



CAA (CITIZENSHIP AMENDMENT ACT 2019): BANE OR BOON?

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ABSTRACT:

Citizenship Amendment Act, 2019 has been recently passed by receiving the assent from the President on December 12, 2019. Right from the introduction of the Bill in the Lok Sabha, it has received massive critical bashing from huge sections of people in the country. The Act seeks to award Citizenship to illegal immigrants from our three neighboring countries belonging from Hindu, Sikh and Christian religions. This raises condemnation for the violation of Article 14 of the Indian Constitution by discriminating the illegal immigrant's citizenship based on 'religion'. The Act is aimed to act as a gateway to these illegal immigrants and entitle them with the Citizenship of India and in turn award them with the privileges of an Indian citizen. The paper shall attempt to look into the various changes that the Act is proposed to introduce in the Citizenship law. The author shall through this research delve into the understanding of the Act through a debatable approach to the issue in question.

Keywords: Illegal Immigration, Citizenship, Inequality, Indian Constitution

INTRODUCTION

The Citizenship Amendment Act 2019 came into force on December 11, 2019 which was passed by the Indian Parliament. On 12 December 2019, the bill received the presidential approval and the Citizenship Act 1955 got amended and became Citizenship Amendment Act 2019 in which the illegal immigrants who are Hindus, Sikhs, Buddhists, Jains, Parsis AND Christians from Pakistan, Bangladesh, and Afghanistan who had entered India on or before December 31, 2014, eligible for Indian citizenship.¹

Lok Sabha firstly introduced the CAA- Citizenship Amendment Bill in 2016. The one whose report submitted later on 7th January 2019, it was referred with the name of the Joint Parliamentary Committee. "It was passed by Lok Sabha on 8th January 2019 which was seen lapsing with 16th Lok Sabha's dissolution. Again it was introduced by Amit Shah,

¹ Ramesh, S., 'Citizenship Amendment Act: Things to Know About CAA and NRC', Career Anna. <<https://www.careeranna.com/articles/citizenship-amendment-act/>> [Accessed 14 March 2020].

minister of home affairs on December 9, 2019 in 17th Lok Sabha and after that it was passed on December 10, 2019. And this bill was also passed by Rajya Sabha on December 11, 2019”.

“Any individual will be considered eligible for this act if he/she has resided in India during the last 12 months and for 11 of the previous 14 years”.

Citizenship in India

- “The Constitution of India provides for single citizenship for the whole of India.”
- “Under Article 11 of the Indian Constitution, Parliament has the power to regulate the right of citizenship by law. Accordingly, the parliament had passed the Citizenship act of 1955 to provide for the acquisition and determination of Indian Citizenship”.
- “Entry 17, List 1 under the Seventh Schedule speaks about Citizenship, naturalization and aliens. Thus, Parliament has exclusive power to legislate concerning citizenship”.
- “Until 1987, to be eligible for Indian citizenship, it was sufficient for a person to be born in India”.
- “Then, spurred by the populist movements alleging massive illegal migrations from Bangladesh, citizenship laws were first amended to additionally require that at least one parent should be Indian”.
- “In 2004, the law was further amended to prescribe that not just one parent be Indian; but the other should not be an illegal immigrant”.²

LITERATURE REVIEW

(Basumatary, 2019) studied ***“Importance of Citizen Amendment Bill: A Study”³*** and observed in this paper we have discussed about CAA, 2016 generally. Lok Sabha has also introduced this act and passed it. The main purpose of this act is amending the citizenship act, 1955 and also providing grants the citizenship to 6 religions mainly of Pakistan, Bangladesh and Afghanistan. This bill has its intension of changing the details about illegal migrants. We can see controversy in the nature of the bill. Various protests are happening in India’s north-eastern region because of introducing this bill. 10 political parties in the north-east were in opposition to this bill.

(Tiwari, 2020) Studied ***“The Issue of Citizenship Amendment Act, Human Rights and Democracy in India”⁴*** and observed that the government of India passed Citizen Amendment Act on 12 December 2019 in parliament, this act raged the protection across the country and creates muddled feelings among the minorities. The passing Citizen Act riddled with several issues like human rights, identity politics, refuge, asylum, tug of war on minority and majority discrimination. This bill is going to the persecution of illegal immigrants from Pakistan, Bangladesh and Afghanistan.

² Byju’s, Citizenship Amendment Act 2019 (CAA), < <https://byjus.com/free-ias-prep/citizenship-amendment-bill-2019/>>, Last Accessed-12.03.2020.

³ Neel Kamal Basumatary, ‘Importance of Citizen Amendment Bill: A Study’, INTERNATIONAL JOURNAL OF SCIENTIFIC RESEARCH, Volume: VIII, Issue: IV, April – 2019, < [https://www.worldwidejournals.com/international-journal-of-scientific-research-\(IJSR\)/article/importance-of-citizenship-amendment-bill-a-study/MTkwNjc=?is=1](https://www.worldwidejournals.com/international-journal-of-scientific-research-(IJSR)/article/importance-of-citizenship-amendment-bill-a-study/MTkwNjc=?is=1) >, Last Accessed-12.03.2020.

⁴ Dr.Sandeep G. Tiwari, ‘The Issue of Citizenship Amendment Act, Human Rights and Democracy in India’, Studies in Indian Place Names (UGC Care Journal), Vol-40-Issue-01-January-2020, < <https://archives.tpnindia.org/index.php/sipn/article/view/1704>> Last Accessed - 13.03.2020.

“This bill amends the Citizenship Act 1955 it would grant citizenship to non-Muslim communities from Pakistan, Afghanistan, and Bangladesh those who entered India on or before December 31 2014”.

(Chandra, Chairman, & Commissioner, 2019) Studied “*Citizenship Amendment Act: Uncalled for Protests*”⁵ and observed that because of passing this bill, various protests are happening in a few parts of the country that also includes prominent institutions of learning’s participation. It is clear that these protests are the outcome of the apprehensions that are unfounded by the dressed interests who are here just acting against the interest of the nation. “A classic example of this is Mamata Bannerjee's call for a UN-monitored referendum on the CAA!!! The fact that students have joined the protests does not inspire much confidence in our centers of higher learning”. The one thing that is the last thing to be done for the students is that they must have been provided with the reality about this bill before they have acted on it mindlessly.

(Kronstadt, 2019) Studied “*Changes to India’s Citizenship Laws December*”⁶ and observed that “In December 2019, India’s Parliament passed, and its President signed into law, the Citizenship Amendment Act (CAA), 2019, altering the country’s 1955 Citizenship Act”. It was the very 1st point in the self-governing history of India that they have added criterion of religion to the naturalization process of the country.

WHY AMENDMENT IN CITIZENSHIP ACT PROVOKED PROTESTS IN INDIA?

The Citizenship (Amendment) Act 2019 has triggered widespread protests across India. The Act seeks to amend the definition of an illegal immigrant for Hindu, Sikh, Parsis, Buddhist and Christian immigrants from Pakistan, Afghanistan, and Bangladesh, who have lived in India without documentation. They will be granted fast-track Indian citizenship in six years. So far 12 years of residence has been the standard eligibility requirement for naturalization. The anger over CAA led to street protests, first in Assam that later spread to Delhi and other parts of the country.

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OBJECTIVES OF CITIZENSHIP AMENDMENT ACT 2019

1. “The Citizenship Act, 1955 (57 of 1955) was enacted to provide for the acquisition and determination of Indian citizenship”.
2. Population’s trans-border migration that is happening constantly in between India’s territories and the areas in Pakistan, Afghanistan and Bangladesh is a historical fact. There were various undivided India’s citizens

⁵ Chandra, Chairman, & Commissioner, ‘Citizenship Amendment Act: Uncalled for Protests’, <<https://www.vifindia.org/article/2019/december/23/citizenship-amendment-act-uncalled-for-protests>>, Last Accessed-13.03.2020.

⁶ K. Alan Kronstadt, ‘Changes to India’s Citizenship Laws December’, Congressional Research Service, <<https://crsreports.congress.gov/product/pdf/IF/IF11395>>, Last Accessed-14.03.2020

⁷ Ramesh, S., ‘Citizenship Amendment Act: Things to Know About CAA and NRC’, Career Anna. <<https://www.careeranna.com/articles/citizenship-amendment-act/>> [Accessed 19 March 2020].

that belonged to different religions were living in areas of Pakistan and Bangladesh when India was partitioned in 1947. The constitutions of Pakistan, Afghanistan and Bangladesh provide for a specific state religion. As a result, many persons belonging to Hindu, Sikh, Buddhist, Jain, Parsi, and Christian communities have faced persecution on grounds of religion in those countries.

3. The migrants that belong from various communities from Bangladesh, Pakistan and Afghanistan, who entered into India without valid travel documents or if the validity of their documents has expired are regarded as illegal migrants under act's previous provisions and ineligible to apply for Indian citizenship under section 5 or section 6 of the Act.
4. "The Central Government exempted the said migrants from the adverse penal" consequences of the Passport (Entry into India) Act, 1920 and the Foreigners Act, 1946 and rules or orders made thereunder vide notifications, dated 07.09.2015 and dated 18.07.2016. Subsequently, the Central Government also made them eligible for long term visa to stay in India, *vide*, orders dated 08.01.2016 and 14.09.2016. Now, it is proposed to make the said migrants eligible for Indian Citizenship.
5. The migrants who have illegally taken entry in India on or before 31st December 2014 need a special regime to govern their citizenship matters. For this purpose the Central Government or an authority specified by it, shall grant the certificate of registration or certificate of naturalization subject to such conditions, restrictions and manner as may be prescribed. Since many of them have entered into India long back, they may be given the citizenship of India from the date of their entry in India if they fulfill conditions for Indian citizenship specified in section 5 or the qualifications for the naturalization under the provisions of the Third Schedule to the Act.
6. Granting immunity to the people who have migrated of the religion Hindu, Sikh, Jain, Parsis, Buddhist and Christian is the main purpose of this bill, so that any proceedings against them regarding in respect of their status of migration or citizenship does not bar them from applying for Indian citizenship. The competent authority, to be prescribed under the Act, shall not take into account any proceedings initiated against such persons regarding their status as illegal migrant or their citizenship matter while considering their application "under Section 5 or section 6 of the Act, if they fulfill all the conditions for grant of citizenship".
7. "Many persons of Indian origin including persons belonging to the said minority communities from the aforesaid countries have been applying for citizenship under section 5 of the Citizenship Act, 1955 but they are unable to produce proof of their Indian origin".
8. "Presently, there is no specific provision in section 7D of the Act to cancel the registration of Overseas Citizen of India Cardholder who violates any provisions of the Act or any other law for the time being in force".⁸

⁸ The Hindu Centre for Politics and Public Policy, <<https://www.thehinducentre.com/resources/article30327343.ece>> Last Accessed 18.03.2020.

CAN MUSLIMS FROM COUNTRIES MENTIONED IN THE CAA WILL NEVER GET THE CITIZENSHIP IN INDIA?

No, the present legal process of acquiring Indian citizenship by any foreigner of any category through Naturalization (Section 6 of the Citizenship Act) or through Registration (Section 5 of the Act) stays operational. The CAA does not amend or alter it in any manner whatsoever. Hundreds of Muslims migrating from these three countries have been granted Indian citizenship during the last few years. If found eligible, all such future migrants shall also get Indian citizenship, irrespective of their numbers or religion. In 2014, after the settlement of Indo-Bangladesh boundary issues, 14,864 Bangladeshi citizens were given Indian Citizenship when their enclaves were incorporated into the territory of India. Thousands of these foreigners were Muslims.⁹

CAA IS APPLICABLE TO ALL INDIAN STATES MENTIONED IN THE CONSTITUTION OF INDIA

Section 6B (4) of the citizenship amendment act 2019 state that Nothing in this section shall apply to the tribal area of Assam, Meghalaya, Mizoram or Tripura as included in the Sixth Schedule to the Constitution and the covered under "The Inner Line" notified under the Bengal Eastern Frontier Regulation, 1873.¹⁰

Apart from the above exceptions, the law shall be applicable across all states. The Chief Ministers of Congress-ruled states like Punjab, West Bengal, Chhattisgarh, and Madhya Pradesh have stated that they will not implement the act in their respective states. However, states do not have the power to refuse implementation of the law, as it is enacted under the Union List of the Seventh Schedule of the Constitution.¹¹

PROS AND CONS OF CAA

Pros of Citizenship amendment Act 2019

- NRC seeks to keep up a list of its citizens, as this helps to keep a check upon the illegal citizens and no country can work without it. Earlier NRC was the major cause of concern in the eastern and north eastern parts of our country.
- The legal citizens of India of any religion are not excluded in CAA but instead seeks to grant a respectable asylum to those who have absconded religious harassment in neighboring nations.
- CAA doesn't ignore the prospect of granting Indian Citizenship to those from the majority religion in these three countries, Afghanistan, Pakistan and Bangladesh.
- CAA does violate Article 14 and Article 15 of the Indian Constitution but it also upholds Article 29 and Article 30 of the Indian Constitution.

⁹ 'Citizenship Amendment Act 2019', Press Information Bureau Government of India Available at: <https://hcikl.gov.in/pdf/press/CAA_2019_dec.pdf>, Last Accessed 19.03.2020.

¹⁰ Citizenship Amendment Act 2019, <<http://egazette.nic.in/WriteReadData/2019/214646.pdf>> Last Accessed on 20.03.2020

¹¹ Sanju Verma, 'CAA-NRC: Empowering India', *DNA India* <<https://www.dnaindia.com/india/report-cao-nrc-empowering-india-2806117>>, Last Accessed 16.03.2020.

- CAA and NRC will help the nation to keep the check on the population of the country.

Cons of Citizenship amendment Act 2019

- Article 14 states equality before the law and Article 15 states prohibition of discrimination on grounds of religion, race, caste, sex or place of birth these are the fundamental rights that are getting violated due to this act.
- The term Secularism which was inserted in the Preamble of Constitution of India by 42nd Amendment which prohibits the Government or the State to discriminate in the ground of religion, whereas under CAA, the citizenship is proclaimed to be given based on the religion Hindu, Sikh, Jain, Parsis, Buddhist and Christian, which are in minorities of the said countries Pakistan, Afghanistan, and Bangladesh.
- Most of the State governments are not willing to implement CAA because this would put the people into detention centers or will be sent back to their respective countries which can create chaos in the nation.
- CAA does not include other minorities such as Jews, Jainism, Zoroastrians, etc.

CONCLUSION

In nutshell, we can conclude that it is a good initiative on the behalf of Indian Government to provide citizenship of India to the minority communities of the three major neighboring countries, whereas there are still few communities such as Jews, Jainism, Zoroastrians, etc. which are in minority in Pakistan, Afghanistan, and Bangladesh are not included under the Citizenship Amendment Act 2019 which may be considered in the minority class under CAA.

CAA is not against any particular community or religion. This amendment shows the generosity and acceptance to the minority communities by giving them opportunities to develop, strengthen and to overcome trauma faced by them.