

THE CITIZENSHIP AMENDMENT ACT, 2019

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ABSTRACT

This article discusses the legality and implications of the Citizenship (Amendment) Act, 2019. Citizenship serves as a person's identity, providing a sense of belonging and security. It also discusses the culture, customs, traditions, way of life, and moral ideals of a person. So, the significance of this Act is enormous. Several arguments have been raised regarding its constitutional legality as well as its goal of granting fast-track citizenship to specific countries' minorities. This Act also talks about the impact of the influx of migrants into the country and the availability of opportunities in terms of employment, education, access to resources etc. for the citizens. In this study article, numerous ideologies and research methods were employed to obtain a better understanding of this topic.

Keywords: Citizenship to 14 People, Minority Communities, Discrimination, Citizenship Rules, Implication.

INTRODUCTION

A senior government official announced that on Wednesday, over 300 individuals who had applied under the Citizenship (Amendment) Act (CAA), 2019, were awarded citizenship certificates by the Union Government. At least 14 people were handed their certificates by Union Home Secretary Ajay Kumar Bhalla in Delhi, the Union Ministry of Home Affairs said in a statement. The government did not reveal the applicants' home countries, but a government insider indicated that the majority were Hindu individuals from Pakistan. The 14 individuals who obtained the certificates in Delhi arrived from Pakistan in 2013.

THE CITIZENSHIP AMENDMENT ACT, 2019

The Citizenship (Amendment) Act, 2019 aims to amend the Citizenship Act, 1955. This act provides citizenship on the religious basis to 6 religions unregistered non-Muslim groups (Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians) from Pakistan, Afghanistan, and Bangladesh who arrived in India on or before December 31, 2014. It grants exemption to

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members of these six communities from prosecution under the Foreigners Act, 1946, and the Passport Act, 1920, which entail penalties for unlawful entry into the country and overstaying on expired visas and permits. The Central Government or an authority specified by it on its behalf may grant such a person a certificate of registration after reviewing his/her application. A person who has been granted the certificate of registration or certificate of naturalisation shall be deemed to be a citizen of India from the date of his entry into India. Provisions of this act would not be applicable to the tribal areas of Assam, Meghalaya, Mizoram and Tripura as included in the 6th Schedule of the constitution of India, 1950. From the date of commencement of the act, any proceeding pending against such a person in respect of illegal migration or citizenship shall be null and void. For a person belonging to the Hindu, Sikh, Buddha, Jain, Parsi or Christian Community in Afghanistan, Pakistan and Bangladesh, the required period of residence or service of the government of India will be 5 years and not 11 years now¹.

DISCRIMINATORY NATURE OF THE ACT

There is a lot of cross-border travel because India shares borders with seven other nations. Thousands of individuals flee their home countries for India as illegal migrants or refugees for a variety of reasons, including political unrest, natural disasters, etc. For instance, during a military takeover in Myanmar in 2021, around 20,000 people fled to India. In summary, there are numerous refugee communities in India; nevertheless, the Indian government lists just six of these populations as eligible to apply for Indian citizenship permanently. The Act does not apply to a number of other refugees, such as the Hindu Rohingya from Myanmar and the Tamils from Sri Lanka. Additionally, this sparked a fierce protest.

ACQUISITION OF INDIAN CITIZENSHIP

The Citizenship Act, 1955 states that Indian citizenship can be acquired by any person in the following 5 ways:

- (i) Citizenship by Birth: Any Person can be a citizen of India by birth if:
 - (a) Any person born in India, on or after 26 January 1950 but before 1 July 1987, is a citizen of India by birth irrespective of the nationality of the parents.

¹ THE CITIZENSHIP AMENDMENT ACT, 2019

- (b) A person born in India on or after 1 July 1987 but before 3 December 2004 is considered a citizen of India if either of his parents are citizens of India at the time of the birth.
- (c) A person born in India after 3 December 2004 can be considered a citizen of India only if both of their parents are citizens of India or if one parent is a citizen of India and the other is not an illegal migrant at the time of their birth.
- (ii) Citizenship by Descent: Any Person can be a citizen of India by descent if:
- (a) Person born outside India on or after 26 January 1950, but before 10 December 1992 are citizens of India by descent if their father was a citizen of India at the time of their birth.
- (b) Person born outside India on or after 10 December 1992 but before 3 December 2004 are considered citizens of India if either of their parents was a citizen of India at the time of their birth.
- (c) From 3 December 2004 onward, a person born outside India shall not be considered a citizen of India unless their birth is registered at an Indian consulate within one year from the date the birth, with the parents declaring that the minor doesn't hold the passport of any other country.
- (iii) Citizenship by Registration: Any person can be a citizen of India by registration who is not a citizen by virtue of the constitution of India or under any provisions of the Citizenship Act if:
- (a) A person of Indian origin if either of his parents was born in an undivided India or in such other territory which became part of India after 15 August 1947 and who is ordinarily resided in India for 7 years before making an application for registration.
- (b) A person of Indian origin who is ordinarily resident in any country or place outside undivided India.
- (c) A person who is married to a citizen of India and is ordinarily resident in India before making an application for registration.
- (d) Minor children of persons who are citizens of India.
- (e) A person of full age and capacity whose both parents are registered as citizens of India.
- (f) A person of full age and capacity who or either of whose parents was an earlier citizen of independent India and has been residing in India for one year immediately before making and application for registration.

- (g) A Person of full age and capacity who has been registered as an overseas citizen of India for five years and who has been residing in India for one year before making an application for registration.
- (iv) Citizenship by Naturalisation: A foreigner not an illegal immigrant on the application for registration for naturalisation to a competent authority appointed by the state can acquire Indian citizenship provided he satisfies certain conditions like having a normal resident for 12 years in India before making an application.
- (v) Citizenship by Incorporation of Territory: If any new territory becomes part of India, the government of India shall notify the person of that territory to be a citizen of India.²

RULES ISSUED BY THE GOVERNMENT FOR CAA

The Central Government Notified the Citizenship (Amendment) Rules, 2024. **Rule 10A** deals with “Who can apply for citizenship” i.e. It deals with the application by eligible persons for a grant of citizenship either by registration and naturalisation. **Rule 11A** deals with ‘How to apply for citizenship and whom’ i.e. it deals with the authority to which application seeking citizenship has to be made i.e. ‘Composition of Committee and Empowered Committee’. **Rule 13A** deals with the role of the Empowered Committee.³ Previously, the government has taken measures to address the situation of refugees, such as modifying the Citizenship Rules in 2004 and issuing notifications in 2014, 2015, 2016, and 2018. The process for applying for citizenship under the CAA is outlined in Section 6B of the Citizenship Act, 1955. To qualify for Indian citizenship, applicants must demonstrate their country of origin, religion, date of arrival in India, and proficiency in an Indian language.⁴ More lenient criteria now accept various documents, including birth or educational certificates, identity papers, licenses, land records, or any document confirming prior citizenship of the specified nations. Applicants are permitted to submit 20 different documents as evidence of their entry into India, including visas, residency permits, census records, driving licenses, Aadhaar cards, ration cards, government or court correspondence, and birth certificates.

² THE CITIZENSHIP ACT OF 1955.

³ THE CITIZENSHIP (AMENDMENT) RULES, 2024

⁴ THE CITIZENSHIP RULES OF 2004

PROCEDURE FOR ENFORCING THE CAA REGULATIONS

There are various processes involved in implementing the CAA regulations. The Ministry of Home Affairs (MHA) has outsourced the duty for processing citizenship applications under the CAA to the Union government's postal service and census officers. The Intelligence Bureau (IB) and other central security agencies will conduct necessary background checks. Final decisions on applications will be made by empowered committees led by the Director of Census Operations in each state. These committees will be made up of officials from numerous departments, such as the IB, Post-Master General, State or National Informatics Centre, and representatives from the State Government's Department of Home and Divisional Railway Manager. At the district level, committees led by the Superintendent of the Department of Post will examine.

SUPREME COURT'S VIEW ON CAA

With the outraging protest against the CAA, there are more than 200 petitions filed against the Citizenship Amendment Act in the honourable Supreme Court after its enactment on January 20, 2020. A Kerala-based political party Indian Union Muslim League (IUML), Trinamool Congress MP Mahua Moitra, Congress leader and former Union minister Jairam Ramesh, All India Majlis-e-Ittehadul Muslimeen (AIMIM) leader Asaduddin Owaisi, Congress leader Debabrata Saikia, NGOs Rihai Manch and Citizens Against Hate, Assam Advocates Association, and law students are several among others who had filed the plea before the top court challenging the Act. Listed for September 12, the matter was adjourned to September 19 and then to October 31. On 31st October 2022, the date of the first hearing, the Supreme Court bench comprising Chief Justice UU Lalit, Justices Ravindra Bhat and Bela M. Trivedi. ordered that a hearing of the petition related to the constitutional validity of the Act will be held on December 6, 2022 and also appointed two nodal counsels who can help the honourable court in compiling the document. The bench appointed Advocates Pallavi Pratap, advocate for petitioner Indian Union Muslim League (IUML) and advocate Kanu Agrawal (Central government counsel) as nodal counsel. On December 6, 2022 case was listed as Item No. 45 in Court No. 1. Justice Chandrachud announced that the remaining matters would be "spread over" January next year. In 2024, the Supreme Court refuses to stay the CAA, 2024 Rules.

CONCERNS RELATED TO CAA

Critics argue that the CAA is exclusive by providing a path to Indian citizenship for undocumented migrants from Afghanistan, Bangladesh, and Pakistan, but only if they belong to the Hindu, Sikh, Buddhist, Jain, Parsi, or Christian faiths. The exclusion of Muslims from these bordering countries raises concerns about religious bias. The Indian Constitution protects secularism and the principle of equal treatment before the law, regardless of faith. The CAA is believed to be incompatible with this secular foundation because it clearly favours specific religious groups. India has a wide religious heritage, but some believe that the CAA undermines this variety by prioritizing specific religious communities, potentially promoting social and religious conflicts. Critics further contend that the CAA violates Article 14 of the Indian Constitution, which guarantees equality before the law.

CONCLUSION

The government might contemplate reassessing and modifying the CAA to eliminate the religious prerequisites for citizenship. This action could mitigate apprehensions regarding discrimination and uphold the constitutional principle of secularism. Any forthcoming legislation or adjustments should ensure impartiality under the law for all individuals, irrespective of their religious affiliation. This would be in harmony with the constitutional assurance of equality and non-discrimination as per Article 14. It is advisable to engage in constructive discussions and consultations with various stakeholders, including religious and community leaders, civil society groups, and legal scholars. Such an inclusive approach can foster consensus-building and effectively address the concerns of diverse sections of society. Additionally, it is crucial to implement policies and initiatives that celebrate and safeguard India's religious diversity and pluralism. These endeavours may encompass efforts to promote interfaith dialogue, cultural exchange, and mutual understanding among different religious communities. Furthermore, it is imperative to provide clarity regarding the compatibility of the CAA with existing agreements and accords, such as the Assam Accord. Any discrepancies or conflicts should be resolved through transparent legal mechanisms and processes.