



drishti

Citizenship (Amendment) Bill, 2019

 drishtiias.com/printpdf/citizenship-amendment-bill-2019

Why in News

The Parliament has passed the Citizenship (Amendment) Bill (CAB), 2019.

- The Bill seeks to grant Indian Citizenship to persons belonging to **Hindu, Sikh, Buddhist, Jain, Parsi** and **Christian** communities who have migrated to India after facing persecution on **grounds of religion** in **Pakistan, Afghanistan** and **Bangladesh**.
- It basically intends to make it easier for **non-Muslim immigrants** from India's three Muslim-majority neighbours to become citizens of India.

Background

- In India, **citizenship is regulated by the Citizenship Act, 1955**. The Act specifies that citizenship may be acquired in India through five methods – by birth in India, by descent, through registration, by naturalisation (extended residence in India), and by incorporation of territory into India.
- However, **illegal migrants cannot become Indian citizens**. Under the Act, an illegal migrant is a foreigner who:
 - enters the country without valid travel documents like a passport and visa, or enters with valid documents, but stays beyond the permitted time period.
 - Illegal migrants may be put in jail or deported under the Foreigners Act, 1946 and the Passport (Entry into India) Act, 1920.
- In 2015 and 2016, **the government exempted specified groups of illegal migrants** from provisions of the 1946 and 1920 Acts. They were Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, who reached India on or before December 31, 2014.
- This meant that these particular categories of illegal migrants would not be deported or jailed for being in India without valid documents.

- **The Citizenship (Amendment) Bill, 2016** was introduced in Parliament to amend the Citizenship Act, 1955, so that these people could be made eligible for citizenship of India.
- The Bill lapsed with the dissolution of the 16th Lok Sabha. Subsequently, the Citizenship (Amendment) Bill, 2019 was introduced in Lok Sabha in December 2019.

CITIZENSHIP ACT & AMENDMENT

A LOOK AT WHAT THE BILL AIMS TO DO IN VIEW OF THE ACT, AND THE RESPONSE IT RECEIVED

FOR SELECT FEW

Citizenship Amendment Bill seeks to amend the Citizenship Act 1955 in order to make illegal migrants — Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan — eligible for citizenship after six years of stay in India instead of 12 even if they don't possess proper document.

CHANGE IN ELIGIBILITY

Under the Citizenship Act, the applicant must have resided in India during the last 12 months, and for 11 of the last 14 years to get citizenship. The Bill relaxes this 11-year requirement to five years for persons belonging to the 6 religions and 3 countries. It also makes those who entered India till 2014 eligible.

CRITICISM RECEIVED SO FAR

The Bill has come under severe criticism with critics saying that the Bill violates Clause 6 of the Assam Accord, which stipulates “constitutional, legislative and administrative safeguards” for the preserving the culture and identity of Assamese people. Critics have also said that the extensive exercise of updating the National Register of Citizens (NRC) will become null and void due to this exercise.

Key Features

- **Citizenship on the basis of religion:** The Bill amends the Citizenship Act, 1955, and for the first time, will grant citizenship on the basis of religion to non-Muslim communities from Afghanistan, Bangladesh and Pakistan, who entered India on or before December 31, 2014.
- **Non - Muslim Communities Included:** Hindu, Sikh, Buddhist, Jain, Parsi, and Christian. This implies that migrants, who identify themselves with any group or community other than those mentioned here, from the above mentioned countries won't be eligible for citizenship.
- **Exceptions:** The provisions on citizenship for illegal migrants **will not apply to two categories** - states protected by the **'Inner Line'**, and areas covered under the **Sixth Schedule** of the Constitution.
 - **Inner Line Permit (ILP):** This is a special permit that citizens from other parts of India require to enter a state protected by the ILP regime. Without an ILP granted by the state government, an Indian from another state cannot visit a state that is under the ILP regime.
 - **Sixth Schedule:** The Sixth Schedule relates to special provisions in administration of certain Northeastern states (Assam, Mizoram, Meghalaya and Tripura). It provides special powers for Autonomous District Councils (ADCs) in these states.

- **Citizenship by Naturalization**

- Under The Citizenship Act, 1955, one of the requirements for citizenship by naturalisation is that the applicant must have resided in India **during the last 12 months**, as well as for **11 of the previous 14 years**.
- The amendment **relaxes** the second requirement from **11 years to 5 years** as a specific condition for applicants belonging to the specified six religions, and the above mentioned three countries.

- **Additional Ground for Cancelling Overseas Citizen of India (OCI) Registration i.e.** violation of any law notified by the central government.

However, the Bill does not provide any guidance on the nature of laws which the central government may notify. The Supreme Court has noted that this guidance is necessary to set limits on the authority's powers and to avoid any arbitrariness in exercise of powers.

Arguments Against the Bill

- The fundamental criticism of the Bill has been that it **specifically targets Muslims**. Critics argue that it is **violative of Article 14 of the Constitution** (which guarantees the right to equality) and the principle of **secularism**.
- India has several other refugees that include **Tamils from Sri Lanka** and **Hindu Rohingya from Myanmar**. They are **not covered under the Act**.
- Despite exemption granted to some regions in the Northeastern states, the prospect of citizenship for massive numbers of illegal Bangladeshi migrants has triggered deep anxieties in the states.
- It will be difficult for the government to differentiate between illegal migrants and those persecuted.

Arguments in Favour

- 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**. 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.
 - Citing partition between India and Pakistan on religious lines in 1947, the government has argued that millions of citizens of undivided India belonging to various faiths were staying in Pakistan and Bangladesh from 1947.
 - The constitutions of Pakistan, Afghanistan and Bangladesh provide for a specific state religion. As a result, many persons belonging to Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities have faced persecution on grounds of religion in those countries.
 - Many such persons have fled to India to seek shelter and continued to stay in India even if their travel documents have expired or they have incomplete or no documents.
- After Independence, not once but twice, **India conceded that the minorities in its neighbourhood is 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.

Source: TH