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A STUDY ON CAA AS A MANIFESTATION OF INDIA'S HISTORICAL LEGACIES

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ABSTRACT:

India as a country has a long history of offering refuge to distressed people from neighbouring countries more than once, including India's involvement in the 1971 Bangladesh Liberation War and its open-door policy towards refugees from Tibet and Sri Lanka. The Citizenship Amendment Act (CAA) (2019), one of the most controversial legal amendments in recent years, aims to fast-track citizenship for non-Muslim minorities (Hindus, Christians, Sikhs, Parsis, Jains and Buddhists) from Pakistan, Bangladesh, and Afghanistan. This paper critically examines the Citizenship Amendment Act through the lens of India's historical border disputes and how they manifest in the contemporary world. The CAA is inherently discriminatory towards Muslims, but is there a historical justification for this selected exclusion? The violence faced by Bangladeshi Hindus post the resignation of former PM Sheikh Hasina, and the fact to note is that the ousted Prime Minister chose to seek asylum in India. The declining Hindu population and the increased persecution give us a perspective to understand the historical legacies of India and its relationship with neighbouring countries and how those events of the past have manifested as border hostilities and policies in the contemporary setup. By comparing the CAA with the existing Citizenship Act, the research aims to offer a balanced perspective on whether the exclusion of Muslims is justified or if the amendment should be more inclusive. The paper also delves into the philosophical underpinnings of citizenship; the study aims to analyse the role of citizenship in the said historical issues and analyse the sequence of events.

Key Words

1. Citizenship
2. Contemporary border disputes
3. History
4. Bangladeshi liberation war
5. Citizenship Amendment Act
6. India
7. Neighbourhood first policy.

Introduction:

Christopher Columbus embarked on an expedition and, by chance, landed in the West Indies, a region that later became associated with the Americas. However, this was not his initial intention; his objective was to establish a maritime route to India, China, and the spice-rich territories of the East. In 74 AD, Jews sought refuge in India to escape persecution, marking one of many instances of India's role as a sanctuary. Furthermore, historical accounts indicate that after his victory in Kabul, Babur launched an expedition into India, drawn by its wealth and abundance. Similarly, Vasco da Gama was motivated by the desire to reach India. These historical events suggest that India possesses intrinsic qualities that have captivated the interest of various explorers and leaders throughout history. News about India, the Indians, and the Indian riches seemed to have spread during a time when social media did not exist. The fascination of the world with India continues even today. This paper will not go beyond the 16th century; it will be confined to India, that is Bharath, from the stroke of the midnight of the 15th of August 1947. Bharath, a young country that put out a helping hand to those in need, offering refuge and supporting communities facing persecution.

The Citizenship Amendment Act (CAA), passed on December 11, 2019 by parliament and signed by the president, is a contentious legislation whose constitutionality and purpose has been under debate since its inception. On the surface, the CAA aims to provide Indian citizenship to persecuted non-Muslim refugees from Pakistan, Afghanistan, and Bangladesh. However, the question of who is a "persecuted minority" remains complicated given India's long history of intra-state conflict and the sense of citizenship and belonging it fabricated. Protesters question the rationale behind granting citizenship based on religious identities, arguing that such a provision is contrary to the secular vision of the Indian constitution as envisaged by its architects, including Rd. B. R. Ambedkar (Sarma Bhagabati, 2021). These concerns have fuelled widespread protests against the CAA across India and beyond.

The CAA, for the first time, explicitly barred a religious community from being included in a nation-state. It was anticipated that any/all Muslim "migrant" communities (be it post-colonial transnational Pakistan, intra-colonial) would remain unlawful. The fear of illegal immigration in Assam is not an unfounded myth. However, when demographic reality meets fanatic ethnocentrism, majoritarian psychosis starts conjuring its demons with hallucinatory armaments. Numerous employees overtly supported the movement and lost their jobs to administrative vengeance. The Assam Accord was inked in the aftermath, ending the

movement over plush meetings and phony developmental promises. Nevertheless, the Citizenship Amendment Act, 2019 finally shattered the docility of Assam's people, once again arousing massive civil society mobilisations across the state. What is interesting to note is that the CAA has its roots in India's history of border disputes, this paper is an attempt to discover the relationship between the CAA and India's historical legacies.

Citizenship

Citizenship comprises three main components or aspects according to Kymlicka and Norman 2000, and Carens 2000. The starting point concerns citizenship as a legal standing, characterized by civil, political, and social rights. The person in this situation is the legal entity who has the right to behave in accordance with the law and the right to access legal assistance. This doesn't mean that citizens participate in making laws or that all citizens have equal rights. In the following perspective, individuals are viewed as active political participants within a society's political structures. The third idea characterizes citizenship as membership in a political group that provides a distinct feeling of belonging.

The identity dimension is, in many ways, the most intricate of the three. Authors frequently address different aspects of identity, such as personal, group, and societal affiliations, within this classification. One could argue that the "psychological" side of citizenship, known as citizens' sense of belonging, is crucial in shaping the identity of the political community. If numerous citizens show a strong bond to the same political community, social cohesion is improved. However, it is important to see social integration as a major goal that citizenship aims to achieve, rather than just a mere part, because of different factors that can either impede or facilitate it. We will investigate if the concept of citizenship ignites border conflicts. To understand this possible connection, we must dial back and examine some of our most significant disputes:

Tibet, China and India

Historically, the Land of Tibet has acted as a buffer between India and China. Allowing trade and making sure that the two states did not come into conflict was quick to change when China annexed Tibet in 1950 and severed the more or less civil relationship that India and China had; they now shared a border. However, due to the Panchsheel Agreement, relations between India and China were somewhat warm despite the Tibetan upraise movement. . Matters got worse

when India, at the 1954 agreement, refused to negotiate new borders with China and instead declared the pre-existing McMahon Line as the recognized boundary. However, China started to exert her control over the disputed territories by building a road across Aksai Chin in 1957, which India strongly protested, citing denial of her territorial integrity. Matters worsened after the refusal by India to hold negotiations except upon the withdrawal of China from Aksai Chin, which the Chinese considered their land. On the aftermath of the Tibetan uprising in 1959, India sheltered the Dalai Lama and thousands more Tibetan immigrants and allowed for the establishment of its government in exile.

The friction between the two nations grew and led to the Sino-India War of 1962, and India was soundly defeated, with close to 7000 Indians losing their lives, being captured, and injured.

Bangladeshi Liberation War 1971

India, Pakistan, and Bangladesh comprised one land before August 15th of 1947. Due to Partition, the land split into the Union of India and Pakistan, not one consolidated land. A conflict for language and resources, 'West Pakistan wanted Urdu to become the only spoken language'. East Pakistan was predominantly a Bangla-speaking region. The east controlled the politics even though East Pakistan contributed 70% of the resources, they still had little to no power. The liberation struggle in Bangladesh was led by the Awami League and its leader Sheikh Mujibur Rehman, following protests that arose in 1971 for independence.

When the tension escalated into war between erstwhile Pakistan and Pakistan, India assumed an active role. Indira Gandhi ordered air and ground strikes. India having better equipment and forces made a three-pronged movement into Dhaka from the Indian province of West Bengal, Assam, and Tripura, defeating the Pakistani army that was supported by the Indian soldiers, Air Force, and Navy, and Bangladesh Navy who helped India.

On the ground, three groups of Mukti Bahini and Indian forces fought the Pakistanis. The Pakistanis tried to fight back but could not resist them (Bangladesh Liberation War, 1971 and Indian involvement –Course-203, Category -II) More than ten million Bangladeshis entered India.

India's support to Bangladesh led to increased tension between India and Pakistan,. Subsequently, India began providing military training and logistic support to the Bengali

liberation forces, also known as Mukti Bahini. The Pakistanis then launched a pre-emptive attack on the Indian airbases in the west in hopes of rendering India's air capability incapable of intervening in East Pakistan. India then declared war with Pakistan, which marked the beginning of overt warfare between the two countries. India captured almost 90,000 Pakistani soldiers, this included military personnel at war, and some civilian officers as well. Pakistan surrendered as military losses in men and materials were considerably higher in Pakistan. Since most of the discussion is overshadowed by the Bangladesh liberation, it took precedence over that war.

LTTE, India, and the Assassination of Rajiv Gandhi

Sri Lanka has faced ethnic conflict since its independence in 1948, mainly between the Sinhalese majority and the Tamil minority. Resentment at British favouritism towards Tamils developed into the disenfranchisement of Tamil migrant workers and establishment of Sinhala as the official language of Sri Lanka.

Tensions increased dramatically with the 1976 formation of the LTTE that demanded a homeland for Tamils in northern and eastern Sri Lanka. The conflict reached a point of extreme intensity in 1983, in an ambushing of the LTTE of an army convoy and countrywide riots that killed 2,500 Tamils. Further involvement by India grew, with deep ethnic links between southern India and Sri Lanka, into the 1987 Indo-Sri Lankan Accord, which proposed a system of provincial councils to share power. It deployed the Indian Peace Keeping Force and withdrew after three years of spiralling violence. This finally ended in 2009, and since then, India has provided support for the reconstruction of war-torn areas. India also voted against Sri Lanka on several UNHRC resolutions, premised on human rights abuses. This discomfort of the LTTE with India and the latter's decision to send in the IPKF to try and intervene in the affairs of Sri Lanka led to the assassination of Former Prime Minister Rajiv Gandhi, with that action, Indian public mood changed overnight. India had welcomed Tamil refugees in 1983 and looked after them. Now, they were made to feel unwelcome. Sri Lankan Tamils were regarded as having abused Indian hospitality.

The resignation and ousting of former Bangladeshi PM sheikh Hassina

The iron lady of Bangladesh was forced to resign and flee the country and seek asylum in India, what made this happen? Hasina's government in 2018 removed the quota system which

reserved 30% of seats in government jobs for the dependents of freedom fighters. Now, six years later the Bangladeshi high court allowed for the reintroduction of the quota system which led to student protests that become increasingly violent after Hasina's government dismissed the protests, Hasina then likens the protestors collaborate with Pakistan in 1971 war which led to massive nation-wide protests and the demonstrators were attacked by the party workers of the ruling alliance. The government went on to restrict social media and the internet and establish curfew which was defined by the students and students reject Hasina's call for peace, the protests grow and led to the injury, arrest and death of students and police officers post the ban of jamaat – shibir and on the 5th of august sheikh Hasina resigns and flees the country with her sister after protestors enter her official residence and an announcement that the military will form the interim government. Hasina has taken asylum in India. Post her ousting, there was an uprise in violence against Hindus. Temples and homes were burnt down and over 200 attacks have taken place. What choice do hindus of bangladesh have but to flee to the closest country the is home to millions of hindus

Methodology

This study has employed secondary research techniques, with an attempt to integrate historical, political and legal analysis to explore the impact of historical legacies mainly the Bangladeshi liberation war, the Sino Indian war and the IPKF being deployed into sir Lanka and what their impact on India was on contemporary border laws keeping in mind the aspect of citizenship. The study uses secondary sources, including legal documents, historical records and academic analysis, to trace the evolution of citizenship laws in India. the main objective of the study is to provide a comprehensive understanding of the Citizenship Amendment Act within the larger framework of India's historical, legal, and political landscape, offering insights into how citizenship laws manifest and influence India's role as a refuge for persecuted communities.

The sources used are verified portals for academic papers and journals such as goggle scholar and shodh ganga. The research topic became increasingly interesting and gained such contemporary relevance, that the time provided to the researcher, was just enough to make a scratch in the surface. The theme and topic have much depth that can be explored adequately with the help of relevant primary research provided that time is not a limiting factor.

Evolution of Citizenship in India

The regulations governing citizenship in India are outlined in the Citizenship Act of 1955. Sections 3 to 6 of the citizenship act of 1955 detail the ways one can obtain citizenship in India.

Section 3: Acquisition of citizenship through being born.

Section 4: acquisition of citizenship through parents:

Clause 5: Attainment of citizenship through registration:

Part 6: acquiring citizenship through naturalization.

Section 6A: Specific regulations concerning the citizenship of individuals mentioned in the Assam Accord.

Section 6B:6B. Specific rules for citizenship of individuals mentioned in the exception to clause (b) of subsection (1) of section 2.2.

Article 7: Attaining citizenship through the annexation of land.

The Citizenship Amendment Act

The CAA is a change to the Citizenship Act of 1955 that aims to fast-track citizenship for immigrants from religious minorities in Pakistan, Bangladesh, and Afghanistan who arrived in India before December 31, 2014.

The CAA or the citizenship amendment act 2019 is an amendment to section 2, section 7 d and section 18 1. Section 2: defines illegal migrants who are prohibited from acquiring Indian citizenship. The amendment proposes that individuals from Hindu, Sikh, Buddhist, Jain, Parsi, or Christian communities from Afghanistan, Bangladesh, and Pakistan, who entered India on or before December 31, 2014, and were exempted under the Passport Act, 1920 or Foreigners Act, 1946, will not be treated as illegal migrants under this Act.2. Section 6B: proposes that this new section will not apply to Tribal Areas in Assam, Meghalaya, Mizoram, or Tripura (under the Sixth Schedule to the Constitution) and areas covered under the Inner Line as per

the Bengal Eastern Frontier Regulation, 1873.3. Section 7D of the Principal Act: allows for the cancellation of Overseas Citizen of India registration. The amendment proposes to empower the government to cancel such registration if there is a violation of this Act or any other applicable law, after providing the individual with an opportunity to be heard.4. Third Schedule (Qualifications for Naturalisation) **: The amendment seeks to reduce the required period of residence or government service in India from "not less than 11 years" to "not less than five years" for individuals specified under the proposed amendments.

Arguments for and against CAA

When the Act was implemented, there was a lot of backlashes in India as many people criticized it. What was the reason for their criticism?

A major criticism of the law was its deliberate exclusion of Muslims from the list of religions eligible for citizenship under the CAA, leading to concerns about the impact on Indian Muslims.

Simply reading the Amendment act shows that it does not impact Indian Muslims in any way. Nowhere in the CAA is it stated that the law intends to go into the mentioned countries and bring in individuals from religious minorities, but instead it aims to streamline and speed up the process of obtaining Indian citizenship.

It is important to consider why Muslims are persecuted for their religious beliefs in Muslim-majority countries like Pakistan, Bangladesh, and Afghanistan.

If a Muslim is facing persecution in an Islamic country, it can be because they pose a threat to the nation or because their country has poor diplomatic management.

With that being stated, what is the rationale for using religion as a criterion for citizenship? If religion is so unpredictable, does it not undermine the Citizenship Amendment Act if someone can change their faith throughout their life? Religion is a continuum, as one may be born into one faith, practice another, and adopt yet another before death. Exploring the rationale, the solution mirrors the persecution if it is centred around religion, as seen in the ongoing situation in Bangladesh.

Findings and discussion:

When one analyses the four case studies that have been considered, a pattern can safely be drawn. While the cause of these incidents might be different, they have all resulted in mass migration and leaders fleeing to India. There are two questions that arise here, 1. Why is it that so many people including powerful state leaders leave their country? And 2. Why did they choose to come to India?

1. The reason there was a mass migration is because they were no longer citizens in their own land. They were no longer able to have the security and enjoy the rights that come as a benefit to citizenship. This really goes on to show that citizenship is more than just a membership to the state. As humans we have the evolutionary need to belong and citizenship is a part of the process of belonging. As citizens we must obey the law and the repayments of which is security, legal political and social rights. The most important of them all being security, according to Maslow's hierarchy until a man feels secure, they would not grow to become a social useful resource. Citizenship offers that sense of security.
2. Why did they choose India of all places? India has been the one country with a comparatively stable democracy to provide political and military support to all these countries during crisis.

India has repeatedly extended a helping hand to countries in crisis and has consequently burnt her hands, the aftermath of giving the Dalai Lama and thousands of other Tibetans refuge resulted in the Sino-Indian war, helping Bangladesh during the Bangladeshi liberation war and accepting immigrants resulted in the India – Pakistan war of 1971, deploying the IPKF in aid of the Sri Lankan government resulted in the LTTE assassinating PM Rajiv Gandhi. Despite this history why is it that India has chosen to allow Hasina to take asylum in India is the neighbourhood first policy that India has adopted and the CAA is an organic next step, where people who have escaped persecution in their countries and have come to India with their hands tied, trusting the Indian Union can become citizens of India in a lot less strenuous manner.

Conclusion

India's current citizenship policies and border conflicts are closely tied to its historical traditions of offering shelter to oppressed populations. The CAA can be viewed as a reaction to the ongoing disputes resulting from partition, wars, and political turmoil in the area. The disputes in India today regarding borders, national security, and immigrant rights are influenced by past events like the annexation of Tibet, the civil war in Sri Lanka, and the 1971 Bangladesh

Liberation War. The complex interconnection of history, politics, and citizenship shapes the current and future trajectory of India. The study has attempted to explore the citizenship amendment act through a historical perspective, where the CAA can be studied as an organic extension of the neighbourhood first policy. The further scope of study would be to explore the intersection of persecution in each of the three proposed countries and also study the reason for exclusion of other countries that fall in the neighbourhood first policy.

