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UNDERSTANDING THE CITIZENSHIP AMENDMENT BILL 2019- Priyanka Yadav¹**Abstract**

The citizenship amendment bill 2019 created much uproar in the country. The anti-CAA bill protest raging on the streets of Shaheen Bagh before pandemic hit India was a showcase of mass unrest and disapproval. However now in 2024 the Indian government laid down norms for the implementation of citizenship amendment bill 2019. This time too the bill faced certain soft criticisms but not a backlash like before. This paper tries to understand the new citizenship amendment act 2019 and what are key changes which it brings from the previous one. Further looking at the possibilities and limitation of the bill.

Background

Government of India notified the rules of the Citizenship Amendment Act, 2019. With this act the BJP government amended the 64-year-old Citizenship Act 1955, which will prohibit illegal migration in India. Illegal migration or illegal migrant are people who have entered India

- (i) without a valid passport or other travel documents and such other document or authority as may be prescribed by or under any law in that behalf;
- (ii) with a valid passport or other travel documents and such other document or authority as may be prescribed by or under any law in that behalf but remains therein beyond the permitted period (Citizenship Act 1955).

The citizenship Amendment Act 1955 allows six ways through which a person can acquire Indian citizenship: i) **By Birth:** Every person born in India— (a) on or after the 26th day of January, 1950, but before the 1st day of July, 1987; (b) on or after the 1st day of July, 1987, but before the commencement of the Citizenship (Amendment) Act, 2003 (6 of 2004) and either of whose parents is a citizen of India at the time of his birth; (c) on or after the

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commencement of the Citizenship (Amendment) Act, 2003 (6 of 2004), where— (i) both of his parents are citizens of India; or (ii) one of whose parents is a citizen of India and the other is not an illegal migrant at the time of his birth, shall be a citizen of India by birth. (2) A person shall not be a citizen of India by virtue of this section if at the time of his birth— (a) either his father or mother possesses such immunity from suits and legal process as is accorded to an envoy of a foreign sovereign power accredited to the President of India and he or she, as the case may be, is not a citizen of India; or (b) his father or mother is an enemy alien and the birth occurs in a place then under occupation by the enemy (Citizenship Act, 1955).

ii) **By Descent:** (1) A person born outside India shall be a citizen of India by descent,— (a) on or after the 26th day of January, 1950, but before the 10th day of December, 1992, if his father is a citizen of India at the time of his birth; or (b) on or after the 10th day of December, 1992, if either of his parents is a citizen of India at the time of his birth: Provided that if the father of a person referred to in clause (a) was a citizen of India by descent only, that person shall not be a citizen of India by virtue of this section unless— (a) his birth is registered at an Indian consulate within one year of its occurrence or the commencement of this Act, whichever is later, or, with the permission of the Central Government, after the expiry of the said period; or (b) his father is, at the time of his birth, in service under a Government in India: Provided further that if either of the parents of a person referred to in clause (b) was a citizen of India by descent only, that person shall not be a citizen of India by virtue of this section, unless— (a) his birth is registered at an Indian consulate within one year of its occurrence or on or after the 10th day of December, 1992, whichever is later, or, with the permission of the Central Government, after the expiry of the said period; or (b) either of his parents is, at the time of his birth, in service under a Government in India: Provided also that on or after the commencement of the Citizenship (Amendment) Act, 2003 (6 of 2004), a person shall not be a citizen of India by virtue of this section, unless his birth is registered at an Indian consulate in such form and in such manner, as may be prescribed,— (i) within one year of its occurrence or the commencement of the Citizenship (Amendment) Act, 2003 (6 of 2004), whichever is later; or (ii) with the permission of the Central Government, after the expiry of the said period: Provided also that no such birth shall be registered unless the parents of such person declare, in such form and in such manner as may be prescribed, that the minor does not hold the passport of another country (Citizenship Act, 1955).

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iii) **By Registration:**(a) If a person of Indian origin who is ordinarily resident in India for seven years before making an application for registration; (b) a person of Indian origin who is ordinarily resident in any country or place outside undivided India; (c) a person who is married to a citizen of India and is ordinarily resident in India for seven years before making an application for registration; (d) minor children of persons who are citizens of India; (e) a person of full age and capacity whose parents are registered as citizens of India under clause (a) of this sub-section or sub-section (1) of section 6; (f) a person of full age and capacity who, or either of his parents, was earlier citizen of independent India, and [is ordinarily resident in India for twelve months] immediately before making an application for registration; (g) a person of full age and capacity who has been registered as an [Overseas Citizen of India Cardholder] for five years, and who [is ordinarily resident in India for twelve months] before making an application for registration.(Citizenship Act, 1955).

iv) **By Naturalisation:**(1) Where an application is made in the prescribed manner by any person of full age and capacity [not being an illegal migrant] for the grant of a certificate of naturalisation to him, the Central Government may, if satisfied that the applicant is qualified for naturalisation under the provisions of the Third Schedule, grant to him a certificate of naturalisation: Provided that, if in the opinion of the Central Government, the applicant is a person who has rendered distinguished service to the cause of science, philosophy, art, literature, world peace or human progress generally, it may waive all or any of the conditions specified in the Third Schedule. (2) The person to whom a certificate of naturalisation is granted under sub-section (1) shall, on taking the oath of allegiance in the form specified in the Second Schedule, be a citizen of India by naturalisation as from the date on which that certificate is granted(Citizenship Act, 1955).

v) **By Incorporation of territory:**If any territory becomes a part of India, the Central Government may, by order notified in the Official Gazette, specify the persons who shall be citizens of India by reason of their connection with that territory; and those persons shall be citizens of India as from the date to be specified in the order(Citizenship Act, 1955).

vi) **Special provisions as to Citizenship of person covered by Assam Accord:** (a) a person shall be deemed to be Indian origin, if he, or either of his parents or any of his grandparents was born in undivided India;(b) a person shall be deemed to have been detected to be a foreigner on the date on which a Tribunal constituted under the Foreigners (Tribunals) Order,

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1964 submits its opinion to the effect that he is a foreigner to the officer or authority concerned. (1) Subject to the provisions of sub-sections (6) and (7), all persons of Indian origin who came before the 1st day of January, 1966 to Assam from the specified territory (including such of those whose names were included in the electoral rolls used for the purposes of the General Election to the House of the People held in 1967) and who have been ordinarily resident in Assam since the dates of their entry into Assam shall be deemed to be citizens of India as from the 1st day of January, 1966. (2) Subject to the provisions of sub-sections (6) and (7), every person of Indian origin who— (a) came to Assam on or after the 1st day of January, 1966 but before the 25th day of March, 1971 from the specified territory; and (b) has, since the date of his entry into Assam, been ordinarily resident in Assam; and (c) has been detected to be a foreigner; shall register himself in accordance with the rules made by the Central Government in this behalf under section 18 with such authority (hereafter in this sub-section referred to as the registering authority) as may be specified in such rules and if his name is included in any electoral roll for any Assembly or Parliamentary constituency in force on the date of such detection, his name shall be deleted therefrom (Citizenship Act, 1955).

Foreigners, overseas citizens or foreign residents can apply for Indian citizen under through the provision of descent, registration or naturalisation of the citizenship act, 1955 which reads:

For citizenship under registration, any person can apply who has the full age and capacity and further comply with the listed requirements (i) who is citizen of another country, but was a citizen of India at the time of, or at any time after, the commencement of the Constitution; or (ii) who is citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution (iii) who is citizen of another country, but belonged to a territory that become part of India after the 15th day of August, 1947; or (iv) who is a child or a grand-child of such a citizen (www.mea.gov.in).

Citizenship Amendment Bill 2019

Citizenship under the naturalisation is provided to citizens who have a history of long stay in India. With respect to descent the parents of the overseas citizen should be Indian citizens.

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The new citizenship amendment bill 2019 (CAB) has brought changes with respect to clause of registration and naturalisation, so as to deal with the problem of illegal migration.

Before the CAB 2019, the central government had the power to deport and imprison illegal migrants under the Foreigners Act, 1946 and the Passport (Entry into India) Act, 1920. Both these acts also allowed the central government to regulate the entry, exit and residence of foreigners within India. The central government in 2014 and 2016 notified that Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, who arrived in India on or before December 31, 2014 shall be exempted from deportation and imprisonment. To make this notification formal a bill was introduced in 2016 which amended the CAB 1955. This bill was submitted to a joint parliamentary committee who submitted its report in 2019. Further in the same year Lok Sabha passed the bill however it faced opposition in the Rajya Sabha and hence was lapsed. Subsequently, it was reintroduced in the December 2019 as the Citizenship Amendment Bill, 2019. The bill made illegal migrants who are Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, eligible for citizenship. Along with provisions for OCI holders and exemption for certain areas of the north east.

However the bill faced a huge backlash in India for being biased and discriminating on the basis of religion. The bill did not include in the category of illegal migrants the community of Muslim. Which was seen as threat to the people belonging to Muslim community and the migrants who would migrate thereafter. Delhi witnessed a huge months long protest in the Shaheen Bagh area of Delhi, where protestors blocked roads for months and months till the COVID-19 pandemic hit the country.

The protest had to be stopped mid-way pertaining to the health emergency which came to fore. Now the 2024 the government has announced the implementation of Constitutional Amendment Bill 2019 by announcing the citizenship amendment rules 2024. Which will offer citizenship persecuted non-Muslim migrants i.e Hindus, Sikhs, Jains, Buddhists, Parsis and Christians who migrated from Bangladesh, Pakistan and Afghanistan arrived in India before 31 December 2014.

Conclusion

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CAB 2019 is not free from criticism either firstly for discriminatory towards Muslim migrants and second for excluding regions like Myanmar, Sri Lanka and other from where illegal migration to India has been witnessed in the past. The said three states whose non-Muslim migrants are allowed for citizenship have a majority religion which is Islam and in the past exploitation of non-Muslims in these states have been widely reported. In this scenario the act has been supporting towards these non-Muslim community. However there will be no Muslim migration from these states cannot be ruled. The act has bought ease to the non-Muslim migrants of all these states but for it to become completely inclusive the ambit of the act needs to be broadened to include Muslim migrants and also consider other states too who contribute to illegal migration.



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