, today the principle is elevated to the status of customary international law, to which India is bound in compliance like every other UN member state (UN High of Commissioner ,1994).

The status quo for Ahmadis and Hazaras in their origin countries has changed little in decades, and the systematic discrimination and targeted attacks to which they are subject continue to existentially threaten them. If India refouls the Hazaras and the Ahmadis to Pakistan and/or Afghanistan, not only will it be eschewing its international obligations, but it will also unjustly condemn innocents who have sought a peaceful and meaningful life to a hellish existence. Within the country, it is important to dispel the stigma around the word 'refugee', who are typically portrayed in media as anarchic groups of destitute people arriving en masse on the nation's borders. While this is true in some parts, the act is largely going to hurt people and communities settled in the country for decades past, with established lives and livelihoods which contribute to country's economy like any other citizen.

Conclusion:

These communities once again face an existential threat as the CAA has continued to create a narrative whereby Muslim refugees are seen as infiltrators (Changiowla, 2020). The Modi administration has remained deafeningly silent on correcting this narrative or condemning the violence that has ensued because of it (Trivedi, 2020). The blanket consideration of all Muslim refugees under one religious grouping is a dangerous oversight of sectarian realities within the neighbouring Islamic countries. The CAA has potentially pushed thousands of people back into a vicious cycle of discrimination, persecution and uncertainty, all because of their religious beliefs and identity. Granting citizenship to refugees who have resided in the country long enough to be naturalised is a noble idea but being selective about this idea's implementation tarnishes its nobility and makes it discriminatory. This discriminatory act has hampered India's image as a refugee-accepting state and has critically damaged one of India's fundamental and founding principles: secularism

This article has been edited by Niharika Pandya (Central & South Asia Editor) & Abigail Adams (Chief Regional Editor), peer reviewed by Mingqi Liu and Samantha Kichmann (Chief Peer Reviewer), copy edited by Alexander Galpin, Grace-Frances Doyle, Evie Patel and Ben Malcomson (Chief Copy Editor), checked and approved by the following executives: Robert Jacek Włodarski (Editor-in-Chief) and Emily Hall (Deputy Editor-in-Chief), and produced by Astoria Linh DeTuncq (Digital Production Specialist).

Bibliography:

- Alizada, Bismillah.** 2019. "What peace means for Afghanistan's Hazara people," *Aljazeera*, 18 September 2019.
- Changiowla, Puja.** 2020. "India's Muslims Are Terrified of Being Deported," *Foreign Policy*, 21 February 2020.
- Chiovenda, Melissa.** 2014. "The illumination of marginality: how ethnic Hazaras in Bamyan Afghanistan, perceive the lack of electricity as discrimination," *Central Asian Survey*, Vol.33 (No.4): 452.
- Deepak, Sharanya.** 2017. "Refugees in Delhi Serve Up Memories on a Plate," *Refugees Deeply*, 13 January 2017.
- Ghoshal, Devjyot.** 2019. "India's parliament passes citizenship law, protests flare," *Reuters*, 11 December 2019.
- Hussain, Kashif.** 2018. "Ahmadi place of worship damaged, set on fire following spat between two youth groups in Faisalabad," *Dawn*, 24 August 2018.
- IANS.** 2019. "Citizenship Amendment Act 2019: All you need to know," *Livemint*, 15 December 2019.
- Ibrahim, A.** 2015. *The Rohingyas: Inside Myanmar's Hidden Genocide*, New Delhi, Speaking Tiger Publications.
- Iltaj, Maisam.** 2019. "Hazaras Gripped by Religious Extremism in Balochistan," *The Diplomat*, 16 April 2019.
- Immigration and Refugee Board of Canada,** "India: Treatment of Ahmadis," *Refworld*, 30 September 2015.
- Jain, Shruti.** 2019. "Explained: The Nuts and Bolts of Indian Citizenship," *The Wire*, 19 December 2019.
- Kerala High Court,** "Shihabuddin Imbichi Koya Thangal vs K.P. Ahammed Koya," AIR 1971 KER 206, 8 December 1970.
- Manuvie, Ritumbra,** 2019. "Why India is home to millions of refugees but doesn't have a policy for them," *ThePrint*, 27 December 2019.
- Mitra, Ryan.** 2019, "Diluting the secular state: India's Citizenship Amendment Act," In the Long Run: University of Cambridge, 22 December 2019.
- Ochab, Ewelina.** 2018. "Life Could Not be More Difficult For Pakistan's Ahmadis," *Forbes*, 17 July 2018.
- Press Trust of India.** 2020. "There must be huge movement if Muslims being sent to detention camps: P Chidambaram," *India Today*, 13 February 2020.
- Ramchandran, Sudha.** 2012 "Kashmir Mufti Takes Aim at Ahmadiyyas," *Asia Times*, 15 May 2012.
- Sadiq, Imran.** 2018. "Historic building demolished, Ahmadiyya place of worship vandalized in Sialkot," *Dawn*, 24 May 2018.
- Sayed, Saad.** 2019. "Pakistan's Ahmadi community faces growing discrimination, report says," *Reuters*, 6 May 2019.
- Shah, Syed Ali,** 2018. "Hazaras killing tantamount to wiping out an entire generation, says chief justice," *Dawn*, 11 May 2018.
- Shah, Syed Ali,** 2019. "'Crucial to fully implement National Action Plan,' PM says in meeting with Hazaras affectees of Quetta blast," *Dawn*, 21 April 2019.
- Shah, Zia.** 2012. "Andhra Pradesh, India: Muslim controlled Wakf Board issue boycott orders for Ahmadis," *The Muslim Times*, 20 February 2012.
- Tripathi, Rahul.** 2019. "Citizenship Amendment Act 2019: What it holds for India," *Economic Times*, 23 December 2019.
- Trivedi, Saurabh.** 2020. "Violence continues in Delhi for third day, toll climbs to 17," *The Hindu*, 26 February 2020.
- UN High Commissioner for Refugees,** "The Principle of Non-Refoulement as a Norm of Customary International Law," *Refworld*, 31 January 1994.

US Commission on International Religious Freedom, “Annual Report of the US Commission on International Religious Freedom,” 2018, p.66.

US Commission on International Religious Freedom, “Annual Report of the US Commission on International Religious Freedom,” 2019, p.76.

US Commission on International Religious Freedom, “Annual Report of the US Commission on International Religious Freedom,” 2019, p.76.

Yousfzai, Gul, 2019. “Minority Hazaras in Pakistan protest for third day after Quetta attack,” *Reuters*, 14 April 2019.