

# Interpreting The Amended Citizenship Act 2019

Ms. Apeksha Sharma<sup>1</sup>, Dr. Mahesh Koolwal<sup>2</sup>

<sup>1</sup>Research Scholar JECRC University.

<sup>2</sup>Dean & Professor, School of Law JECRC University.

---

## ABSTRACT

Citizenship is away by which people of a country are eligible for citizenship rights or any one may by various ways acquire the membership of country. As per Indian law it is by birth, descent, registration, naturalisation and by merger of a territory into area/ land of India. Whereas any person who has entered India illegally, or enters legally but stay beyond specified period as per permit is an illegal migrant.

Any illegal migrant is restricted from acquiring Indian citizenship, unless until, produces valid documents in lines with law. Like other countries India too has deporting and criminalizing provision for illegal migrant. Indian has been home to many illegal migrant from bordering countries since long by now it is become threat to national security.

This paper studies the recent amendments made in old citizenship act 1955 and modernizing to new immigration system to control and track illegal entries in country. This is an effort to introduce legalization programs, for those who were “forced to seek shelter in India due to prosecution in the country they lived on grounds of religion” and have eligibility to relief. This paper will also help to impart clarity to the Citizenship Amendment Act 2019,(CAA 2019) from researchers’ point of view

## Keywords

Citizenship, Citizenship Act, Fundamental Rights, illegal immigrants and Constitution of India.

## INTRODUCTION

The Indian Constitution lays down the basic structure through which people and citizens are governed in India. The Constitution grants certain right to citizen, these are elementary

human freedoms which are required by every citizen to live peacefully in a country, to enjoy living standards in harmonious advancement of community at large. These freedoms are nothing but Fundamental Rights with these rights are also attached are Fundamental Duties.

There is a need to introduce citizenship law as at time of partition of India and Pakistan, there were huge transfer of people from both newly parted nations associated violence, hue and cry. From time of Independence in 1947 till the adoption of Constitution of India by its people in 1949 it was a journey for citizenship laws till the present form of Citizenship Amendment Act 2019. The Citizenship Act 1955 made a strong ground work for present provision with minor amendment were made to Act to make it more acceptable with changing society. Following are amendments:

1. **The Amendment of 1985:** introduced Assam Accord under section 6A, which deals with citizenship provision for person covered under Assam Accord.
2. **The Amendment of 1986:** person eligible to acquire Indian citizenship on grounds of citizenship of either of his/her parents at the time of child's birth,
3. In other words, either of the parents must be an Indian citizen at the time of the birth of that person to be eligible for Indian citizenship
4. **The Amendment of 1992: inter alia** section 4 was amended imparting clarity according to which person who is not born (after 26 January 1950 and prior to 100 December 1992) in India but whose father is a Indian citizens or either of the parents must be an Indian citizen at the time of the birth of that person to be eligible for Indian citizenship
5. **The Amendment of 2003: inter alia**, section 2,4,5,6,8,9,14,17,18 and Third schedule along with this substituted new section 3, Second Schedule, Fourth Schedule, section 7A, 7B,7C, 7D, 14A, 15A. Repealed First Schedule, section 11, and 12.
6. This amendment was crucial as it defined the term "illegal migrants" and punishable provisions
7. **The Amendment of 2005:** amended section 2, 5, substitution of 7A and repealed Fourth Scheduled
8. **The Amendment of 2015: inter alia**, defined overseas citizen of India cardholder (OCC) which included overseas citizen of India (OCIs) and Person of Indian origin (PIOs).
9. **The Amendment of 2019:** amended section 2, 7D, 18 and third Schedule and inserted section 6B

All these amendments have brought significant changes in the process of today's developed citizenship act

### **The Amended Citizenship Act (47 of 2019)**

The much talked about CAA 2019 was enacted by Parliament on 12 December 2019 and come into force on 10 January 2020. This act made a pathway to acquire Indian citizenship to prosecuted religious minorities, or those who be afraid of religious persecution from Afghanistan, Bangladesh and Pakistan who are Hindus, Sikhs, Buddhists, Jains, Parsis or Christians, and arrived in India before 31 December 2014 will not be considered as illegal migrants.

The major relaxation mentioned under this amendment were: -

- Residence requirement for gaining citizenship by naturalisation for these migrants was relaxed from twelve years to six
- Government of India may cancel the registration of OCIs on establishing certain grounds.
  - if the OCI has registered through fraud, or
  - if, within five years of registration, the OCI has been sentenced to imprisonment for two years or more, or
  - if it becomes necessary in the interest of sovereignty and security of India.
  - if the OCI may violate any of the provisions of Act or of any other law in force in India or as notified by Government of India
- To cover such people under non illegal migrants, they must also be exempted from the Foreigners Act, 1946 and the Passport (Entry into India) Act, 1920.
- On granting citizenship to religious prosecuted people:
  - such persons will be deemed to be citizens of India from the date of their entry into India,
  - all legal proceedings against them in respect of their illegal migration or citizenship will be closed.
- On applying for citizenship by naturalisation, the applicant must have resided in India or have been in the service of the central government for at least 11 years before applying for citizenship. This condition of 11 years' requirement was reduced to five years

The provision of this act not applicable to following or exception to the act: -

- Act not applicable to the tribal areas of Assam, Meghalaya, Mizoram, and Tripura, included in Sixth Schedule of The Constitution of India. These tribal areas include Karbi Ang long (in Assam), Garo Hills (in Meghalaya), Chakma District (in Mizoram), and Tripura Tribal Areas District.
- The act will not be applicable to the "Inner Line" areas notified under the Bengal Eastern Frontier Regulation, 1873. As in these areas Arunachal Pradesh, Mizoram, Nagaland and Manipur, visits by Indians are regulated through the Inner Line Permit.

The CAA 2019 and NRC (National Register of Citizen) are two different terms one being act and another is a proposal, neither it takes away citizenship nor imparts. NRC is an official register to maintain record of citizen living in India. The CAA 2019 just contributes

to facilitates and give relief to people claiming citizenship and are illegal non-Muslim immigrants or other persons who are unable to provide proof of residence and were persecuted religious minorities.

### **Arguments surrounding Citizenship Amendment Act 2019**

Fights have grasped the country since the time the public authority passed the Citizenship Amendment Act 2019 in the Lok Sabha and Rajya Sabha. From that point forward, a great deal of contentions has been made against the CAA, wherein critics named it oppressive towards Indian Muslims when seen regarding the National Register of Citizens (NRC) and the National Population Register (NPR). The Government of India, regularly, has been attempting to ease fears, expressing that the CAA won't affect any Indian Muslims. Few of the disagreements are discussed below

- The constitutional validity of the Amendments has been in arguments on grounds that they discriminate almost entirely on the basis of religion. Such severe actions under law on the basis of religion are violation or against the principles of equality enshrined in Article 14 of the Indian Constitution. The Article 14 confers equality rights to all persons and is not confined to just citizens of India.
- The NRC, NPR and the CAA 2019 are linked answer is both yes as well as no. The NPR was initiated with aim of creation of a comprehensive identity database of every resident in the country. This NPR was allied with NRC by Section 14A of the Citizenship Act, 1955 and the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 according to which NRC record will be updated and compiled only after due verification of individuals details in NPR. Whereas the Government's claim that the three are not interlinked. And CAA will map those unidentified people and deport them.
- In a nation like India, which is described by a huge number of its population being poor and lacking documentation, this ends up being a massive task to grant citizenship, where valid documents have been last priority of people.
- After a thorough course of applications, filling of requests at the Foreign courts, hearings and distribution of a several drafts, 3,11,21,004 individuals have been seen as qualified for consideration in the last form of the Assam NRC. However, leaving out a figure of 19,06,657 individuals, including the people who didn't have the necessary resources to submit their cases. What would be future of these people under light of CAA 2019.

To finish, CAA 2109 imparts immunity from persecution for being an illegal migrant and also gives you a track for becoming a citizen of India, but one needs to submit valid proofs.

## CONCLUSION

Supreme court of India is ultimate guarantor of rights and to make any law applicable or declare it unconstitutional as well as final interpreter of various provision of Constitution of India. It will not be wrong to highlight that

Article 11 gives Parliament power, to legislate on citizenship laws and as well as to amendments.

Seventh Schedule entry 17 mentioned that parliament has exclusive power to make amendments related to Indian Citizenship.

Therefore, the act has come into force with due process of law. Due to pandemic there is some delay, Supreme Court will coin its decision on Act being in sink with Constitutional provisions or not.

## REFERENCE

### BOOKS

- DURGA DAS BASU, INTRODUCTION TO CONSTITUTION OF INDIA (22ed., Lexis Nexis 2015).
- M.P. JAIN, INDIAN CONSTITUTIONAL LAW (6ed., Lexis Nexis,2010).
- A.R. KHAN, THE CONSTITUTION OF INDIA (2ed., GK. Publications, 2019).

### JOURNAL ARTICLES

- [https://www.researchgate.net/publication/345466148\\_A\\_Critical\\_Analysis\\_of\\_Citizenship\\_Amendment\\_Act\\_2019\\_CAA](https://www.researchgate.net/publication/345466148_A_Critical_Analysis_of_Citizenship_Amendment_Act_2019_CAA)
- [Citizenship Amendment Act - Supreme Court Observer \(scobserver.in\)](#)

### NEWSPAPER ARTICLES

- [Citizenship Amendment Bill: India's new 'anti-Muslim' law explained - BBC News.](#)
- [The Citizenship \(Amendment\) Bill, 2019 \(prsindia.org\)](#)
- [CAA case comes up just thrice in 1 year in SC despite 140 pleas, including from UN body \(theprint.in\)](#)

- [Watch: What is CAA and how is it linked to NPR, NRC? Lawyer Gautam Bhatia explains | The News Minute](#)
- M. Koolwal and A. Sharma, New strategies and tools for Making inclusive social, economic and Justice, Vidyabharati International Interdisciplinary Research Journal (Special Issue)ISSN2319-4979
- M. Koolwal and A. Sharma, Principles Of Fundamental Rights And Modern-Day Challenges, Elementary Education Online 19 (4), 5023-502
- M. Koolwal and D. Awasthy, Legal Landscape of Insolvency and Bankruptcy in India, Vidyabharati International Interdisciplinary Research Journal (Special Issue) ISSN2319-4979
- M. Koolwal and D. Awasthy, IBC 2016 – Way ahead strengthening the process, Elementary Education Online 19 (4), 5023-502

## **STATUTES**

- THE CONSTITUTION OF INDIA, 2013.