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## Citizenship (Amendment) Act, 2019

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### Introduction

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- Recently, the Parliament passed the Citizenship (Amendment) Bill 2019 which received the President's assent to become an Act.
- The Citizenship (Amendment) Act, 2019 seeks **to amend the Citizenship Act, 1955.**
- **The Citizenship Act, 1955 provides various ways in which citizenship may be acquired.** It provides for **citizenship by birth, descent, registration, naturalisation and by incorporation of the territory into India.**

In addition, it regulates the registration of Overseas Citizen of India Cardholders (OCIs) and their rights. An OCI is entitled to some benefits such as a multiple-entry, multipurpose lifelong visa to visit India.

- An **illegal migrant** is prohibited from acquiring Indian citizenship. An illegal immigrant is a foreigner who either enters India illegally, i.e., without valid travel documents, like a visa and passport, or enters India legally, but stays beyond the time period permitted in their travel documents. An illegal migrant can be prosecuted in India and deported or imprisoned.
- In September 2015 and July 2016, the government exempted certain groups of illegal migrants from being imprisoned or deported. These are illegal migrants who came into India from Afghanistan, Bangladesh, or Pakistan on or before December 31, 2014, and belong to the Hindu, Sikh, Buddhist, Jain, Parsi, or Christian religious communities.

### Key Provisions of the Amendment Act

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- The Bill amends the Act to provide that the Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, who entered India on or before December 31, 2014, will not be treated as illegal migrants.
  - In order to get this benefit, they must have also been exempted from the **Foreigners Act, 1946** and the **Passport (Entry into India) Act, 1920** by the central government.
  - The 1920 Act mandates foreigners to carry passport, while the 1946 Act regulates the entry and departure of foreigners in India.
- **Citizenship by registration or naturalisation:** The Act allows a person to apply for citizenship by registration or naturalisation if the person meets certain qualifications.
  - For instance, if a person resides in India for a year and if one of his parents is a former Indian citizen, he may apply for citizenship by registration.
  - To obtain citizenship by naturalisation, one of the qualifications is that the person must have resided in India or have been in the service of the central government for at least 11 years before applying for citizenship.
  - The Bill creates an exception for Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, with regard to this qualification. **For these groups of persons, the 11 years' requirement will be reduced to five years.**
  - On acquiring citizenship: **(i) such persons will be deemed to be citizens of India from the date of their entry into India, and (ii) all legal proceedings against them in respect of their illegal migration or citizenship will be closed.**
- **Applicability of the Amended Act**
  - These provisions on citizenship for illegal migrants will **not apply to the tribal areas of Assam, Meghalaya, Mizoram, and Tripura, included in the Sixth Schedule to the Constitution.** These tribal areas include Karbi Anglong (in Assam), Garo Hills (in Meghalaya), Chakma District (in Mizoram), and Tripura Tribal Areas District.
  - Further, **it will not apply to the "Inner Line" areas notified under the Bengal Eastern Frontier Regulation, 1873.** In these areas, visits by Indians are regulated through the Inner Line Permit.
 

Currently, this permit system is applicable to **Arunachal Pradesh, Mizoram, and Nagaland.** Manipur has also been brought under the Inner Line Permit (ILP) regime through a Gazette Notification on the same day the bill was passed in the parliament.

- **Cancellation of registration of OCIs:** The Act provides that the central government may cancel the registration of OCIs on certain grounds. These include: (i) if the OCI has registered through fraud, or (ii) if, within five years of registration, the OCI has been sentenced to imprisonment for two years or more, or (iii) if it becomes necessary in the interest of sovereignty and security of India.

The Bill adds one more ground for cancelling the registration, that is if the OCI has violated the provisions of the Act or of any other law as notified by the central government. The orders for cancellation of OCI should not be passed till the OCI cardholder is given an opportunity to be heard.

## Concerns against the Amendment Act

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- **Issues in the North-East:**
  - It contradicts the **Assam Accord of 1985**, which states that illegal migrants, irrespective of religion, heading in from Bangladesh after March 25, 1971, would be deported.
  - Critics further argue that the extensive exercise of updating the National Register of Citizens (NRC) will become Null and Void due to this Amendment act.
  - There are an estimated 20 million illegal Bangladeshi migrants in Assam and they have inalienably altered the demography of the state, besides putting a severe strain on the state's resources and economy.
- Critics argue that it is **violative of Article 14** of the Constitution (which guarantees the right to equality and applicable to both the citizens and foreigners) **and the principle of secularism enshrined in the preamble of the constitution.**
- India has several other refugees that include Tamils from Sri Lanka and Hindu Rohingya from Myanmar. They are not covered under the Act.
- It will be difficult for the government to differentiate between illegal migrants and those persecuted.
- The Bill throws the light on the religious oppression that has happened and is happening in these three countries and thus, may worsen our bilateral ties with them.
- It provides wide discretion to the government to cancel OCI registrations for both major offences like murder, as well as minor offences like parking in a no-parking zone or jumping a red light.

## Government's Stand

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- The government has clarified that **Pakistan, Afghanistan and Bangladesh are Islamic republics** where Muslims are in majority hence they cannot be treated as persecuted minorities.
  - According to the government, this Bill aims at granting rather than taking away someone's citizenship.
  - It has assured that the government will examine the application from any other community on a case to case basis.
- This Bill will come as a big boon to all those people who have been the victims of Partition and the subsequent conversion of the three countries into theocratic Islamic republics.
- Government has cited that the partition of India on religious lines and subsequent failure of the **Nehru-Liaquat pact of 1950** in protecting the rights and dignity of the minorities in Pakistan and Bangladesh as the reasons for bringing this Bill.
- After Independence, not once but twice, **India conceded that the minorities in its neighbourhood are its responsibility**. First, immediately after Partition and again during the **Indira-Mujib Pact in 1972** when India had agreed to absorb over 1.2 million refugees. It is a historical fact that on both occasions, it was only the Hindus, Sikhs, Buddhists and Christians who had come over to Indian side.
- Regarding questions of not including minorities from Sri Lanka, Myanmar, etc., the Government clarified that the process of awarding citizenship to refugees has been undertaken by different governments in the past on case to case basis from time to time, on "reasonable qualifications to Article 14". This time the case of refugees fleeing religious persecution from these three countries has been considered through this Bill.
- In January 2019, Government had notified the High-Level Committee (HLC) for implementation of Clause 6 of Assam Accord and urged the Committee to submit its report at the earliest to the Central Government for effective steps to be taken to fulfil the provisions of the Accord.
 

The government thus has assured the people of Assam that their linguistic, cultural and social identity would be preserved.

## Conclusion

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- The onus is now on the Supreme Court, being the Guardian of the Constitution, to interpret the provisions of the Act and test its Constitutionality that whether the "classification" done in the Act is "reasonable" or not if tested against Article 14.
- India has a **civilization duty to protect those who are prosecuted** in its neighbourhood. But, the methods must be in accordance with the spirit of the Constitution.
- Further, the people of the North-East should be engaged more constructively to convince them that the linguistic, cultural and social identity of the people of the region would be preserved.

For Mind Map