

International Journal of Criminal, Common and Statutory Law



E-ISSN: 2789-9500

P-ISSN: 2789-9497

Impact Factor (RJIF): 5.46

IJCCSL 2025; 5(2): 137-143

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www.criminallawjournal.org

Received: 05-07-2025

Accepted: 10-08-2025

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Contemporary legal challenges with Indian government to implement NRC and CAA: A constitutional analysis and remedies for peaceful implementation

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DOI: <https://www.doi.org/10.22271/27899497.2025.v5.i2b.157>

Abstract

The twin measures of the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA), 2019, represent a decisive attempt by the Indian State to reconcile questions of sovereignty, national security, and humanitarian obligations within a constitutional framework. While these initiatives have sparked intense legal and political debates, their essence lies in ensuring an orderly and just determination of citizenship, thereby safeguarding both the integrity of the nation and the dignity of genuine residents. The NRC seeks to provide a transparent mechanism to identify lawful citizens, preventing demographic distortions, while the CAA embodies a limited legislative classification aimed at providing refuge to historically persecuted minorities in neighboring nations. Both measures, when interpreted through the lens of *salus populi est suprema lex* (the welfare of the people is the supreme law) and Article 14's doctrine of reasonable classification, can withstand constitutional scrutiny if accompanied by robust procedural safeguards, fair hearings, and non-discriminatory implementation. This paper argues that through judicial oversight, federal cooperation, and administrative transparency, NRC and CAA can be operationalized without disturbance, balancing national interest with constitutional morality. The way forward lies not in rejection, but in calibrated application ensuring harmony between security, justice, and humanity.

Keywords: NRC, CAA, constitution, citizenship, secularism

1. Introduction

The question of citizenship has remained one of the most contested issues in post-independence India, finding renewed urgency in the discourse surrounding the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA), 2019. Citizenship is not merely a matter of administrative identification, but a legal status that embodies the relationship between the individual and the sovereign, conferring rights, duties, and constitutional protections. The Indian State, in its attempt to regulate the influx of migrants and simultaneously extend humanitarian protection to persecuted groups, has invoked its plenary power under Articles 10 and 11 of the Constitution to legislate upon matters of citizenship.^[1] The NRC traces its origin to the Assam Accord of 1985, which sought to address the protracted issue of illegal migration from Bangladesh into Assam.^[2] The Supreme Court, in *Assam Public Works v. Union of India*,^[3] directed the preparation of the NRC for Assam as a constitutional necessity flowing from the right to protect indigenous identity under Article 29. This judicial intervention transformed the NRC from a political aspiration into a legally enforceable mechanism. The NRC, in its essence, is designed to establish a definitive record of genuine citizens, thereby preventing demographic and cultural distortions in border states. Parallely, the enactment of the CAA, 2019 amended Section 2 of the Citizenship Act, 1955 to provide a pathway to Indian citizenship for members of six religious minorities Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians fleeing religious persecution in Afghanistan, Pakistan, and Bangladesh.^[4] While the legislation has been critiqued for alleged exclusionary overtones vis-à-vis Muslims, the Government has justified it as a narrowly tailored humanitarian measure, consonant with India's civilizational ethos of providing refuge to the oppressed.^[5]

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¹ INDIA CONST. arts. 10–11.

² Memorandum of Settlement, Assam Accord, Aug. 15, 1985.

³ *Assam Public Works v. Union of India*, (2015) 9 SCC 516.

⁴ Citizenship (Amendment) Act, No. 47 of 2019, INDIA CODE (2019).

⁵ Statement of Objects and Reasons, Citizenship (Amendment) Bill, 2019.

It is argued that the CAA does not take away the rights of any community, but merely creates an affirmative classification based on the principle of reasonable nexus with the object of protecting persecuted minorities.^[6] The significance of NRC and CAA in contemporary India cannot be overstated. On one hand, unchecked illegal migration threatens sovereignty, national security, and the welfare obligations of the State toward its citizens. On the other, India must remain faithful to its constitutional morality rooted in secularism, equality, and human dignity. The challenge, therefore, is not in the legitimacy of the objectives per se, but in devising a mechanism that avoids arbitrariness, ensures transparency, and secures confidence among diverse communities. Accordingly, the research problem of this article is to explore how NRC and CAA may be harmoniously implemented without triggering social unrest, while staying within the constitutional parameters of equality (Article 14), liberty (Article 21), and secularism (Preamble and Basic Structure). This study employs a doctrinal and analytical methodology, relying on constitutional provisions, judicial precedents, legislative history, and comparative jurisprudence. The analysis is directed towards reconciling the twin imperatives of national security and humanitarian concern through constitutionally permissible remedies. The inquiry will further assess whether a calibrated application of NRC and CAA, under judicial supervision and federal cooperation, can transform a politically divisive measure into a legally sustainable and socially acceptable instrument of governance.

Constitutional and Legal Challenges: The implementation of the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA), 2019, has inevitably invited constitutional scrutiny. Critics argue that these measures impinge upon fundamental rights, while the Government asserts that they are consistent with constitutional values and necessary to fulfill the State's obligation to secure national welfare. A balanced evaluation demonstrates that, when properly interpreted and administered, NRC and CAA are not antithetical to the Constitution but integral to India's evolution as a welfare state that harmonizes sovereignty, security, and humanitarian obligations.

A. Article 14 (Equality Before Law): The central objection to CAA has been its alleged violation of Article 14, which guarantees equality before law and equal protection of laws.^[7] However, the doctrine of reasonable classification, as crystallized in *State of West Bengal v. Anwar Ali Sarkar*,^[8] allows the legislature to create classes if (i) the classification is founded on an intelligible differentia, and (ii) the differentia bears a rational nexus to the legislative objective. Here, the CAA's classification rests on two factors: (a) migrants belonging to specified minorities from Afghanistan, Pakistan, and Bangladesh, and (b) their persecution on religious grounds. This classification is not arbitrary but tailored to address historical and continuing persecution in theocratic states where specified minorities face systemic discrimination. The Act, therefore, satisfies the constitutional test of equality by adopting a rational nexus between classification and objective, i.e., extending humanitarian protection.

B. Article 21 (Right to Life and Dignity): Concerns have also been raised about the NRC potentially rendering individuals stateless and subjecting them to detention. Article 21 enshrines the right to life and dignity, which extends to citizens and non-citizens alike.^[9] However, far from violating Article 21, a transparent NRC strengthens it by providing individuals an opportunity to establish lawful citizenship through due process. The Supreme Court in *Maneka Gandhi v. Union of India*^[10] emphasized that procedure established by law must be just, fair, and reasonable. An NRC conducted with safeguards legal aid, judicial review, and appellate remedies ensures that individuals are not arbitrarily deprived of liberty. Further, detention centers, if any, must adhere to humane conditions consistent with *Sunil Batra v. Delhi Administration*,^[11] thereby upholding dignity even where disputes about status exist.

C. Articles 25–28 (Freedom of Religion): Opponents contend that the CAA discriminates on the ground of religion, infringing Articles 25–28. Yet, it must be emphasized that the Act does not curtail the religious freedom of any Indian citizen, Muslim or otherwise. Instead, it selectively extends protection to those who face religious persecution in specific neighboring states.^[12] India, as a sovereign state, retains discretion in its naturalization policy, and extending a protective umbrella to certain persecuted minorities cannot be equated with curtailing freedom of religion within India. In *S.R. Bommai v. Union of India*,^[13] the Supreme Court held secularism to be part of the basic structure, but secularism in the Indian context embodies *sarva dharma sambhava* (equal respect for all religions), not indifference to historical injustices. Providing refuge to vulnerable minorities, while not curtailing rights of others, is thus consistent with constitutional secularism.

D. Basic Structure Doctrine (Secularism, Rule of Law, and Judicial Review): The doctrine of basic structure, propounded in *Kesavananda Bharati v. State of Kerala*,^[14] preserves essential constitutional features such as secularism, rule of law, and judicial review. The NRC and CAA, when examined in this context, do not dismantle these principles. The rule of law is preserved by creating a lawful mechanism to determine citizenship; secularism is not undermined as no Indian citizen is excluded based on religion; and judicial review is actively engaged, with the Supreme Court seized of multiple petitions challenging the CAA.^[15] Indeed, the very pendency of judicial scrutiny demonstrates that the system of checks and balances remains vibrant, thereby aligning with the basic structure doctrine.

E. Federalism Concerns: Some states have expressed reluctance to implement the CAA, invoking principles of cooperative federalism. While citizenship is an entry in the Union List,^[16] and hence exclusively within Parliament's legislative competence, the effective implementation of NRC

⁹ *National Human Rights Comm'n v. State of Arunachal Pradesh*, (1996) 1 SCC 742.

¹⁰ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

¹¹ *Sunil Batra v. Delhi Administration*, (1978) 4 SCC 494.

¹² *Citizenship (Amendment) Act*, No. 47 of 2019, INDIA CODE (2019).

¹³ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.

¹⁴ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

¹⁵ Multiple petitions challenging the constitutionality of the *Citizenship (Amendment) Act*, 2019 are pending before the Supreme Court.

¹⁶ INDIA CONST. art. 246, sched. VII, list I, entry 17.

⁶ *State of West Bengal v. Anwar Ali Sarkar*, AIR 1952 SC 75.

⁷ INDIA CONST. art. 14.

⁸ *State of West Bengal v. Anwar Ali Sarkar*, AIR 1952 SC 75.

and CAA necessitates administrative cooperation from the states. Federalism in India is not merely a legal arrangement but a moral compact to pursue the collective good. As held in *S.R. Bommai*, federalism forms part of the basic structure, yet it also requires states to respect Union authority in matters falling squarely within its legislative field.^[17] The path forward lies not in confrontation but in dialogue, where Union and states collaborate to ensure that implementation is fair, transparent, and minimally disruptive.

F. International Law Obligations: India is not a signatory to the 1951 Refugee Convention or the 1967 Protocol, but customary international law and moral obligations cannot be ignored. The principle of non-refoulement the obligation not to return refugees to a place where they face persecution has been recognized as part of international human rights jurisprudence.^[18] The CAA furthers this principle by regularizing the status of persecuted minorities, ensuring they are not deported to hostile environments. At the same time, India must balance this with legitimate national security concerns by verifying identities through the NRC. This dual approach situates India within the global framework of a responsible sovereign committed to both security and humanitarianism.

“The constitutional challenges raised against NRC and CAA, though substantial in discourse, are not insurmountable. A closer reading of constitutional provisions, judicial precedents, and international obligations reveals that both measures are consistent with India’s constitutional morality when applied with procedural safeguards and federal cooperation. Rather than viewing them as instruments of exclusion, they must be appreciated as tools to secure the sovereignty of the nation while extending refuge to the persecuted. In this sense, NRC and CAA are not threats to India’s constitutional identity, but necessary mechanisms for moving towards the goal of a welfare state ensuring protection, dignity, and justice for citizens and vulnerable migrants alike.”

Judicial Perspectives: The adjudicative response to the twin measures of the National Register of Citizens (NRC) and the Citizenship Amendment Act, 2019 (CAA) has been a defining feature of India’s constitutional conversation. Judicial review has served not as an obstruction to policy, but as an indispensable corrective that calibrates executive and legislative action to constitutional norms. The Supreme Court’s engagement with both the NRC project in Assam and petitions challenging the CAA demonstrates the judiciary’s dual role: to protect fundamental rights and to permit legitimate State action aimed at public welfare when it is constitutionally sound and procedurally fair.

The NRC process in Assam acquired juridical sanction and structural contours through sustained court supervision. The Supreme Court’s directions in the Assam litigation converted political commitments into enforceable legal procedure, ensuring that the identification of citizens is not ad hoc but subject to standards of documentary proof, opportunities for representation, and appellate remedy. In *Assam Public Works v. Union of India*, the Court endorsed a supervised updating of the Assam NRC, directing administrative clarity and

judicial remedies for those aggrieved by exclusion.^[19] This jurisprudence underscores an essential point: an institutionalized NRC carried out under judicial oversight can strengthen the rule of law by replacing arbitrary exclusion with adjudicative processes that afford due process and redress. Subsequent judicial pronouncements have refined evidentiary and procedural standards necessary to protect both state interests and individual dignity. Recent Supreme Court scrutiny including rulings and orders dealing with documentary standards and the right to appeal reflects a jurisprudential trajectory that emphasizes procedural fairness: persons excluded from registers must be given intelligible reasons, access to evidence, and avenues of independent adjudication before Foreigners Tribunals or equivalent fora.

^[20] In this manner, the judiciary has signalled that the implementation of an NRC need not translate into mass statelessness; rather, a constitutionally supervised NRC can function as a lawful instrument for protecting territorial integrity while safeguarding life and dignity through robust process safeguards. On the CAA, multiple petitions contesting its constitutional validity have been placed before the Supreme Court. The Court has engaged these petitions without enjoining the central provisions, while insisting on pleadings and responses from the Union and other stakeholders. In several procedural hearings the Supreme Court refused to stay CAA rules, directing a full consideration of the contentions while allowing the statute to operate under judicial supervision.^[21] This posture reflects judicial confidence in the Court’s institutional competence to subject the law to constitutional scrutiny while avoiding a wholesale paralysis of legislative policy a stance harmonious with the principle that the judiciary should not substitute its policy judgment for Parliament’s but must ensure that policy is executed within constitutional bounds. Doctrinally, judicial review in these matters navigates familiar constitutional touchstones: Article 14’s reasonable classification test; Article 21’s procedural and substantive protections; and the basic-structure guardrails of secularism, federalism, and rule of law. The Supreme Court’s landmark pronouncements in *Kesavananda Bharati*, *Maneka Gandhi* and *S.R. Bommai* continue to provide interpretive guardrails that allow welfare-oriented State action while preventing erosion of core constitutional values.^[22] The Court has repeatedly shown it can reconcile large welfare objectives with rights protection by insisting on transparency, proportionality, and reviewability. Two themes emerge from the judicial record that favor a constitutional path for NRC and CAA as instruments of a welfare state. First, courts have consistently required procedural safeguards around measures that affect status and liberty: notice, opportunity to be heard, legal assistance, and reasons for exclusion. These safeguards, if institutionalized in NRC implementation including certified lists, appeal mechanisms, and fast but fair adjudicatory processes can mitigate the risk of wrongful exclusion and

¹⁹ *Assam Public Works v. Union of India*, (2019) (Supreme Court order directing supervised NRC updating). indiankanoon.org

²⁰ On right to appeal and procedural safeguards in NRC exclusion cases, see commentary and orders clarifying appeals to Foreigners Tribunals. Supreme Court Observer, Recent Supreme Court discussion on documentary standards in Assam citizenship cases (Rofiqul Hoque and related jurisprudence). CJP

²¹ See reporting on Supreme Court proceedings on CAA petitions; Court refused to stay CAA rules and directed responses from Union. Supreme Court Observer, The Indian Express

²² *Supra* note 10 on 2, *Supra* note 13 & 14 at 3

¹⁷ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.

¹⁸ Guy S. Goodwin-Gill, *The Refugee in International Law* 117 (2d ed. 1996).

detention.^[23] Second, judicial engagement with CAA petitions has affirmed that legislative classifications directed at humanitarian rescue of persecuted minorities can be examined, but not presumptively invalidated; the legitimacy of such classifications depends on demonstrable nexus to parliamentary objective and non-arbitrariness, criteria readily amenable to judicial assessment.^[24] Finally, the maxim *salus populi est suprema lex* the welfare of the people is the supreme law while ancient, finds contemporary constitutional expression in the Courts' balancing tests: measures that secure national welfare may be upheld if they comport with fundamental rights and procedural fairness. Judicial oversight thus becomes the facilitator of a lawful implementation strategy: it converts political objectives into constitutionally sustainable administrative practice. By insisting on robust procedural architecture for NRC and by subjecting the CAA to reasoned scrutiny rather than precipitous invalidation, the judiciary enables the State to pursue legitimate welfare goals territorial integrity, orderly citizenship, and humane refuge for the persecuted without sacrificing constitutional morality or social peace.^[25]

Social and Political Challenges: The introduction of the NRC and the CAA has not been confined to constitutional courts; it has also provoked widespread public protests, political opposition, and intense media scrutiny. The concerns raised, while often rooted in genuine anxieties, need to be assessed against the broader constitutional goal of establishing India as a welfare state. Properly contextualized, these challenges underscore the importance of NRC and CAA as instruments not of exclusion, but of order, fairness, and humanitarian protection.

Protests and Civil Unrest: The most visible challenge has been mass protests across several states, expressing apprehensions that the NRC and CAA may undermine secularism or lead to disenfranchisement of vulnerable groups.^[26] While the right to peaceful protest is constitutionally protected under Articles 19(1)(a) and (b),^[27] the State also has a duty to maintain public order and advance legitimate welfare objectives. The Supreme Court has consistently held that reasonable restrictions may be imposed to balance free expression with public order, as in *Babulal Parate v. State of Maharashtra*.^[28] Rather than viewing protests as an indictment of policy, they highlight the necessity of transparent communication, awareness campaigns, and participatory governance. By engaging stakeholders in dialogue, the Government can dissipate misinformation and affirm that no lawful citizen will be disenfranchised. Thus, civil unrest becomes an opportunity to reinforce the NRC and CAA as constitutional measures

designed to secure both sovereignty and humanitarian responsibility.

Issues of Documentation, Illiteracy, and Poverty: Another practical concern relates to the burden of documentation. In a nation where poverty, displacement, and illiteracy remain prevalent, many fear exclusion from the NRC for want of paperwork.^[29] This challenge, however, underscores the need not to abandon the NRC but to refine its processes. The welfare state obligation demands that the government extend legal aid, administrative assistance, and simplified evidentiary standards to ensure that the marginalized are not wrongfully excluded. The Supreme Court in *Hussainara Khatoon v. Home Secretary, Bihar*^[30] recognized access to justice as part of Article 21; similarly, access to fair NRC procedures becomes a welfare measure. By integrating technology, community-level facilitation centers, and appellate forums, India can convert a potential source of insecurity into a tool of empowerment, ensuring lawful recognition to genuine citizens irrespective of socio-economic limitations.

Fear of Marginalization of Minorities: Perhaps the most sensitive challenge is the fear among minority communities that NRC and CAA together may lead to marginalization. Critics argue that while the CAA extends protection to some religious groups, it excludes others.^[31] Yet, as noted earlier, the CAA does not strip any rights from existing citizens, including Muslims; it only creates an affirmative pathway for certain persecuted minorities. The Supreme Court in *Indra Sawhney v. Union of India*^[32] upheld affirmative action policies on the principle of balancing equality with equity. In a similar vein, the CAA may be understood as a targeted affirmative measure grounded in humanitarian obligations, without diminishing the entitlements of any Indian citizen. By reinforcing this distinction through judicial safeguards and federal cooperation, fears of marginalization can be dispelled. The NRC, when carried out uniformly with due process, will apply to all residents without religious bias, thereby ensuring that citizenship verification is neutral, fair, and constitutionally defensible. The social and political challenges surrounding NRC and CAA, while substantial, do not demonstrate their unconstitutionality or impracticality. Instead, they reveal areas where greater welfare-oriented governance is required: transparent communication to address protests, procedural assistance for the poor and illiterate, and strong constitutional guarantees to reassure minorities. If implemented with these considerations, NRC and CAA will strengthen the Indian State's legitimacy, ensuring that welfare is directed first to lawful citizens while also extending refuge to the historically persecuted. Far from undermining the constitutional promise, these measures properly designed and supervised can advance the transformation of India into a welfare state rooted in justice, equality, and humanity.

Possible Remedies for Implementation without Disturbance: For any transformative legislative measure, especially the one touching upon citizenship, identity, and sovereignty, the true test lies not only in its constitutional validity but also in its method of implementation. The NRC

²³ On right to appeal and procedural safeguards in NRC exclusion cases, see commentary and orders clarifying appeals to Foreigners Tribunals. Supreme Court Observer.

²⁴ See reporting on Supreme Court proceedings on CAA petitions; Court refused to stay CAA rules and directed responses from Union. Supreme Court Observer, *The Indian Express*.

²⁵ Doctrine of judicial review and its role in reconciling policy and constitutional protections — see Supreme Court practice and commentary. *Drishti Judiciary*, Recent Supreme Court discussion on documentary standards in Assam citizenship cases (Rofiqul Hoque and related jurisprudence). CJP

²⁶ Reports on nationwide protests following the enactment of CAA and proposals for NRC, see *The Hindu* (Dec. 2019).

²⁷ INDIA CONST. art. 19(1)(a)–(b).

²⁸ *Babulal Parate v. State of Maharashtra*, AIR 1961 SC 884.

²⁹ See observations on exclusion risks in Assam NRC process, *Indian Express* (Sept. 2019).

³⁰ *Hussainara Khatoon v. Home Sec'y, State of Bihar*, (1979) 3 SCC 532.

³¹ Statement of Objects and Reasons, Citizenship (Amendment) Bill, 2019.

³² *Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217.

and CAA, if administered with clarity, transparency, and fairness, can become instruments of national consolidation and humanitarian protection. India's march toward becoming a welfare state necessitates that these initiatives are implemented without causing social unrest or marginalization. To achieve this balance, remedies may be devised across the legal, administrative, political, and social spheres.

Legal Remedies: Amendments to Clarify Secular Intent: Although the CAA is premised on a limited classification to extend citizenship to persecuted minorities from specified neighboring states, critics allege that its intent is exclusionary. To mitigate these apprehensions, Parliament may consider clarificatory amendments or statements of legislative intent underscoring that the Act does not, in any manner, reduce the rights of Indian Muslims or other communities.^[33] Such an affirmation would reinforce secularism as part of the basic structure, as held in *S.R. Bommai v. Union of India*,^[34] while affirming the Act's humanitarian purpose.

Judicial Safeguards: Judicial review remains the most effective constitutional safeguard. The Supreme Court, by retaining supervisory jurisdiction over the implementation of NRC and CAA, can ensure compliance with due process. This could include: (a) periodic judicial review of NRC processes, (b) mandatory fair hearings before exclusion, and (c) state-funded legal aid for vulnerable groups. In *Maneka Gandhi v. Union of India*,^[35] the Court expanded Article 21 to include procedural fairness, thereby offering constitutional grounding for such safeguards.

Legal Aid and Awareness: Extending free legal aid, as recognized in *Hussainara Khatoon v. State of Bihar*,^[36] is essential in NRC-related adjudications. Legal Services Authorities, in partnership with civil society, should be tasked with educating individuals on documentation requirements and providing representation before tribunals. This ensures that no citizen is deprived of status due to poverty or ignorance.

Administrative Remedies: Transparent Procedures for Documentation: A major criticism of the NRC process in Assam was lack of uniformity in document verification.^[37] To prevent recurrence, clear and uniform guidelines must be codified, with standardized lists of admissible documents, flexibility for marginalized groups, and accessible appeal mechanisms.

Grievance Redressal Mechanisms: The establishments of independent grievance redressal forums at district and state levels can ensure that individuals excluded from the NRC have accessible avenues for timely appeal. These forums must be staffed with judicial officers and aided by translators, paralegals, and community workers to prevent exclusion through technicalities.

Use of Technology for Accuracy: Digital platforms can be leveraged to verify records, cross-check documentation, and

reduce duplication. Biometric authentication through Aadhaar, when balanced with privacy safeguards recognized in *Justice K.S. Puttaswamy v. Union of India*,^[38] can strengthen accuracy while protecting informational autonomy. Technology can also be used to track appeals and monitor compliance with human rights standards in detention facilities.

Political Remedies: Federal Consultation with States: Although citizenship is a Union subject under List I of the Seventh Schedule,^[39] the implementation of NRC and CAA requires administrative coordination with states. A federal consultative mechanism perhaps through the Inter-State Council or ad hoc committees would enable Union and states to align implementation strategies while respecting the principle of cooperative federalism articulated in *State of Rajasthan v. Union of India*.^[40]

Dialogue with Stakeholders: Engagement with minority communities, religious leaders, and civil society organizations is essential to dispel fear and misinformation. Structured dialogues can clarify that NRC is a neutral verification process applicable to all, and that the CAA only adds a protective dimension for persecuted minorities without diluting the rights of others. Political dialogue, if institutionalized, will not only mitigate unrest but also enhance legitimacy.

Social Remedies: Public Awareness Campaigns: The unrest following the passage of the CAA and NRC proposals demonstrates how misinformation can fuel insecurity. Government-sponsored public awareness campaigns, in multiple languages and regional dialects, can clarify eligibility criteria, safeguard rights, and highlight humanitarian objectives. The use of radio, social media, and grassroots outreach can ensure accurate information reaches even the most remote communities.

Inclusion of NGOs and Legal Aid Groups: Non-governmental organizations and civil society actors can serve as intermediaries between the State and the people. By partnering with NGOs in rural and minority-dominated areas, the State can provide neutral channels of communication, legal assistance, and grievance handling. Civil society engagement is consistent with India's welfare state commitment under the Directive Principles of State Policy, particularly Articles 38 and 39.^[41]

The NRC and CAA, if left without procedural safeguards and political consensus, risk being misunderstood as exclusionary. However, with robust remedies clarificatory amendments, judicial oversight, transparent administration, federal dialogue, and social outreach these measures can be transformed into powerful instruments of constitutional welfare. They can simultaneously protect the sovereignty of the nation by regulating unlawful migration and uphold humanitarian obligations by granting refuge to the persecuted. Thus, India's constitutional promise of justice, liberty, equality, and fraternity can be realized not by abandoning NRC and CAA, but by implementing them with wisdom, transparency, and inclusivity.

³³ See Parliamentary Debates on Citizenship (Amendment) Bill, 2019, Lok Sabha Debates, Dec. 9–10, 2019.

³⁴ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.

³⁵ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

³⁶ *Hussainara Khatoon v. Home Sec'y, State of Bihar*, (1979) 3 SCC 532.

³⁷ See analysis of NRC documentation disputes, *Indian Express* (Sept. 2019).

³⁸ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

³⁹ INDIA CONST. art. 246, sched. VII, list I, entry 17.

⁴⁰ *State of Rajasthan v. Union of India*, (1977) 3 SCC 592.

⁴¹ INDIA CONST. arts. 38–39.

Comparative Analysis: Citizenship and refugee policies are not unique challenges to India. Almost every nation, in safeguarding sovereignty and demographic balance, has devised mechanisms to identify its citizens, regulate immigration, and extend humanitarian protection to refugees. By examining comparative frameworks in the United States, United Kingdom, Bangladesh, and Myanmar, one can contextualize India's efforts through the NRC and CAA as part of a global pattern rather than an aberration.

United States: The United States maintains a stringent immigration and citizenship verification system under the Immigration and Nationality Act (INA).^[42] Applicants for naturalization must establish lawful residence, good moral character, and documentary proof of entry. The U.S. has also enacted category-based humanitarian protections, such as asylum for persecuted minorities and the Deferred Action for Childhood Arrivals (DACA) program.^[43] While debates on immigration are often contentious, the U.S. model demonstrates that robust documentation and selective humanitarian relief are not only consistent with democratic values but also essential to national security. India's NRC and CAA align with this model: NRC strengthens lawful identification, while CAA extends relief to specific persecuted minorities.

United Kingdom: The U.K. has progressively tightened its immigration regime, particularly after Brexit. The British Nationality Act and subsequent reforms require meticulous documentation for citizenship.^[44] The "hostile environment" policy obliges landlords, employers, and public services to verify immigration status, thereby embedding citizenship verification into daily governance.^[45] Compared to this, India's NRC is more centralized and uniform, offering individuals direct legal recourse against exclusion. The CAA, unlike exclusionary policies elsewhere, is explicitly inclusionary, designed to protect those historically persecuted in the subcontinent.

Bangladesh: Bangladesh, which shares historical and demographic ties with India, has long grappled with irregular migration and statelessness. Its citizenship laws are restrictive, and it has faced international criticism for failing to adequately address the Rohingya refugee crisis.^[46] By contrast, India's CAA represents an attempt to bridge humanitarian gaps by granting persecuted minorities from Bangladesh (and neighboring countries) a pathway to legal recognition. This demonstrates India's moral leadership in the region, positioning it as a welfare-oriented state that does not shirk humanitarian obligations despite demographic pressures.

Myanmar: Myanmar's 1982 Citizenship Law has been widely criticized for disenfranchising the Rohingya community by excluding them from recognized ethnic groups.^[47] This has contributed to mass displacement and human

rights violations. The Indian approach through NRC and CAA avoids such blanket exclusion. NRC is a neutral verification process, while CAA is a targeted inclusionary measure. In this way, India draws lessons from Myanmar's exclusionary model by ensuring that marginalized groups particularly persecuted minorities are protected within its constitutional framework.

Way Forward Towards the Implementation of NRC and CAA: The discourse surrounding the NRC and CAA demonstrates the delicate balance that must be struck between safeguarding national security, preserving constitutional morality, and fulfilling humanitarian obligations. India, as a constitutional democracy committed to the Directive Principles of State Policy, must embrace a pragmatic and inclusive approach that secures sovereignty while extending dignity to vulnerable communities.

A. National Security and Humanitarian Values: National security is an essential function of the State, flowing from Article 355 of the Constitution, which mandates the Union to protect states against external aggression and internal disturbances.^[48] In this light, the NRC is not merely a bureaucratic exercise but an instrument to regulate illegal migration, safeguard demographic balance, and protect scarce resources of the welfare state. At the same time, the CAA embodies humanitarian compassion by offering refuge to persecuted minorities from neighboring states. This duality security with compassion must guide the way forward.

B. Towards a Uniform Refugee Law: India has historically dealt with refugee crises through ad hoc measures, whether during Partition, the Tibetan influx of 1959, or the Sri Lankan Tamil migration in the 1980s.^[49] While the CAA is a step in codifying refugee protection, a comprehensive, religion-neutral refugee law would bring uniformity, clarity, and consistency. Such a statute, in harmony with international humanitarian norms, would affirm India's leadership in South Asia as a protector of the persecuted while avoiding charges of arbitrariness under Article 14.

C. Role of the Judiciary as Guardian of Constitutional Morality: The judiciary remains the sentinel on the qui vive, ensuring that legislative and executive measures adhere to the Constitution's core values.^[50] Through the principle of constitutional morality, as emphasized in *Navtej Singh Johar v. Union of India*,^[51] courts can ensure that NRC and CAA are implemented in a manner consistent with dignity, equality, and secularism. Judicially supervised safeguards, coupled with periodic review, can dispel apprehensions of misuse while preserving the welfare objectives of the legislation.

The way forward for NRC and CAA lies in harmonizing national security with humanitarian compassion, ensuring that no genuine citizen is excluded and no persecuted refugee is left stateless. With transparent procedures, a future-ready refugee law, and vigilant judicial oversight, India can transform these initiatives into instruments of constitutional welfare. Far from undermining democracy, they can reaffirm India's civilizational ethos of *Vasudhaiva Kutumbakam* the

⁴² Immigration and Nationality Act of 1952, 8 U.S.C. 1101–1537.

⁴³ See U.S. Citizenship and Immigration Services, "Asylum" (2023); Deferred Action for Childhood Arrivals, DHS Policy Memoranda.

⁴⁴ British Nationality Act, 1981, c. 61 (U.K.).

⁴⁵ See Migration Observatory, University of Oxford, "The Hostile Environment" (2020).

⁴⁶ See Human Rights Watch, "Bangladesh: Events of 2022," World Report (2023).

⁴⁷ Myanmar Citizenship Law, 1982; see UNHCR Reports on Statelessness, 2019.

⁴⁸ INDIA CONST. art. 355.

⁴⁹ See B.S. Chimni, Status of Refugees in India: Strategic Ambiguity, 33 Int'l J. Refugee L. 1 (2021).

⁵⁰ State of Madras v. V.G. Row, AIR 1952 SC 196.

⁵¹ Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.

world is one family while advancing the welfare state ideal envisioned in the Preamble.

Conclusion: The foregoing analysis establishes that the twin measures of the National Register of Citizens (NRC) and the Citizenship (Amendment) Act (CAA), far from being unconstitutional aberrations, are constitutional instruments intended to secure India's sovereignty while fulfilling its humanitarian responsibilities. A careful reading of comparative jurisprudence, constitutional doctrines, and judicial precedents demonstrates that these initiatives, when implemented with transparency and procedural safeguards, are not antithetical to secularism, equality, or dignity. Rather, they represent a calibrated attempt to reconcile the imperatives of national security with the ethos of a welfare state. The NRC, as a mechanism of identification, seeks to ensure that socio-economic benefits are equitably distributed among legitimate citizens, thereby realizing the Directive Principles' mandate of distributive justice. The CAA, as an inclusionary statute, extends refuge and dignity to persecuted minorities from India's neighborhood, reaffirming India's civilizational duty of compassion. Together, they manifest the balance between *salus populi est suprema lex* the welfare of the people is the supreme law and the constitutional guarantee of justice, liberty, equality, and fraternity. To mitigate anxieties and preserve constitutional morality, implementation must be guided by clarity of law, transparency in process, federal cooperation, judicial oversight, and robust public engagement. Only then can the twin objectives of security and humanitarianism co-exist in harmony. As India moves toward the centenary of its Republic, the principle of "*fiat justitia ruat caelum let justice be done though the heavens fall must illuminate its path.*" Justice, in this context, demands not the abandonment of NRC and CAA, but their faithful execution in a manner that vindicates the Constitution, safeguards sovereignty, and honors the dignity of every human being. In doing so, India shall not only preserve its democratic fabric but also advance the constitutional promise of a welfare state rooted in compassion, security, and justice for all.

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- Salus populi est suprema lex* The welfare of the people is the supreme law.
- Fiat justitia ruat caelum* Let justice be done though the heavens fall.