

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

ISSN

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LEGALITY AND IMPLICATION OF CAA

AUTHORED BY - SHWETA ANAND

INTRODUCTION:

The Citizenship Amendment Bill was first introduced in 2016 in the lower house (lok sabha) by amending the Citizenship Act 1955.

The amendment bill was passed by the lok sabha on 8 January 2019, which lapsed due to resolution of 16th lok sabha.

The bill was introduced again by then minister of Home and Affair Amit Shah which was passed passed on 10 December 2019 in lok sabha later on in Rajya sabha on 11 December 2019. After receiving the assent from the president of India on 12th December 2019, the bill was assumed as status of an act.

Series of event that took place to make Citizenship Amendment Bill an act. On 4th December 2019 the union cabinet approved the bill to be introduced in the parliament. Later on the bill was introduced in lok sabha on by Union cabinet minister for Home and Affairs Amit Shah , following that the bill was passed in the lok sabha (lower house) with 311 vote in favour of the bill. After which the bill was presented in Rajya sabha (Upper House) and was passed on the same day with total majority of 125 votes in favour of the bill. Finally on December 12 the bill got approval from the president of India and now became an act.

CONCEPT OF CITIZENSHIP IN INDIA :

According to the Constitution of India every person will be provided with single citizenship for the whole of India. Each individual who at commencement of constitution on January 26, 1950;

1. Domiciled in indian territory and who was born in India ;
2. Either of whose parents was born in India ;
3. Who has been ordinarily resident in India for not less than 5 years became a Citizenship

of India.

The Citizenship Act deals with matters relating to acquisition, determination, and termination of India Citizenship after the inception of the Constitution.

Citizenship: The term citizenship refers to status of any individual acknowledged under the law as being a legal member of a sovereign state or any nation.

Who is an illegal migrant?

In simple term illegal migrants is a foreigner who has entered the country without any valid document like passport or visa or stays beyond the permitted time period with valid document.

Citizenship ensures the enjoyment of civil and political rights of citizens of any state. In India, Article 5-11 of the Indian Constitution deals with different notions of citizenship.

Article 5 : Citizenship at the commencement of the constitution.

The article under Indian constitution talks about citizenship for people at the commencement of constitution under following categories:

1. Citizenship is conferred upon those persons who have their domicile in the Indian territory and who are born in Indian territory;
2. Whose either parents are born in Indian territory;
3. Who has ordinarily been a resident of India for not less than 5 years immediately preceding commencement of the constitution.

Article 6: Citizenship of certain persons who have migrated from Pakistan.

The article under Indian constitution talks about person who have migrated from Pakistan shall be citizen of India at the time of commencement of constitution under following categories :

1. He or either of his parents or any of his grandparents was born in India as given in the Government of India Act of 1935.
2. (a) In case such a person has migrated before July 19th, 1948 and has been ordinarily resident in India since his migration .
(b) In case such a person has migrated after July 19th, 1948 he has been registered as a citizen of India by an officer appointed in that behalf by the government of Dominion of

India on an application made by him thereof to such an officer before the commencement of the constitution , provided that no person shall be so registered unless he has been resident in India for at least 6 months immediately preceding the date of his application.

Article 7: Citizenship of certain migrants to Pakistan.

The rights of people who have migrated to Pakistan after 1947 (1st March) but afterwards returned to India in the given article.

Article 8: Citizenship of certain persons of indian origin residing outside India.

This article deals about the rights of people of indian origin residing outside India for reason such as employment, marriage or education.

Article 9: This article deals with people who voluntarily acquire citizenship of a foreign country will not be termed as citizens of India.

Article 10: It deals with laws made by parliament and state that each person will be subjected with the same if he/she has been considered as citizens of India under any provision of this law.

Article 11: Parliament to regulate the rights of Citizenship by law

This article state that parliament has power to make any law concerning the acquisition and termination of citizenship or any other matter related to citizenship.

Salient Features of CAA, 2019:

1. Under section 2 (1) (b)The Acts provide that the Hindus , Sikhs , Buddists , Jains , parris and Christians from Afghanistan , Bangladesh and Pakistan who entered India on (31st December 2014) will not be demean as illegal migrants.The law applies to those who were forced to take asylum in India due to oppression on ground of religion
2. The law loosen the requirements of acclimatization from 11 years to 5 years under specific conditions.
3. It state that the Citizenship will be granted to those who have entered India on or before 31st December , 2014.
4. The act states that the Central Government may call off the registration of Overseas

citizenship of India on different grounds which may include :

1. If the OCI has been registered through trickery.
2. If within five years of registration , the OCI has been imposed to imprisonment for two or more years or if it becomes necessary in interest of sovereignty and certainty of India.

The law also included a different grounds for cancellation of registration if OCI has violated the provision of the law or any other law by the government of India.

Exception:

Citizenship Amendment act exclude the tribal areas of Assam , Meghalaya , Mizoram and Tripura for illegal migration which is included in 6th schedule of the constitution of India as well as the areas under the inner line permit under the Bengal Eastern frontier Regulation , 1873.

Confusion about (CAA, NRC)

NRC stands for National Register of Citizens which states that all the citizens of the country are required to provide proof for their Citizenship by producing documents like birth certificate or land records. Whereas the Citizenship Amendment Act provide a way to citizenship to those non-Muslims migrants from Pakistan , Bangladesh and Afghanistan who have entered India on or before Dec 31st , 2014.

Concern against CAA:

1. There have been major disagreement between different communities in the country against the act as it has been against the principal of secularism , liberalism , equality as well as justice. It is termed as anti - Muslim as it mainly Target the Muslim community.
2. It also states that the act violates the Fundamental Rights under Article 14 (Indian constitution) which guarantees about right to equality. It has been criticised as the act is a case of class legislation as classification on ground of religion is not permissible.
3. Major protest has been registered in the north eastern part of the country. The act confute the Assam Accord of 1985 in which it was stated that illegal migrants irrespective of religion heading from Bangladesh after 25th March 1971 would be expelled.

Conclusion:

The parliament has profound powers to make laws for country which is concerned with welfare of people. India has a rich civilization and to protect those who are harrassed in its neighbourhood but it is also stated that it should be done according to laws and spirit of constitution should not be violated in the process.

The bill was first challenged by the opposition party (Indian National Congress) on different ground such as internal conflict and would lead to conflict between different communities in the country.

Most part of Northeastern state were exempted from the the act.

The act has led to mass protest against the new provision introduced by the government and many people were killed in protest and riots between the initiation and implementation of the act. On the other hand it is surprising to know that people from all across the country have protested about the Bill without having proper knowledge.

This research paper mainly deals with Citizenship Amendment Act, 2019 which include it's history, New amended article under the act with criticism on different grounds.

Shweta Anand, Amity University, Patna, 3rd Semester

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