

NATIONAL REGISTER OF CITIZENS AND CITIZENSHIP (AMENDMENT) ACT IMPACT & IMPLICATIONS IN INDIA

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ABSTRACT

Current study of National Register of Citizens and Citizenship Amendment Act ,2019 analyze the geopolitics of present india.NRC and CAA both safeguard the secular values of India by avoiding all narrow conceptions affecting the citizenship of india adversely. This amendment is seen as the first legal provision that makes India a homeland for Hindus. Thus this act gives Indian citizenship to all persons belonging to Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities on the basis of religious persecution in Pakistan, Afghanistan and Bangladesh.

Keywords: India, Citizen, Citizenship, NRC, CAA, CAB, Citizenship Amendment Act.

Introduction

India has seen major protests across the country against the passing of the Citizenship Amendment Act (CAA) by the Indian Parliament and the introduction of the National Register of Citizens. Initially, the students took the lead in protest and protested against police brutality. Protests have spread and the government has relied on colonial law to prevent the gathering of more than four people. Authorities shut down the Internet in some parts of the country, including in various parts of the capital, New Delhi. Thousands of protesters were arrested (most of them later released), and more than 23 died in clashes with police.¹ Despite this, people continue to promote public disobedience. So, what exactly is the legal significance of the CAA, and why has it encouraged protests on an unprecedented scale? The law excludes Muslim immigrants.²

The Islamic Exemption Act is in line with the process set out in some of the latest steps taken to address the legal status of immigrants in India. India does not sign the 1951 Refugee Convention and has no domestic refugee law. Therefore, people entering India without valid documents or having incomplete or expired documents are classified as "illegal immigrants". Prior to other recent interventions, classification as illegal immigrants disqualified immigrants from applying for Indian nationality and subjecting them to persecution, deportation and imprisonment. Over the years, the Indian government has taken a number of steps to free people from these six non-Islamic religions from imprisonment and exile. The government has also begun issuing visas for immigrants from these groups. This protection is not granted to Muslims. (It should be noted, Muslims make up 14.2% of the Indian population) .³ The CAA takes this policy seriously and gives people from six non-Muslim religious communities from Pakistan, Afghanistan and Bangladesh the fastest route to India. The government's view is that these groups are persecuting the minority religions of their countries in need of asylum in India. Generally, to obtain Indian citizenship by naturalization, a person must have lived in India at least 11 to 14 years ago. CAA reduces this 11-year requirement for selected "illegal" immigrant groups to 5 of the previous 14.⁴

The Citizenship (Amendment) Act, 2019 was passed by the Indian Parliament on 11 December 2019. Buddhists, Jains, Parsis or Christians, and arrived in India before the end of December 2014.^{3,4} The law does not give such rights to Muslims from all over the Muslim world,^{5,6,7}. This Act was the first time that religion was openly used as a condition of citizenship under Indian law and attracted international criticism.⁷

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The Bharatiya Janata Party (BJP), led by the Indian government,^{8,9} had promised to become an Indian citizen in the previous election manifestos for members of persecuted religions who had fled to neighboring countries.^{10,11} Under the 2019 amendment, immigrants who had entered India on December 31, 2014, and who had previously suffered "religious persecution or fear of religious persecution" in their country of origin, were made eligible for citizenship.¹⁴ The amendment reduces the requirement to stay from 12 to six years for the operation of these immigrants.¹² According to records of the Intelligence Bureau, the bill will soon have more than 30,000 beneficiaries.¹³

The amendment has been criticized as religiously discriminatory, especially for non-Muslims.^{15,16} The United Nations High Commissioner for Human Rights (OHCHR) has called it "fundamental discrimination", saying that "India's policy of protecting oppressed groups is acceptable", which must meet the "strong non-racial national security system".¹⁷ Critics have expressed concern that the bill will be used in conjunction with the National Citizens' Register (NRC) to make the majority of Muslim citizens stateless, as they may not be able to meet the serious birth or ownership requirements.^{18,19} Analysts also question the removal of minority religions from other regions such as Tibet, Sri Lanka and Myanmar.^{18,20} The Indian government stated that as Muslims in Pakistan, Afghanistan and Bangladesh it is their state religion. As such, it is therefore "impossible" for Muslims there to "face religious persecution".^{11,21} However, other Muslim groups, such as the Hazaras and the Ahmadis, have historically faced persecution in these countries.^{22,23,24}

The passing of the law has led to major protests in India.²⁵ Assam and other northeastern states have seen violent protests against the bill for fear that granting Indian citizens and foreign nationals Indian reservations would undermine "their political, cultural and international rights"^{26,27} and stimulate further migration in Bangladesh.²⁸ In some parts of India, protesters said that the bill discriminated against Muslims, and demanded that Indian citizenship be granted to Muslim and immigrant refugees.²⁹ There were widespread protests against this practice at some universities in India. Students at Aligarh Muslim University and Jamia Millia Islamia have accused police of brutal repression.³⁰ The protests led to the deaths of several protesters, injuries to both protesters and police officers, damage to public and private property, hundreds of people were arrested and connections to local mobile phone networks were suspended. Some states say they will not apply the Act. In response, the Union Department of Home Affairs said the two countries did not have the legal power to block the CAA.

The Result of the CAA and NRC in India

The potential impact of the NRC-CAA coalition could be the following: A lesser-known Muslim in India who has for centuries been at risk of illegal immigration, but a Bangladeshi Hindu person without going to the CAA will happen. Does not such a dreadful prospect strike the hearts of Muslim Indians? Worse still, such fears, and perhaps the fact that nationality has been taken away, are the result of a democratic process that allows a victorious political party to claim that all its promises are based on the will of the people. But we all know that as voters, we can vote for a party without agreeing with all parts of its proclamation list. In the 2019 UK elections, labor officials turned out to be the norm as those voters chose Boris Johnson's stance by leaving Europe, even though he supported the Labor Party's economic strategy. 2019. The CAA and NRC may not be able to support the majority of Indians, but we have no way of knowing unless we have plebiscite. Most importantly, the CAA-NRC alliance is a serious violation of the Constitution.⁶ Even if the work of the NRC had not been done, many basic rights, including the right to practice religion, would have suffered. This could cause the 'Partition Mischief' to run for decades. As one constitutional maker put it, 'I see no reason why a citizen of this country should be deprived of his citizenship at the beginning of this Constitution.' But the actions of the CAA-NRC create a psychological fear among the literature and non-Muslim citizens of India about their rights to citizenship and the power to adhere to their religion.

Implications of CAA

The implications of these developments can be interpreted in a number of ways. From a legal standpoint, they reflect a fundamental change in the Indian citizenship concept in the Indian Constitution, followed by the Citizenship Act, 1955. The jus soli or doctrine of citizenship by birth according to jus sanguinis or doctrine based on descent, etc., From the point of view of India's social development, they represent a terrifying and unresolved threat of an effective and equally successful trial of quantity and diversity.

From a political point of view, they point to a possible tectonic transition from a secular society to the national concept of a political society and its terms of membership. From a moral point of view, it moves us to address the weaknesses of our commitment to human rights and to the moral and ethical

conduct of all people. From an international point of view, they remind us on the one hand, our long-standing opposition to the signing of international agreements with refugees, and on the other hand, the simple engagement of bilingual neighbors. I will elaborate on some of these aspects to see how they collectively build the foundations for the rest of our lives.

In a way, we are once again familiarizing the issue of citizenship with the Council of State. The chapter on citizenship in the Constitution was required to separate and be limited to the determination of nationality at those different times. The controversy over what became a Article 7 - concerning the citizenship of a large number of Muslims who fled India but later returned in the midst of Partition violence - was full of controversy, reflecting the status of the Commonwealth cases. Several members of the group, opposed to the honesty and intent of the returnees, called it an "unpleasant clause". Although signs of religious diversity have not been made public, they are easily identified in the conference, with the frequent use of the terms refugee and immigrant in various sections of the population - Hindus fleeing Pakistan as refugees. Explained, returning Muslims are described as immigrants - a well-established religious identity in a meaningful universe. The Council eventually adopted the "enlightened modern civilization" and the democratic concept of citizenship, in contrast to the "concept of racial citizenship", and the Citizenship Act 1955 provided the legal basis for the concept of Jus soli or nationality by birth³¹.

Over time, largely due to the political unrest in Assam, the idea is slowly but surely moving towards nationalism. Assam has a long and difficult history of migration, especially from Bengal, since the 19th century. It has seen a major migration since 1947, erupted in 1971, and continued after that. It is no secret that in recent decades many immigrants have found what Kamal Sadiq calls "written citizenship" through "cooperative networks" and "profit networks". In 1985, after Nellie's tragic genocide of 1983, student unions in Assam, which had led an anti-immigrant organization from Bangladesh, entered into an Assam agreement with Rajiv Gandhi's government, amending the relevant provisions of the National Law. The amendment created the criteria for citizenship based on the year of emigration to India. All those who arrived before 1966 were declared citizens, those who arrived between 1966-1971 were removed from the electoral roll and asked to wait 10 years before applying for citizenship, and those who came after 1971 were treated as illegal immigrants. While these provisions were a response to the real Assamese grievances, they already contained political seeds and the initial compilation of the immigration story³².

Religion as Identity

Meanwhile, there was a gradual decline in the teachings of Jus Soli and the rapid expansion of the material of Jus sanguinis - depending on the religious nature - at a rapid pace. Two of the amendments to 2004 - one in the Constitution and the other in the laws under the Act - show how religion grows as the basis for legitimate citizenship. Both express religion in the language of the law, firstly indirectly and secondly explicitly. The amendment to the Citizenship Act privately brought a different kind of religion to the goal of citizenship by birth. The amendment reduces the basis for nationality, stating that even if you were born on Indian soil, a person whose parents were illegitimate immigrants at the time of his or her birth, has the right to be a citizen by birth will not qualify. Since most of the Bangladeshi immigrants, who had a strong political interest in Assam at the time of their arrival, were Muslims, the term "illegal immigrant" indicated this was religious.

Citizenship laws were simultaneously amended to exclude "minority Hindus and Pakistani citizens" from the definition of illegal immigrants. The amendment, for the first time, abolished Hindu immigrants, most of whom came from Pakistan to the western Indian subcontinent, removing the term "illegal immigrants" from them, and officially calling them "minorities of Pakistani nationalism". Hinduism "Second, it exposed the sect of religion to a state of religious neutrality up to that point. In a conference election in Assam in early 2016, the Baratiya Janata Party made an election promise to "liberate" the state by illegally expelling and deporting Bangladeshi immigrants. It was a dog tag that pointed to a particular religion, as it promised Indian citizenship to all Bangladeshi Hindu immigrants if they won the election. This promise will be fulfilled through the adoption of the Citizenship Amendment Act, 2019, which not only clarifies, but also makes lawful, the transformation of the law on citizenship by religious differences.

The Act provides for instant citizenship by making immigrants from neighboring countries of Pakistan, Afghanistan and Bangladesh religious minorities in those countries. This allowed the predominant groups of Hindus, Buddhists, Sikhs, Persians and Christians to obtain Indian citizenship in six years instead of the usual 11 years. The absence of Muslims on this list is clear on the grounds that they are not the smallest of the three countries and, therefore, cannot be considered as persecutors.

The fact that Muslim sects such as Ahmadiyya and Rohingya are also persecuted in these countries does not qualify them for the same benefits. By introducing religious-based differences in the current religiously neutral law on citizenship by doing so, the amendment will create two categories of potential citizens: Hindus and those professing other "acceptable" religions; and those who follow Islam.

Implications of CAA and NRC in India

The CAA is planning to grant citizenship status to persecuted religious minorities from our three neighboring countries- Pakistan, Bangladesh and Afghanistan. These are all predominantly Islamic countries, so the minority list includes Hindus, Sikhs, Buddhists, Christians, Jains and Parsis. Since India has long been a hotbed of illegal migration, the NRC will create a register that will exclude those who are unable to prove their citizenship.⁷ The final draft is awaited, so it is too early to debate the exact mechanism of the process at this time. Let's look at the arguments for and against this topic:

Pros

This proposal could eventually be a huge success. There are several points in its favor as explained through the following bullet points:

- No country can function without its citizens' register, so NRC wants to maintain a list of its citizens, as it will help weed out illegal citizens. This has been a major cause of concern especially in the eastern and north-eastern parts of our country.
- The CAA does not exclude official Indian citizens of any religion, but seeks to provide a dignified refuge for those who have escaped religious persecution in neighboring countries.⁹
- Nor does the CAA exclude the possibility of granting Indian citizenship to people of the majority religion in these three countries, who fulfill all the conditions prescribed for traditional affairs.
- Due to the expected concerns of people living in the North-Eastern region of India, the law has excluded those living within the states having inner line permits from the purview of CAA. Many of the states in the region are sparsely populated, with substantial tribal populations. Thus, there was a fear that an influx of immigrants, regardless of religion, would change the culture and affect voting patterns, leading to a compromise in cultural traditions. This is respected except for the Inner Line Permit required areas.¹⁰
- The cutoff date has been set as 2014, so the law does not 'encourage' future immigration in any way. Although initially denying its role in outbound illegal migration, Bangladesh has now extended a helping hand by confirming that those who prove to be Bangladeshi nationals will be taken back. The admittedly failed NRC process in Assam should not be treated as a norm, as it was based on the Assam Accord, while the rest of India's exercise to be built around a separate draft is still awaited.

Cons

While there are inherent pros to this proposal, of course, there are also many cons. These are discussed below:

- This law is highly discriminatory against one religion, going completely against the principles laid down in the Indian Constitution, specifically Article 14, which recognizes equality between all religions.
- This also has serious implications for the North-Eastern region, as those states are sparsely populated with substantial tribal populations, so an influx of immigrants, regardless of religion, can change the demographics.¹¹
- The NRC process that was done in Assam was extremely flawed. The cut-off date there was set as March, 1971 due to conditions laid down under the historic Assam Accord. Lakhs of poor people, especially the poor had to put their lifetime savings at stake to get the necessary documents. Still, many were left out of the process.
- Some detention centers have already been built, and more are likely to be built to displace millions. The problem is compounded by the fact that Bangladesh, overall, has denied its role in any outbound illegal migration, so may be reluctant to 'take back' its people.
- The whole theory of mass illegal migration fails in a sense that the economy of Bangladesh is currently doing much better than its Indian counterpart. Growth in the previous quarter was pegged at 8.1%, as compared to the 4.5% achieved by its larger neighbor. In fact, Bangladesh's per capita income is currently only marginally lower than the state of West Bengal or the Indian average, while actually higher than that of the state of Assam.

- The whole process also carries the risk of compromising India's position on the global map. Bangladesh is indeed a friendly neighbor, and in many ways a major trading ally, although approaching China on many policies. Apart from the high economic growth that the country is currently enjoying, Bangladesh has not been a theocratic state for the most part, so its condemnation across the border can have dire consequences³².
- Even if the laws are not discriminatory in principle, domestic peace has a huge potential to get out of hand, thanks to the current abundance of instant messaging and social media. Street protests across the country at a time of economic crisis do not bode well for the bigger picture.
- The main lesson we take from the above points is that both approaches are perfectly fine, as long as supporting evidence is provided³³.

Constitutional Provisions for Citizenship

Based on Article 11, the Constituent Assembly contained legal provisions to regulate the state of residence by Parliament by law. However, Part 2 of the citizenship requirement came into force when it superseded the requirement with Articles 5-11, which read as follows:

Article 5 states that "everyone" with a residence in India and:

- Who was born in the Indian subcontinent?
- Who are the parents born in the Indian Territory or
- A person who has lived in India for at least five years prior to this commencement will be a citizen of India.
- **Article 6:** The constitutional rights of people coming to India from Pakistan, will be at their disposal constitution, to be considered an Indian citizen.
- **Article 7:** The rights of these immigrants to become citizens of Pakistan are a special protection for people who migrated to Pakistan after 1 March 1947 but eventually returned to India.
- **Article 8:** These are constitutional freedoms of Indians living outside of India through employment, education and marriage.
- **Article 9:** No Indian citizen shall be a person voluntarily acquiring foreign nationality.
- **Article 10:** Every person who, in accordance with this section, is an Indian citizen shall be bound by all laws adopted by Parliament³⁴.

Citizenship Act of 1955 and its Amendments

- The Citizenship Act of 1955 deals with the formation and dissolution of nationalism after the introduction of the Constitution. Includes given below:
 - A person born in India after 26 January 1950, except those born to ambassadors and foreign enemies is an Indian citizen by birth.
 - All people born after 26 January 1950, as well as either the parent, are an Indian citizen subject to certain obligations.
 - Certain classes of citizens can acquire nationality in the process provided by the registration authorities.
 - Indian citizenship can be acquired by naturalization by foreigners under certain circumstances
 - The Government of India can accurately determine the circumstances under which a territory and its citizens become part of India
 - Can lose citizenship by cancellation, resignation and alienation among other reasons
 - Commonwealth citizens in India will be given Commonwealth citizenship status.

Citizenship (Amendment) Act 1986

- This Act applies specifically to citizenship of the Assam regime. The study states that undocumented immigrants must be documented in the specified format at the Indian embassy in order to obtain citizenship.
- Citizenship (Amendment) Act 1992: Under the Act, if any member of the family was a citizen at birth or any person born outside India is deemed to be a citizen of India with the implication of descending citizenship.

- Citizenship (Amendment) Act 2003: This Act contains many rules related to nomination, privileges in India etc. for people from abroad.
- Citizenship (Amendment) Act 2005: This Act is established on the basis of the Executive Committee on Internal Affairs of Parliament. PIOs from 16 countries will get dual citizen status.

How to Get Citizenship

- By birth: Citizenship under this provision is subject to modifications during the award period.
- Through Registration: Citizenship can be acquired through registration.
- By descent: This law was subject to amendments from time to time similar to citizenship by descent.
- By naturalization.
- By regional inclusion.

Loss of citizenship in India With respect to transfer, the Citizenship Act of 1955 also deals with the loss of citizenship. The following methods are also used:

- Exemption: Any person who has declared his intention to renounce citizenship shall be barred from being an Indian citizen.
- By Termination: If a person voluntarily or consciously becomes a citizen of another nation.
- With impoverishment.

Overseas Citizens of India (OCI)

According to the Citizenship Act of 2003, an Indian citizen coming from abroad is required to: a citizen of a particular country of tribal origin

- Was automatically a citizen of India and licensed as OCI by the National Government.

Conclusion

All indications point to the joint use of the NRC and the CAA, which poses a challenge to the country's foundations and democracy in India. By introducing religion as a goal of granting Indian nationality and successfully identifying only one religion as a dictator, the CAA has set the stage for the transformation of India into a multi-national state. The strongest control of this growing tide will come from a protest movement that has emerged as a result of the actions of the Indian government. Many Indians are protesting peacefully against the CAA and the NRC against arrests and police violence. The protesters collectively have set themselves up as defenders of the Indian national anthem according to the Preamble to the Indian Constitution, "We, the people of India, make India the Emperor of the Socialist Secular Democratic Republic and protect all its citizens." completely resolved to. The Bill gives citizenship to certain groups if they come to India before December 14, 2014. In addition, the CAA provides a quick way to become a citizen of these religious groups that the CAA requires. The exclusion of Muslims from this act makes it discriminatory and endangers India's world heritage. In the first part, the document analyzes the National Amendment Act, 2019 and its specific provisions. Part II and Part III review the National Amendment Act, 2019 under international human rights law and Indian law. In Part IV, this article examines the National Historical and Political Amendment Act of India. Part V lists the various suggestions that will be considered in this scenario. Diversity in small communities in the CAA can be challenged in court for two reasons:

- The nationality of these immigrants is related to religious characteristics and does not include race and ethnicity. Pakistani Ahmadis and Shiites face discrimination but will not be allowed under the CAA because they are a majority religion (although Ahmadis are considered non-Muslims by Pakistani laws).
- That the exclusion of nationality was intended in the Act as it would allow the Rohingya (most of them predominantly Muslim) to apply for Indian citizenship.

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