

CITIZENSHIP AMENDMENT ACT-2019

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Abstract

These days Citizenship Amendment Act 2019 is the burning issue all over India. People have different views about CAA, some are of view that it is beneficial for the internal security of our country while there is another group of people who consider it as a threat to the integrity of India and Indian Constitution. We have witnessed people strongly condemning and protesting against CAA almost in every part of India. CAA is the not the only thing people are protesting against, but Compiling of National Register of Citizens with CAA is another major issue along with it. On the other side of the edge there are people who are strongly in favour of passing and implementation of the Citizenship Amendment Act 2019 and NRC. According to government CAA will be helpful for the persecuted refugees as the previous laws of citizenship are not sufficient to claim citizenship. The present paper throws light on the questions like what CAA is? , how and why it has been compiled with NRC? , who will be affected by it? , is it really a threat to Indian Constitution? etc.

Keywords: Citizenship Amendment Act, National Register of Citizens, Indian Constitution, Authors:



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Citizenship Amendment Act-2019

"We the people of India , having solemnly resolved to India into a Sovereign, socialist, secular, Democratic Republic and to secure to all citizens...."

These words from Indian preamble assure to keep its citizens safe and secure along with some rights given by Indian constitution. Moreover Indian Constitution also claims India to be secular country. It also assures every citizen of India to live freely irrespective of their caste, creed and religion. But the questions arise who are the citizens of India and who can take benefits of the rights provided by Indian Constitutions. The Citizen Act 1955 (ACT No. 57 OF 1955), was framed with the motive of providing people acquisition and determination of Indian Citizenship. This act talked about the:

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- ❖ Illegal migrants
- ❖ Citizenship by Birth
- ❖ Citizenship by Descent
- ❖ Citizenship By Registration
- ❖ Citizenship by Naturalisation (Special provisions as to citizenship of persons covered by the Assam Accord.)
- ❖ Citizenship by Incorporation of territory
- ❖ Renunciation of citizenship
- ❖ Termination of citizenship

Who are citizens of India?

According to the Citizenship Act, 1955, the person fulfilling the following conditions can be regarded as citizen of India_

Every person born in India

1. On or after the 26th day of January 1950, but before the 1st day of July 1987
2. On or after the 1st day of July 1987, but before the commencement of the Citizenship (Amendment) Act, 2003 and either of whose parents is a citizen of India at the time of his birth
3. On or after the commencement of the Citizenship (Amendment) Act, 2003, where-
 - (1) both of his parents are citizens of India; or
 - (2) one of whose parents is a citizen of India and the other is not an illegal migrant at the time of his birth, shall be a citizen of India by birth.

Amendments In Citizenship Acts-

With the passage of time various amendments were made in Indian Citizenship Act in the years-1986,1992,2003,2005,2015 and 2019. The reason behind these frequent amendments was the governments at that time found the present Citizenship regulations to be improper and outdated. The Citizenship (Amendment) Bill, 1986, passed by both houses of Parliament, stipulated that it was no longer adequate to be born in India to be granted Indian citizenship. At the time of birth either one of the parents has to be an Indian citizen for the person to become a citizen of India. The amendment in 1986 was the result of Assam Movement between 1979 to 85 against the illegal immigration. It was for the first time after the British rule that migration was openly associated with illegality. As a consequence of all this, strong need as felt for the registration for Indian Citizenship.

The amendment made in the act in 1992 also said that granting citizenship on the basis is not appropriate. It said that for a person born outside India on or after January 26, 1950, but before December 10, 1992, citizenship will be granted by descent if their father is a citizen.

OCI (Overseas Citizenship of India) -

The 2003 amendment strengthened the association of descent and citizenship further by providing Overseas Citizenship of India (OCI) which distinguished the legality of the diasporas. The migrant is illegal on account of his or her descent.

Citizenship Amendment Act 2019 (CAA) -

Since December 2019, fervent debate on the Citizenship Amendment Act 2019 has been going on all over India. This newly amended citizenship act has created a environment of fear among the people living India. It is also feared that it will deny citizenship to the existing Muslim Minorities in India. CAA has been in the news for nearly two months now and it continues to hog media time even today. Protests, both against and in favour of the bill, have mushroomed across the nation with Shaheen Bagh in South Delhi becoming an iconic protest of sorts.

The Citizenship Bill of 1955 does not allow illegal migrants to acquire citizenship, but the recent amendment allows non-Muslim minorities escaping persecution from three countries to do so. It aims to provide Indian citizenship to non-Muslim minorities, who faced religious persecution in Pakistan, Bangladesh and Afghanistan. CAA allows Hindus, Parsis, Janins and Buddhists , who entered India before 31, December 2014 to avoid religious persecution in countries like Pakistan, Bangladesh and Afghanistan. All the three countries are Islamic by religion. Besides its CAA does not includes the Rohingya Muslims of Myanmar. According to CAA, if the so-called illegal migrants, who have been living in India for decades fail to show the required documents for citizenship will not be allowed to live in India.

Article 14 And CAA-

Article 14 of the Indian Constitution clearly states that the state/country shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. This law is applicable to all citizens and foreigners. Since CAA has provisions to give citizenship to the migrants of 3 countries on the basis of religion and it does not include migrants of a particular community. It seems to be discrimination against a particular community.

National Register of Citizens (NRC) & CAA -

Along with CAA National Register of Citizen will also be implemented. Before proceeding further let us know What NRC is and how it will work? NRC or National Register of Citizens is an official record of those people, who are citizens of India legally. It also includes the demographic information of all those persons, who have been granted Indian citizenship according to the Citizenship Act 1955. It was first prepared after the census of India were collected in 1951 and it has not been updated since then. Assam has been the first and only state with NRC so far in India. Now the question arises how it will work or affect if it is implemented in all states of India?

Let's move to the NRC exercise. It is not yet clear what sort of documentary proof would be required to prove citizenship because the exercise would be conducted by state governments, and perhaps each state government could have its own specifications. Let's assume that one of the documents is a birth certificate. UNICEF figures from 2012 report that about 40% of urban births and 65% of rural births are not registered in India. A similar picture is probably the case for the older generations. In Assam, reports suggest that large numbers (about 19 Lakh people) did not possess the necessary documents in the recently conducted NRC exercise under the supervision of the Supreme Court. Detention camps have already been set up in Assam. Chronologically, the CAA will guide the process of citizenship verification. The screened-out people will be sent to detention centres since they cannot be deported back to the three mentioned countries under CAA. Detention is a short-term arrangement. How it can be carried out for long? At any point of history, there will be no way than to give them citizenship. Then, why is this whole conundrum for CAA/NRC? Citizenship could have been accorded to anyone under the existing laws, whom the government wants to and there was no need for amending it in the controversial manner as in case of CAA., 2019.

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