

1. Citizenship Under CAA- Polity

The Supreme Court of India has recently clarified that citizenship under the Citizenship (Amendment) Act, 2019 (CAA) is not automatic. Applicants must meet all conditions of naturalisation, and the Union government must examine each case individually.

Background and Legislative Context

The Citizenship (Amendment) Act, 2019 amends the Citizenship Act, 1955, which is the principal legislation governing acquisition and termination of Indian citizenship. It represents a religion-specific relaxation of citizenship norms for select migrant groups originating from Pakistan, Afghanistan, and Bangladesh. These three countries were chosen on the stated ground that they are Islamic States, where certain religious minorities allegedly face systematic persecution. The Act does not create a new citizenship regime, but modifies the definition of "illegal migrant" and conditions of naturalisation.

Purpose and Stated Objective of CAA

To provide humanitarian protection to minorities who

1. Face religious persecution, and
2. Entered India due to lack of safety in their home countries.

To regularise the status of such persons who

1. Entered India without valid documents, or
2. Entered legally but overstayed after expiry of documents.

To fast-track citizenship for these groups through relaxed naturalisation norms.

Eligible Communities and Cut-off Date- The Act covers six religious' communities Hindus, Sikhs, Buddhists, Jains, Parsis, Christians

Eligibility conditions- Must be from Pakistan, Afghanistan, or Bangladesh. Must have entered India on or before 31 December 2014. Muslims are explicitly excluded, irrespective of persecution status.

Exemption from 'Illegal Migrant' Classification - Under the Citizenship Act, 1955, "illegal migrants" are barred from applying for citizenship. CAA provides that eligible person- Shall not be treated as illegal migrants, even if they entered without documents. This exemption is the core legal mechanism through which CAA operates.

Relaxation of Naturalisation Requirements- Normal requirement for naturalisation-

1. 11 years of residence in India.
2. Under CAA- Reduced to 5 years for eligible communities. This relaxation applies retrospectively to qualifying migrants.

Territorial Applicability and Exempted Areas - The Act does not apply to Sixth Schedule areas under the Constitution- Tribal areas of Assam, Meghalaya, Mizoram, and Tripura. Inner Line Permit (ILP) areas, aimed at protecting indigenous populations- Arunachal Pradesh, Mizoram, Nagaland, Manipur. To prevent demographic change in ethnically sensitive and tribal regions.

Constitutional and Legal Challenges

Over 230 petitions are pending before the Supreme Court of India.

Key constitutional objections

1. Article 14 (Right to Equality)- Alleged violation due to religion-based classification.
2. Article 15- Though applicable to citizens, cited in broader equality arguments.
3. Basic Structure Doctrine- Secularism is argued to be part of the Constitution's basic structure.
4. Petitioners argue- Religious identity cannot be a reasonable classification for citizenship. Persecution is not limited to the six communities or three countries chosen.

Assam Accord, 1985 and Regional Concerns - The Assam Accord fixed 24 March 1971 as the cut-off date for detecting illegal immigrants in Assam. CAA effectively Extends the cut-off to 31 December 2014 for certain groups.

Concerns in Assam and North-East

1. Potential demographic imbalance.

2. Threat to linguistic, cultural, and political identity.
3. Perceived dilution of safeguards promised under the Accord.

Linkages with NRC and Electoral Processes

Critics argue a combined effect of- CAA (selective inclusion), and NRC / SIR (selective exclusion).

Key concern- non-Muslims excluded from NRC could seek protection under CAA. Muslims excluded from NRC have no parallel legal safeguard. Fear of Disenfranchisement through exclusion from electoral rolls. Unequal burden of proof based on religious identity.

Discriminatory Exclusion of Other Persecuted Groups - CAA excludes several persecuted groups, such as Rohingya Muslims (Myanmar), Ahmadiyyas and Shias (Pakistan), Hazaras (Afghanistan), Tamil Hindus (Sri Lanka), Bhutanese refugees

Criticism- Persecution is not exclusively religious nor limited to the covered groups. Act ignores ethnic, linguistic, and sectarian persecution.

Constitutional Framework of Citizenship (Articles 5–11)

Part II of the Constitution of India provides the foundational framework-

1. **Article 5**-Citizenship at commencement based on domicile and birth.
2. **Article 6**-Citizenship for migrants from Pakistan under conditions.
3. **Article 7**- Exclusion of those who migrated to Pakistan but later returned, unless permitted.
4. **Article 8**- Citizenship for persons of Indian origin residing abroad.
5. **Article 9**- Prohibition of dual citizenship.
6. **Article 10**- Continuance of citizenship subject to parliamentary law.
7. **Article 11**- Empowers Parliament to regulate citizenship through legislation.

Statutory Provisions under the Citizenship Act, 1955 - Modes of acquiring Indian citizenship

1. By Birth (Section 3)
2. By Descent (Section 4)
3. By Registration (Section 5)
4. By Naturalisation (Section 6)
5. By Incorporation of Territory (Section 7)

CAA primarily amends- Definition of illegal migrant, and Conditions under Section 6 (Naturalisation).

Broader Implications and UPSC-Relevant Themes

Raises fundamental questions on- Equality vs reasonable classification. Secularism vs religious accommodation. Citizenship as a legal status vs humanitarian protection.

Has implications for- Federalism (Assam and North-East). Internal security. Electoral democracy. International refugee obligations (India is not a signatory to the Refugee Convention).

Source- <https://epaper.thehindu.com/ccidist->

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