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AN ANALYSIS OF DEBATES ON THE CITIZENSHIP AMENDMENT ACT OF INDIA

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Abstract

India has a successful history of religious tolerance that is both pleasant and observant. Beginning with the public as an aware element of the democratic system Policies, also referred to as "public policies," benefited this essential component. The Citizenship Amendment Act of 2019 will be the main topic of this essay as it relates to public policy. All of its facets will be covered in detail. This act has undergone several interpretations as a matter of public policy based on public sentiment. This essay will provide a review of the main factors encouraging acceptance of the act as well as the barriers to its acceptance. Not only does this act violate several earlier peacekeeping agreements, but also violates some constitutional clauses. Additionally, you will comprehend in this essay the many defenses or positions taken by the Indian government to demonstrate that this function is non-discriminatory in nature. With the reduction of the naturalization process to five years, this act aims to protect the interests of religious minorities by granting them Indian citizenship. If the holder of Indian overseas citizenship violates any Indian laws, their citizenship may be revoked under this legislation. The prior amendment Bill from 2016 is connected to the history of CAA, 2019. The report goes on to discuss additional outside elements that affect how well or poorly the act is received. Various newspaper articles have been reviewed in this research to support the claims made by state and government officials. However, this act is still constitutionally lawful notwithstanding the anomalies.

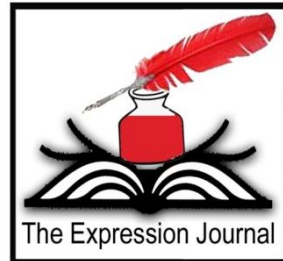
Keywords

CAA, Citizenship, Amendment, Religious Minorities, Naturalization, India.

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Introduction

The most important component of a democracy is the people and their opinions. The "Representatives" of the people refer to democracy as the "Rule of the People." This represents the core of the democratic system's public. India is one of these nations that adhere to democratic principles and grant the public the freedom to speak and "be heard." People, however, benefited from and were regulated by public policy, which is very important in determining the future of the nation. Public policy is researched in the sense that it aids in achieving government objectives for the good of the populace. Public policy is not specifically defined. To name a few, the public policy includes things like the 2019 CAA, labor rules, and gun rights. Political parties implemented these policies through legitimate political channels, yet they are intended to win the public's favor. Public policy has a number of characteristics, such as the following: -it is created in response to situations that demand immediate action; these prevent people from performing certain actions or from refraining from performing certain actions; these aim to solve the issue; and these can take the form of acts, laws, decrees, and ordinances. There are many different kinds of public policies, some of which include: - substantive public policy, which deals with issues like education, employment, etc. where the constitution is constantly kept in mind. (Shrivastava, 2022)

The second sort of public policy is distributive public policy, which focuses on a few key segments of society, typically the less fortunate ones, such as food security, immunization programs, etc. Regulatory public policy is a different category of public policy that deals with managing and regulating an economic sector under the jurisdiction of autonomous institutions. Public policies for redistribution are always changing and being modified. Constituent Public Policy, the final category of public policy, is concerned with the establishment of institutions for the general good. This essay will discuss the "Citizenship Amendment Act, 2019" as a matter of public policy. We'll talk about how it can help people in the long run and preserve

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their interests throughout time. This essay will also discuss the public's critiques and condemnation of the act.

Objectives

1. To examine the effects of contextual circumstances on the formulation and application of CAA, 2019.
2. To comprehend the constitutionality of the CAA, 2019
3. Recognize how CAA, 2019 is influencing how the nation will develop in the future.

Research Problem

It is challenging to comprehend the fundamental character of the act to be discriminatory or not since the acceptance or rejection of CAA, 2019, 2019 is based on several criteria other than only constitutional restrictions.

Research Questions

1. How does this act emphasize India's geographical disparities?
2. How has the CAA of 2019 annulled a number of peacekeeping pacts, such as the Assam Accord of 1985?

Methodology

Analytical research has been undertaken in order to more clearly and precisely understand the meaning, issues, and topics of the study. The pertinent information has therefore been gathered from a variety of secondary sources, including books, research articles, journals, newspapers, and reports. A significant amount of the content was gathered from online libraries.

Concept of Citizenship

There are two types of citizens in a contemporary state, and citizenship is a fundamental notion in both domestic and international law. Citizens and foreigners are these two categories of people. In essence, citizenship is the unavoidable guiding concept of a democratic polity. As it only includes citizens and excludes outsiders, the idea of citizenship is a formative one. In essence, citizenship is the unavoidable guiding concept of a democratic polity. A citizen is defined as a person who is obligated to and entitled to the protection of a sovereign state by Merriam-Webster Dictionary. A citizen is someone who has access to all of the state's rights. The concept of citizenship is made up of citizens. Thus, it is possible to define an Indian citizen as someone who is a permanent member of the state, has numerous rights, and owes allegiance to India. (Bobbio, 2018)

Methods for obtaining Indian citizenship

A. The Indian Constitution's Part II has a number of provisions for obtaining and losing Indian citizenship, some of which are listed below.

1) Article 5 - The citizenship by domicile clause is discussed in Article 5. Domicile is the formal declaration of one's decision to live permanently somewhere. According to this article, a person must be born in India, have at least one parent who was born in India, or have lived in India for at least five years immediately prior to the beginning of the Indian Constitution on January 20, 1950, in order to establish a domicile there.

2) Article 6 - The citizenship of those who have migrated from Pakistan to India is covered under Article 6. This states that anyone who entered India from Pakistan before July 19, 1948, would be considered an Indian citizen on the date the constitution took effect if either of their parents or grandparents were born in India or if they had not relocated back to Pakistan since entering India. In addition, anyone can become an Indian citizen if they immigrated to the country after July 19, 1948, and meet specific requirements. One of the parents or

grandparents must have been born in India, they must have entered the country with a resettlement permission, they must have remained in the country for at least six months after arriving, and they must have submitted an application for citizenship that has been approved.

Article 7 states that immigrants who left India for Pakistan after March 1, 1947, are not considered Indian citizens. Additionally, it states that individuals who moved from India to Pakistan after 1 March 1947 and then returned to India will be considered Indian citizens if either of their parents or grandparents were born in India, arrived in India with a resettlement permit, remained in India for a minimum of 6 months following their immigration, registered a citizenship application, and that application was approved.

4) Article 8 states that anyone living outside of Pakistan who has parents or grandparents who were born in the then-undivided India is eligible to become an Indian citizen if they are listed as such in the nation they currently call home.

B. The 1955 Citizenship Act outlines five ways to become an Indian citizen, including:

1) By Birth- This means that regardless of the parent's nationality, everyone who was born in India on or after January 26, 1950, but before July 1, 1987, becomes an Indian citizen. Additionally, it states that anyone who was born in India between 1 July 1987 and 2 December 2004 automatically becomes an Indian citizen if both of his parents were born there. It goes on to say that anyone who was born in India after December 3, 2004, and whose parents are both Indians or at least one of whom was born there and who is not considered an illegal immigrant, shall be an Indian citizen.

2) Through registration - Anyone can obtain it by registering. The prerequisites for registration are that the applicant be of Indian descent and has resided in India for at least seven years. The applicant must be a citizen of a nation other than unrecognized India, and Indian citizens' small children are also eligible for this type of citizenship. (Narang, 2020).

3) By descent - Anyone who was born outside of India after January 26, 1950, and whose father was an Indian citizen, is eligible to become a citizen of India. If either parent of a person who was born outside of India after 10 December 1992 and before 3 December 2004 was an Indian citizen, that person also acquires Indian citizenship.

4) By Naturalization - If a person spends 10 years in India and another 12 years there, they automatically become citizens of India.

5) Incorporation of Area: Accordingly, if new uncharted territory is added to India, the government must declare its residents to be Indian citizens.

How to revoke Indian citizenship

The following are the three methods for terminating an Indian citizen: -

1) Voluntary Renunciation: Any Indian citizen who is of legal age may choose to voluntarily renounce his nationality. The same person's minor child forfeits his citizenship till he reaches adulthood.

2) By Termination: Under Indian law, a person is only permitted to hold citizenship in one nation; in order to hold citizenship in another nation, the person must renounce his Indian citizenship.

3. Deprivation by the Government: The Indian government has the right and authority to revoke someone's citizenship if they disobey Indian laws and the Constitution, obtained citizenship fraudulently, made contact with an enemy state during a time of war, or have been continuously absent from India for more than seven years.

Citizenship Amendment Act, 2016

This bill modifies the 1955 Citizenship Act. The 2016 Citizenship Amendment Bill is merely a bill, not an actual law. On July 19, 2016, this Bill was introduced in the Lok Sabha. On August 12, 2016, it was additionally referred to the Joint Parliamentary committee. Later, on January 7, 2019, the Joint Parliamentary Committee delivered a report, and on January 8, 2019, the Lok Sabha approved it. This measure resulted in several substantial modifications. This bill focuses on enabling access for unauthorised immigrants from three nations and six communities to enter India before December 31, 2014, in order to grant them Indian citizenship. By shortening the citizenship process from 11 to 6 years, this statute also provides relief. Not only that, but if the individual breaks Indian Laws, their Indian Overseas Citizenship may also be revoked. (Jacob, 2020)

Elements of the 2016 Act

1) Citizenship for six religious minorities from three nations: This bill clarifies that anyone who entered Indian territory illegally and is a citizen of Afghanistan, Bangladesh, or Pakistan before December 31, 2014, may apply for Indian citizenship. Only Hindus, Sikhs, Buddhists, Jain, Parsis, and Christians should be present, though.

2) Illegal Migrants: An illegal immigrant is a foreigner who entered the country without having the necessary papers, such as a passport or visa. If a person stays in the country longer than is permitted, they may also be referred to as illegal migrants. This measure makes it clear that the six religious minorities from Pakistan, Bangladesh, and Afghanistan—Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians—will not be regarded as illegal immigrants. They will exempt themselves from the effects of the Foreigners Act and the Passport Act.

3) Naturalization period shortened to 6 years: Previously, naturalisation took place over an 11-year period for the same six minority from three different countries. This measure shortened the naturalisation period to 6 years. According to this law, anyone from the six minorities and three nations listed above who lives in India for six years is able to apply for citizenship.

4) Cancellation of OCI registration: According to this bill, an individual's Overseas Citizenship of India may be revoked if it was obtained fraudulently or forcibly, if they were arrested within two years of receiving their OCI, or even if they broke Indian law. Lawbreaking can result in both minor infractions and serious offences.

The Bill, however, has consistently come under fire for violating articles 14, 25, and 21 of the Indian Constitution. Article 14 addresses the prohibition of discrimination based on race, religion, or caste. By denying them citizenship, this bill discriminates against some religious minority. Article 25 addresses the ability to practise and spread any religion without interference, however this bill restricts that right.

Citizenship Amendment Act, 2019

On December 9, 2019, the Lok Sabha introduced and approved the Citizenship Amendment Act of 2019. Rajya Sabha later approved it on December 11, 2019. There are numerous ways to become an Indian citizen, including descent, registration, naturalisation, incorporation of territory, etc. The illegal immigrants were not allowed to become Indian citizens, nevertheless. A foreign national who enters Indian Territory without the proper identification, such as a passport or visa, is considered an illegal immigrant. If a person stays in a country longer than is permitted, they may also be referred to as illegal immigrants. The illegal immigrants are reaching the point where they could be deported back to their home nations. This legislation consists solely of the clauses and modifications stated in the 2016 Amendment Bill. The 2016 Bill became an "ACT" when it was approved by both chambers in 2019 and passed.

With the passage of this law, illegal immigrants from Pakistan, Bangladesh, and Afghanistan were now eligible to apply for Indian citizenship. Six members of religious minorities who entered India illegally before December 31, 2014. Hindus, Sikhs, Christians, Parsis, Buddhists, and Jains are some of these minorities. After becoming a citizen, an illegal immigrant from these regions will be subject to the same restrictions that apply to other Indian residents living in these regions. By excluding them from the list of religious minorities eligible for citizenship, this statute allegedly discriminates against the Muslim and Jewish communities. This act removes specific North-Eastern regions from clauses saying that these tribal areas are already listed in the Indian Constitution's sixth schedule. The states of Assam, Meghalaya, Mizoram, and Tripura are home to the tribal regions. Karbi, the Garo Hills, the Tripura Tribal Territories District, the Chamka District, and other tribal areas are among these. Additionally, it does not apply to the regions covered by the Bengal Eastern Frontier Regulation of 1873's "Inner Line" and the regulations governing Indian travellers' access to Assam, Mizoram, and Nagaland. The 2019 Amendment Act reduces the naturalisation time from 6 to 5 years from the 2016 bill's 6 years. According to this Act, OCI (Overseas Citizenship of India) may also be revoked if it was obtained dishonestly, the holder has been detained for two or more years, OCI has broken an Indian law, etc. This Act further states that the person will have the right and opportunity to be heard prior to the revocation of citizenship.

The Act's after-effects

When this was first passed, it was heavily criticised for violating Articles 14, 16, 21, 19, and 25 of the Indian Constitution. Discrimination against different countries and states also drew criticism. Additionally, they questioned the government's ability to create regulations for the same behaviour. It was also harshly condemned that minorities were only allowed to enter India as of December 31, 2014. Criticism can also be levelled against the opposition's and the government's political inconsistencies. All these factors nevertheless sparked widespread anti-CAA and NRC rallies in several Indian states. (Chandrachud, 2020).

Arguments in favor of CAA, 2019

According to reports from the general public and the media, the government's position and the justifications for adopting CAA, 2019 as a national public policy in India are: 1) Because Bangladesh, Pakistan, and Afghanistan are Islamic nations, the Muslim populations in these nations have never been victimised or injured. This strengthens the case against denying citizenship to Muslims in the minority.

The second justification for the various Indian states' acceptance of the CAA, 2019, is the fact that many former inhabitants of the united India resided in the Islamic nations of Pakistan and Bangladesh, where they were subjected to persecution and atrocities against members of the Hindu, Sikh, Parsi, Jain, Buddhist, and Christian minorities. Therefore, those who immigrated before December 31, 2014 from countries like Pakistan, Bangladesh, and Afghanistan were granted citizenship in order to protect these religious minorities.

The Indian government also justifies the act by claiming that if Hindus and Muslims, who make up the entirety of undivided India, can be split based on religion, then an amendment act simply cannot be attacked based on religion.

Because the BJP, the state's dominant political party, led the development of this law, it was quickly approved and put into effect in states where the party held a majority.

The centre has also defended this action by claiming that Pakistan and India signed the Nehru-Liaquat Agreement in 1950. The agreement featured a clause requiring the best possible

protection for religious minorities, but it fell short of its goal. So, this measure is a significant step in bringing about justice for all.

The minority groups would benefit from receiving their rights and chances as quickly as possible thanks to the time decrease from 11 to 5 years.

Article 11 grants the Parliament the authority to enact laws governing the acquisition and loss of citizenship. No one, according to the government, has the right to disregard the law.

Arguments against CAA, 2019

According to media reports and the general public, the following factors are the main causes of CAA's 2019 rejection and criticism: -

Breaking Article 14: The Indian Constitution's Article 14 addresses equality before the law and equal protection of the laws. Because the CAA, 2019 excludes the tribal regions of the states of Manipur, Assam, Meghalaya, Mizoram, and Tripura merely because they are listed in the constitution's sixth schedule, it has drawn a lot of criticism for violating Article 14. It further stated that Muslims and Jews cannot discriminate against one another based on religion in India until everyone is treated equally by the law. (Godsmark, 2019).

Breaking Article 25: Article 25 guarantees the freedom to practise and spread any religion. The CAA of 2019 is discriminatory in that it makes no sense to grant citizenship to minority based on religion once everyone has the freedom to practise and spread any religion. By denying citizenship to Muslims and Jews, this blatantly discriminates against them.

Violation of Article 19: This act was criticised for breaking the constitution's article 19. The right to speech and expression is covered by Article 19. After the legislation was passed, people began to protest it, but the government continually put a stop to them, in violation of article 19.

Country of Origin: The undocumented immigrants' countries of origin are a major source of debate. The government has opened up citizenship opportunities for illegal immigrants from Pakistan, Bangladesh, and Afghanistan. Government officials have used the fact that these nations' religious minorities—including Hindus, Sikhs, Jains, Buddhists, Parsis, and Christians—face severe persecution and atrocities as justification for granting them citizenship. The government also claims that a large portion of the population in these nations is from independent India. Although in the case of Afghanistan, this is inapplicable. However, there are also other nations, such Sri Lanka, where religious minority experience persecution without receiving citizenship. (Siddiqui, 2020)

Date of entry: Citizenship under the CAA, 2019, is only granted to those who entered India before December 31, 2014. This raises questions about the persons who entered India after the date and raises suspicions.

Exclusion of Tribal Areas in Specific States: This Act does not apply to Tribal Immigrants in Assam, Meghalaya, Tripura, and Mizoram, putting them outside the Act's scope. It is therefore wholly discriminatory. Also not eligible for a "Inner Line Permit" are migrants.

Against the secularist tenets: No law should be passed that violates the fundamental values of the constitution. It was decided that secularism falls under the basic structure concept in *S. K. Bommai v. Union of India*. However, Muslims, Jews, and atheists are not granted citizenship under this law. It is therefore against secularist ideas.

Assam and the NRC People in Assam have harshly condemned the NRC and CAA of 2019. The National Register for Citizenship (NRC), which makes the promise to locate and expel illegal immigrants from Assam, does exactly the reverse. The Assam pact of 1985 likewise guarantees the protection of the Assamese people, however it runs counter to the CAA's principles. As a result, it receives significant criticism.

Government's inability to develop regulations: The government's inability to set rules governing the timeline for filing citizenship applications, court cases, and associated procedures is also being criticized. Recently, the Ministry of Home Affairs requested an extension on the same topic to frame guidelines for the fifth time. This demonstrates the government's incapacity to handle these issues.

Political diversity and a variety of propaganda: The parties are assigning responsibility. Congress has been held responsible by the BJP administration for inciting opposition to the party and the act. Congress, however, employed similar propaganda. Even those who do not favor the governing party are speaking out against the move.

Conclusion

The introduction of CAA, 2019, as a public policy, has encountered numerous difficulties and significant opposition. However, it would be inaccurate to describe this behavior as wholly discriminatory. The Indian government has provided a number of arguments for the act. Another unsolved question is, however, the veracity of the government's justification. Varied people in the general public have different views on whether the act should be accepted or rejected. Some individuals embrace it wholeheartedly and without giving it a second thought, either because they are moved by official arguments or because they have been swayed by the ideological propaganda of the ruling party, while others reject it because they believe it violates the constitution. It is crucial to realize that a variety of other factors, such as political party ideologies, the dominance of a particular state's ruling party, the rivalry between political parties, people's limited knowledge of the act and its advantages, political bias, and international treaties and policies, all have an impact on whether or not people accept or reject a particular act. Even though this act has numerous flaws and numerous arguments, it is still constitutionally viable in the modern world, one could argue.

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